

↔Excise Duty Act, 2015 (1958)

Date of Royal Seal

2015-1-16 (19 April, 1958)

Date of publication

2015-2-6 (20 May 1959)

<u>Amendments</u>	<u>Date of Royal seal</u>	<u>Date of Publication</u>
1. Excise Duty (Amendment) Act, 2017 (1960)	2017-6-20 (5 Oct. 1960)	2017-6-25 (10 Oct. 1960)
2. Some Nepal Laws (Amendment and Re-management) Act, 2020 (1964)	2020-11-16 (28 Feb.1964)	2020-11-16 (28 Feb. 1964)
3. Revenue Tribunal Act, 2031 (1974)	2031-4-18 (2 Aug.1974)	2031-4-18 (2 Aug. 1974)
4. Some Nepal Acts (Amendment) Act, 2041 (1984)	2041-4-24 (8 Aug. 1984)	2041-4-24 (8 Aug. 1984)
5. Excise Duty (Second Amendment) Act, 2041 (1984)	2041-7-24 (9 Nov. 1984)	2041-7-24 (9 Nov. 1984)
6. Excise Duty (Third Amendment) Act, 2043 (1986)	2043-6-16 (2 Oct. 1986)	2043-6-16 (2 Oct. 1986)
7. Finance Related Some Nepal Acts (Amendment) Act, 2047 (1990)	2047-8-27 (13 Dec. 1990)	2047-8-27 (13 Dec. 1990)
8. Administration of Justice Act, 2048 (1991)	2048-2-16 (30 May 1991)	2048-2-16 (30 May 1991)
9. Excise Duty (Fourth Amendment) Act, 2048 (1992)	2048-12-30 (12 April, 1992)	2048-12-30 (12 April 1992)

Act Number 2 of the year 2015 (1958)

↔ Repealed by Excise Duty Act, 2058 (2002)

**An Act made to provide or levying excise duty on the products
produced or manufactured in Nepal.**

His Majesty the King has enacted and promulgated this Act ¹to maintain decency, convenience and economic interest of the general public by providing for imposing the excise duty on some products produced or manufactured in Nepal and recovering the same.

1. **Short title, extent and commencement:** This Act may be called as the "Excise Duty Act, 2015 (1958)."

(2) It shall extend throughout the Kingdom of Nepal.

²(3) It shall commence on the date as prescribed by His Majesty's Government by a notification published in the Nepal Gazette.

2. **Definitions:** Unless the subject or the context otherwise requires, in this Act,-

³(a) "Product subject to excise duty" means a product which is subject to the excise duty pursuant to this Act or prevailing law.

⁴(b) "Factory" means shed, house and land and appurtenances thereto or area covered thereby or any part thereof which produces a product subject to excise duty, and its includes the place related with the process of production of a product subject to excise duty and any warehouse where such product is stored.

(c) "License" means the license given under Section 5 of this Act.

¹ Amended by Same Nepal Laws (Amendment and Re-management) Act, 2020 (1964).

² Commenced since 3rd *Bhadra* 2015 (19 Aug. 1958) (Notification published in the Nepal Gazette on 2015-5-3 (21 Aug.1959). The excise Duty (Amendment) Act, 2017 (1960) too has into force since this date)

³ Amended by the Second Amendment.

⁴ Amended by the Second Amendment.

- ⁵(c1) "Excise Duty Officer" means, for the purpose of this Act, an officer appointed by His Majesty's Government as Excise Duty Officer or Senior excise Duty Officer, Chief Excise Duty Officer and the Director General of the Department of excise Duty which includes any such officer as may be appointed by His Majesty's Government to exercise the powers of an Excise Duty Officer.
- ⁶(c2) "Producer" means a person who manufactures, prepares or produces a product subject to excise duty pursuant to this Act which includes a person who collects any product or makes any type of contract and pays the excise duty.
- ⁷(c3) "Whole seller or purchaser" means a person licensed to purchase and sell a product subject to excise duty for the following purposes :-
- (a) to use as a raw material to manufacture, prepare or produce any goods,
 - (b) to carry on trade.
- ⁸(c4) "Factory price" means the price fixed by adding expenditures incurred in manufacture, producing or preparing a product subject to excise duty and profit of the factory excluding the excise duty or any other tax leviable on such product.
- (d) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

⁵ Inserted by the Third Amendment.

⁶ Inserted by the Second Amendment and Amended by the Third Amendment.

