



**LEGISLATIVE ASSEMBLY OF THE STATE OF GOA**

**The Goa Public Libraries (Amendment and Validation) Bill, 2013**

(Bill No. 27 of 2013)

-----

**(As Introduced in the Legislative Assembly of the State of Goa)**

**GOA LEGISLATURE SECRETARIAT  
ASSEMBLY HALL, PORVORIM GOA**

**OCTOBER, 2013**

# The Goa Public Libraries (Amendment and Validation) Bill, 2013

(Bill No. 27 of 2013)

## A BILL

*further to amend the Goa Public Libraries Act, 1993 (Goa Act No. 14 of 1995) and to validate the levy and collection of library cess.*

BE it enacted by the Legislative Assembly of Goa in the Sixty-fourth Year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act may be called the Goa Public Libraries (Amendment and Validation) Act, 2013.

(2) It shall be deemed to have come into force on the 28<sup>th</sup> day of July, 2009.

2. *Amendment of section 18 of Goa Act No. 14 of 1995.* — In section 18 of the Goa Public Libraries Act, 1993 (Goa Act No. 14 of 1995) (hereinafter referred to as the “principal Act”), for sub-section (1), the following sub-section shall be substituted, namely: —

“(1) The Government shall, by notification in the Official Gazette, levy a library cess, at such rate as may be specified therein, in the form of a surcharge on the excise duty or other duties or any fees payable on Indian made foreign liquor, foreign liquor, beer and/or wine under the Goa Excise Duty Act, 1964 (Act 5 of 1964).”.

3. *Validation.*— (1) Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority to the contrary, —

(a) the Government Notification No. 1/1/2008-Fin(R&C) dated 28-07-2009, published in the Official Gazette, Extraordinary No. 2, Series I No. 17, dated 29-07-2009;

- (b) the Government Notification No. 1/3/2011-Fin(R&C)/Part dated 09-12-2011, published in the Official Gazette, Extraordinary, Series I No. 36, dated 09-12-2011;
- (c) any library cess levied or collected or purported to have been levied or collected under the said notifications; and
- (d) any action taken or thing done in relation to such levy or collection under the provisions of the principal Act,

shall, for all purposes, be deemed to be and to have always been validly issued or levied or collected or taken or done, as the case may be, in accordance with the provisions of section 18 of the principal Act as amended by this Act, and accordingly, —

- (i) no suit or other proceeding shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any library cess so paid;
- (ii) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any library cess so collected;
- (iii) any library cess levied or purported to have been levied but not collected, may be recovered under the principal Act as amended by this Act; and
- (iv) anything done or any action taken or purported to have been done or taken, under or for the purposes of the principal Act and / or under the said notifications, shall be deemed to have been validly done or taken in accordance with law as if the provisions of section 18 of the principal Act, as amended by this Act, had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

- (a) from questioning in accordance with the provisions of the principal Act, as amended by this Act, or the said notifications, the levy or collection of library cess referred to in sub-section (1); or

(b) from claiming refund of any library cess paid by him in excess of the amount due from him under the principal Act, as amended by this Act, or the said notifications.

**4.** *Repeal and saving.* — (1) The Goa Public Libraries (Amendment and Validation) Ordinance, 2013 (Ordinance No. 2 of 2013) is hereby repealed.

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

## Statement of Objects and Reasons

In terms of sub-section (1) of section 18 of the Goa Public Libraries Act, 1993 (Goa Act No. 14 of 1995) (hereinafter referred to as the “said Act”), the Government shall levy a library cess in the form of a surcharge on the Excise Duty payable under the Goa Excise Duty Act, 1964 (Act 5 of 1964), at the rate of paise 50 only per proof litre of Indian made foreign liquor (IMFL) and at the rate of paise 50 only per bulk litre of beer. The library cess so levied and collected shall be utilised for the purposes of implementation of the provisions contained in section 3 of the said Act. This library cess came to be levied with effect from 30-05-1997, pursuant to the notification No. 1/3/97-Fin(R&C) dated 28-05-1997 issued by the Government in this regard.

Subsequently, vide notification No. 1/1/2008-Fin(R&C) dated 28-07-2009, published in the Official Gazette, Extraordinary No. 2, Series I No. 17, dated 29-07-2009 and notification No. 1/3/2011-Fin(R&C)/Part dated 09-12-2011, published in the Official Gazette, Extraordinary, Series I No. 36, dated 09-12-2011, the Government enhanced the rate of library cess from paise 50 only to paise 75 only and from paise 75 only to rupee one only, respectively. Further, the library cess was also charged on excise duty on per bulk litre of IMFL in place of per proof litre of IMFL and also on the fees chargeable on various types of liquors manufactured, imported and sold in the State of Goa as well as exported outside the State of Goa, including the fees chargeable on these activities. By virtue of the said two notifications, the Government has levied a library cess and collected an additional revenue of ₹ 1,160 lakhs w.e.f. 29-07-2009 till 31-08-2013.

