

OFFICE OF THE EXCISE COMMISSIONER, RAJASTHAN, UDAIPUR

12(B)(1)Ex/L/2014-Part-iv/ 435

Dated: 03.04.2019

NOTIFICATION

In exercise of the powers conferred by section 42 read with section 17 of the Rajasthan Excise Act, 1950 (Act II of 1950), the Excise Commissioner with the previous sanction of the State Government hereby makes the following rules further to amend the Rajasthan Brewery Rules, 1972, namely:-

1. **Short title and commencement.**- (1) These rules may be called the Rajasthan Brewery (Amendment) Rules, 2018.

(2) They shall come into force at once.

2. **Substitution of rule 11.**- The existing rule 11 of the Rajasthan Brewery Rules, 1972, hereinafter referred to as the said rules, shall be substituted by the following, namely:-

"11. **Sale, transfer or subletting etc. prohibited.**- The licensee shall not sell, transfer or sublet the right of manufacturing conferred upon him by the licence without the prior permission of the Licensing Authority and shall not enter into any agreement or arrangement which is in the nature of transfer of rights. The Licensee shall also not admit any person as his partner in his concern without the prior permission of the Licensing Authority;

Provided that manufacturing and bottling of brands of other unit, holding similar licence in any part of Country may be allowed on such terms and conditions as prescribed by the Excise Commissioner, from time to time."

3. **Insertion of new rule 11 A and 11 B.**- After the rule 11, so substituted and before the existing rule 12 of the said rules, the following new rules 11-A and 11-B shall be inserted, namely:-

"11 A. **Subletting of Brewery.**- The Licensing Authority may, on application made in this behalf by the licensee, permit subletting the whole or part of the licence capacity of such Brewery to any person on the following conditions, namely:-

- (i) An application for grant of permission for subletting shall be accompanied by-
- deed for subletting executed between the licensee and the person in whose favour permission of subletting is required on a non-judicial stamp paper of the requisite value as per the provisions of the Rajasthan Stamp Act, 1998, which shall be registered within 15 days from the date of grant of permission for subletting;
 - memorandum of Articles of Association/ Partnership deed, declaration of sole proprietorship, as the case may be, of the licensee and the person in whose favour permission of subletting is required;
 - list of Directors or Partners, as the case may be, of both licensee and the person in whose favour permission of subletting is required;
 - undertaking in form prescribed by the Excise Commissioner under rule 93 of the Rajasthan Excise Rules, 1956 on non judicial stamp paper worth Rupees 100/- duly signed by the licensee and the person in whose favour permission of subletting is required; and
 - original challan as proof of having paid subletting fees equal to 50% (fifty percent) of annual licence fees of the Brewery;

(ii) permission shall not be granted in favour of any person, who has been disqualified to hold a licence under the Rajasthan Excise Act, 1950 and the rules made thereunder;

(iii) permission shall be granted for a period of one year or part thereof and the person in whose favour permission of subletting is granted shall not have any claim for renewal of such permission;


- (iv) the Licensing Authority may, for reasons to be recorded in writing, refuse to grant permission for subletting or withdraw the permission granted for subletting;
- (v) the licensee and the person in whose favour permission of subletting is granted shall not have any claim for compensation towards any damage or loss sustained on account of refusal of permission or withdrawal of permission for subletting;
- (vi) if the licence is suspended or cancelled for any reason, the permission for subletting shall also stand automatically suspended or cancelled, as the case may be;
- (vii) the permission of subletting is not transferrable;
- (viii) the licensee and the person in whose favour permission of subletting is granted shall be jointly and severally responsible for all the acts or omissions and commissions in respect of operation in pursuance of subletting agreement;
- (ix) the person in whose favour permission of subletting is granted shall be responsible for payment of all duties, taxes, fees or any other amount dues payable to the Government pertaining to the period of subletting and in case he fails, the same shall be recovered from the licensee; and
- (x) all the outstanding duties, taxes, fees or any other amount dues payable to the Government shall be recovered as arrears of land revenue.

