

Excise Act, 1958 of Nepal

History	
May 19, 1958	First promulgated, Nepal Rajapatra, Vol. 8, No. 6, Jestha 6, 2015.
October 11, 1960	first amendment, Nepal Rajapatra, Vol. 10 No. 24, Aswin 25, 2017.
February 26, 1964	Amended by the Nepal Law (Amendment and Revalidation) Act. Nepal Rajapatra, Vol. 13, No.29 (E), falgun 16, 2020.
August 2, 1974	Amended by Revenue Tribunals Act. 1974. Nepal Rajapatra, Vol. 24, No.19 (E), Shrawan 18, 2031.
August 8, 1984	Amended by Some Nepal Laws (Amendment) Act. Nepal Rajapatra, Vol. 34, No. 230 (Extraordinary), Shawn 24, 2041.
November 12, 1984	Second amendment. Nepal Rajapatra, Vol. 34, No. 41A (Extraordinary), Kartik 27, 2041.
October 2, 1986	Third amendment. Nepal Rajapatra, Vol. 36, No. 25-C (E), Aswin 16, 2043.
December 13, 1990	Amended by Some Nepal Laws Relating to finance (Amendment) Act, 1990. Nepal Rajapatra, Vol. 40, No. 44 (E), Marga 27, 2047.
May 30, 1991	Amended by judicial Administration Act, 1991. Nepal Rajapatra, Vol. 41, No. 11 (E), Jestha 16, 2048.
April 20, 1992	Fourth Amendment. Nepal Rajapatra, Vol. 41, No. 73 (E), Chaitra 30, 2048.

Consolidated Text

Whereas it is expedient to maintain the good conduct, comfort and economic welfare of the public by providing for the imposition and collection of excise duties on certain commodities produced or manufactured in Nepal,

Now therefore, His Majesty has enacted this law.

Short Title, Extent and Commencement

(1) This law may be called the Excise Act, 1958.

(2) It shall be enforced throughout the Kingdom of Nepal.

(3) It shall come into force on such date as is prescribed by His Majesty's Government by notification in then Nepal Rajapatra.

Definition

Unless otherwise meant with reference to the subject or context, in this law:

(a) Excisable Commodity means a commodity on which excise is payable under this act or current law.

(b) factory means any shed, building, land, or attached area, or the area covered by them, or any part thereof, where excisable commodities are produced; the term includes the place connected with the production of excisable commodities, and the godown where such commodities are stored.

(c) License means a license issued under Section 5 of this act.

(c1) Excise Officer means the Excise Officer, the Senior Excise Officer, the Chief Excise Officer, and the Director-General of the Excise Department appointed by His Majesty's Government for the purpose of this act. The term includes any other officer designated by His Majesty's Government for exercising the powers of an Excise Officer.

(c2) Producer means the person who manufactures, prepares or produces excisable commodities under this act; the term includes a person who pays excise duty by collecting any commodity or concluding contracts of any kind.

(c3) Wholesaler means a person who has obtained a license for dealing in excisable commodities for the following purposes:

(a) To use in the form of raw materials to manufacture, prepare or produce any commodity.

(b) To trade.

(c4) Factory-Price means the price determined by adding the cost incurred in the manufacture, preparation or production of any excisable commodity to the amount of profit of the factory, but not excise duty or any other taxes.

(d) Prescribed or as prescribed means prescribed or in the manner prescribed under this act.

Power to Impose and Collect Excise Duty

In case any law provides for the imposition of excise duty on any commodity on regular basis or for any particular year, such duty shall be collected under this act and the rules here under.

A. Appointment of Excise Officer

(1) His Majesty's Government may appoint Excise Officers in the required number, or designate any officer as the officer empowered to exercise the powers of an Excise Officer, for the purpose of this act.

(2) The Excise Officers appointed or designated at the time of the commencement of this Section shall be treated as Excise Officers appointed or designated under this act.

(3) The jurisdiction of an Excise Officer shall be as prescribed by His Majesty's Government. His Majesty's Government may, if it so deems necessary, have the functions within the jurisdiction of one Excise Officer performed by another Excise Officer.

(4) An Excise Officer may delegate any or all of his powers to his subordinate employee under his general supervision and control.

(5) In case there are specific directives from His Majesty's Government in connection with the delegation or powers by an Excise Officer to their subordinate employees, Excise Officers must act accordingly.

B. Valuation of Excisable Commodities

(1) In case excise duty is payable for any commodity on the basis of its price, it shall be determined by taking the following price as the basis:

(a) The factory-price prescribed by His Majesty's Government, or

(b) The factory price determined on the basis on an agreement between His Majesty's Government and the producer, or

(c) The factory-price obtained by the producer at the time and place of the sale of the excisable commodity to wholesalers.

(2) Before selling in the market any excisable commodity after determining the factory-price under Sub-Section (1), the producer must submit to the concerned Excise Officer the formula under which the factory-price has been determined and particulars thereof.

