

THE JAMMU AND KASHMIR ENTERTAINMENTS DUTY
BILL, 2016.

[L. A. Bill No. 9 of 2016.]

A Bill to provide for the Levy of an Entertainment Duty in respect of Admission to Public Entertainments and matter connected therewith or incidental thereto.

Be it enacted by the State Legislature in the Sixty-seventh Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Entertainments Duty Bill, 2016.

(2) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) ‘addressable system’ means an electronic device or more than one electronic devices put in an integrated system through which television signals and value added services can be sent in encrypted or unencrypted form, which can be decoded by the device or devices at the premises of the subscriber within limits of the authorization made, on the choice and request of such subscriber, by the service provider to the subscriber ;
- (b) ‘admission to an entertainment’ includes admission of a person to any place in which the entertainment is held and

in case of entertainment through cable service and Direct To Home (DTH) service with or without cable connection or through internet fixed line or mobile, each connection to a subscriber shall be deemed to be an admission for entertainment ;

- (c) 'appellate authority' means the appellate authority appointed under section 5 of this Act ;
- (d) 'assessing authority' means the Entertainment Duty Officer ;
- (e) 'broadcaster' means any person including an individual, group of persons, public or body corporate, firm or any organization or body, who or which is providing programming services and includes his or her authorized distribution agencies ;
- (f) 'cable operator' means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network ;
- (g) 'cable service' means the transmission by cables of programme including retransmission by cables of any broadcast television signals ;
- (h) 'cable television network' means any system consisting of a set of closed transmission paths and associated signal generation/control and distribution equipment, designed to provide cable service for reception by multiple subscribers ;
- (i) 'cinema' means any place where exhibition of cinematograph film or moving pictures or series of pictures is publicly

organized by playing or replaying of pre-recorded cassette by means of a video cassette player or recorder either on the screen of a television set or video scope or otherwise including video parlour, 3D or 5D or 7D video halls/theaters/Multiplexes or IPTV through internet is provided for commercial purposes ;

- (j) 'Direct To Home (DTH) service' means distribution of multi-channel television and radio programmes and similar content by using a satellite system, by providing signals directly to subscriber's premises without passing through an intermediary or otherwise ;
- (k) 'duty' means entertainment duty, and includes surcharge, cess, penalty or any other charge levied under this Act ;
- (l) 'entertainment' includes,—
 - (i) any exhibition, performance, amusement, game, sport or race (including horse/car/motorcycle race) to which persons are admitted on payment ;
 - (ii) entertainment through cable television network service by a cable operator and Direct to Home (DTH) service by service provider through satellite or by IPTV through internet connection on payment ;
 - (iii) entertainment through video parlour, 3D or 5D or 7D Video Halls/Theaters/Multiplexes/Cinemas to which persons are admitted on payment ;
 - (iv) entertainment through IPTV through internet connection or any other technological means and devices ;

- (v) entertainment through telecom operators through fixed line and mobile internet services on payment ; and
- (vi) any other type of entertainment not defined in this sub-section.
- (m) 'Government' means the Government of Jammu and Kashmir ;
- (n) 'Multi-System Operator (MSO)' means any person including an individual, group of persons, public or body corporate, firm or any other organization or body, who or which is engaged in the business of receiving television signals and value added services from a broadcaster or his authorized agencies and distributing the same or transmitting his own programming service including production and transmission of programmes and packages, directly to the multiple subscribers or through one or more cable operators and includes its authorized distribution agencies by whatever name called ;
- (o) 'notification' means a notification published in the Government Gazette ;
- (p) 'payment for admission' includes,—
 - (i) any payment made by a person for seats, entry or other accommodation in any form in/into a place of entertainment ;
 - (ii) any payment for cable service or DTH ;
 - (iii) any payment made for the loan or use of any instrument or contrivance which enable a person to get a normal or better view or hearing or enjoyment

of the entertainment, which without the aid of such instrument or contrivance such person would not go ;

- (iv) any payment, by whatever name called for any purpose whatsoever, connected with an entertainment, which a person is required to make in any form as a condition of attending, or continuing to attend the entertainment, either in addition to the payment, if any, for admission to the entertainment or without any such payment for admission ;
- (v) 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 more duty is required ;
- (vi) any payment made by a person by way of contribution, subscription, installation or connection charges or any other charges collected in any manner whatsoever for entertainment through Direct To Home (DTH) broadcasting service for distribution of television signals and value added services with the aid of any type of addressable system, which connects a television set, computer system at a residential or non-residential place of subscriber's premises, directly to the satellite or otherwise ;
- (vii) any payment made by a person for installation and rentals/recharge of internet facility from the telecom operator ;

