

THE WEST PAKISTAN ENTERTAINMENTS DUTY ACT, 1958.

(West Pakistan Act No. X of 1958)

[23rd April, 1958.]

CONTENTS.

PREAMBLE

SECTIONS:

1. Short title, extent and commencement.
2. Definitions.
3. Duty on payment for admission to entertainments.
4. 'Assessment and Liability].
5. Method of levy.
6. Penalty for non-compliance with sections 4 and 5.
7. Liability for punishment.
8. Entertainment for charitable or educational purposes exempted; exemption by Government.
9. Security for observance of condition of exemption.
10. Security for default in payment of duty.
11. Power to make rules.
12. Power to enter place of entertainment for purposes of the Act.
13. Recoveries.
14. Delegation of powers by the Government.
15. Revision.
16. Repeal.

1 Subs vide Khyber Pakhtunkhwa Act No. I of 1996

THE WEST PAKISTAN ENTERTAINMENTS
DUTY ACT, 1958.

West Pakistan Act No. X of 1958!

[23rd April, 1958.]

An Act to consolidate the law relating to the levy of a duty in respect of admission to entertainments in West Pakistan.

WHEREAS it is expedient to consolidate the law relating to the Preamble, levy of a duty in respect of admission to entertainments in West Pakistan;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Pakistan Entertainments Duty Short title, extent Act, 1958. and commencement.

(2) It shall come into force at once.

^o[(3) It extends to the whole of *[the Province of the Khyber Pakhtunkhwa] except “[the tribal Areas].

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

(a) "admission to an entertainment" includes admission to any place in which the entertainment is held;

(b) "Collector" means an officer appointed "by the government to discharge, throughout any specified local area, the functions of a Collector under this Act;

1 For Statement of Objects and Ressors, see Gazette of West Pakistan, 1956, Extraordinary pp. 788 and 789.

2 Subs. by W. P. Ord. 49 of 1962.

3 Subs vide Khyber Pakhtunkhwa adaptation of laws Order 1975 and then Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

4 Subs, for the words "the special Areas" by the W. P. A. Order, 1964, s.2 (1) sch, Pt. VIII.

5 In section 2 clause (aa) ins by W. P. Ord. No. IX of 1969. and then deleted by Khyber Pakhtunkhwa Act. No. VI of 1972.

6 In section 2 clause (aaa) ins by W. P. Ord. No. IX of 1969. and then deleted by Khyber Pakhtunkhwa Act. No. VI of 1972.

7 The Director of Excise and Taxation has been appointed to discharge through-out West Pakistan the functions of a Commissioner, Deputy Directors, Assistant Directors Excise and Taxation to discharge in the areas under their jurisdiction the functions of a Commissioner see Revenue Rehabilitation Department notification No. Tax-11-2/1-5S, dated the 18th October, 1958 Gazette of West Pakistan (Extraordinary. P. 407).

(c) "Commissioner" means an officer appointed by the Government to discharge the functions of a Commissioner under this Act, in any specified area;

(d) "entertainment" includes any 1 exhibition, performance, amusement, game or sport to which persons are admitted on

payment;

(e) "Government". means the Government of '[Khyber Pakhtunkhwa]

(f) "payment for admission" includes—

(i) any payment made by a person who having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving duty or additional duty is required;

(ii) any payment for seats or other accommodation in a place of entertainment;

(iii) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "proprietor" in relation to any entertainment includes any person responsible for the management thereof;

(i) "Seats" include Standing accommodation.

²[Tii]

(j) "ticket" means a ticket indicating—

(i) 2 the class to which the holder of the ticket is entitled to admission:

1 Substituted vide Khyber Pakhtunkhwa ALO 1975 and then Substituted vide Khyber Pakhtunkhwa Act. No.

IV of 2011.

2 Ins. by W.P. Ord No. IX of 1969 and then omitted by Khyber Pakhtunkhwa Act. No. VI of 1972.

3 Ins. by W.P. Ord No. IX of 1969 and then omitted by Khyber Pakhtunkhwa Act. No. VI of 1972.

(ii) the amount paid or payable for admission and in case of any holder of the ticket being admitted without making payment therefor, the amount otherwise payable for admission; and

(iii) the entertainments duty paid thereon.

