



The Nagaland Finance (Sales Tax) Act, 1967

Act 10 of 1967

Keyword(s):

Dealer, Sale Price, Taxable Goods, Turnover

Amendment appended: 7 of 1969

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

(THE NAGALAND ACT NO. 10 OF 1967)

THE NAGALAND FINANCE (SALES TAX) ACT, 1967

*(Published in the Nagaland Gazette Extraordinary, Dated
10th November, 1967).*

An Act to impose a tax on the sale of certain goods
at the first stage of sale in Nagaland.

It is hereby enacted in the eighteenth year of the Republic of India as follows:—

1. **Short title, extent and commencement:**—(1) This Act may be called the Nagaland Finance (Sales Tax) Act, 1967.

(2) It extends to the whole of Nagaland.

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

Definition.—2 In this Act, unless there is anything repugnant in the subject or context—

(1) "Commissioner" means the Commissioner appointed under Section 3 ;

(2) "Dealer" means any person who sells taxable goods manufactured, made or processed by him in Nagaland or brought by him into Nagaland from any place outside Nagaland for purpose of sale in Nagaland ;

(3) "Person" means any individual or association or body of individuals, and includes a Department of any Government, a Hindu undivided or joint family, a firm and a company whether incorporated or not;

(4) "Prescribed" means prescribed by rules made under this Act ;

(5) "Registered dealer" means a dealer registered under the provisions of this Act ;

(6) "Sale price" used in relation to a dealer means the amount of the money consideration for the sale of taxable goods manufactured, made or processed by him in Nagaland, or brought by him into Nagaland from any place outside Nagaland for the purpose of sale in Nagaland, less any sum allowed as cash discount, according to trade practice but includes any sum charged for containers or other materials for the packing of such taxable goods ;

(7) "State" means the State of Nagaland ;

(8) "Taxable goods" means such goods as are specified in the Schedule attached to this Act ;

(9) "Turnover" used in relation to any period means the aggregate of the sale-prices or parts of sale-prices receivable by a dealer during such period after deducting—

(i) the amount, if any, refunded by him in respect of any taxable goods and their containers returned by purchasers within such period; and

(ii) 9.09 per centum—in case of goods taxed at the rate of 10 paise in the rupee ;

6.54 per centum—in case of goods taxed at the rate of 7 paise in the rupee ;

4.76 per centum—in case of goods taxed at the rate of 5 paise in the rupee ;

2.91 per centum—in case of goods taxed at the rate of 3 paise in the rupee ;

0.99 per centum—in case of goods taxed at the rate of 1 paise in the rupee ; and

(10) "Year" means the financial year.

Taxing Authority.—3. (1) The State Government may for carrying out the purposes of this Act, appoint a Commissioner of Taxes, and such other persons to assist him as they think fit.

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

(3) The Government may, instead of appointing any officer to exercise any power under this Act and also specify therein the area in which powers is to be exercised and thereupon such officer or officers shall be deemed to have been appointed under sub-section (1)

(4) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

Liability to tax.—4. Every dealer in taxable goods shall pay a tax on his turnover at the rates specified in the Schedule attached to this Act;

Provided that the State Government may, by notification in the Official Gazette, grant a rebate not exceeding one per centum of the tax subject to such condition as may be specified therein.

Compulsory registration.—5. (1) No dealer shall carry on business in taxable goods unless he has been registered and possesses a certificate of registration.

(2) Every dealer required by sub-section (1) to be registered shall apply for registration to the Commissioner in the prescribed manner, and obtain a certificate of registration.

(3) On receipt of an application under sub-section (2) the Commissioner shall, if he is satisfied after such enquiry as may be deemed necessary that the application is in order, register the applicant.

Registration by Commissioner.—6. (1) The Commissioner may, in addition to taking any other action under the provisions of this Act, require any dealer who, in his opinion is liable to registration but has not made an application in this behalf, to apply for registration and register him. The Commissioner may also register a dealer who fails to apply for registration within a specified time;

Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of his intention so to do and

has allowed him a reasonable opportunity of being heard.

(2) Registration made under sub-section (1) shall take effect as this has been made on the dealer's application under sub-section (2) of section 5.

Certificate of Registration.—7. (1) A dealer registered under section 5 or section 6 shall be granted a certificate of registration in such form as may be prescribed, which shall specify the name or names of goods in which at the time of the grant of the said certificate the dealer carries on business, and such other particulars as may be prescribed :

Provided that the Commissioner may for good or sufficient reasons, demand from a dealer who has been registered or a person who has applied for registration under section 5, or a person who has been required to get himself registered under section 6, reasonable security for proper payment of tax.

(2) The Commissioner may, on petition or otherwise, cancel or amend from time to time any certificate of registration :

[Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of his intention so to do and has allowed him a reasonable opportunity of being heard]¹.

