

No. 118/XXXVI(3)/2019/17(1)/2019

Dated Dehradun, April 09, 2019**NOTIFICATION****Miscellaneous**

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of 'The Uttarakhand (the United Provinces Excise Act, 1910) (Amendment) Act, 2019' (Act No. 09 of 2019).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 05 April, 2019.

The Uttarakhand (The United Provinces Excise Act, 1910) (Amendment) Act, 2019
(Uttarakhand Act No. 09 of 2019)

AN

ACT

further to amend the Uttarakhand (United Provinces Excise Act, 1910) (Adaptation and Modification Order, 2002) to the context of the State of Uttarakhand,

Enacted by the Uttarakhand State Legislative Assembly in the Seventieth Year of the Republic of India-

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| Short Title and Commencement | 1. | (1) This Act may be called the Uttarakhand (the U.P. Excise Act, 1910) (Amendment) Act, 2019. |
| | | (2) It extends to the whole of Uttarakhand. |
| | | (3) It shall come into force at once. |
| Amendment of section 3 | 2. | In section 3 of the Uttarakhand (United Provinces Excise Act, 1910) (Adaptation and Modification Order, 2002) here in after referred to as the principal Act, in clause (12); |
| | | (a) In sub-clause (i) for the words "Sidhi or Ganja" the words "or Sidhi" shall be substituted; |
| | | (b) Sub-clause (ii) shall be omitted; |
| | | (c) For-clause (iv) the following clause shall be substituted namely:- |
| | | "(iv) any other intoxicating substance which the State Government may by notification declare to be an intoxicating drug;" |

- Amendment of section 50** 3. In section 50 of the principal Act,-
 (a) for the words "committing an offence" the words "committing or abetting an offence" shall be substituted .
 (b) After the word and figures "section 60," the words and figures "section 60A," shall be inserted.
- Amendment of section 51** 4. In section 51 of the principal Act for the words "committed any offence Punishable" the words "committed or abetted any offence Punishable" and after the word and figures "section 60," the words and figures "section 60A," shall be inserted.
- Amendment of section 52** 5. In section 52 of the principal Act, after the words and figures "section 60," the words and figures "section 60A and section 69," shall be inserted.
- Amendment of section 53** 6. In section 53 of the principal Act, after the words and figures "section 60," the words and figures "section 60A," shall be inserted.
- Amendment of section 54** 7. In section 54 of the principal Act for the proviso the following proviso shall be substituted, namely:-
 "Provided that an offence punishable under section 60, section 60A, section 61, section 62, section 63, section 64-A, section 65, section 68 and section 69 or an offence punishable for abetment of any offence under the said sections may be investigated into without the order of a Magistrate, and that any warrant issued by the Collector under section 51 or section 52 may be executed by any officer authorised by the collector for the said purpose."
- Amendment of section 55** 8. For section 55 of the principal Act the following section shall be substituted, namely:-
 "55. An offences punishable under sub-section (2) of section 60, section 60A, section 62, section 63 and section 64A, abetment of any offence punishable under the said sections and the offences under section 69 wherein any person has been previously convicted thrice for the same offence, shall be non- bailable within the meaning of the Code Of Criminal Procedure, 1973."
- Amendment of section 60** 9. For section 60 of the principal Act the following section shall be substituted, namely:-
 "60. (1) Whoever, in Contravention of this Act or of any rule or order made there under, or of any licence, permit or pass obtained there under:-
 (a) Exports any intoxicant; or
 (b) Transports or possesses any intoxicant which is not covered under section 63 of this Act; or
 (c) Collects or sells the leaves and small stalks (not accompanied by flowering or fruiting tops) of natural and spontaneous growth of wild Indian Hemp plant (*Cannabis Sativa*) other than charas, ganja or any other intoxicating drug covered under the Narcotic Drugs and Psychotropic Substances Act, 1985; or

