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LAW DEPARTMENT

NOTIFICATION

The 8th September 2006

No. 11723-Legis.—The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 8th September 2006 is hereby published for general information.

ORISSA ACT 10 OF 2006

THE BIHAR AND ORISSA EXCISE (ORISSA AMENDMENT) ACT, 2006

AN ACT FURTHER TO AMEND THE BIHAR AND ORISSA EXCISE
ACT, 1915 IN ITS APPLICATION TO THE STATE OF ORISSA

BE it enacted by the Legislature of the State of Orissa in the
Fifty-seventh Year of the Republic of India as follows:—

Short title
and
commence-
ment.

(1) This Act may be called the Bihar and Orissa Excise (Orissa
Amendment) Act, 2006.

(2) It shall be deemed to have come into force on the
1st day of June, 2006.

Insertion of
new Section
22-A.

2. In the Bihar and Orissa Excise Act, 1915 (hereinafter referred
to as the principal Act), after Section 22, the following section shall be
inserted, namely:—

Bihar and
Orissa Act 2 of
1915.

*Exemption
in certain
cases.

22-A. Notwithstanding anything contained in this Act, except the
provisions of Section 26-A, it shall not be necessary for the State
Government or an agency of State Government or a corporation
established, or incorporated under the Companies Act, 1956 and wholly
owned and controlled by the State Government, to take licence or permit
under this Act for production, manufacture, possession, import, export,
transport, sale or purchase of any liquor, but such activities shall be
subject to such rules as may be made in this behalf."

1 of 1956.

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Amendment of Section 47.

3. In Section 47 of the principal Act,—

- (1) in clause(i)—
 - (a) for the words "two years", "five years", "five thousand rupees" and "twenty thousand rupees", the words "three years", "seven years", "twenty thousand rupees" and "fifty thousand rupees" shall respectively, be substituted,
 - (b) the word "and" appearing at the end of the proviso shall be omitted, and
 - (c) after the proviso, the following proviso, shall be inserted, namely:—

"Provided further that where any person possesses or sells any outstill liquor manufactured out of Mahua flower from an authorised source not exceeding ten litres in contravention of this Act or any rule or order made thereunder, shall on conviction be punishable with imprisonment for a term which shall not be less than one year, but may extend to two years and with fine which shall not be less than rupees five thousand but may extend to rupees twenty thousand, and"; and

(2) in clause (ii) for the words " six months" and " five thousand rupees", the words " one year" and " ten thousand rupees" shall, respectively, be substituted.

Amendment of Section 49.

4. In Section 49 of the principal Act, for the words "five years", "ten thousand rupees" and "fifty thousand rupees", the words "seven years", "twenty-five thousand rupees" and "one lakh rupees" shall respectively be substituted.

Amendment of Section 52.

5. In Section 52 of the principal Act, for the words "five years", "seven years", "twenty thousand rupees" and "fifty thousand rupees", the words "seven years", "ten years", "fifty thousand rupees" and "one lakh rupees" shall respectively be substituted.

Insertion of new Section 52-A.

6. In the principal Act, after Section 52, the following section shall be inserted, namely:—

" Penalty for mixing noxious substance with liquor.

52-A. Whoever mixes or permits to be mixed with any liquor sold or manufactured or possessed by him any noxious drug or any foreign ingredient likely to cause grievous hurt or death to human beings, shall, on conviction, be punishable —

- (a) if as a result of such an act, death is caused to any person, with imprisonment for life and shall also be liable to fine which may extend to ten lakh rupees;
- (b) if as a result of such an act, grievous hurt is caused to any person, with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine which may extend to five lakh rupees;

- (c) if as a result of such an act, any other consequential injury is caused to any person, with imprisonment for a term of one year and shall also be liable to fine which may extend to two lakh fifty thousand rupees; and
- (d) if as a result of such an act, no injury is caused to any person, with imprisonment for a term of six months and shall also be liable to fine which may extend to one lakh rupees or 5 times the value of liquor whichever is higher.