(3) The Commissioner shall cancel the certificate of registration when the business in respect of which the certificate was issued has been discontinued or transferred.

Returns.—8. (1) Every registered dealer shall furnish such returns of his turnover by such dates and to such authorities as may be prescribed.

(2) In the case of any other dealer whose business, in the opinion of the Commissioner, is such as to render him liable to pay tax under this Act, for any year or part thereof, the Commissioner may serve within eight years of the completion of that year a notice in the prescribed form upon him requiring him to furnish a return of his turnover; and such dealer shall thereupon furnish the return within the period and to the authority mentioned in the notice.

(3) If any dealer discovers any omission or other error in any return furnished by him either under sub-section (1) or sub-section (2) he may furnish a revised return at any time before assessment is made on the original return.

¹ Inserted vide Nagaland Act No. 7 of 1969. See Nagaland Gazette-Extraordinary, April 15, 1969.

(4) No return submitted under this section shall be valid unless it is accompanied by a treasury receipt showing payment of the tax due as provided in sub-section (2) of section 24.

Assessment.—9. (1) If the Commissioner is satisfied that a return furnished under section 8 in respect of any period is correct and complete, he shall, by an order in writing, assess the dealer and determine the tax payable by him on the basis of such return.

(2) If the Commissioner is not satisfied that a return furnished under section 8 is correct and complete, he shall serve on the dealer a notice requiring him, on the date, and the hour and place specified therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of this return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Commissioner, after hearing such evidence as the Commissioner may require, shall by an order in writing assess the dealer and determine the tax payable by him on such assessment.

(4) If a dealer fails to make a return as required by sub-section (1) or sub-section (2) of section 8, as the case may be, or having made the return fails to comply with all the terms of the notice issued under sub-section (2) of this section, the Commissioner shall, by an order in writing, assess to the best of his judgment the dealer, and determine the tax payable by him on the basis of such assessment ;

Provided that before making assessment the Commissioner may allow the dealer such further time as he thinks fit to make the return or comply with the terms of the notice issued under sub-section (2) of this section.

Cancellation of assessment.—10. Where a dealer, in the case of an assessment completed under sub-section (4) of section 9, satisfies the Commissioner, within one month from the date of issue of a notice of demand as hereinafter provided, that he was prevented by sufficient cause from making the return required by section 8, or that he did not receive the notice issued under sub-section (2) of section 8, or sub-section (2) of section 9, or that he had not a reasonable opportunity to comply, or was prevented

by sufficient cause from complying with the terms of the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of section 9.

Assessment in case of evasion and escape.—11. (1) If upon information which has come into this possession, the Commissioner is satisfied that any dealer has been liable to pay tax under this Act in respect of any period, and has nevertheless failed to apply for registration and to make the return required of him or that sales of taxable goods has escaped assessment in any period or has been under-assessed at a lower rate or any deduction has been wrongly made therefrom, the Commissioner may, at any time within eight years of the end of the aforesaid period serve on the dealer a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 8 and may proceed to assess the dealer in respect of such period and all subsequent period and the provisions of this Act, so far as may be, shall apply accordingly as if the notice were a notice issued under the aforesaid sub-section ;

Provided that the tax shall be charged at the rate at which it would have been ordinarily chargeable;

[Provided further that before making an assessment under this sub-section, the Commissioner shall give notice to the dealer of his intention so to do and allow him a reasonable opportunity of being heard¹].

(2) The Commissioner may authorise any person appointed under section 3 to assist him in investigating any case or points in a case at any stage and to make a report thereon to the Commissioner or any prescribed authority in respect of all or any of the assessments made in relation to the case in order to prevent the evasion of tax. After considering the report of the investigating officer the Commissioner may proceed to take action under sub-section (1) besides initiating any other action under this Act against the dealer concerned.

Rectification of orders.—12. (1) The authority which made an assessment or passed an order on appeal or revision in respect thereof, may, at any time within eight years from the date of such assessment or order and of its own motion, rectify any such mistake as has been brought to its notice by a dealer ;

¹ Inserted vide Nagaland Act No. 7 of 1969. See Nagaland Gazette-Extraordinary, dated April 15, 1969.

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice of its intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, a refund shall be due to the dealer.

(3) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

Penalty for concealment of turnover and evasion of tax.—13. (1) If the Commissioner, in the course of any proceedings under this Act, is satisfied that any dealer—

- (a) has without reasonable cause, failed to furnish the return which he was required to furnish under section 8 or section 11, or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required, or
- (b) has, without reasonable cause, failed to comply with a notice under sub-section (2) of section 9, or
- (c) has concealed the particulars of his turnover or deliberately furnished inaccurate particulars of such turnover, or
- (d) has evaded in any way the liability to pay tax, he may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him, a sum not exceeding one and half times that amount.