Since the year 1997 till 31-08-2013, the Government has levied and collected a library cess amounting to ₹ 4,379 lakhs. As per the data analysis, during the last eleven financial years (i.e. 2002–03 to 2012–13), the expenditure incurred on various library development programmes in terms of the objectives of the said Act amounts to ₹ 3,057 lakhs. Further, an investment of ₹ 5,081 lakhs and ₹ 1,273 lakhs, have been made for providing the state-of-the-art infrastructure for public libraries, viz. the Central Library at Patto, Panaji (Krishnadas Shama Goa State Central Library) and South Goa

District Library at Margao (Dr. Francisco Luis Gomes District Library), respectively.

Thus, a total of ₹ 9,411 lakhs (approximately) has been judiciously and effectively utilised by the Government towards the library movement in the State of Goa.

One of the said Government notification namely, Notification No. 1/3/2011-Fin(R&C)/Part dated 09-12-2011, has been challenged in a Writ Petition No. 436/2013 before the Hon'ble High Court of Bombay at Panaji, Goa inter alia on the ground that the said Notification dated 09-12-2011 in so far as the same levies library cess or prescribes rates for such levy is *ultra vires* the provisions of section 18 of the Goa Public Libraries Act, 1993 and also *ultra vires* the Goa Excise Duty Act, 1964.

The Bill, therefore, seeks to amend sub-section (1) of section 18 of the said Act so as to empower the Government to specify by notification in the Official Gazette the rates of library cess in the form of a surcharge on the excise duty or other duties or any fees payable on IMFL, foreign liquor, beer and/or wine under the Goa Excise Duty Act, 1964 (Act 5 of 1964), retrospectively, w.e.f. 28-07-2009. The Bill further seeks to validate library cess levied and collected or purported to have been levied and collected under the said Notifications dated 28-07-2009 and 09-12-2011 and to provide that the said Notifications, shall, for all purposes be deemed to be and to have always been validly issued and that actions taken or things done in relation to levy and collection of library cess pursuant to said Notifications, shall be deemed to have always been validly taken or done in accordance with the provisions of section 18 of the said Act, as sought to be amended by this Bill.

This Bill also seeks to replace the Goa Public Libraries (Amendment and Validation) Ordinance, 2013 (Ordinance No. 2 of 2013), promulgated by the Governor of Goa on the 28<sup>th</sup> day of September, 2013.

This Bill seeks to achieve above objects.

## **Financial Memorandum**

No financial implications are involved in this Bill. However, the amendment proposed in the Bill aims to protect the additional revenue collected by the Government amounting to ₹ 1,160 lakhs approximately w.e.f. 29-07-2009 till 31-08-2103 by levying a library cess at enhanced rates pursuant to the said notifications dated 29-07-2009 and 09-12-2011 and it would also result in an additional revenue collection of ₹ 500 lakhs, per annum, approximately.

## **Memorandum Regarding Delegated Legislation**

Clause 2 of the Bill empowers the Government to issue notification in the Official Gazette to specify the rate of library cess.

This delegation is of normal character.

Porvorim, Goa  
Date: 10-10-2013

(MANOHAR PARRIKAR)  
**Minister for Finance / Chief  
Minister**

Assembly Hall, Porvorim, Goa  
Date: 10-10-2013

(N. B. Subhedar)  
**Secretary (Legislature)**

**Governor's Recommendation under Article 207 of the**  
**Constitution of India**

In pursuance of Article 207 of the Constitution of India, I, Bharat Vir Wanchoo, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Public Libraries (Amendment and Validation) Bill, 2013, by the Legislative Assembly of Goa.

Raj Bhavan, Dona Paula.  
Dated: 10-10-2013

Bharat Vir Wanchoo  
**Governor of Goa**

.....

**ANNEXURE**

.....

**The Goa Public Libraries Act, 1993 (Goa Act No. 14 of 1995)**

.....

18. **Library Cess.** — (1) The Government shall levy a library cess in the form of a surcharge on the Excise Duty payable under Goa Excise Duty Act, 1964 at the rate of 0.50 (paise fifty only) per proof liter of the (I.M.F.L.) Indian made Foreign Liquor and at the rate of Rs. 0.50 (paise fifty only) per bulk liter of beer.

(2) The cess levied under sub-section (1) shall be collected to utilise for the purpose of implementation of this Act by the Government.