



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ८८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Prohibition (Amendment) Ordinance, 2019 (Mah. Ord. XXV of 2019), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
Secretary (Legislation) to Government,
Law and Judiciary Department.

[Translation in English of the Maharashtra Prohibition (Amendment) Ordinance, 2019 (Mah. Ord. XXV of 2019), published under the authority of the Governor].

HOME DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 18th September 2019.

MAHARASHTRA ORDINANCE No. XXV OF 2019.

AN ORDINANCE

further to amend the Maharashtra Prohibition Act.

WHEREAS both Houses of the State Legislature are not in session ;

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Prohibition Act, for the purposes hereinafter appearing ;

XXV of
1949.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Maharashtra Prohibition (Amendment) Ordinance, 2019.

Short title and
commencement.

(2) It shall come into force at once.

(१)

Amendment of
section 2 of
XXV of 1949.

2. In section 2 of the Maharashtra Prohibition Act (hereinafter referred to as "the principal Act"),— XXV of 1949.

(a) before clause (1), the following clause shall be inserted, namely :—

“(1-a) “ Absolutely Prohibited Area ” means an area of district or districts or its part within the State declared as dry district or part of it, by general or special order published in the *Official Gazette*, issued under clause (a) of sub-section (1) of section 139, by the Government, from time to time ; ” ;

(b) after clause (34), the following clause shall be inserted, namely :—

“(34A) “ prescribed limit ” means the limit for the possession of the quantity of liquor or the value of seized liquor upto certain amount of rupees declared by the Government, by an order issued in the *Official Gazette*, from time to time ; ” .

Amendment of
section 65 of
XXV of 1949.

3. In section 65 of the principal Act,—

(a) in clause (e), for the word “ possesses ” the words “ possesses the quantity above the prescribed limit of ” shall be substituted ;

(b) for the portion beginning with the words “ shall, on conviction, ” and ending with the words “ fifty thousand rupees or with both ”, the following shall be substituted, namely :—

“ shall, on conviction,—

(a) if the offence is committed in the area other than Absolutely Prohibited Area, be punished for each such offence with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees or with both ;

(b) if the offence is committed in the Absolutely Prohibited Area, be punished,—

(i) for a first offence, with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine, which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees or two times of the amount of the duty or fee evaded by him, whichever is higher ;

(ii) for second offence, with imprisonment for a term which shall not be less than five years but which may extend to seven years and with fine, which shall not be less than one lakh rupees but which may extend to two lakh rupees or three times of the amount of the duty or fee evaded by him, whichever is higher ;

(iii) for third or subsequent offence, with imprisonment for a term which shall not be less than seven years but which may extend to ten years and with fine, which shall not be less than two lakh rupees but which may extend to five lakhs rupees or four times of the amount of the duty or fee evaded by him, whichever is higher. ” .

Amendment of
section 66 of
XXV of 1949.

4. In section 66 of the principal Act, in sub-section (1),—

(a) in clause (b), after the word “ consumes ” the words “ or possess the quantity below or upto the prescribed limit ” shall be inserted ;

(b) for paragraphs (i), (ii) and (iii), the following shall be substituted, namely :—

“ (i) if the offence is committed in the area other than Absolutely Prohibited Area,—

(a) for the first offence, with imprisonment for a term which may extend to six months or with fine, which may extend to ten thousand rupees :

Provided that, in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than three months or fine shall not be less than five thousand rupees ;

(b) for the second offence, with imprisonment for a term which may extend to two years or with fine, which may extend to twenty thousand rupees:

Provided that, in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months or fine shall not be less than ten thousand rupees ;

(c) for the third or subsequent offence, with imprisonment for a term which may extend to two years or with fine, which may extend to twenty thousand rupees:

Provided that, in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months or fine shall not be less than ten thousand rupees ;

(ii) if the offence is committed in the Absolutely Prohibited Area,—

(a) for the first offence, with imprisonment for a term which may extend to six months or with fine, which may extend to rupees ten thousand rupees or two times the value of the seized liquor, whichever is higher ;

(b) for the second offence, with imprisonment for a term which may extend to two years or with fine, which may extend to twenty thousand rupees or three times the value of the seized liquor, whichever is higher ;

(c) for the third or subsequent offence, with imprisonment for a term which may extend to two years or with fine, which may extend to twenty thousand rupees or four times the value of the seized liquor, whichever is higher. ”.

5. In section 68 of the principal Act, for the portion beginning with the words “ shall, on conviction ” and ending with the words “ fifty thousand rupees or with both ”, the following shall be substituted, namely :—

Amendment of section 68 of XXV of 1949.

“ shall, on conviction,—

(a) if the offence is committed in the area other than Absolutely Prohibited Area, be punished for each such offence with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees or with both.

(b) if the offence is committed in the Absolutely Prohibited Area, be punished,—

(a) for the first offence, with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine, which shall not be less than twenty five thousand rupees but which may extend to one lakh rupees or two times of the amount of the duty or fee evaded by him, whichever is higher ;

(b) for the second offence, with imprisonment for a term which shall not be less than five years but which may extend to seven years and with fine, which shall not be less than one lakh rupees but which may extend to two lakh rupees or three times of the amount of the duty or fee evaded by him, whichever is higher ;

(c) for the third or subsequent offence, with imprisonment for a term which shall not be less than seven years but which may extend to ten years and with fine, which shall not be less than two lakh rupees but which may extend to five lakhs rupees or four times of the amount of the duty or fee evaded by him, whichever is higher.”.