(2) No order under sub-section (1) shall be made unless the dealer has been heard or has been given a reasonable opportunity of being heard.

"[(3) The officers appointed to assist the Commissioner may impose a penalty subject to such conditions as may be prescribed]¹".

(4) The penalty payable under this section shall be paid by such date as may be specified in the notice of demand and, where no such date is specified, it shall be paid within thirty days of the service of the notice.

¹ Substituted for "No penalty under this section shall be imposed by an officer appointed to assist the Commissioner without the previous sanction of the Commissioner," vide Nagaland Act 10 of 1969. See Nagaland Gazette-Extraordinary, April 15, 1969.

Assessment not to bar prosecutions or penalties.—14. Any assessment made under this Act shall be without prejudice to any prosecution or penalty instituted or imposed under the provisions of this Act.

Tax of deceased payable by representative.—15. (1) Where a dealer dies after assessment but before payment of tax, executor, administrator or other legal representative shall be liable to pay, out of the estate of the deceased to the extent to which it is capable of meeting the charge, the tax assessed as payable by such dealer.

(2) Where a dealer dies without having furnished the return required by section 8, or section 11, or after having furnished the return but before assessment, Commissioner may proceed to make an assessment and determine the tax payable by the deceased and for this purpose he may require the executor, administrator or other legal representative, as the case may be, of the deceased to perform all or any of the obligation which he might, under the provisions of this Act, have required the deceased to perform. The tax thus determined shall be payable by the executor, administrator or other legal representative, of the deceased to the extent to which the estate of the deceased is capable of meeting the charge.

Assessment and recovery of tax on transfer of business.—16. (1) Where the ownership of the business of a dealer liable to pay tax or other amount is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer and any tax or other amount due upto the date of transfer, though unassessed, may without prejudice to any action that may be taken for its recovery from the transferor, be recovered from the transferee as if he were the dealer liable to pay such tax or other amount ;

Provided that the recovery from the transferee of the arrears of taxes due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer.

(2) Notwithstanding anything contained in this Act, if it appears to the Commissioner during any current return period that any dealer is likely to change, sell, retransfer, dispose of or otherwise part with any of his

assets with a view to avoiding payment of any liability under the provisions of this Act, the net turnover of such dealer for the period from the expiry of the previous return period to the date when the Commissioner commences proceedings under this section shall be chargeable to tax in that period.

(3) For the purpose of making an assessment under sub-section (2) the Commissioner may serve a notice upon such dealer requiring him to furnish within such period as may be specified in the notice, a return in the manner and form in which a return under section 8 is furnished.

Liability of guardian and trustees etc.—17. Where the business in respect of which tax is payable under this Act is carried on by, or is in charge of any guardian, trustee or agent of a minor or other incapacitated person on behalf of, and for the benefit of, such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he was of full age and sound mind and if he was conducting the business himself, and all the provisions of this Act shall apply accordingly.

Liability in case of discontinued firm or association.—18 Where the business carried on by a firm or an association of person other than a company as defined in the India Companies' Act 1956 (I. of 1956) is discontinued or the association of person is dissolved, the tax shall be levied upon and recovered jointly and severally, from every person who at time of such discontinuance or dissolution was a partner of such firm or member of such association; and all the provisions of this Act, shall apply accordingly.

Appeal.—19. (1) Any dealer objecting to an order of assessment or penalty passed under this Act may, within thirty days from the date of the service of such order, appeal to the prescribed authority, against such assessment or penalty :

Provided that no appeal shall be entertained by the said authority unless he is satisfied that the amount of tax assessed or the penalty levied, if not otherwise directed by him, has been paid :

Provided further that the authority before whom the appeal is filed may admit it after the expiration of thirty days, if such authority is satisfied that

for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(2) Every appeal under sub-section (1) shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) The Appellate Authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make, or cause to be made such further enquiry as may be deemed necessary.

(4) in disposing of an appeal under sub-section (1), the Appellate Authority may—

- (a) confirm, reduce, enhance or annul the assessment, or
- (b) set aside the assessment and direct a fresh assessment after such enquiry as may be ordered, or
- (c) confirm, reduce or annul the order of penalty.

Revision by Commissioner.—20. (1) The Commissioner may call for and examine the record of any proceedings under this Act, and if he considers that any order passed therein by any person appointed under section 3 to assist him, is erroneous in so far as it is prejudicial to the interest of the revenue, he may, after giving the dealer an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment.

(2) In the case of any order other than an order to which sub-section (1) applies, passed by any person appointed under section 3 to assist him the Commissioner may, either of his own motion or on a petition by a dealer for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such orders thereon, not being an order prejudicial to the dealer, as he thinks fit.

