

**THE PUNJAB MOTOR SPIRIT (TAXATION OF
SALES) ACT, 1939.**

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**¹THE PUNJAB MOTOR SPIRIT (TAXATION OF
SALES) ACT, 1939.****Punjab Act No. I of 1939.**

[Received the assent of His Excellency the Governor on the 8th April, 1939, and was first published in the Punjab Gazette, Extraordinary, of the 12th April, 1939.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1939 ..	I	The Punjab Spirit Motor (Taxation of Sales) Act, 1939	Amended by Punjab Act, X of 1942 ² Amended by East Punjab Act V of 1948 ³ Amended by East Punjab Act VI of 1948 ⁴ Amended by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948, (G. G. O. 40) Amended by East Punjab Act, XXIX of 1949 ⁵ Amended by the Adaptation of Laws Order, 1950 Amended by Punjab Act No. XIII of 1953 ⁶ Amended by Punjab Act No. X of 1955 ⁷ Extended to the territories, which immediately before 1st November, 1956, were comprised in the State of Patiala and East Punjab States, Union, by Punjab Act No. VII of 1957 ⁸ Amended by Punjab Act No. XX of 1957 ⁹ Amended by Punjab Act No. XI of 1959 ¹⁰ Amended by Punjab Act No. XIX of 1960 ¹¹ Amended by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

¹ For the Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1939, page 13, for the Select Committee's report see *ibid* pages 57—73, and for the proceedings in Assembly, see *Punjab Legislative Assembly Debates*, 1939, Volume VIII, pages 34—47 and 759, Volume IX, pages 34—68 and 91—99.

² For Statement of Objects and Reasons, see *Punjab Government Gazette*, Extraordinary, 1942, page 215 ; and for proceedings of the Assembly, see *Punjab Legislative Assembly Debates*, Volume XX, page 100.

³ For Statement of Objects and Reasons, see *East Punjab Government Gazette*, Extraordinary, 1948, page 163 and for proceedings of the Assembly, see *East Punjab Legislative Assembly Debates*, Volume II, pages 671-672.

⁴ For Statement of Objects and Reasons, see *Punjab Government Gazette*, Extraordinary, 1938, page 163 ; and for proceedings of the Assembly, see *East Punjab Legislative Assembly Debates*, Volume II, pages 672—74.

⁵ For Statement of Objects and Reasons, see *East Punjab Government Gazette*, Extraordinary, 1949, page 968 ; and for proceedings of the Assembly, see *East Punjab Legislative Assembly Debates*, Volume IV, pages (5) 48 to (5) 52.

⁶ For Statement of Objects and Reasons, see *Punjab Government Gazette*, Extraordinary of 3rd March, 1953, page 201 ; and for proceedings in the Council and Assembly, see *Punjab Legislative Assembly and Punjab Legislative Council Debates* of 1953.

⁷ For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1955, page.

⁸ For Statement of Objects and Reasons, see *Punjab Government Gazette*, (Extraordinary), 1957, page 551.

⁹ For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1957, page 754.

¹⁰ For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1959, page 380.

¹¹ For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1960, pages 955-56.

An Act to provide for the levy of a tax on the retail sale of motor spirit.

Preamble.

WHEREAS, it is expedient to provide for the levy of a tax on the retail sale of motor spirit : It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Punjab Motor Spirit (Taxation of Sales) Act, 1939.

(2) It shall come into force on such date as the Governor may by ¹notification appoint.

2. 2* * * *

Definitions.

In this Act unless there be anything repugnant in the context—

- (a) "Government" means the ³ [Central Government] ;
- (b) "magistrate" means any magistrate exercising powers not less than those of a magistrate of the second class;
- (c) "motor spirit" means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbon) which is ordinarily used for providing reasonably efficient motive power for any form of motor vehicle;
- (d) "penalty" means a penalty imposed under section 9 of this Act;
- (e) "Petrol Taxation Officer" means such officer not below the rank of an ⁴ [Assistant Excise and Taxation Officer], as may be appointed by Government to discharge the duties of a petrol taxation officer under this Act with reference to any particular areas;

¹It came into force on 19th April, 1939,—vide Punjab Government Notification No. 1822-Ex., dated 14th April, 1939 (Gazette Extraordinary).

