



The Tamil Nadu Scrap Merchants and Dealers in Second-Hand Property and Owners of Automobile Workshops and Tinker Shops (Regulation, Control and Licensing) Act, 1985

Act 1 of 1986

Keyword(s):

Dealer in Second-Hand Property, Owner, Scrap Merchant, Tinker Shop

Amendment appended: 22 of 2008

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Part IV—Section 2

Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislature received the assent of the President on the 8th January 1986 and is hereby published for general information:—

ACT No. 1 OF 1986.

An Act to regulate and control in the public interest the scrap merchants and dealers in second-hand property and the owners of automobile workshops and tinker shops and for the licensing of such scrap merchants and dealers in second-hand property and owners of automobile workshops and tinker shops in the State of Tamil Nadu and for matters connected therewith.

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Tamil Nadu Scrap Merchants and Dealers in Second-hand Property and Owners of Automobile Workshops and Tinker Shops (Regulation, Control and Licensing) Act, 1985.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

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

(a) "dealer in second-hand property" means any person who carries on the business of buying or selling any second-hand property and includes an agent who, by himself or through his servants, buys or sells any second-hand property on behalf of any dealer;

(b) "Government" means the State Government;

(c) "owner" in relation to an automobile workshop or a tinker shop, means the person who, or the authority which, has the ultimate control over the affairs of the automobile workshop or as the case may be, the tinker shop, and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, superintendent or by any other name, such other person;

(d) "place of business" in relation to a scrap merchant or dealer in second-hand property or to an owner of an automobile workshop or a tinker shop includes—

(i) in case where he carries on business through an agent (by whatever name called), the place of business of such agent;

(ii) a warehouse, godown or other place where he stores the property or goods or materials relating to his business; and

(iii) a place where he keeps his books of account;

(e) "scrap merchant" means any person who carries on the business of buying or selling any scrap materials;

(f) "tinker shop" means a place where gadgets, machines, cars, household utensils or the like are repaired, adjusted, changed or otherwise mended.

3. Scrap merchants and dealers in second-hand property and owners of automobile workshops and tinker shops to obtain licences annually.—(1) No scrap merchant or dealer in second-hand property or owner of an automobile workshop or a tinker shop shall, on or after the date of commencement of this Act, carry on, or continue to carry on, the business as such scrap merchant or dealer in second-hand property or the business of running such automobile workshop or tinker shop in any area in this State, unless he has obtained a licence in this behalf under this Act.

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Explanation.—Where a scrap merchant or dealer in second-hand property or an owner of an automobile workshop or a tinker shop has more than one shop or place of business, whether in the same town or village or in different towns and villages, he shall obtain a separate licence in respect of each such shop or place of business.

(2) Every licence granted under this Act shall expire on the last day of the year for which it was granted, but may be renewed from year to year.

4. *Grant and refusal of licences.*—(1) Every application for a licence under section 3 shall be made in writing to such authority as may be prescribed (hereinafter referred to as the licensing authority).

(2) In considering the application for the grant of a licence under this section, the licensing authority shall have regard to the following matters, namely:—

(a) the interest of the public generally;

(b) whether the applicant has been convicted of any offence punishable under Chapter XVII of the Indian Penal Code (Central Act XLV of 1860);

(c) whether permission has been obtained under section 5 in respect of the place of business;

(d) such other matters as may be prescribed.

(3) Before any licence is refused under sub-section (2), the applicant shall be given an opportunity to make his representations within a reasonable time, not ordinarily exceeding fifteen days and any representation made by him in this behalf shall be duly taken into consideration before final orders are passed.

(4) In granting or refusing to grant a licence under this section, the licensing authority may consult such authority or officer as may be prescribed.

(5) Any person aggrieved by an order of the licensing authority under this section may, within such period and in such manner as may be prescribed, appeal to such authority as the Government may specify in this behalf and such authority may make such order in the case as it may think fit.

(6) Every licence shall be granted in such form and subject to such conditions as may be prescribed and on payment of such fee not exceeding twenty-five rupees as may be prescribed.

5. *Application to be made for establishment of any place of business of scrap merchant or for dealing in second-hand property on an automobile workshop or tinker shop.*—(1) Every person intending to establish any place of business of scrap merchant or for dealing in second-hand property or any automobile workshop or tinker shop shall, before establishing such place, make an application in writing to the licensing authority for permission to undertake the intended work.

(2) The application shall be accompanied by—

(a) a plan of the place of business or automobile workshop or tinker shop prepared in such manner as may be prescribed;

(b) such other particulars as may be prescribed.