Explanation :— Any subscription raised, contribution received or donation collected in connection

with an entertainment, where admission is partly or entirely by tickets/invitation specifying the amount of admission or reduced rate of ticket shall be deemed to be payment for admission ;

- (q) 'prescribed' means prescribed by rules made under this Act ;
- (r) 'proprietor' in relation to any entertainment includes any person,—
- (i) who is owner, partner or responsible for management of entertainment ; or
 - (ii) connected with the organization of the entertainment ; or
 - (iii) charged with the work of admission to the entertainment ; or
 - (iv) responsible for, or for the time being incharge of, the management thereof ;
 - (v) having license to provide Direct To Home (DTH) service, by the Central Government under section 4 of the Indian Telegraph Act, 1885 (13 of 1885), and the Indian Wireless Telegraph Act, 1933 (17 of 1933) and also include service provider of cable television signals and value added services, registered or licensed under the Cable Television Network (Regulation) Act, 1995 (7 of 1995) ; or
 - (vi) responsible for organization/management of telecom services i. e. internet or management of any other

entertainment from some other technological means/
devices which include distributor also.

- (s) 'set top box' means an apparatus, connected to a television set or computer system at a residential or non-residential place which receives decrypted television signals and radio services to the television set or computer set, which enables the viewers to tune into multi-channel television or radio content ;
- (t) 'service provider' includes any person licensed or registered under the Indian Telegraph Act, 1885 (13 of 1885), the Cable Television Networks (Regulation) Act, 1995 (7 of 1995), the Indian Wireless Telegraphy Act, 1933 (17 of 1933) and any other Act for providing, television, radio signals or internet and is providing entertainment ;
- (u) 'society' includes a company, institution, club or other association of person by whatever name called ;
- (v) 'subscriber' means a person who receives the signals of television network and value added services or internet from multi-system operator or from cable operator or from Direct To Home (DTH) broadcasting service or from telecom operator at a place or device indicated by him to the service provider, without further transmitting it to any other person ;

Explanation I :—In case of hotels, each room or premises where signals of cable television network are received shall be treated as a subscriber.

Explanation II :—In case of Direct To Home (DTH), every television set or computer set receiving the signals shall be treated as a subscriber.

Explanation III :—In case of internet, every fixed line telephone or mobile set receiving internet shall be treated as a subscriber.

- (w) ‘ticket’ means a ticket or a complimentary pass for the purpose of securing admission to an entertainment in accordance with the provisions of this Act or the rules made thereunder, and a ‘duplicate ticket’ means a ticket or set of tickets used or intended to be used otherwise than in accordance with this Act or the rules made thereunder.

CHAPTER II

Entertainment Duty Authorities

3. *Entertainment Duty Authorities.*—(1) For carrying out the purposes of this Act, the Government may by notification appoint a person to be the Commissioner of Entertainment Duty.

(2) To assist the Commissioner in the execution of his functions under this Act, the Government may appoint as many Deputy Commissioners, Entertainment Duty, Entertainment Duty Officers, Inspectors, Sub-Inspectors and such other persons.

(3) The Commissioner appointed under sub-section (1) and other officers appointed under sub-section (2) shall exercise such powers as may be conferred, and perform such duties, as may be required, by or under this Act.

4. *Delegation.*—(1) The Government may, by notification, delegate all or any of its powers under this Act, except those under

section 3, section 6, section 7, and section 37 to any person or authority subordinate to it.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions as may be laid down by the Government from time to time and shall also be subject to control and revision by Government at any time.

5. *Appellate Authority.*—The Deputy Commissioner, Entertainment, Kashmir/Jammu shall be the appellate authority to exercise the powers and discharge the functions conferred on the appellate authority by or under this Act in their respective jurisdictions.

CHAPTER III

Entertainment Duty

6. *Duty on payment for admission to entertainment.*—(1) Subject to the provisions of this Act, there shall be levied and paid on all payment for admission to any entertainment, an entertainment duty at such rate as the Government may from time to time notify in this behalf, and the duty shall be collected by the proprietor from the person making the payment for admission and paid to the Government in the manner prescribed.

(2) The proprietor of a video parlour, 3D or 5D or 7D Video Halls, Theaters, Multiplexes and Cinemas shall be liable to pay entertainment duty at a rate to be notified by the Government from time to time in this behalf.