3. (1) There shall be levied and paid to the Government on all Duty on payment payments for admission to any entertainments, a duty (hereinafter referred to as the "entertainment duty at the rate of *Tseventy five] percent, of such entertainments. payment, excluding the amount of the duty:

3 .

In case such payment does not exceed one rupee and twelve Paisa, and at the rate of "[eighty] percent excluding the amount of duty, in case such payment exceeds one rupee and twelve paisa:

Provided that where the proprietor of an entertainment admits any person to any place of entertainment without any payment or on payment of an amount less than the amount normally charged for admission thereto, the entertainments duty shall nevertheless be levied and paid on the amount which would have been normally charged for admission to that place.

Explanation I—In case there be different classes in connection with an entertainment, the phrase "place of entertainment" means the class to which a person is admitted.

Explanation II.—The fact that any such person as is mentioned in the proviso to this sub-section has been admitted to a class more advantageously placed for viewing the entertainment than the class to which others making larger payments are admitted may be taken into account for determining whether the payment made is not that normally charged.

(2) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time or for any privilege, right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge, the entertainments duty shall be paid, on the amount of the lump sum; but where the Government is of the opinion that the payment of a lump sum or any payment for a ticket represents payments for other privileges, rights or purposes besides

1 Clause (k) ins. By W. P. Ord. No. IX of 1969 s.2. (iii). and omitted by Khyber Pakhtunkhwa Act No. VI of 1972 .
2 Subs by Khyber Pakhtunkhwa Act. No. II of 1975.

3 Subs by Khyber Pakhtunkhwa Act. No. II of 1975.

4 Substituted vide Khyber Pakhtunkhwa Act No. I of 1998.

the admission to an entertainment, or covers admission to an entertainment during any period for which the duty has not been in operation, the duty shall be charged on such amount as appears to the Government to represent the right of admission to entertainments in respect of which the entertainments duty is payable.

4. Entertainment Duty leviable under section 3 shall be worked out and paid on the basis of 'P [twenty] percent of the capacity available in an entertainment premises:

Provided that, subject to such conditions as may be prescribed, no such duty shall be charged on complimentary tickets issued to representatives of the press.]

5. (1) save as otherwise provided by this Act, no person shall be admitted on payment to any entertainment where the payment is subject to entertainments duty except—

(i) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the Government for the purposes of revenue and denoting that the proper entertainments duty has been paid; or

(ii) with a ticket sealed or printed in the manner prescribed by rules framed by the Government.

4[(2) The Government may, by an order in writing, require the proprietor of any entertainment in respect of which the entertainments duty is payable under section 3, or on the application of any such proprietor permit him, on such conditions as the Government may prescribe, to pay the amount of the duty due:—

(a) by a consolidated payment ; or

(b) In accordance with return of the payments for admission to the entertainment and on account of the duty; or

(c) in accordance with the results recorded by any mechanical contrivance that automatically registers the number of persons admitted.]

(3) The provisions of sub-section (1) shall not apply to any entertainment in respect of which the duty is payable in accordance with the provisions of sub-section (2).

1 Substituted vide Khyber Pakhtunkhwa Act No. III of 1997.

2 Substituted vide Khyber Pakhtunkhwa Act No. I of 1998.

3 Substituted vide Khyber Pakhtunkhwa Act No. I of 1996.

4 sub-section (2) of section 5 subs- by W.P. Ord. VII of 1969 s. 10.

3[Assessment and
Liability.

Method of levy.