²Sub-section (1) omitted by Punjab Act No. XIII of 1953, section 2 (i). The brackets and figures "(2)" in sub-section (2) also omitted by *ibid*.

³Substituted for the words "Punjab Government" by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

⁴Substituted by Punjab Act XIII of 1953, section 2 (iii).

- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "retail dealer" means any person who, on commission or otherwise, sells any motor spirit to a consumer or to any other person for any purpose other than resale, or keeps any motor spirit for sale to consumers or to any other person for purposes other than resale;
- (h) "retail sale" means a sale by a retail dealer of any motor spirit to a consumer or to any other person for any purpose other than resale;
- (i) "sale" and "sell" include exchange, barter and also the consumption of motor spirit by the retail dealer himself;
- (j) "vehicle" includes any carriage or conveyance used on land or in water or air;
- ¹[(k) "Excise and Taxation Commissioner" means the person for the time being appointed by Government to perform all or any of the functions and exercise all or any of the powers of the Excise and Taxation Commissioner; and
- (l) "Deputy Excise and Taxation Commissioner" means the person for the time being appointed by Government to perform all or any of the functions and exercise all or any of the powers of the Deputy Excise and Taxation Commissioner in any specified local area.]

CHAPTER II—TAXATION

3. ²[(1) There shall be levied and paid to the ³[Central Government] on all retail sales of motor spirit a tax at the rate of ⁴[seven naye paise for each litre] of motor spirit

Imposition of tax

¹Clauses (k) and (l) added by Punjab Act, 13 of 1953 section 2 (ii).

²Section 3 renumbered as Sub-section (1) of section 3 by East Punjab Act XXIX of 1949, section 2.

³Substituted for the words "State Government" by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

⁴Substituted for the words "thirty Naye paise for each imperial gallon" by Punjab Act No. 19 of 1960, which were Substituted previously by Punjab Act No. 11 of 1959.

¹[(2) The ²[Central Government] may by notification exempt any retail sales of motor spirit from liability to pay tax under the Act, either wholly or partially and on such conditions as it may think fit to impose.]

Recovery of taxes
as arrears of land
revenue.

4. When the payment of any tax or penalty under this Act falls due the amount may be recovered as if it were an arrear of land revenue.

Power to deter-
mine certain
questions.

5. (1) Any question as to whether a tax or penalty is recoverable under this Act, the person from whom it is due and the amount so recoverable shall be determined by the Petrol Taxation Officer for the area where the sale takes place.

(2) No such order shall be made final until an opportunity has been given to any person concerned to appear in person or by duly authorised agent before the Petrol Taxation Officer; but once the order has been made final a certificate given under the hand of the Petrol Taxation Officer, shall, subject to the provisions of this Act with regard to appeal, review and revision, be final and conclusive proof both as to the amount of the tax or penalty which is due and as to the person from whom it is due.

CHAPTER III—LICENSING OF RETAIL DEALERS

No person to
trade without
a license.

6. After the expiry of a period of two months from the commencement of this Act no person shall carry on business as a retail dealer unless he is in possession of a valid license.

Grant of License.

7. (1) Except as provided hereunder, a license shall be granted to any person applying therefor ³[in the prescribed form] to the Petrol Taxation Officer on payment of a fee of not more than five rupees, if any, as may be prescribed.

(2) Every such license shall be valid without renewal only up to the thirty-first day of March following the date on which it is granted, but may be renewed annually.

¹Added by East Punjab Act, XXIX of 1949.

²Substituted for the word "State Government" by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

³Inserted by East Punjab Act VI of 1948, section 2 (a).