(3) In the case of a petition for revision under sub-section (2) by

a dealer, the petition must be made, within ninety days from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier :

Provided that the Commissioner before whom the petition is filed may admit it after the expiration of the period of ninety days if he is satisfied that for reasons beyond the control of the petitioner or any other sufficient cause, it could not be filed within time.

(4) The Commissioner shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies under section 19, or section 21 but has not been made and the time within which such appeal may be made has not expired, or in the case of an appeal to the State Government, the dealer has not waived his right of appeal ; or

(b) where the order is pending on appeal under section 19, or

(c) where the order has been made the subject of an appeal to the State Government.

Explanation :—An order by the Commissioner declining to interfere shall, for the purpose of this section, deemed not to be an order prejudicial to the dealer.

Appeal to the State Government —21. (1) Any dealer aggrieved by an order passed in appeal under section 19 or passed in revision under sub-section (1) of section 20 may appeal to the State Government within sixty days of the date on which such order is communicated to him.

(2) The State Government may admit an appeal after the expiration of the sixty days referred to in sub-section (1) if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(3) An appeal to State Government shall be in the prescribed form and shall be verified in the prescribed manner, and shall be accompanied by a fee of twenty-five rupees.

(4) The State Government may after giving the dealer an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the dealer and to the Commissioner.

Reference.—22. (1) Within sixty days from the date of service of any order under section 21, the dealer may, by petition in writing, require the State Government to refer to the High Court any question of law arising out of such order of the State Government or the State Government may make such reference out of its own motion. Where the petition is made by a dealer, it shall be accompanied by a fee of one hundred rupees.

(2) Within sixty days of the receipt of the petition under sub-section (1), the State Government shall, subject to the provisions in sub-section (3), draw up after such hearing and enquiry as may be considered necessary, a statement of the case and refer it with its opinion thereon to the High Court.

(3) The State Government may reject the application under sub-section (1) and refuse to state the case on the ground that it is time barred or otherwise incompetent, or that no question of law arises and the applicant may, within thirty days of such refusal withdraw the application and if he does so, the fee paid shall be refunded.

(4) Where the application under sub-section (1) is rejected on the ground [that no question of law arises and where no action is taken by the applicant under sub-section (3), he may, within ninety days from the date of such rejection, apply to the High Court against the order rejecting the application, and if, upon receipt of such an application, the High Court is not satisfied with the correctness of decision, it may require the State Government to state the case and refer it and, on receipt of any such requisition, the State Government shall state and refer the case accordingly.

(5) Where the application under sub-section (1) is rejected on the ground that it is time barred and where no action is taken by the applicant under sub-section (3), he may, within ninety days of the date of such rejection, apply to the High Court against the order, rejecting the application and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the State Government to treat the application under sub-section (1) as made within time.

(6) Where the High Court is not satisfied that the statement in case referred under this section is sufficient to enable it to determine the questions of law raised thereby, it may refer the case back to the State Government to make such additions thereto or such alteration therein as may be directed and the State Government shall thereupon comply with the directions and re-submit the case accordingly.

(7) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the State Government a copy of such judgment under the seal of the Court and signature of the Registrar, and the State Government shall, on receipt of the copy of the judgment order disposal of the case accordingly.

(8) Where a reference is made on the application of a dealer, the costs shall be in the discretion of the High Court.

(9) Notwithstanding that a reference has been made under this section to the High Court, payment of tax shall not be stayed pending disposal of such reference ; but where the amount of tax is reduced as the result of the reference, the excess shall be refunded in accordance with the provisions of this Act.

(10) Section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to an application to the High Court by a dealer under this section.

Notice demand.—23. When any tax or penalty or other dues is or are payable in consequence of any order passed under or in pursuance of this Act, the Commissioner shall serve upon the person liable to pay such tax or penalty or other dues a notice of demand in the prescribed form specifying the sum so payable.

Tax when payable.—24. (1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any registered dealer furnishes the returns required by sub-section (1) of section 1, he shall in the prescribed manner, pay into a Government treasury the full amount of tax due from him under this Act on the basis of returns, and shall furnish along with the returns a receipt from such treasury in token of payment of such tax.

(3) Where a revised return is submitted by a registered dealer under sub-section (3) of section 8, and if the revised return shows a greater amount of tax to be due than was payable on the basis of the original return, the dealer shall pay the excess amount of tax in the manner provided in sub-section (2) and shall furnish along with the revised return a receipt in token of payment of such excess tax.

(4) The amount of tax due under the provisions of this Act—

(a) in excess of payments already made under sub-sections (2) and (3), or

(b) where no payment has been made, shall be paid by the dealer by such date as may be specified in the notice of demand and where no such date is specified, it shall be paid within thirty days from the date of service of the notice.

Mode of recovery.—25. (1) If the demand in respect of any dues under this Act is not paid on or before the date specified as aforesaid, the dealer shall be deemed to be in default :

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing extend the date of payments of the dues or allow such dealer to pay the same by instalments and in that case the dealer shall not be deemed to be in default till the date extended or the last date of payment by instalment is over.