⁷ Inserted by the Third Amendment.

⁸ Inserted by the Third Amendment.

⁹3. **To levy and collect excise duty** : If any Act makes provision on levying excise duty for every year or for any One year in any material, such excise duty shall be collected pursuant to this Act and the Rules framed under this Act.

¹⁰3A. **Appointment of Excise Duty Officer**: (1) His Majesty's Government may appoint such number of excise Duty Officers or only specify any officer entitled to exercise the powers of the Excise Duty Officer, as necessary for the purposes of this Act.

(2) The Excise Duty Officers appointed or specified at the time of the commencement of this Act shall be deemed to have been appointed or specified under this Act.

(3) The jurisdiction of an Excise Duty Officer shall be as specified by His Majesty's Government. His Majesty's Government, if thinks necessary, may authorise any Excise Duty Officer to exercise powers which are under the jurisdiction of any other Excise Duty Officer.

(4) An Excise Duty Officer may delegate any or all of his/her powers to his/her subordinate to be exercised under his/her general supervision and control.

(5) The Excise Duty Officer shall comply with specific instructions of His Majesty's Government, if any, on matters related to the delegation of powers by such Excise Duty Officer to his/her subordinate.

⁹ Amended by the Second Amendment.

¹⁰ Inserted by the Second Amendment.

¹¹ **3B. Valuation of product subject to excise duty** : (1) If the excise duty is to be levied on any product according to value (ad valorem) the excise duty shall be levied taking the following value as the basis.-

- (a) the factory price specified by His Majesty's Government, or
- (b) the factory price fixed by an agreement concluded between His Majesty's Government and the producer, or
- (c) the factory price which a producer receives at the time and place of selling a product subject to excise duty to a whole seller or purchaser.

(2) Prior to selling a product subject to excise duty at the market after its factory price being fixed pursuant to Sub-section (1), the producer has to provide the basis taken for fixation of the factory price of such products and details thereof to the concerned Excise Duty Officer.

(3) Notwithstanding anything contained in Sub-section (1), if it appears that there is a significant difference between the price of any product at the time of payment of its excise duty and its consumer price, the Excise duty Officer may collect the excise duty based on the valuation done taking also into account of the consumer price of such product subject to the excise duty at the nearby market, commission receivable by the whole seller or purchaser or retailer and transportation cost and taxes as well.

4. Prohibition on producing, manufacturing, selling, purchasing and storing product subject to excise duty without license: After

¹¹ Inserted by the Third Amendment.

the commencement of this Act, no one shall carry out any of the following acts without obtaining the license, nor shall any one who has obtained the license carry out such acts without being subject to the terms and conditions specified in that license:-

- (a) producing or manufacturing the products subject to excise duty,
- ¹²(b) selling of such products subject to excise duty as specified by His Majesty's Government by a Notification published in the Nepal Gazette in the quantity higher than the quantity specified in that notification;
- (c) storing or keeping the products subject to excise duty in excess of the quantity as specified.

5. Mode of obtaining license : (1) Any person may make an application accompanied by such fees and details to such authority in such format as may be prescribed to obtain the license authorizing to carry out the act as set forth in the following part of Section 4.

(2) After any application has been made by anyone under Sub-section (1), the prescribed authority may, upon holding necessary inquiry and examination as prescribed and if he/she thinks that it is reasonable to give the license to carry out the acts as mentioned in the application, give the applicant the license in such format and subject to such terms and restrictions as may be prescribed.

(3) The validity period and mode of renewal of each license given pursuant to Sub-section (2) and the fee payable for getting it so renewed shall be as prescribed.

¹² Amended by the Second Amendment.

¹³ **6. Power to arrest or seize:** (1) If there is a reasonable ground for believing that any one is producing or manufacturing or storing product subject to excise duty in any house and land, vehicle or place in contravention of this Act, the Excise Duty Officer may issue an order to search such house and land, vehicle or place and to arrest the person engaged in such act. The Excise Duty Officer may issue such order and depute any employee not below the rank of Non-Gazetted Second Class of the Excise Duty Office and get such house and land, vehicle or place searched at any time.

(2) While carrying out a search pursuant to Sub-section (1), if it appears that the act of producing or manufacturing or storing product subject to excise duty is being done in such illegal manner, the employee doing search may arrest the person engaged in such act and seize the following goods existing there to:

- (a) the product subject to excise duty which has been produced or manufactured or stored,
- (b) the tools, machine and utensils (pots) used in producing, manufacturing or storing the product subject to excise duty, and
- (c) other vehicle, except public transport vehicle, used to transport or store such product.