- (d) Constructs or operate any distillery, brewery, manufactory or vintnery; or
- (e) Uses, keeps or has in his possession any material, still, utensil, tools or apparatus, whatsoever, for the purpose of manufacturing any intoxicant other than tari; or
- (f) Removes any intoxicant from any distillery, brewery, manufactory, vintner or warehouse licence, established or continued under this Act; or
- (g) Bottles any liquor for the purposes of sale; or
- (h) Sells any intoxicant, save in the case provided for by section 61; or
- (i) Taps, or draws tari from any tari-producing tree in the areas
- Amendment of section 54** 7. In section 54 of the principal Act for the proviso the following proviso shall be substituted, namely:-
- “Provided that an offence punishable under section 60, section 60A, section 61, section 62, section 63, section 64-A, section 65, section 68 and section 69 or an offence punishable for abetment of any offence under the said sections may be investigated into without the order of a Magistrate, and that any warrant issued by the Collector under section 51 or section 52 may be executed by any officer authorised by the collector for the said purpose.”
- Amendment of section 55** 8. For section 55 of the principal Act the following section shall be substituted, namely:-
- “55. An offences punishable under sub-section (2) of section 60, section 60A, section 62, section 63 and section 64A, abetment of any offence punishable under the said sections and the offences under section 69 wherein any person has been previously convicted thrice for the same offence, shall be non-bailable within the meaning of the Code Of Criminal Procedure, 1973.”
- Amendment of section 60** 9. For section 60 of the principal Act the following section shall be substituted, namely:-
- “60. (1) Whoever, in Contravention of this Act or of any rule or order made there under, or of any licence, permit or pass obtained there under:-
- (a) Exports any intoxicant; or
- (b) Transports or possesses any intoxicant which is not covered under section 63 of this Act; or
- (c) Collects or sells the leaves and small stalks (not accompanied by flowering or fruiting tops) of natural and spontaneous growth of wild Indian Hemp plant (Cannabis Sativa) other than charas, ganja or any other intoxicating drug covered under the Narcotic Drugs and Psychotropic Substances Act, 1985; or

years but shall not be less than seven years and shall also be liable to fine which may extend to ten lakh rupees but shall not be less than five lakh rupees;

(b) If as a result of such an act, disability or grievous hurt is caused, shall be punished with rigorous imprisonment which may extend to eight years but shall not be less than six years and shall also be liable to fine which may extend to five lakh rupees but shall not be less than three lakh rupees;

(c) If as a result of such an act, any hurt or any other consequential injuries caused to any person, shall be punished with imprisonment for a term which may extend to five years but shall not be less than three years and shall be liable to fine which may extend to two lakh rupees but shall not be less than one lakh rupees;

Explanation:- For the purpose of this section the expression "hurt and grievous hurt" shall have the same meaning as in section 319 and section 320 respectively of the Indian Penal Code, 1860 (Act no. XLV of 1860)."

Amendment of section 63 of 11. For Section 63 of the principal Act, the following section shall be substituted namely:-

Penalty for unlawful import of intoxicant and transport or possession of unlawfully imported intoxicant etc

"63. Whoever, is contravention of this Act, or of any rule or order made there under, imports any intoxicant or transports or has in his possession any quantity of any intoxicant unlawfully imported, shall be punished with the imprisonment which shall not be less than six months and which may extend to five years and also with fine which shall not be less than ten times the amount of excise duty or excise revenue under Section 30 which would have been leviable if such intoxicant had been dealt with in accordance with this act and the rules and orders made thereunder or in accordance with any license, permit or pass obtained thereunder or twenty thousand rupees whichever is greater;

Provided that if any person import /transport such quantity of liquor which is under possession limit but the excise revenue in that liquor is not paid in Uttarakhand than he will punish under section 60 (1) (B)."

Amendment of section 64 of 12. In section 64 of the principal Act for clause (C) the following clause shall be substituted namely:-

"(c) save in a case provided for by section 60, wilfully contravenes any rule "made under section 40 and 41 shall, for each such offence, be punished with fine which shall not be less twenty thousand rupees."

Amendment of section 64A of 13. In section 64A of the principal Act, sub-section (1) shall be omitted.