(3) Nothing in sub-section (1) shall preclude the Government from notifying different rates of entertainment duty for different classes of entertainment or for different payments for admission to entertainment.

(4) Where the payment for admission to an entertainment together with the duty is not a multiple of fifty paise, then notwithstanding anything contained in sub-section (1) or sub-section (2) or any notification issued thereunder the duty shall be increased to such extent and be so computed that the aggregate of such payment for admission to entertainment and the duty is rounded off to the next higher multiple of fifty paise, and such increased duty shall also be collected by the proprietor and paid to the Government in the manner prescribed.

(5) If in any entertainment, referred to in sub-section (1), to which admission is generally on payment, any person is admitted free of charge or on a concessional rate, the same amount of duty shall be payable as if such person was admitted on full payment.

(6) Where the admission to a place of entertainment is generally on payment, and if any, entertainment is held in lieu of the regular entertainment programme without payment of admission or with payment of admission less than what would have been paid in the normal course, the proprietor shall be liable to pay duty which would have been payable in a normal course at full house capacity or the duty for the programme held in lieu of the regular entertainment programme whichever is higher.

(7) Where the payment for admission to an entertainment, referred to in sub-section (1), is made wholly or partly, by means of a lump sum paid as subscription, contribution, donation or otherwise, the duty shall be paid on the amount of such lump sum and on the amount of payment for admission, if any, made otherwise.

(8) Wherein a hotel or a restaurant, or a club, entertainment is provided by way of cabarets, floor shows, or entertainment is organized on special occasion along with any meal or refreshment with a view to attract customers, the same shall be levied duty at a rate to be notified under sub-section (1).

7. *Duty on cable, Direct To Home (DTH), internet service and video service.*—(1) Subject to the provisions of this Act, there shall be levied and paid an entertainment duty on all payments for admission to an entertainment through a Direct To Home (DTH) or through a cable television network with addressable system or otherwise, other than entertainment to which section 6 applies, at such rates for every subscriber for every month as the Government may, from time to time, notify in this behalf, which shall be collected by the proprietor and paid to the Government in the manner prescribed.

(2) Nothing in sub-section (1) shall preclude the Government from notifying different rates of entertainment duty for household, or for different categories of hotels.

(3) Where the subscriber is a hotel or a restaurant ; the proprietor may, in lieu of payment under sub-section (1), pay a compounded payment to the Government on such conditions and in such manner as may be prescribed and at such rates the Government may, from time to time, notify and different rates of compounded payment may be notified for the different categories of hotels.

(4) The proprietor of telecom service provider providing internet service through fixed line or mobile shall be liable to pay entertainment duty at such rate for every subscriber per package or on monthly rates at a rate to be notified by the Government from time to time in this behalf.

(5) The duty payable under this section shall be paid, collected or realized in such manner as may be prescribed.

8. *Information before holding entertainment.*—
(1) No entertainment on which duty is leviable shall be held without prior information being given to the Commissioner in the manner prescribed.

(2) No proprietor of a cable television network, Direct To Home (DTH) or video parlour, 3D or 5D or 7D Video Halls, Theaters, Multiplexes and Cinemas shall provide entertainment unless he obtains permission from the Commissioner in the manner prescribed.

(3) Notwithstanding anything contained in this Act or any other law for the time being in force, the Commissioner, or any other officer authorized to by the Government in this behalf, may after giving reasonable opportunity of hearing to the proprietor, prohibit the holding of such entertainment and may also take all reasonable steps to ensure that order of prohibition is complied with, if he is satisfied that,—

- (a) the proprietor has given any false information which is likely to result in the evasion of duty ;
- (b) the proprietor has failed to deposit the security due ;
- (c) the proprietor has committed breach of any of the provisions of this Act or the rules made thereunder.

9. *Restriction of admission.*—Save as otherwise expressly provided by or under this Act, no person other than a person who has some specific duty to perform in connection with the entertainment, or duty imposed upon him by law, or a person authorized by the Government in this behalf shall be admitted to any entertainment except with a ticket in the prescribed form denoting that the proper duty under section 6 has been paid

10. *Restriction on entry to entertainment.*—No person who has some specific duty to perform in connection with the entertainment, or duty imposed upon him by law, or a person authorized by the Government in this behalf shall enter or obtain admission to an entertainment without being in possession of a proper ticket as required under section 9.