(3) Notwithstanding anything contained in Sub-section (1), if any offence under this Act is being committed in any house and land, vehicle or place, and the Excise Duty Officer sees a possibility that the offender may escape or proof and evidence of the offence may disappear and that if no action is taken immediately, the Excise Duty Officer may, in executing a memorandum thereof, personally carry out or cause any

¹³ Amended by the Second Amendment.

of his/her subordinate employee to carry out the following acts at any time:

- (a) to enter into such house and land, vehicle or place,
- (b) if there occurs any obstruction and objection in so entering into, to give a reasonable opportunity to any woman staying in that place to leave the place and enter into there by breaking out window or door,
- (c) to seize the product subject to excise duty related with the offense, and such other goods and documents as may be ancillary to prove the offence.
- (d) to search the suspected person in offence or to arrest him.

(4) In entering into any house and land, vehicle or place or carrying out a search pursuant to this Section, such entry or search shall be done in witness of any member of the concerned ¹⁴ Municipality or Village Development Committee or any gentleman of that place or any employee of any other governmental office there of, if the time permits.

(5) If anyone has been arrested or any person, house and land, vehicle or place has been searched out or the products subject to excise duty or other goods have been seized under this Act, the Excise Duty Officer who has so arrested, searched out or seized has to send a report thereof to the authority, one level higher to him, within twenty four hours of such arrest, search or seizure of goods. In cases where any other employee subordinate to the Excise Duty Officer has carried out such act, such employee has to send a report thereof to the Excise Duty

¹⁴ Amended by the Finance Related Some Nepal Acts (Amendment) Act, 2047 (1990).

Officer and the Department Excise Duty within twenty four hours of carrying out such act.

(6) The Excise Duty Officer shall have the same powers in respect of investigation of the offence under this Act as the police officer is entitled to exercise pursuant to the prevailing law.

7. ¹⁵

8. **Duty of each person to assist Excise Duty Office in any act under**

this Act: If any person whether governmental or not knows that any one has committed or is about to commit any act contrary to this Act, it shall be the duty of such person to give a notice thereof to the Excise Duty Office or to any other governmental office if the Excise Duty Office is not situated nearby. Any office which receives such informative has also to forward the notice thereof to the Excise Duty Office. It shall be the duty of each police employee to render assistance sought by the Excise Duty Office so as to arrest any person who commits any act contrary to this Act or to seize the products produced or manufactured or stored or transported contrary to this Act.

9. **Reward to true informer** : Any person whether government employee or not, whoever gives the true information about any act has been committed or is being committed contrary to this Act shall be awarded, by the authority instituting proceedings and setting the offence for the first instance, a prize in a sum to be set ¹⁶ **by Twenty-Five per cent of the value of the product subject to excise duty seized from the offender.**

10. **Punishment to the person who does not give notice or render assistance** : If, any person who is obliged to give information that any

¹⁵ Repealed by the Second Amendment.

¹⁶ Amended by the Second Amendment.

act has been committed or is being committed contrary to this Act, after knowing such matter, or who is obliged to render assistance as and when such assistance is sought by the Excise Duty Office does not knowingly give such notice or render such assistance as the case may be, such person shall be punished with imprisonment for a term not exceeding One month or with a fine of up to Two Hundred and Fifty Rupees or with both punishments.

11. Punishment to the person who searches, seizes or arrests with intention of causing hurt to others:

Any person or government employee who, without a reasonable cause to suspect that an act has been committed contrary to this Act and with an intention of causing suffering to other person, forcefully enters into any house and land or search or detains any person or arrests or seizes such things as may not be liable to be seized or causes unnecessary loss, damage and hurt or causes to do such acts or gives false information, shall be punished with imprisonment for a term not exceeding Two months or a fine of up to One Hundred Rupees or with both punishments for each of such offences.

¹⁷ **12. Other punishment:** (1) If any person commits the following offence, such person shall be punished with imprisonment for a term not exceeding Six months or with a fine of up to Five Thousand Rupees or with both punishments for such offence, and the product subject to excise duty related with the offence shall also be seized :-

- (a) to conceal, hide or evade the excise duty required to be paid under this Act, or
- (b) to violate Section 4, or

¹⁷ Amended by the Second Amendment.