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| Amendment of section 68 | 14. | In section 68 of the principal Act for the words "five thousand rupees" the word "twenty thousand rupees" and "ten thousand rupees" the word "fifty thousand rupees" shall be substituted. |
| Amendment of section 69 | 15. | The first proviso clause in Section 69 of the Principal Act shall be substituted, namely:-
" Provided that-
(a) in the case of second or third conviction for any offence under sub-section (1) of Section 60, Section 63 or Section 65, a sentence of imprisonment for a term not less than one year but which may extend to five years, and with fine which may extend to thirty thousand rupees, shall be passed;
(b) in the case of second or third conviction for any offence under sub-section (2) of Section 60 or Section 62, a sentence of imprisonment for a term not less than two years but which may extend to five years, and with fine which may extend to sixty thousand rupees, shall be passed;
(c) in the case of fourth or subsequent conviction for an offence punishable under any of Section 60, Section 62, Section 63 or Section 65, a sentence of imprisonment for a term not less than seven years but which may extend to ten years and with fine which may extend to sixty thousand rupees, shall be passed. " |
| Amendment of section 69 A | 16. | In section 69-A of the principal Act for the words letters and figures "clause (b), clause (d), clause (e) or clause (g) of sub-section (1) or of sub-section (2) of section 60 or of section 62 the words and figures "section 60, section 60A, section 62, section 63 or section 65" shall be substituted. |
| Amendment of section 70 | 17. | In section 70 of the principal Act, (a) in sub section (1) for clause (a) following clause shall be substituted, namely:-
(a) of an offence punishable under section 60, section 60A, section 62, section 63, section 64A section 65 or section 69 B, except on his own knowledge or suspicion or on the complaint or report of an excise officer, or "
(b) for sub-section (2) the following sub-section shall be substituted namely:-
"(2) Except with the special sanction of the state Government no magistrate shall take cognizance of any offence punishable under this Act other than an offence committed or abetted under sub section (a) and (b) of section 60A and section 67, unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed." |
| Amendment of section 71 | 18. | In section 71 of the principal Act:-
(a) After the word and figures "section 60," the words and figures "section 60A," shall be inserted.
(b) for the proviso the following proviso shall be substituted, namely:- |

"Provided that, notwithstanding anything to the contrary in section 60A and 60B, no person other than the actual offender shall be punished with imprisonment except in default of payments of fine."

Amendment of
section 72

19.

In section 72 of the principal Act for sub-section (2) the following sub-section shall be substituted, namely:-

"(2) Where anything or animal is seized under any provision of this Act, the officer seizing and detaining such property shall, within three working days from the date of such seizure and detention, produce a detailed report for confiscation along with such seized property, seizure memo and other reliant documents before the Collector. The Collector shall upon receiving the said report along with seizure memo and seized property, immediately order for safe custody and storage of goods as he may deem fit. The Collector, if satisfied for reasons to be recorded that an offence has been committed due to which such thing or animal has become liable to confiscation under sub-section (1), he may order confiscation of such thing or animal whether or not a prosecution for such offence has been instituted:

Provided that in the case of anything (except an intoxicant) or animal "referred to in sub-section (1), the owner thereof shall be given an option to pay in lieu of its confiscation such fine as the Collector thinks adequate not exceeding its market value on the date of its seizure."

Amendment of
section 73 A

20.

For section 73A of the principal Act the following section shall be substituted, namely"

"73-A. Where any intoxicant is confiscated under section 72 or section 73, the Collector, may, subject to any order passed in that behalf by any court if in his opinion the confiscated intoxicant is not fit for human consumption or if the confiscated intoxicant cannot be stored or preserve, order the intoxicant to be destroyed not withstanding anything to the contrary contained in this Act.

Provided that the intoxicant shall not be destroyed except after expiration of two months from the date of confiscation or where an application for review or an appeal against the order of confiscation is pending except in accordance with the order passed in such, review or appeal in this regard:

Provided further that any order for destruction of the intoxicant under this section shall not be passed without providing opportunity of hearing after notice of seven days to the person from whose custody the intoxicant is recovered:

Provided also that adequate sample of the intoxicant shall be preserved to meet the evidentiary requirement."

By Order,

D.P. GAIROLA,
Principal Secretary.