11. *Manner of payment.*—The Government may, on such conditions as may be prescribed, require the proprietor, to pay the amount of the duty payable under section 6,—

- (a) by stamping the tickets with an impressed, embossed, engraved or adhesive stamp, issued by the Government for the purposes, denoting that the proper entertainment duty under section 6 has been paid ; or
- (b) in accordance with returns of the payments for admission to the entertainment and on account of duty ; or
- (c) by a consolidated payment of a percentage, to be fixed by the Government, of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the duty ; or
- (d) in accordance with results recorded by any mechanical contrivance which automatically registers the number of person admitted ; or
- (e) by collecting the duty while allowing entry to entertainment online through web portals ; or
- (f) by advance payments by the proprietor to be accounted for the number of persons admitted to entertainment.

12. *Refund of duty.*—(1) Where the Commissioner is satisfied that the proprietor has deposited duty in excess of the amount actually due, he shall grant a refund in respect of such amount or allow its adjustment against future payments to duty.

(2) When an entertainment is not completed for reasons beyond the control of the proprietor, and the Commissioner is satisfied that the

proprietor has refunded the amount charged for the tickets, he shall remit the amount of duty payable in respect of such tickets and order the show to be treated as cancelled.

13. *Deposit and forfeiture of security.*—(1) Every proprietor before holding an entertainment on which duty is leviable shall deposit such security and in such manner as may be prescribed. The Commissioner may deduct any arrears of duty from the security and may vary or forfeit the security in such manner as may be prescribed.

(2) No order to forfeit the security shall be made under sub-section (1) unless, after giving the proprietor reasonable opportunity of being heard, the Commissioner is satisfied for reasons to be recorded that the proprietor has evaded the duty or violated the provisions of this Act or rules made thereunder.

(3) Any person aggrieved by an order forfeiting the security may, within thirty days from the date of service of such order prefer an appeal to the appellate authority in such manner as may be prescribed and the order of the appellate authority shall be final.

14. *Exemption.*—(1) The Government may, for promotion of arts, culture or sports, by general or special order, exempt any individual entertainment programme or class or entertainment from liability to pay duty under this Act.

(2) The Government may, by general or special order, exempt in public interest any class or entertainment from liability to pay duty under this Act.

(3) Without prejudice to the generality of the provisions of sub-section (1) where the Government is satisfied that any entertainment,—

(a) is wholly of an educational character ; or

- (b) is provided partly for educational or partly for scientific purposes by a society not conducted or established for profit ; or

- (c) is provided by a society not conducted for profit and established solely for the purpose of promoting public health or in the interests of agriculture, or a manufacturing industry, and consists solely of an exhibition of articles which are of material interest in connection with questions relating to public health or agriculture or are the products of the industry for promoting the interest whereof the society exists, or the materials, machinery appliances or foodstuff used in the production of such produce, may, subject to such terms and conditions as it may deem fit to impose, grant exemption to such entertainment from payment of duty under this Act :

Provided that the Government may cancel such exemption if it is satisfied that the exemption was obtained through fraud or misrepresentation, or that the proprietor of such entertainment has failed to comply with any of the terms or conditions imposed or directions issued in this behalf and thereafter the proprietor shall be liable to pay the duty which would have been payable had not the entertainment been so exempted.

(4) Where the Government is satisfied that the entertainment programme is not conducted for profit and the entire gross proceeds from payment for admission are to be devoted in philanthropic, religious or charitable purposes, without any deductions whatsoever on account of the expenses of the entertainment, it may, subject to the rules made under this Act, grant exemption to such entertainment from payment of duty under this Act on such terms and conditions, as it may deem fit to impose.

(5) Where any exemption from payment of duty is granted under sub-section (4), the proprietor of such entertainment shall furnish to the Commissioner such documents and records and in such manner as may be prescribed.

(6) If the proprietor of an entertainment exempted under sub-section (4) fails to furnish the documents and records required under sub-section (5), or fails to comply with any conditions imposed or directions issued in this behalf, or if the Government is not satisfied with the correctness of such documents or records, the Government may cancel the exemption so granted and thereupon the proprietor shall be liable to pay the duty which would have been payable had not the entertainment been so exempted.

(7) The Government may for reasons to be recorded in writing grant ex-post facto exemption from payment of entertainment duty in respect of any programme.