(3) The grant or renewal of a license may be refused if any previous license of the applicant ¹[or of any person with whom the applicant has been working as a partner] has been cancelled ²[or if the applicant or any person with whom he has been working as a partner has been convicted of any offence relating to the motor spirit] or if the Petrol Taxation Officer is satisfied that the application has been made only for the purpose of enabling any person to carry on business as a retail dealer without a license.

(4) No license under this Act ³[except in the case of a licence for the retail sale of powerine or diesel oil] shall be granted to any person who does not hold a license for the storage of dangerous petroleum under the Petroleum Act, 1934, and if any such license granted under that Act is cancelled, suspended or is not renewed, any license granted under this Act to the holder thereof shall be deemed to be cancelled, suspended or not renewed, as the case may be.

(5) If an application for the renewal of a license under this Act is made within such time before its expiry as may be prescribed by Government, the holder of the license shall be deemed to be in possession of a valid license until the license is renewed or until he is informed that the renewal of the license has been refused.

8. (1) The Petrol Taxation Officer may after giving the licensee an opportunity to be heard, suspend or cancel a license for a breach of any of the conditions which may be prescribed as the conditions subject to which a license is granted.

Suspension or
cancellation and
restoration of a
license.

(2) A licensee shall not be entitled to any compensation for the suspension or cancellation of his license under the foregoing sub-section.

(3) A license cancelled or suspended under this section may be restored by the Petrol Taxation Officer on payment of such fee as may be prescribed.

CHAPTER IV—PENALTIES AND POWERS TO PREVENT EVASION

9. If any tax due under this Act is not paid within the time fixed by notice issued in the prescribed manner,

Imposition of
penalty.

¹Inserted by East Punjab Act VI of 1948, section 2 (b) (i).

²Inserted by East Punjab Act VI of 1948, section 2 (b) (ii).

³Inserted by Punjab Act X of 1955, Section 2.

the Petrol Taxation Officer may impose a penalty not exceeding the amount of the tax due, in addition to the payment of the tax. 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 Petrol Taxation Officer.

Punishment for
unauthorised
sale.

10. Whoever contravenes the provisions of section 6 shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the tax due in respect of the sale of any motor spirit conducted by or on behalf of such person, which ever is greater.

Issue of warrants.

11. (1) A Magistrate may issue a warrant—

- (a) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act, or
- (b) for the search, whether by day or by night, of any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is sold or is kept for sale.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or if the Officer issuing the warrant deems fit, by any other person.

Searches how
made.

12. All searches made under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

Procedure for
arrest without
warrant.

13. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under the provisions of this Act.

Duty of certain
persons to report
offences, etc.

14. Every person employed by Government, by any local body or by the Court of Wards, every village headman, village accountant and village watchman shall give immediate information to the ¹[Deputy Excise and Taxation Commissioner] of the commission of any offence or of the intention of preparation to commit any offence punishable under this Act which may come to his knowledge.

¹. Substituted by Punjab Act No. XIII of 1953, section 3, for "Collector".

15. (1) Every officer of the ¹[Excise and Taxation] Department not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act. Power of investigation.

(2) Every such officer shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

(3) Every such officer may enter at any reasonable time the premises of any retail dealer and with or without notice examine and take copies or extracts from any account books or registers for the purpose of testing the accuracy of any prescribed returns or of informing himself as to any particulars regarding which information is required for the purposes of this Act or of any rules thereunder.

(4) Every such officer may detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

16. All offences punishable under this Act shall be bailable. Offences to be bailable.

17. Any officer or person exercising powers under this Act who— Punishment for vexatious search or arrest.

(a) without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, vehicle or place; or

(b) vexatiously and unnecessarily detains, searches or arrests any person,

shall on conviction be punishable with fine which may extend to five hundred rupees.

18. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail shall on conviction be punishable with fine which may extend to two hundred rupees. Punishment for vexation delay.

