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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL**LAW DEPARTMENT****Legislative****NOTIFICATION**

No. 148-L.— 9th February, 2024.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 5 of 2024**THE WEST BENGAL FINANCE BILL, 2024.****A
BILL**

to amend the Indian Stamp Act, 1899, in its application to West Bengal and the Bengal Excise Act, 1909.

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal and the Bengal Excise Act, 1909, for the purposes and in the manner hereinafter appearing;

2 of 1899.

Ben. Act V of
1909.

It is hereby enacted in the Seventy-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

- (1) This Act may be called the West Bengal Finance Act, 2024.

*The West Bengal Finance Bill, 2024.**(Clauses 2, 3.)*

(2) Save as otherwise provided, this section shall come into force with immediate effect, and the other provisions of this Act shall come into force on such date, with prospective or retrospective effect as required, as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Application and amendment of Act 2 of 1899.

2. (1) The Indian Stamp Act, 1899, in its application to West Bengal (hereinafter referred to as the principal Act), shall be amended for the purpose and in the manner hereinafter provided.

(2) In Schedule IA to the principal Act, against item (i) of article 33 in the first column under heading "Description of Instruments", in the second column under heading "Proper Stamp Duty", after the words and symbols "one-half of one per centum of the market value of the property which is the subject matter of the Gift", the words "subject to maximum of rupees one thousand" shall be inserted.

Amendment of Ben. Act V of 1909.

3. In the Bengal Excise Act, 1909,—

(1) in section 2,—

(a) after clause(12ia), the following clause shall be inserted:—

'(12iaa) "intermediate quantity", in relation to spirit or intoxicating drug (other than Bakhar) or any portion of hemp plant (*Cannabis sativa* L.) from which an intoxicating drug may be manufactured or produced, means any quantity within such range as may be specified by the State Government by notification';

(b) for clause (13), the following clause shall be substituted:—

'(13) "intoxicating drug" means Bhang, Siddhi or any other substance or fermenting agent, not being a narcotic drug or psychotropic substance under the Narcotic Drugs and Psychotropic Substances Act, 1985, which the State Government may specify by notification;';

61 of 1985.

(c) after clause (13), the following clause shall be inserted:—

'(13a) "large quantity", in relation to spirit or intoxicating drug (other than Bakhar) or any portion of hemp plant (*Cannabis sativa* L.) from which an intoxicating drug may be manufactured or produced, means any quantity greater than such quantity as may be specified by the State Government by notification;';

(d) after clause (18), the following clause shall be inserted:—

'(18a) "small quantity", in relation to spirit or intoxicating drug (other than Bakhar) or any portion of hemp plant (*Cannabis sativa* L.) from which an intoxicating drug may be manufactured or produced, means any quantity up to such quantity as may be specified by the State Government by notification;';

*The West Bengal Finance Bill, 2024.**(Clause 3.)*

(2) after section 13, the following section shall be inserted:—

“Procurement, utilization of spirit for manufacture of medicinal and toilet preparations.

13A. Procurement, utilization of spirit in excess of such quantity as may be specified by the State Government, for the purpose of manufacture of medicinal and toilet preparation shall be in accordance with the manner, on such terms and conditions and on payment of such fee as the State Government may prescribe by notification:

Provided that the conditions prescribed by the State Government shall be subject to the provisions of the Drugs and Cosmetics Act, 1940.”.

23 of 1940.

(3) In clause (d) of sub-section (1) of section 42, —

- (a) for the words and figures “Dangerous Drugs Act, 1930”, the words and figures “Narcotic Drugs and Psychotropic Substances Act, 1985” shall be substituted; 2 of 1930.
61 of 1985.
- (b) for the words and figures “the Trade and Merchandise Marks Act, 1958”, the words and figures “The Trade Marks Act, 1999” shall be substituted; 43 of 1958.
47 of 1999.
- (c) the words and figures “or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955” shall be omitted. 16 of 1955.

(4) in section 46A,—

(a) for clause (i) the following clause shall be substituted:—

“(i) in case of an offence under clause (c) and (f)—

1. Where the offence involves small quantity, with imprisonment up to one year or with fine not below ten thousand rupees or both, subject to a minimum imprisonment of three months or with fine,
2. where the offence involves intermediate quantity, with imprisonment up to three years and with fine not below fifty thousand rupees, subject to a minimum imprisonment of six months and with fine,
3. where the offence involves large quantity, with imprisonment up to five years and with fine not below one lakh rupees, subject to a minimum imprisonment of one year and with fine:

Provided that, the provisions of Chapter XXIA (Plea Bargaining), Code of Criminal Procedure, 1973 may apply in respect of offences involving small quantity, if committed for the first time.”;

2 of 1974.

(b) for clause (ii) the following clause shall be substituted:—

“(ii) in case of offence under clause (a), (b), (cc), (d) and (e), with imprisonment up to five years and with fine not below one lakh rupees, subject to a minimum imprisonment of one year and with fine.”.

(5) in section 54A, for the words “ten thousand rupees”, the words “five lakh rupees” shall be substituted.