11-B. Manufacturer of Beer under Franchise agreements.- If the licensee desires to undertake manufacture of Beer brands (other than those of his own brands) pertaining to other Brewery under Franchise agreement, he shall apply to the Licensing Authority for such manufacture. The Licensing Authority may permit such Franchise agreement on the following conditions, namely:-

- (i) An application for grant of permission for manufacturing of Beer under the Franchise agreement shall be accompanied by,-
 - (a) franchise agreement executed between the licensee and the person in whose favour permission for manufacturing under the Franchise agreement is required on a non-judicial stamp paper of the requisite value as per the provisions of the Rajasthan Stamp Act, 1998, which shall be registered within 15 days from the date of grant of permission for the Franchise agreement;
 - (b) memorandum of Articles of Association/ Partnership deed, declaration of sole proprietorship, as the case may be, of the licensee and the person in whose favour permission for manufacturing under the franchise agreement is required;
 - (c) list of Directors / Partners, as the case may be, of both licensee and the person in whose favour permission for manufacturing under the franchise agreement is required;
 - (d) undertaking in form prescribed by the Excise Commissioner under rule 93 of the Rajasthan Excise Rules, 1956 on non judicial stamp paper worth Rupees 100/- duly signed by the licensee and the person in whose favour permission for manufacturing under the franchise agreement is required; and
 - (e) original challan as proof of having paid franchise fees equal to 50 % (fifty percent) of annual licence fees of the Brewery.
- (ii) permission shall not be granted to the persons or Firms, who has been disqualified to hold a licence under the Rajasthan Excise Act, 1950 or rules made thereunder;
- (iii) permission shall be granted for a period of one year or part thereof and such Franchise holder shall not have any claim for renewal of such Franchise;
- (iv) the Licensing Authority may, for the reasons recorded in writing, refuse to grant permission or withdraw the permission granted for Franchise agreement;

- (v) the licensee and the person in whose favour permission of franchise agreement is granted shall not have any claim for compensation towards any damage or loss sustained on account of refusal of permission or withdrawal of permission for Franchise agreements;
- (vi) if the original licence is suspended or cancelled for any reasons, the Franchise permission shall also stands automatically suspended or cancelled, as the case may be;
- (vii) the permission of Franchise agreement is not transferable;
- (viii) the licensee and the person manufacturing Beer under the Franchise agreement shall be jointly and severally responsible for all the acts of omissions and commissions in respect of operations in pursuance of franchise agreement;
- (ix) the person in whose favour permission for manufacturing under the Franchise agreement is granted shall be responsible for payment of all duties, taxes, fee or any other amount dues, payable to the Government pertaining to the period of Franchise agreements and in case he fails, the same shall be recover from the licensee ; and
- (x) all the outstanding duties, taxes, fees or any other amount dues payable to the Government shall be recovered as a arrears of land revenue.

Explanation: For the purpose of this rule, Franchise means an arrangement made between the licensee holding a licence under the Rajasthan Brewery Rules, 1972 and a person (s) / firm /company holding trademark right under the Trade and Merchandise Marks Act, 1958 (Central Act No. 43 of 1958) to use, manufacture and sale the products of such trademark holder under technical collaboration."

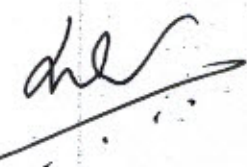

Excise Commissioner,
Rajasthan, Udaipur

No.F.32(B)(1)Ex/L/2014-Part-iv/ 435

Dated: 03 -04-2019

Copy forwarded to the following for information and necessary action :-

1. Superintendent, Government Central Press, Jaipur for publication of this notification in part 4(c) Part II of extra ordinary gazette. 15 copies of the Gazette kindly be may sent to Excise Commissioner, Rajasthan, Udaipur with the bill.
2. Principal Secretary, Finance Department, Jaipur.
3. Secretary, Finance (Revenue) Department, , Jaipur.
4. Joint Secretary, , Finance (Excise) Department, , Jaipur.
5. Accountant General, Rajasthan, Jaipur.
6. Finance advisor, Excise Department, Rajasthan, Udaipur.
7. Joint legal representation, Excise Department, Rajasthan, Udaipur.
8. Additional Commissioner, Excise Department (All).
9. District Excise Officer (All).
10. PS to Excise Commissioner, Rajasthan, Udaipur.
11. Chemical examiner, Excise lab (All)
12. Computer Cell, Hqrs. Udaipur.
13. Guard file.


Excise Commissioner,
Rajasthan, Udaipur