19. (1) The ²[Deputy Excise and Taxation Commissioner concerned] may accept from any person who has committed an offence punishable under this Act, by way of composition of such offence, a sum of money not exceeding one thousand rupees or a sum double the amount of the tax payable under section 3 in respect of any sale conducted by such person, whichever is greater. Power to compound offence

¹Substituted by Punjab Act No. XIII of 1953, section 4, for "Excise or Revenue."

²Substituted by Punjab Act No. XIII of 1953, section 5, for "Collector".

(2) On the payment of such sum of money to the ¹[Deputy Excise and Taxation Commissioner concerned], the accused person, if in custody, shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

CHAPTER V—MISCELLANEOUS

Powers.

20. The powers of Government to appoint any person or to invest any person with any authority prescribed by the Act may be exercised by the ²[Excise and Taxation] Commissioner, subject to the orders of Government.

Protection of
persons acting in
good faith and
limitation of
suits and prose-
cution.

21. (1) Any civil or criminal proceedings instituted against any person in respect of any act done or purporting to be done in the exercise of any powers or the execution of any duty under this Act shall be dismissed unless the court is satisfied that the act complained of was not done in good faith.

(2) No suit shall be instituted against the Government and no prosecution or suit shall be instituted against any person in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and re-
vision.

22. (1) Any person aggrieved by any order under this Act or rules made thereunder other than an order made by a criminal court may appeal.

* * * 3 * *

(b) to the ⁴[Deputy Excise and Taxation Commissioner concerned] if such order is passed by any other officer or person exercising powers under this Act.

¹Substituted by Punjab Act No. XIII of 1953, section 5, for "Collector".

²Substituted by *ibid*, section 6, for "Financial".

³Clause (a) of sub-section (1) of section 22, omitted by Punjab Act No. XIII of 1953, section 7 (i).

⁴Substituted by *ibid*, for "Collector".

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by subsection (3), be final.

(3) The ¹[Excise and Taxation] Commissioner may at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying himself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of such officer or person and may pass such order in reference thereto as he thinks fit.

23. Any order made under this Act, other than an order made by a criminal court, may be reviewed by the officer making it or his successor, but not to the disadvantage of the person against whom it is made, unless he has done anything to mislead the officer passing the order. Review.

24. (1) Government may make ²rules to carry out all or any of the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, Government may make rules for the purpose of—

(a) the recovery of the tax leviable under section 3 including the fixing of the time when the tax is to be paid,

(b) the fixing of license fees,

(c) imposing on retail dealers the duty of furnishing returns and of keeping records and registers of stocks and daily sales prescribing forms for such returns, and register of stocks and daily sales and the particulars to be contained therein, respectively, and the manner in which the

¹Substituted by Punjab Act No. XIII of 1953, section 7(ii), for "Financial".

²For rules see Notification No. 2709, dated 12th June, 1939, published in Panjab Government Gazette, Extraordinary, dated the 13th June, 1939.

same are to be verified and all such other conditions thereof as may be necessary and prescribing a period within which such returns must be submitted,

- (d) prescribing the localities in which motor spirit may be sold, the assessment of tax and the issue of notices requiring payment and for the recovery of unpaid tax,
- (e) providing for or restricting the assignment or transfer of licenses and the manner in which licenses granted to firms are to operate during the period of or on the dissolution of a partnership,
- (f) prescribing the arrangements to be made when a licensee dies or becomes subject to a legal disability, the period during which, and the persons by whom, the business of such a licensee may be carried on without a license,
- (g) requiring the production of licenses on demand, and
- (h) prescribing the period (which shall not be less than one month from the date of the order appealed against) within which an appeal under section 22 of the Act may be presented; and prescribing the manner in which such appeal shall be presented.

(3) In making any rule Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees, and, where the breach is a continuing one, with further fine which may extend to twenty rupees for every day after the first day during which the breach has continued.

(4) All rules made under this Act shall be subject to the condition of previous publication.