Amendment of section 83 of XXV of 1949.

6. In section 83 of the principal Act, for the portion beginning with the words “ each of such persons shall ” and ending with the words “ fifty thousand rupees or with both ”, the following shall be substituted, namely :—

“ each of such persons shall, on conviction,—

(i) if the offence is committed in the area other than Absolutely Prohibited Area, be punished for each such offence with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees or with both ;

(ii) if the offence is committed in the Absolutely Prohibited Area, be punished,—

(a) for the first offence, with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine, which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees or two times of the amount of the duty or fee evaded by him, whichever is higher ;

(b) for the second offence, with imprisonment for a term which shall not be less than five years but which may extend to seven years and with fine, which shall not be less than one lakh rupees but which may extend to two lakh rupees or three times of the amount of the duty or fee evaded by him, whichever is higher ;

(c) for the third or subsequent offence, with imprisonment for a term which shall not be less than seven years but which may extend to ten years and with fine, which shall not be less than two lakh rupees but which may extend to rupees five lakhs or four times of the amount of the duty or fee evaded by him, whichever is higher. ”.

Amendment of section 85 of XXV of 1949.

7. In section 85 of the principal Act, in the sub- section(1),—

(a) in clause (a), for the word “ and ” the word “ or ” shall be substituted ;

(b) in clause (b), for the word “ and ” the word “ or ” shall be substituted.

8. In section 86 of the principal Act, in sub-section (1), for the portion beginning with the words “ shall on conviction ” and ending with the words “ less than five thousand rupees ”, the following shall be substituted, namely :—
- Amendment of section 86 of XXV of 1949.
- “ shall, on conviction,—
- (i) if the offence is committed in the area other than Absolutely Prohibited Area, be punished with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both :
- Provided that, in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court the imprisonment shall not be less than three months and fine shall not be less than five thousand rupees ;
- (ii) if the offence is committed in Absolutely Prohibited Area, be punished for each such offence with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than twenty five thousand rupees but which may extend to Fifty thousand rupees or two times of the amount of the duty or fee evaded by him, whichever is higher.”.
9. After section 104A of the principal Act, the following section shall be inserted, namely :—
- Insertion of new section 104B in XXV of 1949.
- “ **104B.** Notwithstanding anything contained in section 104, whoever being the holder of license, for sale or manufacture of any liquor under this Act or a person in his employ or acting with his express or implied permission on his behalf, sales or transports or possess any liquor, in the Absolutely Prohibited Area, such offences shall not be compoundable. ”.
- Non- compounding of offences.
10. In section 115 of the principal Act, the words “ provided that the fine shall not exceed three thousand rupees ” shall be deleted.
- Amendment of section 115 of XXV of 1949.
11. For section 116 of the principal Act, the following section shall be substituted, namely :—
- Substitution of section 116 of XXV of 1949.
- “ **116.** (1) For the trial of offences committed,—
- (a) under sections 65, 68, 70, 72 and 83 in any area of the State ;
- and
- (b) under section 86 in the Absolutely Prohibited Area,
- the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1973, for the trial of warrant cases.
- (2) For the trial of offences under this Act, other than those specified in sub-section (1), if committed, in any area of the State, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1973, for the trial of summary cases in which an appeal lies. ”.
- Procedure to be followed by Magistrates.
12. In section 119 of the principal Act, for the figures and word “ and 83 ” the figure and words “ 83 and 86 ” shall be substituted.
- Amendment of section 119 of XXV of 1949.

STATEMENT

Under the provisions of the Maharashtra Prohibition Act (XXV of 1949) and rules made thereunder, different kinds of licenses and permits are granted. The punishment is provided for violation of the provisions of the said Act and the rules made thereunder.

The Government has, by order, issued, from time to time, declared certain districts as dry districts and therefore, cancelled the licenses and permits, granted under the said Act and Rules, in the said districts. The sales, purchases, possession, use and consumption of liquor in the said districts have been prohibited. To ensure effective enforcement of the provisions of the said Act in the said districts and carrying into effect the policy of prohibition, it is proposed to carry out certain amendments in the said Act.

2. Some of the important amendments proposed to be made in the said Act, are explained broadly, as follows :—

(a) to insert the definition of the term “ Absolutely Prohibited Area ” ;

(b) to enhance the quantum of punishment for the offences committed under sections 65, 66, 68, 83 and 86 in the Absolutely Prohibited Area ;

(c) to provide that the offences of sale or possession or transport of liquor by the holder of licenses for sale or manufacture of liquor or a person in his employ or acting with his express or implied permission on his behalf committed in the Absolutely Prohibited Area, is not compoundable.

3. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Prohibition Act, for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,

Dated the 18th September 2019.

BHAGAT SINGH KOSHYARI,

Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

VALSA NAIR SINGH,
Principal Secretary to Government.