*The West Bengal Finance Bill, 2024.**(Clause 3.)*

- (6) in section 63, in sub-section (2), the proviso shall be omitted.
- (7) section 64 shall be omitted.
- (8) in section 78, for sub-section (2), the following sub-section shall be substituted:—

“(2) (a) Notwithstanding anything contained in this Act or any other law for the time being in force, upon receipt of the report under sub-section(1) and after being satisfied that an offence has been committed in respect of or by means of the seized intoxicants and other incriminating materials including material, still, utensils, implements or apparatus, receptacles, packages and coverings which are liable to confiscation under section 63, the Collector or any other officer empowered by the State Government, shall, pass an order for confiscation of the seized articles whether or not a prosecution is instituted for commission of such offence:

Provided that upon confiscation, the incriminating articles shall be disposed of in such manner as the State Government may prescribe by notification, having regard to the constraints of space for storage, chances of pilferage or damage of seized material.

- (b) Articles, other than those referred to in clause (a) having legitimate use but excluding any conveyance shall be returned to the owner or any person entitled to possession or confiscated in absence of such claimant. No confiscation shall be made before expiry of two months from the date of seizure. Upon confiscation, the articles shall be disposed of in such manner as the State Government may prescribe.
- (c) In respect of any conveyance used in carrying the seized incriminating articles, the Collector or the empowered officer shall—
- (i) send a notice to the owner, registered or otherwise, of such vehicle or his representative or the person who had the vehicle in his possession informing about the initiation of proceedings under this clause,
- (ii) grant such person an opportunity of making representation within such reasonable time as may be specified in the notice,

upon hearing and considering the representation as well as the report received under sub-section (1) of section 78 and necessary enquiry, if the Collector or the empowered officer, as the case may be, is satisfied that the conveyance was used for transportation of the seized materials without the knowledge, connivance of such person or his agent and the latter had taken reasonable precautions against such use he may allow interim custody of such conveyance to the claimant subject to such conditions as the State Government may prescribe by notification. Otherwise, the vehicle shall be confiscated:

Provided that final release of such vehicle shall be subject to submission of report by the investigating officer under sub-section (2) or sub-section (4) of section 74, as the case may be:

Provided further that in absence of representation or in the event of non-appearance for hearing, the Collector or the empowered officer may pass order of confiscation ex-parte:

Provided also that within 72 hours of the order of confiscation, a report containing the grounds of the decision shall be sent to the Excise Commissioner.

- (d) Unclaimed conveyance shall be confiscated after expiry of two months from the date of seizure and taking reasonable steps for ascertaining the owner thereof.

The West Bengal Finance Bill, 2024.

(Clause 3.)

- (e) Any person aggrieved by an order passed under any of the foregoing clauses may prefer appeal, within 30 days of the order, before the Excise Commissioner or any officer not below the rank of Additional Excise Commissioner as the Excise Commissioner may authorize and further prefer an appeal before the State Government against the order of first appellate authority within 30 days. The order passed by the State Government shall be final.
- (f) During pendency of proceedings initiated under this section, the Collector or the empowered officer may pass an order for interim custody of the seized articles including any conveyance.”.

(9) after section 84, the following section shall be inserted:—

“Finality of orders passed under section 78. 84 A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no Court shall entertain any application in respect of the seized articles including conveyance, for which disposal proceeding have been initiated under sub-section (2) of section 78: 2 of 1974.

Provided that the jurisdiction of the Collector or the empowered officer or the Appellate Authority with regard to the disposal of the same shall be exclusive.

(2) The finality of order in original or appellate order passed under sub-section (2) of section 78 shall not be subject to the results of criminal prosecution.”.

(10) to sub-section (1) of section 89, the following proviso shall be inserted:—

“Provided that all such excise dues may also be recovered from any person from whom money is due or may become due to the person primarily liable to pay excise revenue, in the manner prescribed by the State Government by notification.”.

STATEMENT OF OBJECTS AND REASONS.

It has been considered necessary and expedient *inter alia* to make amendment in—

- (1) the Indian Stamp Act, 1899, in its application to West Bengal, to incorporate certain amendments in article 33 of Schedule IA;
- (2) the Bengal Excise Act, 1909—
 - (a) to ensure conformity with the Narcotic Drugs and Psychotropic Substances Act, 1985, in relation to definition of “intoxicating drug”;
 - (b) to make provision for regulation of utilization of alcohol in the manufacturing of medicinal, toilet preparations having alcohol as an ingredient since the earlier Act namely the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, has been repealed by section 174 of the Central Goods and Services Tax Act, 2017;
 - (c) to introduce provision of penal action based on quantity of seizure, instead of the existing provisions based on value of seizure, to ensure objectivity and transparency;
 - (d) to enhance fine for serious breach of excise statute to deter misuse of licenses;

The West Bengal Finance Bill, 2024.

- (e) to make provisions for expeditious disposal of cases involving seizure of small quantity of incriminating articles by way of plea bargaining, if committed for the first time and the quick disposal of seized articles including conveyance;
 - (f) to make provision for recovery of statutory dues of excise from a defaulter licensee in an effective manner.
2. The Bill has been framed with the above objects in view.
 3. There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA:

The 8th February, 2024.

CHANDRIMA BHATTACHARYA,

Member-in-charge.

By order of the Governor,

PRADIP KUMAR PANJA,
*Pr. Secy. to the Govt. of West Bengal,
Law Department.*