

**THE KHYBER PAKHTUNKHWA, TABLE WATERS ACT, 1939.**

**Act XIX of 1939.**

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**THE [<sup>1</sup>KHYBER PAKHTUNKHWA] TABLE  
WATERS ACT, 1939.**

**ACT XIX OF 1939.**

**(Received the assent of the Governor on the 5th December, 1939)**

*An Act to provide for the imposition and collection of an  
Excise duty on Table Water.*

WHEREAS it is expedient to provide for the imposition and collection of an excise duty on table waters; Preamble.

It is hereby enacted as follows:—

1. (i) This Act may be called the <sup>2</sup>[Khyber Pakhtunkhwa] Table Water Act, 1939. Short title and commencement.

(ii) It extends to the whole of the <sup>3</sup>[Province of the Khyber Pakhtunkhwa].

(iii) It shall come into force on <sup>4</sup>[5th December, 1939].

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

(a) "Manufactory" means any premises wherein table waters are manufactured;

(b) "Owner" includes any person expressly or impliedly authorized by an owner of a manufactory to be his agent in respect of the manufactory;

(c) "Table Water" includes aerated waters and beverages sold or kept for sale in bottles, or sold direct from a Soda Fountain or aerating machine other than—

(i) liquor for the retail sale of which an Excise license is required under any law for the time being in force; and

(ii) such syrups or other non-alcoholic liquors intended to be consumed in a diluted form as may be exemplified by the Provincial Government by notification.

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<sup>1</sup>. Subs vide the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>2</sup>. Subs vide the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>3</sup>. Subs vide the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>4</sup>. Inserted by Notification No. 2777/LD/I/122, dated 15-12-1939.

3. (i) An excise duty shall be levied on all table waters manufactured in any manufactory in the <sup>1</sup>[Khyber Pakhtunkhwa] and issued out of such manufactory and it shall be payable by the owner of the manufactory. Duty on table waters manufactured in the <sup>2</sup>[Khyber Pakhtunkhwa]
- (ii) The duty payable under this section shall be levied at the following rates, namely:
- (a) on bottles not exceeding one pint in capacity at the rate of three annas per dozen bottles;
  - (b) on bottles of larger capacity at such rates as may be prescribed by the Provincial Government by notification ;
  - (c) on soda fountains or aerating machines from which table waters are sold direct, at such annual rate, based on capacity, as may be prescribed by the Provincial Government by notification.
4. (i) If any duty payable under Section 3 is not paid within the time fixed by rules made in that behalf under this Act it shall be deemed to be an arrear, and the authority to which such duty is payable may in lieu thereof, recover any sum not exceeding four times the amount of duty unpaid which such authority may think reasonable. Recovery of duty with penalty.
- (ii) Any arrear of duty or any sum recoverable in lieu thereof under this section shall be recoverable as an arrear of land revenue and shall be recoverable in addition to any other penalty incurred under this Act,
5. No person shall issue any table waters out of a manufactory, except in accordance with the provisions of rules made in that behalf under this Act, or until such rules are made in accordance with any general or special order of the Provincial Government. Issue of table waters from manufactory.
6. (i) The Provincial Government may, by notification, direct that after a date to be specified in the notification no table water shall be issued from a manufactory except in bottles bearing a banderol or a stamp of such nature and affixed in such manner as may be prescribed by rules made under this Act. Use of banderols or stamps.
- (ii) The Provincial Government may by notification, direct that, after a date to be specified in the notification, no table waters shall be sold or offered or kept for sale except in bottles bearing such a banderol or stamp or affixed or in a licensed Soda Fountain or crating Machine.
7. From such date as may be fixed by the Provincial Government by notification in this behalf, no person shall manufacture table waters except under and in accordance with a license issued under this Act. Manufacture of table waters.

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<sup>1</sup>. Subs vide the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>2</sup>. Subs vide the Khyber Pakhtunkhwa Act No. IV of 2011.

8. Whoever contravenes the provisions of Section 5 shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both. Penalty for contravention of Section 5.
9. (i) Whoever issues table waters from any manufactory in contravention of any direction under sub-section (i) of Section 6, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees or to one rupee for every bottle of table waters in respect of which an offence has been committed whichever is less, or with both imprisonment and fine. Penalty for contravention of Section 6.
- (ii) Whoever sells or offers or keeps for sale table waters in contravention of any direction under sub-section (ii) of Section 6, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees or to one rupee for every bottle of table waters in respect of which an offence has been committed whichever is less, or with both imprisonment and fine.
10. Whoever manufactures table waters in contravention of the provisions of Section 7, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both. Penalty for contravention of Section 7.
11. Whoever evades or attempts to evade the payment of any duty payable by him under this Act or fails to supply any information which he is required to supply under this Act or rules made thereunder, or supplies in compliance therewith information which is false and which he either knows or believe to be false or does not believe to be true, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both. Penalty for evasion of duty, failure to supply information and supplying false information.
12. Any Court trying an offence under this Act may order that table waters and bottles, which contain table waters, in respect of which an offence has been committed under this Act, shall be forfeited to<sup>1</sup>[Provincial Government]. Forfeiture of table waters.
13. (i) The Provincial Government may by notification, make rules to carry into effect the purposes and objects of this, Act. Power of Provincial Government to make rules.
- (ii) In particular, and without prejudice to the generality of the foregoing power, such rules may—
- (a) provide for the assessment and collection of the duty and the authorities by whom any function under this Act shall be discharged the issue of notices, for payment of the duty, the manner in which the duty shall be payable, and the recovery of the arrears;

<sup>1</sup>. Substituted vide W.P. Laws (Adaptation Order) 1964, Part – III.

- (b) regulate the issue of table waters out of any manufactory;
- (c) regulate the sale of table waters at Soda Fountains and aerating machines from which table waters are sold direct;
- (d) impose on the owners of manufactories and on persons engaged in the sale of table waters the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information, the form of such records and returns, the particulars to be contained therein, and manner in which they shall be verified;
- (e) provide for the issue of licences and prescribe the form and the conditions of licences and the fees to be charged therefor;
- (f) provide for restraint or detention of table waters for exacting the duty and for confiscation, otherwise than under Section 12, of table waters in respect of which breaches of the Act or rules made under the Act have been committed and for disposal of table waters so distrained detained, or confiscated;
- (g) authorize and regulate the inspection or search of any place or conveyance used for the manufacture, storage or carriage of table waters;
- (h) authorize and regulate the composition of offences against, or liabilities incurred under the Act and the rules, including composite payments in lieu of duty; and
- (i) prescribe stamps and banderols and the manner of affixing them.

(iii) In making any rule under this section the Provincial Government may provide that a breach of any rule, shall, where no other penalty is provided by this Act, be punishable with imprisonment for any term not exceeding six months, or with fine not exceeding one thousand rupees, or with both imprisonment and fine.