(2) Where a dealer is in default, the Commissioner may, in his discretion, direct that, in addition to the amount due, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

(3) Where a dealer is in default, the Commissioner may order that the amount due shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913 (3 of 1913) and may proceed to release the amount due as such :

Provided that when security for proper payment of tax has been furnished by the dealer in pursuance of a demand under the provision to sub-section (1) of section 7, the Commissioner may realise any such amount due or part thereof by ordering forfeiture of the whole or any part of such security.

Refund.—26. The Commissioner on being satisfied either on an application or on any other manner that the dealer has paid in excess of the sum due from him shall order, as soon as it may be, the refund of the sum so paid in excess :

Provided that the Commissioner may set off such sum against other dues from the same dealer in respect of any other return period.

Remission.—27. The State Government for reasons to be recorded in writing, may remit the whole or part of the amount of the tax, or penalty payable in respect of any period by any registered dealer who has suffered heavy loss due to any natural calamity.

Offences and Penalties.—28. Whoever—

(1) carries on business as a dealer and acts in contravention of any of the provisions of this Act ; or

(2) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act, or submits a false return ;
or

(3) fails, when required by or under the provisions of this Act, to keep accounts of records of sales ; or

(4) fails, when required by or under the provisions of this Act, to produce any accounts, evidence or documents or to furnish any information ;
or

(5) fails or neglects to comply with any requirement made of him under the provisions of this Act ; or

(6) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or

(7) fraudulently or wilfully evades the payment of any tax due under this Act or conceals his liability to such tax ; or

(8) fails to pay within the time allowed any tax assessed or any penalty levied on him ; or

(9) prevents or obstructs inspection or entry by an officer acting under the provisions of this Act ; or

(10) demands or charges from any purchaser sales tax as such at a rate higher than that payable under the provisions of the Act ;

shall on conviction before a Magistrate, and in addition to any tax or penalty or both that may be due from him, be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of continuance of the offence.

False statement in declaration.—29. Whoever makes a statement in verification or declaration in connection with any proceedings under this Act which is false, and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Cognizance of offence.—30. (1) No Court shall take cognizance of any offence under this Act, except with the previous sanction of the Commissioner.

(2) All offences punishable under this Act or the rules made thereunder shall be cognizable and bailable.

Composition of offences.—31. (1) Subject to such conditions as may be prescribed, the Commissioner may, either before or after institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act or the rules made thereunder, by way of composition of such offence :—

- (a) where the offence consists of the failure to pay, or the evasion of, any tax, recoverable under this Act in addition to the tax so recoverable, a sum of money, not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater ; and
- (b) in any other case a sum of money not exceeding one thousand rupees in addition to tax recoverable.

(2) On Payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the person concerned in respect of the same offence.

Disclosure of information by a public servant.—32. (1) All particulars contained in any statement made, returns furnished or accounts or documents produced in accordance with this Act, or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act, other than proceedings before a Criminal Court, or in any record of any proceedings under this Act, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) no Court shall, save as aforesaid, be entitled to require any public servant to produce before it any such statement, return, accounts documents or records or any part thereof, or to give evidence before it in respect thereof:

(2) If, save as provided in sub-section (3), a public servant discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure :—

(a) of any the particulars referred to in sub-section (1) for the purposes of prosecution under the Indian Penal Code, 1860, (Act XLV of 1860) or the Prevention of Corruption Act, 1947 (Act II of 1947) in respect of any such statement, return, accounts, documents or evidence, or for the purpose of a prosecution under this Act; or

(b) of such facts, to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it; or

(c) of such facts to any officer of the State or any other State Government as may be necessary for the purpose of enabling such officer to levy or realise any tax imposed by that Government.

Maintenance of Accounts.—33. Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) or section 8, shall keep a true account of taxable goods manufactured, made or processed by him or brought by him into Nagaland from any place

outside Nagaland for the purpose of sale in Nagaland, and of turnovers, and if the accounts maintained in the ordinary course do not, in the opinion of the Commissioner, enable him to apply a proper check on the returns furnished under the provisions of the Act he may, require the dealer to sell by issue of cash or credit memo, or keep such accounts in such form as he may, subject to anything that may be prescribed in that connection, direct.

Powers to order production of accounts and power of entry and inspection.—34. (1) Subject to such conditions and restrictions as may be prescribed, the Commissioner, may, for the purpose of this Act, require any dealer to produce before him any accounts, registers, vouchers or other documents relating to the manufacture, making, processing, import, sale or purchase of taxable goods or matters connected therewith.

(2) All accounts, registers and other documents as referred to in sub-section (1) taxable goods in the possession of a dealer and his offices, shops, godowns, buildings and vehicles shall, at all reasonable times, be open to inspection by the Commissioner.