15. *Assessment of duty.*—(1) Where the assessing authority is satisfied that the proprietor of an entertainment,—

- (a) has failed to give information or taken permission as required under sub-section (1) or as the case may be, under sub-section (2) of section 8 ; or
- (b) has failed to submit true and full returns in the prescribed forms ; or
- (c) has printed, distributed, possessed, sold or used duplicate tickets ; or
- (d) has fraudulently evaded or attempted to evade, the payment of duty due in any manner whatsoever it shall, after giving the proprietor a reasonable opportunity of being heard,

assess to the best of its judgement, the amount of the duty due from the proprietor, and may also impose a penalty not exceeding twenty times of the duty due.

(2) The amount of duty assessed by the assessing authority shall, together with any penalty that may be directed to be paid, be paid by the proprietor within a period of fifteen days from the date of service of notice of demand issued by the assessing authority.

(3) Any person aggrieved by an order under sub-sections (1) and (2) may, within one month from the date of service of such order, prefer an appeal to the appellate authority in such manner as may be prescribed and the order of the appellate authority shall be final.

16. *Power to summon witnesses and production of documents.*—(1) The assessing or appellate authority shall, for securing the attendance or for production of any document for the purpose of this Act, have all the powers conferred on a Civil Court under the provisions of the Code of Civil Procedure, Samvat 1977 for the purpose of,—

- (a) summoning and enforcing the attendance of any person and examining him on oath or affirmation ; and
- (b) compelling the production of any document connected with the assessment proceedings.

(2) The authority referred to in sub-section (1) shall have powers to call for such information, particulars and records as he may require, from any person, including the broadcaster, cable operator, proprietor of Direct To Home, multi-system operator or the subscriber, for any purpose under this Act.

17. *Provision against resale of tickets.*—(1) A ticket for admission to an entertainment shall not be resold for profit.

(2) No person shall sell, resell or purchase any ticket for admission to an entertainment in respect whereof duty is payable under section 6, except from the enclosure set apart by proprietor for the purchase or by online payment through web portals and in such manner as may be prescribed.

18. *Inspections.*—(1) The Commissioner or any other officer authorised in this behalf may enter, inspect and search any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment or for keeping records connected therewith, at any reasonable time with a view to securing compliance of the provisions of this Act or the rules made thereunder.

Explanation :— The expression “place of entertainment” in case of a cable service or Direct To Home (DTH) means the place from where the cable television network or DTH is operated.

(2) Any officer referred to in sub-section (1) may require the proprietor, society or any person involved in payment for admission to produce for inspection before him or any other officer not below the rank of Sub-Inspector, all details of account and other records relating to the entertainment as such officer may consider necessary.

(3) Any officer referred to in sub-section (1) or sub-section (2) may take in his possession all such books of accounts and other records relating to the entertainment as he may consider necessary and shall give a receipt giving list of the documents and records taken in possession.

(4) The proprietor of such place of entertainment shall given every reasonable assistance to every officer referred to in sub-sections (1) and (2).

(5) Every officer referred to in sub-sections (1) and (2) shall be deemed to be a public servant within the meaning of section 21 of the State Ranbir Penal Code.

19. *Suspension or revocation of authorization certificate for entertainment.*—(1) No proprietor having a licence under the Cinematography Act, 1952 (Central Act 37 of 1952) and Cinematography Act, Samvat 1989 (State Act) shall charge payment for admission and collect entertainment duty without an authorization to be called 'Admission Fee and Duty Collection Authorization Certificate' from the Commissioner.

(2) The Commissioner may, by order, revoke or suspend the authorization certificate issued under sub-section (1) if he is satisfied that the proprietor has—

- (a) admitted any person to any place of entertainment without payment of duty ; or
- (b) failed to pay the duty or deposit security due from him within the time prescribed ; or
- (c) fraudulently evaded the payment of any duty due under this Act ; or
- (d) obstructed any officer in carrying out inspection, search or seizure of records ; or
- (e) failed to produce the records required for inspection by any officer carrying out an inspection under this Act ; or
- (f) contravened any other provision of this Act or the rules made thereunder or any order or direction issued under any such provision.

(3) No order to revoke or suspend the 'admission fee and duty collection authorization certificate' under sub-section (1) shall be passed without giving the holder of such certificate a reasonable opportunity of being heard.

(4) Where any 'admission fee and duty collection authorization certificate' granted under sub-section (1) has been revoked or suspended under this section, the Commissioner shall have the power to prevent such entertainment and may, for this purpose, take such steps as he may consider necessary in the circumstance of the case.