T6. If any person is admitted to any place of entertainment and the provisions of section 4 or section 5, as the case may be, are not complied with or the payment of entertainment duty is otherwise as evaded Penalty for non-Compliance with section 4 and 5 with 1] the Collector, shall, in addition to the recovery of the entertainment duty evaded, under paid or not paid, impose on the proprietor of the entertainment, a penalty not exceeding a sum of five hundred rupees, or a sum not greater than five times the entertainment duty the payment of which was evaded, under-paid or not paid, which-ever is greater:

Provided that no such penalty shall be imposed unless the person on whom it is to be imposed or his duly authorised agent is given an opportunity of being heard by the Collector, or by an officer authorised by him in this behalf]

7. When an employee of the proprietor of a place of entertainment or a person acting on behalf of the proprietor has been found guilty of any offence punishable under this act, the proprietor, as well as the actual offender, shall be punished for the offence committed:

Provided that the proprietor shall not be punished where he proves to the satisfaction of the Court, or of the Collector, that he had taken all reasonable precaution to prevent the commission of the offence.

8. (1) The Collector may, on such conditions as he considers necessary, exempt from liability to entertainments duty any entertainment where he is satisfied that the whole of the net proceeds of the entertainment will be devoted to philanthropic, charitable, educational, athletics, sports, national or scientific purposes.

(2) The Government may, by general or special order¹ exempt any entertainment or class of entertainments from liability to entertainments duty.

9. The Collector, or the Government, when exempting any entertainment from liability to entertainments duty under sub-section (1) or sub-section (2) of section 8, as the case may be, may direct that the proprietor of the entertainment concerned shall furnish to the Collector such security as he may require for ensuring the observance of the conditions subject to which the exemption is granted.

1 Section 6 subs by W. P. Ord. No. IX of 1969 for original.

Liability for
punishment.

Entertainment for
charitable or
educational
purposes exempted,
exemption by
Government.

Security for
observance of
condition of
exemption.

2 In section 6 the words "or in the case of any cinema the entertainments duty is not paid accordance with the provisions of section 6A ins by W.P. Ord No. IX of 1969 and then omitted by Khyber Pakhtunkhwa . Act No. VI. of 1972.

omitted by Khyber Pakhtunkhwa Act. VI of 1972 s.8 (iii).

3 Section 6A ins by W.P. Ord No. IX of 1969 and then omitted by Khyber Pakhtunkhwa . Act No. VI. of 1972.

4 See rules 26 and 27 of the Rules unders s. 11(1).

10. Where it appears to the Collector, or to an officer authorised by Security for default in him in this behalf, that the proprietor of an entertainment has wilfully payment of duty. failed to make suitable arrangements for the payment of duty in

accordance with the provisions of this Act, or it is apprehended that he

will not pay the duty in full, the Collector or the said officer may, for

reasons to be recorded in writing, call upon him to furnish such cash

security as he considers appropriate, failing which the Collector or the said

officer may direct that the entertainment shall not be proceeded with.

11. (1) The Government may, after previous publication, make rules Power to make rules. for securing the payment of the entertainments duty and generally for

carrying into effect the provisions of this Act, which shall be laid before

the Provincial Assembly at its earliest session.

(2) Without prejudice to the generality of the power conferred by sub section (1) such rules may provide for all or any of the following matters:—

(a) supply and use of stamps or stamped tickets or sealing, printing or stamping of tickets and securing of the defacement of stamps when used;

(b) use of tickets covering the admission of more than one person and the calculation of the duty thereon; and the payment of the duty on the transfer from one part of a place of entertainments to another and on payments for seats or other accommodation;

(c

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controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivances for payments of a different amount), and securing proper records of admission by means of mechanical contrivances;

(d) checking of admissions, including the requirement that the persons admitted to an entertainment should retain their tickets or portions thereof and produce them for examination by the checking staff.

(e) the form, maintenance and production of accounts and the furnishing of returns by the proprietors of entertainments;

(f) renewal of damaged or spoiled stamps and the procedure to be followed on applications for refund;

(g) keeping of accounts of all stamps used under this Act:

1 For rules see Gazette of West Pakistan 1958 Extraordinary pp. 1627 to 1639.

(h) presentation and disposal of applications for exemption from payment of the entertainments duty or the refund thereof;

(i) exemption from entertainments duty of soldiers, sailors and airman '[. . .] belonging to the defence forces of Pakistan or of any foreign country; *[and] *[(ia) (ib) (ic)... .]