(3) If the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax under this Act, he may for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary; and shall grant a receipt for the same and shall, retain the same only for so long as may be necessary for the purposes of this Act.

(4) The Commissioner may, for the purposes of sub-section (2) or sub-section (3), enter and search any place where he has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, vouchers or other documents referred to in sub-section (1), on the authority of a search warrant issued by a Magistrate.

(5) The provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall so far as may be, apply to searches under sub-section (4).

Power to call for information.—35. The Commissioner may, for the purposes of this Act—

(1) require any firm or association or Hindu undivided or joint family

to furnish him with a statement of the names and addresses of the members of the firm or association or of the names and addresses of the manager or members of the family, as the case may be ;

- (2) require any person whom he has reasons to believe to be a trustee, guardian, manager or agent to furnish him with a statement of the names of the persons with their addresses for or of whom he is a trustee, guardian, manager or agent ;
- (3) require any person whom he has reason to believe to have obtained taxable goods from outside the State to furnish him with a statement of the names of persons with their addresses from whom he has obtained the goods and of the names and prices of the goods obtained ;
- (4) require any person whom he has reason to believe to have despatched taxable goods to any place outside the State to furnish him with a statement of the names of persons with their addresses to whom he has despatched the goods and of the names and prices of the goods despatched ;
- (5) require any person, including a Banking Company or any officer thereof, to furnish any such particulars in respect of the transactions of any dealer with such bank, which during the course of its business handles or transports goods liable to tax under this Act.

Restriction on movement.—36. No person shall take delivery or transport from any railway station, air port, post office, or any other place whether of similar nature or otherwise, notified in this behalf by the State Government, any consignment of taxable goods exceeding such quantities and except in accordance with such conditions as may be prescribed. Such shall be made with view to ensure that there is no evasion of the tax imposed by this Act.

Bar of suits in Civil Courts and indemnity.—37. No suit shall be brought in any Civil Court to set aside or modify any assessment made or orders passed under the provisions of this Act and no prosecution, suit or other proceeding shall lie against any officer of the State Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

Power to take evidence on oath, etc—38. The Commissioner shall, for the purposes of this Act, have the same powers as are vested in a Court under the Rules for Administration of Justice and Police in Naga Hills, 1937, when trying a suit in respect of the following matters :

- (1) enforcing the attendance of any person and examining him on oath or affirmation ;
- (2) compelling the production of documents ;
- (3) issuing commissions for the examination of witnesses, and any such proceedings before the Commissioner shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, 1860 (Act XLV of 1860).

Computation of the period of limitation.—39. In computing the period of limitation prescribed for an appeal or revision, the day on which the order complained of was served and the time requisite for obtaining a certified copy of such order, shall be excluded.

Information to be furnished regarding change of business.—40.
If any dealer—

- (a) sells or otherwise disposes of his business or any part of his business, any place of business or effects or comes to know of any other change in the ownership of the business ; or
- (b) discontinues his business or changes his place of business or opens a new place of business ; or
- (c) changes the name or nature of his business, he shall within the prescribed time inform the prescribed authority accordingly ; and if any such dealer dies, his legal representative shall in like manner inform the said authority.

Delegation of Commissioner's powers.—41. The Commissioner may, subject to such restrictions and conditions as may be prescribed, delegate, by notification in the Official Gazette any of his powers under this Act to any person appointed under section 3 to assist him.

Power to make rules.—42. (1) The State Government may, subject to the conditions of previous publication, make rules for the carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may, in particular prescribe :—

- (a) all matters required by this Act to be prescribed ;
- (b) the classes and duties of officers appointed for the purpose of enforcing the provision of this Act ;
- (c) the procedure to be followed and the forms to be adopted in proceedings under this Act ;
- (d) the intervals at which, and the manner in which, the tax under this Act shall be payable ;
- (e) the dates by which and authority to which returns shall be furnished ;
- (f) the manner in which refunds shall be made ;
- (g) the fees, if any, for petitions, certificates and other matters ;
- (h) the nature of accounts to be maintained by a dealer ; and
- (i) for any other matter necessary for giving effect to the purpose of this Act.

(3) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twentyfive rupees during the continuance of the offence.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Nagaland Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rule 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.

Act not to apply to certain sale and purchases.—43. Notwithstanding anything contained in this Act no tax shall be imposed on the sale of taxable goods—

(i) where such sale or purchase takes place in the course of Inter-State commerce ; or

(ii) where such sale or purchase takes place in the course of import of taxable goods into, or exports of taxable goods out of, the territory of India.