CHAPTER IV

Penalties and Procedure

20. *Penalty for admission and entry without tickets.*—(1) If any person liable to pay any duty under section 6 is admitted to a place of entertainment in contravention of the provisions of section 9, the proprietor of the entertainment to which such person is so admitted shall be punishable with a fine, not exceeding five thousand rupees.

(2) Any person who enters or obtains admission to an entertainment in contravention of the provisions of section 10 shall be punishable with fine not exceeding ten times the amount of duty due from him in addition to the amount of duty due.

21. *Penalty for unauthorization of sale and purchase of tickets.*—(1) If any person sells any tickets in contravention of the provisions of sub-section (1) or sub-section (2) of section 17 shall be punishable with a fine not exceeding five thousand rupees.

(2) Any person, who purchases any ticket in contravention of the provisions of section 17, shall be punishable with a fine not exceeding twenty times of value of the admission ticket.

22. *Penalty for using duplicate tickets.*—Every proprietor using or possessing a duplicate ticket shall be punishable with a fine not exceeding five thousand rupees.

23. *Penalty for violating section 7.*—Every proprietor not paying duty as per section 7 shall be punishable with a fine not exceeding fifteen thousand rupees.

24. *Penalty for obstructing inspecting officers.*—If any person prevents the entry of any officer duly authorized in this behalf or otherwise obstructs such officer in the discharge of his duties imposed by or under this Act or the rules made thereunder, such person shall be punishable with a fine not exceeding ten thousand rupees.

25. *Penalty for entertainment which is prohibited or when authorization certificate thereof is revoked or suspended.*—Whoever holds any entertainment while it is prohibited under sub-section (3) of section 8 or while the 'admission fee and duty collection authorization certificate' for such entertainment remains suspended or revoked under sub-section (2) of section 19, shall be punishable with fine not exceeding ten thousand rupees.

26. *Penalty for other offence.*—Any person who contravenes any other provisions of this Act or the rules made thereunder or fails to comply with any order or direction issued in accordance with the provisions of this Act or the rules made thereunder, shall be punishable with a fine not exceeding five thousand rupees.

27. *Enhanced penalty after previous conviction.*—Whoever having been convicted of an offence punishable under sub-section (1) of section 20, or sub-section (1) of section 21, or section 22, or section 25, is again found guilty of an offence punishable under the same provision, shall be subject for every such subsequent offence, to

a fine which may extend to two times of the amount of fine provided in such provision.

28. *Offences by companies.*—(1) If the person, committing an offence under this Act is a company, the company as well as every person incharge of, and responsible to the company, for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any negligence on the part of any managing agent, secretary, treasurer, director, manager or any other officer of the company, such managing agent, secretary, treasurer, director, manager or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :— For the purpose of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals ; and
- (b) “director” in relation to a firm, means a partner in the firm.

29. *Bar of jurisdiction on civil courts.*—No civil court shall have jurisdiction to decide, or to deal with any question, which is by or

under this Act required to be decided or dealt with, by the Government, or the Commissioner, or any other officer authorised by the Government.

30. *Compounding of offence.*—(1) Any offence punishable under this Act may be compounded by the Deputy Commissioner, Entertainment either before or after the institution of the prosecution in relation of such amount of composition fees, as he thinks fit, but not exceeding thirty thousand rupees.

(2) The proceedings instituted in the court shall abate if the offence has been compounded under sub-section (1).

31. *Cognizance of offence.*—(1) No court shall take cognizance of any offence punishable under this Act or rules made thereunder except on complaint by, or with the previous sanction in writing of the Commissioner or any other officer authorized by him in this behalf.

(2) If the duty due has not been deposited within the specified time, a recovery certificate to the Collector for recovery of the same shall be issued in such manner as may be prescribed.

CHAPTER V

Miscellaneous

32. *Recovery of duty.*—(1) The amount of any duty, interest, penalty or other amount due under any provision of this Act shall, without prejudice to any other mode of recovery available to the Government under any other law for the time being in force, be recoverable as arrears of land revenue.

(2) If the duty, interest, penalty or other amount due has not been deposited within the specified time, a recovery certificate to the Collector for recovery of the same shall be issued in such manner as may be prescribed.

(3) For the purposes of recovery of any amount recoverable as arrears of land revenue under this Act, the provisions of the Land Revenue Act, Samvat 1996, as to the recovery of arrears of land revenue shall, notwithstanding anything contained in that Act or in any other enactment, be deemed to be in force throughout Jammu and Kashmir.