(3) The licensing authority shall, as soon as may be, after the receipt of the application—

(a) grant the permission applied for subject to such conditions as it thinks fit to impose; or

(b) refuse permission if it is of opinion that such establishment—

(i) is objectionable by reason of the density of population in the locality; or

(ii) is likely to cause a nuisance to the residents of the locality; or

(iii) is likely to cause traffic or health hazards to the residents of the locality; or

(iv) does not contain adequate space for parking the vehicles which would be normally attracted.

(4) Before any permission is refused under clause (b) of sub-section (3), the applicant shall be given an opportunity to make his representation within a reasonable time, not ordinarily exceeding fifteen days and any representation made by him in this behalf shall be duly taken into consideration before final orders are passed.

(5) Before granting or refusing permission under this section, the licensing authority shall consult and have due regard to the opinions of the health officer and traffic police as regards the suitability of the place where the business of scrap merchant or dealing in second-hand property or the automobile workshop or tinker shop is to be established.

(6) If orders on an application for permission under sub-section (1) are not received by the applicant within sixty days after the receipt of the application by the licensing authority, permission shall be deemed to have been granted subject to the provisions of any law for the time being in force applicable to the establishment of the automobile workshop or the tinker shop.

(7) Any person aggrieved by an order of the licensing authority under this section refusing to grant a permission under this section may, within such time as may be prescribed, appeal to such authority as the Government may specify in this behalf and such authority may make such order in the case as it may think fit.

(8) Every permission shall be granted in such form and subject to such conditions as may be prescribed and on payment of such fee not exceeding two hundred rupees as may be prescribed.

6. *Provision in respect of certain existing places of business.*—

(1) Notwithstanding anything contained in this Act and subject to the provisions of sub-section (2), every scrap merchant or dealer in second-hand property or an owner of an automobile workshop or a tinker shop carrying on the business as such scrap merchant or dealer in second-hand property or the business of running such automobile workshop or tinker shop in any place of business, immediately before the date of the commencement of this Act, may carry on such business at such place of business.

(2) No person entitled to carry on any business under sub-section (1) shall continue to carry on such business after the expiry of a period of six months from the date of commencement of this Act unless he obtains a licence under section 4 for carrying on such business and a permission under section 5 in respect of the place of business.

7. *Scrap merchants and dealers in second-hand property and owners of automobile workshops or tinker shops to keep and maintain accounts and books.*—

(1) Every scrap merchant or dealer in second-hand property and every owner of an automobile workshop or tinker shop shall be bound to keep and maintain such accounts and books and in such manner as may be prescribed. He shall be responsible for the correct and up-to-date maintenance of such accounts and books. The accounts and books shall contain the following particulars, namely:—

(a) the names and addresses of the persons from whom the goods relating to the business were purchased;

(b) the dates of such purchases and the amounts paid for such purchases;

(c) such other matters as may be prescribed.

(2) All records or entries made in the accounts and books referred to in sub-section (1) shall be either in Tamil or English or in such language of the locality as may be prescribed; and all such accounts and books shall be open to inspection at any time by the licensing authority or the police officer having jurisdiction.

8. *Scrap merchant or dealer in second-hand property and owner of automobile workshop or tinker shop to keep and maintain a register of workers employed.*—Every scrap merchant or dealer in second-hand property and every owner of an automobile workshop or tinker shop, shall, in addition to the accounts and books referred to in section 7, also keep and maintain an up-to-date register of workers employed by him. Such register shall contain the following particulars, namely:—

(1) the names and addresses of the workers;

(2) passport size photographs of the workers taken and affixed against the names of the workers;

(3) character and conduct roll of the workers;

(4) such other matters as may be prescribed.

9. *Power to cancel licence.*—(1) The licensing authority may, at any time, during the term of any licence, by an order in writing, cancel the licence—

(a) if the licensee carries on the business in contravention of any of the provisions of this Act or the rules made thereunder or of the conditions of the licence, or

(b) if any reason for which such authority could have refused to grant the licence under sub-section (2) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted of any offence against this Act or of any cognizable and non-bailable offence, or

(d) if the licensee maintains false accounts.

(2) Before cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority cancelling a license under sub-section (1), may, within such time and in such manner as may be prescribed, appeal to such authority as the Government may specify in this behalf and such authority may make such order in the case as it may think fit.