- (c) to attempt to or abet to commit the offence referred to in Clause (a) or (b).

(2) If any person commits the offence referred to in Sub-section (1), for second time, in addition to imposition of the punishment on such person for such offence, utensils containing the product subject to excise duty, tools and machines used to make such product and transport vehicles used to transport such good shall also be seized.

Provided that, in seizing a vehicle, in case where not a private vehicle belonging to the concerned person but hired vehicle has been used and such vehicle has been used without permission of the owner of the vehicle, the vehicle shall not be seized, but the owner of the vehicle shall be punished with a fine of a sum that is two - fold of the fare payable to the owner.

¹⁸ (3) In the event of failure to furnish statements pursuant to Sub-section (2) of section 3B., the Excise Duty Officer may punish the concerned person with imprisonment for a term not exceeding Three months or with a fine of up to Three Thousand Rupees.

¹⁹ **12A. Adjudicating authority:** (1) His Majesty's Government or the authority specified by His Majesty's Government shall have the power to hear and settle the cases under Section 11 for the first instance and the Excise Duty Officer shall have the power to hear and settle other cases under this Act except the said cases.

(2) The authority hearing and settling the cases under Sub-section (1) for the first instance shall have such powers as the District Court has under the prevailing law.

¹⁸ Inserted by the Third Amendment.

¹⁹ Inserted by the Second Amendment.

²⁰ **13. Appeal:** An appeal may be made to the Revenue Tribunal against any decision made by the Excise Duty Officer pursuant to this Act and to ²¹ the Court of Appeal against any decision made by His Majesty's Government or authority specified by His Majesty's Government.

14. Circumstances where proceedings for seizure are suspended: If, after the authority specified under this Act or the Rules framed under this Act has made a decision to seize the property of any person, on appeal has been made against such decision, the appeal hearing authority may issue an order to the specified authority to suspend the proceedings to seize the property pending the settlement of the appeal.

²² **15. Recovery of dues as governmental dues :** If any person does not pay the dues payable to His Majesty's Government pursuant to this Act or the Rules framed thereunder, the Excise Duty Officer may recover such amount from such person as governmental dues.

16. Powers to frame Rules : (1) His Majesty's Government may frame Rules to implement the purposes of this Act..

(2) Without prejudice to the generality of the powers conferred by Sub-section (1), the Rules may provide for the following matters in particular:

- (a) determining and recovering the excise duty.
- (b) place for producing or manufacturing the product subject to excise duty and the terms required to be abided by in so producing or manufacturing such product.

²⁰ Amended by the Second Amendment.

²¹ Amended by the Administration of Justice Act, 2048 (1991).

²² Amended by the Second Amendment.

- (c) transporting the product subject to excise duty from the factory or place of production to a ware house, house or market.
- (d) arranging for quarters to governmental employees on behalf of His Majesty's Government or the owner of a factory.
- (e) loading and unloading or the product subject to excise duty from and to a ware house.
- (f) maintaining and furnishing the records on producing or manufacturing the product subject to excise duty and getting such records examined.
- (g) putting on a label or ticket, band roll or seal.

(3) The Rules framed under this Act may, without prejudice to the punishment referred to in this Act, provide for imposition of punishment of imprisonment for a term not exceeding two months or a fine of five hundred rupees or both on the person who violated the provision contained in the Rules.

17. In the event of inconsistency with other Nepal Law:

Notwithstanding anything contained in the prevailing Nepal law, those matters contained in this Act or the Rules framed under this act shall be governed by this Act or the Rules and other matters except contained herein or the Rules, shall be governed by the prevailing Nepal law.

²³ Provided that, the matters contained in the Industrial Enterprises Act, 2038 (1980) shall be governed by that Act.

²³ Proviso Clause inserted by Some Nepal Acts (Amendment) Act, 2041 (1984).

²⁴ **18. Exemption from excise duty:** (1) His Majesty's Government by a notification published in the Nepal Gazette, exempt in whole or in part the excise duty to be used by a person specified in such Notification.

(2) If any product produced by any industry is entitled to full or partial exemption from the excise duty pursuant to the prevailing law, the excise duty shall be exempted accordingly.

²⁵ **19. Power of remission :** His Majesty's Government, if deems necessary under specific circumstances, may, by a Notification published in the Nepal Gazette, remit in whole or in part any fine imposed under this Act.

²⁴ Amended by the Second Amendment.

²⁵ Inserted by the Fourth Amendment.