Nagaland Sales Tax Act, 1967 not to apply to taxable goods.—44. On and from the date this Act comes into force the provisions of the Nagaland Sales Tax Act, 1967 (Nagaland Act 11 of 1967), shall cease to apply to taxable goods :

Provided that the Nagaland Sales Tax Act, 1967 (Nagaland Act 11 of 1967), shall continue to apply in respect of taxable goods sold before the commencement of this Act and also in respect of subsequent sales of such sales of taxable goods.

Power of State Government to extend this Act to other commodities.—45. Notwithstanding anything in the Nagaland Sales Tax Act, 1967, (Nagaland Act 11 of 1967) the State Government may by a notification in that behalf add to the items of the Schedule of this Act any goods which is, at the time of the notification, taxed under the Nagaland Sales Tax Act, 1967 (Nagaland Act 11 of 1967).

On and from the date appointed by such notification, the Nagaland Sales Tax Act, 1967 (Nagaland Act 11 of 1967) shall cease to apply to all or any sale of such notified commodity or commodities provided that the rate of the tax on such sale prevailing at the time of the notification under the Nagaland Sales Tax Act, 1967 (Nagaland Act 11 of 1967) shall also continue under this Act :

And provided further that such notification shall have no effect on

commodity or commodities in the possession of a dealer registered under the Nagaland Sales Tax Act, 1967 (Act 11 of 1967) immediately before the appointed day.

Explanation :—Commodity or commodities in possession include goods in transit from a dealer registered under the Nagaland Sales Tax Act, 1967 (Nagaland Act 11 of 1967) to another dealer so registered.

Repeal.—46. The Assam Finance (Sales Tax) Act 1956 (Assam Act XI of 1956) as extended to Nagaland shall stand repealed :—

Provided that such repeal shall not affect :—

- (a) the previous operation of the said Act or anything duly done or suffered thereunder ; or
- (b) any right, privilege, obligation or liability acquired or accrued or incurred under the said Act ; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act ; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid :

Provided further that anything done or any action taken including any appointment or delegation made, notification, instruction or direction issued, certificate of registration granted under the Act hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

SCHEDULE

(See Section 4)

A—AT GOODS TAXABLE AT 10 PAISE PER RUPEE

Sl. No.	Name of taxable goods
1.	All Arms including rifles, revolvers, pistols and ammunition for the same.

Sl No.	Name of taxable goods
2.	All clocks, time pieces and watches and parts thereof.
3.	Articles made of or inlaid with ivory.
4.	Binoculars, telescopes and opera glasses.
5.	Carpets, including durries.
6.	Cigarette cases and lighters.
7.	Cinematographic equipment including cameras, projectors and recording and reproducing equipment, lenses, films and parts and accessories required for or used therewith.
8.	Dictaphones and other similar apparatus for recording sound and spare parts thereof.
9.	Electroplated nickel or silver or german silver goods.
10.	Foam rubber products
11.	Gramophones and component parts thereof and records.
12.	Iron and steel safes and almirahs.
13.	Motor cycles and motor cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts of motor cycles, motor scooters, motorettes.
14.	Motor vehicles, including chassis of motor vehicles, motor tyres, and tubes and spare parts of motor vehicles.
15.	Perambulators.
16.	Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for or used therewith.
17.	Precious stones namely diamonds, emeralds, rubies, real pearls and sapphires, synthetic or artificial precious stones, pearls artificial or cultured.
18.	Refrigerators and air conditioning plants and component parts thereof.

- | Sl. No. | Name of the Taxable Goods |
|---------|--|
| 19. | Stainless steel products. |
| 20. | Sound transmitting equipment including telephones and loud speakers and spare parts thereof. |
| 21. | Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof. |
| 22. | Upholstered furniture, sofa sets, dressing tables and furniture of all types made of timber, iron and steel. |
| 23. | Vacuum flasks of all kinds. |
| 24. | Wireless reception instruments and apparatus, radios and radio gramophones, electrical valves, accumulators, amplifiers and loud speakers and spare parts and accessories thereof. |

B—GOODS TAXABLE AT 7 PAISE PER RUPEE

1. All electrical goods, instruments, apparatus, appliances and all such articles the use of which cannot be had except with the application of electrical energy, including fans, lighting bulbs, electrical earthenwares and porcelain and all other accessories and component parts either sold as whole or in parts.
2. All machineries and spare parts thereof.
3. Bicycles, tricycles, rickshaws and cycle combinations and accessories and parts thereof.
4. Cosmetics including scents, perfumes, powders, snows, hair oils, scented sticks, and other toilet requisites.
5. Crockery and cutlery, including knives, forks and spoons articles made of glass, china porcelain or glazed earthenware adopted for domestic use.
6. Glassware, bottles and phials, funnels globes, glass parts of lamps, sheets and plates, photo and other frames and mirrors.
7. Ladies hand bags and other types of vanity bags.
8. Medicines and drugs other than the following :—

“(a) Antmalarial drugs *viz.* quinine in powder form, quinine pills (but not sugar coated), quinine alkaloids, salts of quinine, cinchona and its alkaloids, totaquine, cinchona fobrifuge and drugs of the 4 aminoquinoline groups such as chloroquine and its salts, amodiaquine and its salts whether in solution or in powder or in tablet form, proguanil and its salts and pyrimethamine”.¹

(b) Anti-kala-azar drugs *viz.*, Urea Stibamine and Pentamidine Isethionate.