Gj) prescribing the rank of Excise, Taxation, Revenue or Police Officers for the purposes of section 12.

(3) If any person acts in contravention of, or fails to comply with any of the provisions of such rules or any direction given under section 10, he shall be liable in respect of each contravention, or failure, to such penalty not exceeding five hundred rupees as the Collector may determine.

12. (1) The Collector or any Excise, Taxation, Revenue or Police Power to enter place Officer not below such rank as the Government may prescribe may enter °f entertainment for any place of entertainment while the entertainment is proceeding, and any PY"POS* of the Act. place ordinarily used as a place of entertainment, at any reasonable time,

with a view to seeing whether the provisions of this Act, or the rules made thereunder are being complied with.

(2) If any person prevents or obstructs an officer empowered under sub-section (1) from entering a place of entertainment, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

13. (1) The entertainments duty evaded or underpaid or penalty Recoveries. imposed shall be payable within the time specified by the Collector.

(2) If any sum payable under this Act is not paid within the time allowed for its payment and the person from whom it is due does not show cause to the satisfaction of the Collector, or any officer authorised by him, why he should not pay the same, such sum (including the cost of recovery) may be recovered under a warrant in the prescribed form signed by the Collector, by the distress and sale of movable property belonging to such person. The warrant may be addressed to an officer of the Excise and Taxation Department for execution, and in executing it he may obtain such assistance from other servants of the said Department as he may consider necessary.

1 Omitted by W. P. Ord. XVI of 1960.

2 Added by Khyber Pakhtunkhwa Act No. VI of 1972.

3 Clauses (ia) (ib) and (ic) added by W. P. Ord. No. [X of 1969 and then omitted by KP Act No. VI of 1972 s. 8 (v).

(3) Notwithstanding anything contained in sub-section (2) any sum on account of entertainments duty or penalty under this Act remaining unpaid shall be recoverable as an arrear of land revenue.

14. Any of the powers conferred and duties imposed upon the Government by this Act may be exercised or performed, subject to such conditions as the Government may prescribe, by any person whom the Government may, by general or special order, empower in this behalf.

15. (1) The Commissioner may, on his own motion, at any time, or on an application made to him in this behalf within thirty days of the date of an order made by the Collector, under this Act, shall for the record of any proceedings held or any order made by the Collector, for the purposes of satisfying himself as to the legality or propriety of such proceedings or order and may pass such order in reference thereto as he may think fit.

(2) The application referred to in sub section (1) shall be written on standard water-marked plain judicial paper and stamped with a Court-fee label of the value of rupee one and shall be accompanied by a certified copy of the order sought to be revised and be presented by the applicant in person, or through a duly authorised agent, or be sent under registered post.

(3) The day on which the order complained of was passed and the time requisite for obtaining a copy of the order sought to revised shall be excluded in computing the period of thirty days under sub-section (1).

16. (1) The following enactments are repealed:—

(a) the Punjab Entertainments Duty Act, 1936.

(b) the [Khyber Pakhtunkhwa] Entertainments Duty Act, 1937;

(c) the Sindh Entertainments Duty Act, 1923;

*[(cc) The Bombay Entertainments Duty Act, 1923, as applicable to Karachi District.]

(d) the Bahawalpur State Entertainments Duty Act, 1948;

(e) the Balochistan Entertainments Duty Regulation, 1942;

(f) the Khairpur Entertainments Duty Act, 1945;

(g) the West Pakistan Entertainments Duty Ordinance, 1958.

1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

2 Added by W. P. Ord. XLIX of 1962.

Delegation of
powers by the
Government.

Revision.

Repeal.

(2) Any exemption granted under any of the enactments
enumerated in sub-section (1) shall continue to be in force as if the same
were granted under sub-section (2) of section 8.

1 The schedule added by W.P. Ord. No. XIX of 1969 and then omitted by KP. Act. No. VI of 1972.