(3) Notwithstanding anything contained in Sub-Section (1), in case it is found that there is a great difference between the price of a commodity at the time of the payment of excise duty and the consumer price, the Exc. Officer may impose and collect excise duty on the basis of a valuation made by keeping in mind the consumer price of the excisable commodity at the nearest market, the commission to be received by wholesalers or retailers, haulage charges, and taxes.

Production, Manufacture, sale, Purchase or Storage of Excisable Commodities Without License Prohibited

After the commencement of this act, no person shall do as follows without a license, or, even if he has obtained a license, in contravention of the conditions and restrictions prescribed therein:

(a) Produce or manufacture excisable commodities,

(b) Sell excisable commodities prescribed by His Majesty's Government by notification in the Nepal Rajapatra in quantities higher than the quantity prescribed therein.

(c) Stock or process excisable commodities in quantities higher than the prescribed quantities.

Procedure of Obtaining License

(1) Any person may submit an application in the prescribed form with the prescribed fee to the prescribed authority for any of the purposes mentioned in Section 4.

(2) The prescribed authority shall conduct necessary investigations into applications received under Sub-Section (1) and, in case he so considers proper, grant a license to undertake the functions mentioned in the application to the applicant in the prescribed form subject to the prescribed terms and conditions.

(3) The term of licenses issued under Sub-Section (2), the procedure of renewal thereof, and fees for such renewal, shall be as prescribed.

Powers of arrest or Seizure

(1) The Excise Officer may, if he has reasonable grounds to suspect that any excisable commodity is being manufactured, produced or stocked by anyone in an house or compound, vehicle or place in contravention of the provisions of this act, issue orders for searching such house or compound, Vehicle or place and arresting the concerned persons. The Excise Officer may issue such orders and depute and employee of at least non-gazetted second class rank of the Excise Office, and have such house or compound, vehicle or place searched at any time.

(2) In case it is found in the course of a search conducted under Sub-Section (1), that excisable commodities are being manufactured, produced or stocked in an illegal manner, the employee conducting the search may arrest the guilty persons and also seize the following goods found at such place;

(a) Excisable commodities which have been manufactured, produced or stocked;

(b) Tools, machinery, utensils, etc. used in manufacturing, producing or stocking excisable commodities; and

(c) Vehicles other than public vehicles used for transporting or stocking such commodities.

(3) Notwithstanding anything contained in Sub-Rule (1), in case it is suspected that any of the offenses mentioned in this act is being committed in any house or compound, vehicle or place, and that the guilty person may escape, or that evidence of the offense may disappear if no immediate action is taken, the Excise Officer may prepare a memorandum accordingly, and take the following actions himself or through his subordinate employees at any time.

(a) Enter into such house or compound, vehicle or place.

(b) Enter into such places by breaking doors or windows after providing a reasonable opportunity to women staying or living at such places, in the event of any obstacle or opposition to such entry.

(c) Seize excisable commodities connected with the offense as well as other materials and documents helpful in proving the offense, and

(d) Search or arrest persons suspected of having committed any offense.

(4) While entering into or searching any house or compound vehicle or place under this Section, it shall be necessary, if time is available, to keep as witness a member of the concerned Municipality or village Development Committee or one respectable person of the area, or and employee of another government office.

(5) In case any Excise Officer arrests any person, or searches any person, house and compound, vehicle or place, or seizes excisable commodities or other materials under this act, he must send a report thereof to the officer one level above him within 24 hours after such arrest, search or seizure. In case such actions have been taken by the subordinate employees of an Excise Officer, they must submit reports of such action to the Excise Officer and the Excise Department within 24 hours.

(6) For the purpose of conducting investigations into offenses under this act, Excise Officers shall have powers similar to those of a police officer under current law.

(Repealed on November 12, 1984).

Duty of Every Person to Extend Cooperation in Actions Under This Act

It shall be the duty of every person, whether a government employee or not, to inform the Excise Office, and, in the absence of such office in the neighboring area, to any other government office, of any action taken or intended to be taken in contravention of this act by any person after he becomes aware thereof. The office receiving such information shall forthwith notify the Excise Office accordingly. It shall be the duty of every police employee to extend such assistance as may be demanded by the Excise office for arresting the person acting in contravention of this act, or for seizing commodities manufactured, produced, stocked or moved from place to place, in contravention of this act.

Reward to Person Supplying True Information

In case any governmental or private person furnishes true information to the effect that any action has been taken, or is intended to be taken, in contravention of this act, such informant shall be granted a reward amounting to 24 percent of the value of excisable commodities seized from the offender after that final disposal of the case, by the authority taking preliminary action and disposing of the case.