(4) For the purposes of recovery of any amount recoverable as arrear of land revenue under this Act,—

- (a) the Deputy Commissioner Entertainment, shall have and exercise all the powers and perform all the duties of the Deputy Commissioner under the Land Revenue Act, Samvat 1966 ;
- (b) the Entertainment Officer and Entertainment Duty Inspector and Sub-Inspector shall have and exercise all the powers and perform all the duties of the Tehsildar and Revenue Assistant respectively under the Land Revenue Act, Samvat 1966 ;

33. *Special mode of recovery.*—(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

- (a) any person from whom any amount of money is due, or may become due, to the person (in this section called “the duty payer”) liable to pay duty, interest, penalty or any amount due under this Act ; or
- (b) any person who holds or may subsequently hold money for or on account of the duty payer, to pay to the Commissioner, either forthwith upon the money becoming

under this Act required to be decided or dealt with, by the Government, or the Commissioner, or any other officer authorised by the Government.

30. *Compounding of offence.*—(1) Any offence punishable under this Act may be compounded by the Deputy Commissioner, Entertainment either before or after the institution of the prosecution in relation of such amount of composition fees, as he thinks fit, but not exceeding thirty thousand rupees.

(2) The proceedings instituted in the court shall abate if the offence has been compounded under sub-section (1).

31. *Cognizance of offence.*—(1) No court shall take cognizance of any offence punishable under this Act or rules made thereunder except on complaint by, or with the previous sanction in writing of the Commissioner or any other officer authorized by him in this behalf.

(2) If the duty due has not been deposited within the specified time, a recovery certificate to the Collector for recovery of the same shall be issued in such manner as may be prescribed.

CHAPTER V

Miscellaneous

32. *Recovery of duty.*—(1) The amount of any duty, interest, penalty or other amount due under any provision of this Act shall, without prejudice to any other mode of recovery available to the Government under any other law for the time being in force, be recoverable as arrears of land revenue.

(2) If the duty, interest, penalty or other amount due has not been deposited within the specified time, a recovery certificate to the Collector for recovery of the same shall be issued in such manner as may be prescribed.

(3) For the purposes of recovery of any amount recoverable as arrears of land revenue under this Act, the provisions of the Land Revenue Act, Samvat 1996, as to the recovery of arrears of land revenue shall, notwithstanding anything contained in that Act or in any other enactment, be deemed to be in force throughout Jammu and Kashmir.

(4) For the purposes of recovery of any amount recoverable as arrear of land revenue under this Act,—

- (a) the Deputy Commissioner Entertainment, shall have and exercise all the powers and perform all the duties of the Deputy Commissioner under the Land Revenue Act, Samvat 1966 ;
- (b) the Entertainment Officer and Entertainment Duty Inspector and Sub-Inspector shall have and exercise all the powers and perform all the duties of the Tehsildar and Revenue Assistant respectively under the Land Revenue Act, Samvat 1966 ;

33. *Special mode of recovery.*—(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

- (a) any person from whom any amount of money is due, or may become due, to the person (in this section called “the duty payer”) liable to pay duty, interest, penalty or any amount due under this Act ; or
- (b) any person who holds or may subsequently hold money for or on account of the duty payer, to pay to the Commissioner, either forthwith upon the money becoming

or by that person, as the case may be, on his own motion rectify any mistake apparent from the record, and shall within a like period, rectify such mistake which has been brought to his notice by any person affected by such order :

Provided that no such rectification shall be made, if it has the effect of enhancing the duty or reducing the amount of refund, unless the Commissioner or the person appointed under sub-section (2) of section 3 to assist him, as the case may be, has given notice in writing to the person likely to be affected by the order, of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) Save as provided and subject to such rules as may be prescribed, any assessment made or order passed under this Act or the rules made thereunder by any person appointed under section 3 or by the appellate authority may be reviewed by such person or appellate authority, as the case may be *suo moto* or upon an application made in that behalf :

Provided that if any order passed is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

38. *Powers to make rules.*—(1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide, for,—

- (a) collection of duty and payment thereof in the Government account by the proprietor ;
- (b) conditions and manner of payment of compounded duty to the Government in relation to a hotel or restaurant providing

video cable service and the manner of collection or realization of such duty ;

