

ACT No. XXIII OF 1934.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 19th August, 1934.)

An Act to provide for the imposition and collection of an excise duty on mechanical lighters.

III of 1934. **W**HEREAS it is expedient to impose an excise duty on mechanical lighters, to provide for the collection thereof, and to alter the duty of customs leviable on mechanical lighters under the Indian Tariff Act, 1894; It is hereby enacted as follows:—

1. (1) This Act may be called the Mechanical Lighters Short title and extent. (Excise Duty) Act, 1934.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

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

(a) "manufactory" means any premises wherein mechanical lighters are manufactured;

(b) "mechanical lighter" means any mechanical or chemical contrivance for causing ignition which is portable and which operates by producing a spark or flame whether by itself or when brought into contact with gas, and includes a mechanical lighter issued from a manufactory in an incomplete state or requiring for its completion the addition of a flint; and

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

3. A duty of excise at the rate of one rupee and eight annas Imposition of duty. per lighter shall be levied on every mechanical lighter manufactured in any manufactory in British India and issued out of such manufactory after the commencement of this Act, and shall be payable by the owner of the manufactory.

4. (1) If

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Price anna 1 or 1½d.

Mechanical Lighters (Excise Duty). [ACT XXIII

Recovery of duty with penalty.

4. (1) 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 three times the amount of duty unpaid which such authority may in its discretion think it reasonable to require.

(2) An 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, and not in substitution for, any other penalty incurred under this Act.

Issue from manufactory.

5. No person shall issue any mechanical lighter 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 the general or special orders of the Local Government.

Power of Governor General in Council to prohibit import.

6. The Governor General in Council may, by notification in the Gazette of India, prohibit absolutely, or with such exceptions as he thinks fit, the bringing of mechanical lighters into British India from the territory of any specified Prince or Chief in India.

VIII of 1878.

Prohibition of manufacture without licence.

7. From such date as may be fixed by the Governor General in Council by notification in the Gazette of India in this behalf, no person shall manufacture mechanical lighters in British India except under and in accordance with a licence to manufacture issued under this Act.

VIII of 1878.

Penalty for issue from manufactory in contravention of section 5.

8. Whoever contravenes the provisions of section 5 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

VIII of 1878.

Penalty for import in contravention of Act.

9. (1) Whoever, in contravention of any notification made under section 6, imports, or attempts to import, mechanical lighters into British India, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to three times the amount of the duty which would be payable on the mechanical lighters if they were liable to duty in British India or to one thousand rupees, whichever is greater, or with both imprisonment and fine.

VIII of 1878.

VIII of 1878.

(2) Whoever abets an offence punishable under sub-section (1) shall, whether such offence is or is not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 1860

VIII of 1878.

10. Whoever

10. Whoever, without a licence to manufacture, or in contravention of the terms of such licence, manufactures mechanical lighters, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for manufacture without licence.

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 under this Act or the rules to supply, or knowingly supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for evasion of duty or failure to supply information.

12. Any Court trying an offence under this Act may order that any mechanical lighters, together with the boxes, packing or wrappings thereof, in respect of which the Court is satisfied that an offence under this Act has been committed, shall be forfeited to His Majesty.

Power of Courts to order forfeiture.

VIII of 1878. 13. The law for the time being in force relating to Sea Customs and to goods the importation of which is prohibited by section 18 of the Sea Customs Act, 1878, shall apply in respect of mechanical lighters the importation of which is prohibited by notification made under section 6 of this Act, and the officers of Customs and the officers empowered under the Sea Customs Act, 1878, to perform the duties imposed by that Act on a Customs-Collector and other officers of Customs shall have the same powers in respect of such mechanical lighters as they have for the time being in respect of goods the importation of which is prohibited by section 18 of the Sea Customs Act, 1878.

Application of Act VIII of 1878 to the importation of mechanical lighters.

VIII of 1878. Provided that the penalty for the offence specified in section 167, No. 8, of the Sea Customs Act, 1878, shall, where the offence is committed in relation to mechanical lighters the importation of which is prohibited under section 6 of this Act, be a penalty of confiscation only, and such penalty of confiscation shall not be inflicted under section 167, No. 8, of the Sea Customs Act, 1878, in any case where the person concerned in the offence is sent for trial under section 9 of this Act.

VIII of 1878. 14. The Governor General in Council may, by notification in the Gazette of India, declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations

Application of the provisions of Act VIII of 1878 to the duty on mechanical lighters.

alterations as he may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by section 3.

Power of
Governor
General in
Council to
make rules.

15. (1) The Governor General in Council may, by notification in the Gazette of India, make rules to carry into effect the purposes and objects of this Act.

(2) 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 functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duty shall be payable, and the recovery of arrears;
- (b) provide for the distinguishing of mechanical lighters which have been manufactured under licence, or on which duty has been paid, or which are exempt from duty under this Act;
- (c) regulate the issue of mechanical lighters out of any manufactory;
- (d) impose on the owners of manufactories and on persons engaged in the sale of mechanical lighters the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;
- (e) provide for the issuing of licences, the form and the conditions of licences, and the fees to be charged therefor;
- (f) provide for the detention of mechanical lighters for the purpose of exacting the duty, the confiscation, otherwise than under section 12, of articles in respect of which breaches of the Act or rules have been committed, and the disposal of articles so detained or confiscated;
- (g) authorize and regulate the inspection or search of any place or conveyance used for the manufacture, storage or carriage of mechanical lighters; and
- (h) authorize and regulate the composition of offences against, or liabilities incurred under, the Act and rules, including composite payments in lieu of duty.

(3) In

of 1934.] *Mechanical Lighters (Excise Duty).*

(3) In making any rule under this section the Governor General in Council may provide that a breach of the 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.

(4) The Governor General in Council may delegate all or any of his powers under this section to a Local Government.

VIII of 1894. 16. In Item No. 243 of the Second Schedule to the Indian Tariff Act, 1894, to the entry in the second column the following proviso shall be added, namely:—

Amendment of
the Second
Schedule, Act
VIII of 1894.

“Provided that mechanical lighters as defined in the Mechanical Lighters (Excise Duty) Act, 1934, shall be liable in addition to a duty equal to the amount of the excise duty imposed by that Act on mechanical lighters manufactured in British India.”