Penalties to Person failing to Furnish Information or Extend Cooperation

In case any person who is under obligation to provide information about any action taken or intended to be taken in contravention of this act after becoming aware thereof, or to extend cooperation as demanded by the Excise Office, does not willfully provide such information or extend such cooperation, as the case may be, he shall be punished with imprisonment for a term not exceeding one month, or with a fine not exceeding Rs 250, or with both.

punishment to Person Searching, Seizing or Arresting With Intent to Harass

Any person or government employee entering and searching the house or compound of any person by force, or directing others to do so, or detaining or arresting, or causing the detention or arrest of any person, seizing or causing the seizure of such goods as should not be seized, or causing unnecessary damage or losses, or instigating others to do so, or furnishing false information merely with the intention of harassing others, without having valid grounds to suspect that any action has been taken in contravention of this act, shall be punished with imprisonment for a term not exceeding two months, or with a fine not exceeding Rs 100, or with both, for each such offense.

Other Penalties

(1) Any person who commits the following offenses shall be punished with imprisonment for a term not exceeding six months, or with a fine not exceeding Rs 5,000, or with both, and the excisable commodities connected with the offense shall be confiscated:

(a) In case he evades excise duty due under this act, or conceals or suppresses information relating thereto.

(b) In case he contravenes the provisions of Section 4, or

(c) In case he attempts to commit any of the offenses mentioned in Clauses (a) or (b), or instigates others to do so.

(2) In case any person commits offenses mentioned in Sub-Section (1) for the second time, the utensils containing the excisable commodities, the tools and machinery used for their production, and the vehicles used for their transport, shall be seized in addition to the punishment to be inflicted for such offense.

Provided that in case the vehicle does not belong to the offender, but is a hired one, and in case it has been used for such purposes without the permission of the owner, the vehicle shall not be seized, and the owner, the vehicle shall be fined with an amount double the hire due to him.

(3) In case the particulars mentioned in Sub-Section (2) of Section 3B are not submitted, the Excise Officer may punish the concerned person with imprisonment for a term not exceeding three months, or with a fine not exceeding Rs 3000.

Jurisdiction

(1) His Majesty's Government, or the authority designated by His Majesty's Government, shall have the power to take preliminary action and dispose of cases under Section 11. The power to take preliminary action and dispose of other cases under this act shall vest in the Excise Officer.

(2) The authority taking preliminary action and disposing of cases under Sub-Section (1) shall exercise powers similar to those of a District Court according to current law.

Appeal

Appeal against the decisions taken by the Excise Officer under this act may be filed at the Revenue Tribunal. In the case of decisions taken by His Majesty's Government or the authority designated by His Majesty's Government, appeals may be filed at the Appellate Court.

Circumstances in Which Confiscation Proceedings may be Stayed

In case an appeal is filed against any decision made by any prescribed authority ordering the confiscation of

the personal property of any person under this act or the rules framed here under, the authority hearing such appeal may issue orders to the prescribed authority to stay the confiscation of such property pending a final decision on such appeal.

Realization of Arrears as Government Dues

In case any person does not pay any amount due to His Majesty's Government under this act or the rules framed here under, the Excise Officer may realize such amount from him as arrears due to the government.

Power to Frame Rules

(1) His Majesty's Government may frame rules in order to implement the objectives of this act.

(2) Without prejudice to the generality of the power conferred by Sub-Section (1), such rules may, in particular, make provisions in respect to the following matters:

(a) Assessment of excise duty and collection thereof,

(b) Places where excisable commodities may be manufactured or produced, and the conditions to be fulfilled while manufacturing or producing such commodities,

(c) Transportation of excisable commodities from the factory or place of production to the godown, residence or market,

(d) Arrangements for accommodation of government employees to be made on behalf of His Majesty's Government or the proprietor of the factory,

(e) Storage of excisable commodities at the godown and removal thereof,

(f) Maintenance, submission and inspection of accounts and records relating to the manufacture or production of excisable commodities,

(g) Affixature of labels or stamps, band-rolls, or seals.

(3) Without prejudice to the provisions for penalties made in this act, rules framed under this act may provide for imprisonment for a term not exceeding two months or a fine not exceeding Rs 500 or both, to any person who contravenes the provisions contained in such rules.

Action to be taken in the Event of Conflict with Other Nepal Law

Notwithstanding anything contained in current Nepal law, action in matters provided for in this act and the rules framed here under shall be taken accordingly, and, in other matters, action shall be taken in accordance with current Nepal law.

Provided that in matters provided for in the 1981 Industrial Enterprises Act, action shall be taken accordingly.

Power to Remit Excise Duty

(1) His Majesty's Government may fully or partially remit excise duty on any excisable commodity to be used by any person designated by it by notification in the Nepal Rajapatra.

(2) In case commodities produced by any industry are entitled to full or partial excise remission according to current law, excise duty shall be remitted accordingly.

Remission

HMG may remit in whole or in part the excise duty imposed under this act by notification in the Nepal Rajapatra if it so deems necessary in special circumstances.