- (c) procedure for giving prior information to the Commissioner for holding entertainment on which duty is leviable and for obtaining permission for holding entertainment by the proprietor of cable television network or Direct To Home (DTH) or video parlour or a 3D or a 5D or a 7D cinema hall or multiplex ;
- (d) manner of payment of duty under section 6 ;
- (e) manner of payment of entertainment duty to the Government in respect of entertainments described in section 7 ;
- (f) procedure for furnishing security for holding an entertainment, the manner and condition under which the security can be forfeited or the matter in which appeal can be filed against the order of forfeiture of the security ;
- (g) grant of exemption under sub-section (4) of section 14 ;
- (h) form for submission of return under clause (b) of sub-section (1) of section 15 and the manner in which appeals may be filed against orders passed under sub-section (1), sub-section (2) and sub-section (3) of said section ;
- (i) manner under sub-section (2) of section 17 to sell, re-sell or purchase ticket for admission to an entertainment ;
- (j) inspection and search of places of entertainment etc. under section 18 ;

- (k) manner in which recovery certificate to collector to be issued under sub-section (2) of section 31 ;
- (l) any other matter which is required to be, or may be, prescribed.

39. *Power of the Commissioner to conduct special audit.*—

(1) If, at any stage of the proceedings under this Act, the Commissioner, having regard to the nature of the entertainment event and complexity of the transactions made by the proprietor of the entertainment event and the interest of the revenue, is of the opinion that it is necessary to do so, he may direct the Deputy Excise Commissioner, Accounts, Jammu and Kashmir in writing to get his records including books of accounts, examined and audited and to furnish a report of such examination and audit, duly signed and verified.

(2) Every report under sub-section (1) shall be furnished by the Deputy Excise Commissioner, Accounts, Jammu and Kashmir to the Commissioner within such period as may be specified by the Commissioner :

Provided that the Commissioner may, on an application made in this behalf by the proprietor and for any good and sufficient reason, extend the said period by such further period as he thinks fit.

40. *Removal of difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it be necessary or expedient for the removal of the difficulty.

41. *Repeal and saving.*—(1) The Jammu and Kashmir Entertainments Act, 1959 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act, shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The existing Jammu and Kashmir Entertainment Duty Act, 1959 (Act No. XXVIII of 1959) provides for levying duty on entertainment activities as existed in early nineteen-sixties and entertainment provided by Direct To Home (DTH) operators, internet entertainment providers and some other modern entertainment services are not covered under the existing provisions of the Act. Subscriber's base of DTH and some other modern entertainment services has rapidly increased during the past years and is further expanding ; thereby provide good resources generation opportunity. Hence, the proposed Bill shall bring DTH and other modern entertainment services under the entertainment duty net.

It is proposed in the Bill to empower the Assessing Authorities appointed under it to have all the powers conferred on a court under Code of Civil Procedure for the purpose of summoning and enforcing the attendance of any person and examining him on oath and compelling production of any document.

Further, provision of special audit has also been proposed for proper examination of records in connection with an entertainment event.

Hence the Bill.

MINISTER INCHARGE FINANCE.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

1. Clause 4 of the Bill confers on the Government the powers to make rules to prescribe the manner of payment of entertainment duty to the Government in respect of all entertainments including through Direct To Home (DTH) or Cable Television Network as described in sub-clause (1) of clause 6 and sub-clause (1) of clause 7 of the Bill.

2. The matters in respect of which rules may be made are matters of administrative details and procedure and, as such, the delegation of legislative power is of normal character.

MINISTER INCHARGE FINANCE.

FINANCIAL MEMORANDUM

The existing Jammu and Kashmir Entertainment Duty Act, 1959 (Act No. XXVIII of 1959) is applicable for all entertainment programmes being held in the Jammu and Kashmir State viz. cinema, cable TV, horse racing and other miscellaneous entertainment programmes.

The proposed new Act shall bring DTH, internet and other modern entertainment services under entertainment duty net which will generate considerable revenue for the State. It also proposes to make entertainment duty administration more efficient and effective and to plug the loophole for better entertainment duty compliance.

The Bill to be introduced is more of regulatory nature and do not involve any expenditure from out of the Consolidated Fund of the State.

MINISTER INCHARGE FINANCE.

RECOMMENDATION OF THE GOVERNOR

The Governor has in pursuance of sub-sections (1) and (3) of section 84 of the Constitution of Jammu and Kashmir recommended to the Jammu and Kashmir Legislative Assembly the introduction and consideration of the Bill.

(Sd.) **M. RAMZAN,**

Secretary.