Explanation.—For the purpose of this section the expression "grievous hurt" shall have the same meaning as in Section 320 of the Indian Penal Code, 1860."

45 of 1860.

Amendment of
Section 53.

7. In Section 53 of the principal Act, for the words "six months", "two years", "five thousand rupees" and "twenty thousand rupees", the words "three years", "five years", "twenty thousand rupees" and "fifty thousand rupees" shall respectively be substituted.

Amendment of
Section 54.

8. In Section 54 of the principal Act, in sub-section (1), for the words "five thousand rupees" occurring at the end, the words "twenty thousand rupees" shall be substituted.

Amendment of
Section 55.

9. In Section 55 of the principal Act, for the words "six months" and "one thousand rupees", the words "three years" and "twenty thousand rupees" shall respectively be substituted.

Amendment of
Section 56.

10. In Section 56 of the principal Act, for the words "three months" and "one thousand rupees", the words "three years" and "twenty thousand rupees" shall respectively be substituted.

Amendment of
Section 57.

11. In Section 57 of the principal Act, for the words "five thousand rupees" and "ten thousand rupees", the words "twenty thousand rupees" and "fifty thousand rupees" shall respectively be substituted.

Amendment of
Section 78.

12. In Section 78 of the principal Act,—

- (a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Collector or any Excise Officer empowered under sub-section (2) of Section 77, may, after recording in writing the reason for suspecting the commission of an offence under this Act which he is empowered to investigate, exercise—

- (a) any of the powers conferred upon a Police Officer making an investigation or upon an Officer-in-Charge of a Police Station, by Sections 160 to 171 of the Code of Criminal Procedure, 2 of 1974, 1973, and

- (b) any of the powers conferred upon such Police Officer in respect of cognizable offences by clause (a) of sub-section (1) of Section 41 and by Section 55 of the said Code, relating to the offences punishable under Sections 47, 49, 52, clauses (a) and (b) of Section 52-A, Sections 53, 55 and 56 of this Act,

and the said provisions of the said Code shall apply accordingly, subject to any restriction or modifications prescribed by the State Government by the rules made under clause (n) of Section 89 of this Act," and

- (b) in sub-sections (3) and (4), for the words and figure "the Code of Criminal Procedure, 1898", the words and figure "the Code of Criminal Procedure, 1973" shall, respectively, be substituted. 5 of 1898.
2 of 1974.

Omission of
Section 79.

13. Section 79 of the principal Act shall be omitted.

Amendment
of Section
85.

14. In the principal Act, for sub-section (1) of Section 85, the following sub-section shall be substituted, namely:—

"(1) Except otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973 relating to arrests, detention in custody, searches, summons, warrants of arrest, search warrants, the production of persons arrested, enquiry and trial of offences shall apply, so far as may be, to arrests, detention in custody, searches, summons, warrants of arrest, search warrants, the production of persons arrested, enquiry and trial of offences under this Act." 2 of 1974.

Insertion of
new Section
85-A.

15. In the principal Act, after Section 85, the following Section shall be inserted, namely:—

"Procedure
for releasing
on bail.

85-A. The provision of Chapter XXXIII of the Code of Criminal Procedure, 1973, shall apply to bail and bonds. 2 of 1974.

Provided that no person accused of an offence punishable for a term of imprisonment of seven years or more under this Act shall be released on bail or on his own bond unless—

- (i) the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, has been given an opportunity to oppose the application for such release, and
- (ii) where the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, oppose the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail."

Remission of
Sections
86, 87 and
88.

16. In the principal Act, Sections 86, 87 and 88 shall be omitted.

Repeal and
savings.

17. (1) The Bihar and Orissa Excise (Orissa Amendment) Ordinance, 2006 is hereby repealed.

Orissa
Ordinance
No. 1 of
2006.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

By order of the Governor

D. K. SAHU

Principal Secretary to Government