10. *Certain acts of scrap merchants, dealers in second-hand property, owners of automobile workshops or tinker shops and of persons offering for sale to such merchant, dealer or owner to be punishable.*—(1) Any person who—

(a) offers to a scrap merchant or dealer in second-hand property or an owner of an automobile workshop or tinker shop any article by way of sale, or otherwise, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

(b) wilfully gives false information to such merchant, dealer or owner as to whether an article offered by him by way of sale or otherwise is his own property or not, or as to his name and address, or as to the name and address of the owner of the article;

shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) In every case falling under sub-section (1) and also in any case where, on an article being offered by way of sale or otherwise to such merchant, dealer or owner, he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, such merchant, dealer or owner shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and forthwith communicate to the nearest police station the facts of the case.

(3) A list of articles believed to have been stolen may be delivered by the police to any such merchant, dealer or owner licenced under this Act and thereupon it shall be the duty of such merchant, dealer or owner—

(a) if any article answering the description of any of the articles set forth in any such list is offered to him by any person by way of sale or otherwise, to proceed in accordance with the provisions of sub-section (2) ; and.

(b) if any such article is already in his possession, forthwith to communicate to the nearest police station the facts of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the merchant, dealer or owner) and also, if so required by the police, to deliver the article to them.

(4) Every scrap merchant, dealer in second-hand property or owner of an automobile workshop or tinker shop buying any article knowing or having reason to believe the same to be stolen property shall be punished with imprisonment of either description for a term which may extend to three years and with fine.

11. *Penalty for carrying on business without licence.*—Whoever carries on the business of scrap merchant or dealer in second-hand property or the business of running an automobile workshop or a tinker shop without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punished with imprisonment which may extend to one year or with fine which may extend to five thousand rupees.

12. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, 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 any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such 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 is attributable to, any neglect on the

part of any director, manager, secretary or other officer of the company; such director, manager, secretary, or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,

(a) "company" means any body corporate, and include a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

13. *Penalties.*—Whoever contravenes any of the provisions of this Act or any rule made thereunder or of any terms and conditions of a licence or permission granted shall, if no other penalty is elsewhere provided in this Act for such contravention, be punished with imprisonment which may extend to one year or with fine which may extend to five thousand rupees and, if such person has been previously convicted whether under this section or any other provision contained in this Act, with imprisonment which may extend to two years or with fine which may extend to ten thousand rupees.

14. *Power to try offences.*—(1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), it shall be lawful for the Magistrates specified in sub-section (1) to pass a sentence of fine not exceeding ten thousand rupees.

(3) No court shall take cognizance of an offence punishable under this Act other than an offence punishable under section 10 except on a complaint in writing made by any prescribed authority.

15. *Cognizance of offences.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any offence punishable under section 10 shall be a cognizable offence within the meaning of that Code:

Provided that notwithstanding anything contained in that Code, no police officer below the rank of a Sub-Inspector shall investigate any offence punishable under section 10 or shall make an arrest.

16. *Power to make rules.*—(1) The Government may make rules for carrying out all or any of the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette*, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

17. *Saving.*—The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any person from any proceeding by way of investigation or otherwise which might, apart from this Act be instituted against him.

(By order of the Governor)

S. VADIVELU,
*Commissioner and Secretary to Government,
Law Department.*

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 22nd May 2008 and is hereby published for general information:—

ACT No. 22 OF 2008.

An Act to amend the Tamil Nadu Scrap Merchants and Dealers in Second-Hand property and Owners of Automobile Workshops and Tinker Shops (Regulation, Control and Licensing) Act, 1985.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Scrap Merchants and Dealers in Second-Hand Property and Owners of Automobile Workshops and Tinker Shops (Regulation, Control and Licensing) Amendment Act, 2008.

Short title
and
commence-
ment.

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

2. In section 3 of the Tamil Nadu Scrap Merchants and Dealers in Second-Hand Property and Owners of Automobile Workshops and Tinker Shops (Regulation, Control and Licensing) Act, 1985 (hereinafter referred to as the principal Act),—

Amendment of
section 3.

(i) in the marginal heading, for the expression "obtain licences annually", the expression "obtain licences" shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every licence granted under this Act shall expire on the last day of the third year for which it was granted but may be renewed, from time to time, for a period of three years at a time".

3. In section 4 of the principal Act, in sub-section (6), for the expression "not exceeding twenty-five rupees", the expression "not exceeding three hundred rupees" shall be substituted.

Amendment of
section 4.

4. In section 5 of the principal Act, in sub-section (8), for the expression "not exceeding two hundred rupees", the expression "not exceeding five hundred rupees" shall be substituted.

Amendment of
section 5.

(By Order of the Governor)

S. DHEENADHAYALAN,
Secretary to Government,
Law Department.