(c) Vaccines *viz.*, Small-pox vaccine, Cholera vaccine and T.A.B. Vaccine.

(d) Ayurvedic, Homeopathic and Unani Medicines.

9. Paints, colour, lacquers, and varnishes including glue, polish, brush, sand paper, turpentine enamels and indigo.
10. Plastic, celuloid and bakelite goods.
11. Rubber products.

C.—GOODS TAXABLE AT 5 PAISE PER RUPEE

1. All varieties of tractors and bulldozers.
2. Bricks and tiles (kiln burnt).
3. Cement.
4. Fireworks including coloured matches.
5. Leather goods of all varieties (other than handmade footwear when sold at a price not exceeding Rs. 5.00).
6. Matches.
7. Petroleum coke and Petroleum gas.
8. Plywood, hard-board, card-board and straw-board.
9. Sewing Machines.
10. Soaps and all varieties including toilet soap, washing soap, shaving soap, medicated soap, soft soap, liquid soap, chips or flakes, powdered soap, soap of any other description and detergents.
11. Tinned, canned, bottled or packed foods or provisions including confectionery, biscuits and cakes.

1. Substituted by Nagaland Act 7 of 1969. See Nagaland Gazette-Extraordinary, April 15, 1969.

- 12. Tinned, bottled or packed milk foods.
- 13. Vegetable oils, both edible and non-edible including vanaspati or vegetable ghee but excluding mustard oil, rape oil and mixtures of mustard and rape oil.
- 14. Water supply and sanitary fittings.

D.—GOODS TAXABLE AT 3 PAISE PER RUPEE

- 1. Coal, coke and Coal-gas.
- 2. Iron and steel, that is to say :—

Sl. No.	Name of Taxable goods
(a)	Pig iron and iron scrap;
(b)	Steel scrap, steel-ingots, steel billets, steel bars and rods;
(c)	Iron plates ;
(i)	Steel Plates
(ii)	Steel sheets
(iii)	Steel bars and tin bars
(iv)	Rolled sections
(v)	Tool alloy-steel

{ Sold in the same form in which they are directly produced by the rolling mill.

[Received the assent of the President of India on the 2nd, November, 1967.]

THE NAGALAND FINANCE (SALES TAX) AMENDMENT ACT, 1969

(THE NAGALAND ACT NO. 7 OF 1969.)

(Received the assent of the President on the 2nd April, 1969 and published in the Nagaland Gazette Extraordinary dated 11th April, 1969)

En

Act

to amend the Nagaland Finance (Sales Tax) Act, 1967.

Preamble.

Whereas it is expedient to amend the Nagaland Finance (Sales Tax) Act, 1967 in the manner hereinafter appearing :

It is hereby enacted in the nineteenth year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Nagaland Finance (Sales Tax) Amendment Act, 1969.

(2) It extends to the whole of Nagaland.

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

2. Amendment of Section 7 of Nagaland Act 10 of 1967.

In sub-section (2) of Section 7 of the Nagaland Finance (Sales Tax) Act, 1967, the following proviso shall be *inserted*.

"Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of his intention so to do and has allowed him a reasonable opportunity of being heard".

3. Amendment of Section 11 of Nagaland Act 10 of 1967.

In sub-section (1) of Section 11 of the Nagaland Finance (Sales Tax) Act, 1967, the following further provision shall be *inserted* :

"Provided further that before making an assessment under this sub-section, the Commissioner shall give notice to the dealer of his intention so to do and allow him a reasonable opportunity of being heard".

4. Amendment of Section 13 of Nagaland Act 10 of 1967.

In Section 13 of the Nagaland Finance (Sales Tax) Act, 1967, for the existing sub-section (3) the following shall be *substituted* :

- (3) The officers appointed to assist the Commissioner may impose a penalty subject to such conditions as may be prescribed”.

5. Amendment of the Schedule attached to Nagaland Act 10 of 1967.

The existing item (a) in entry 8 in the Schedule under Heading B shall be *substituted* by the following :

- (a) Antimalarial drugs viz. quinine in powder form, quinine pills (but not sugar coated), quinine alkaloid, salts of quinine, cinchona and its alkaloids, totaquine, cinchona fobrifuge and drugs of the 4 aminoquinoline group such as chloroquine and its salts, amodiaquine and its salts whether in solution or in powder or in tablet form, proguanil and its salts and pyrimethamine”.