

TAMIL NADU SCRAP MERCHANTS AND DEALERS IN SECOND-HAND PROPERTY AND OWNERS OF AUTOMOBILE WORKSHOPS AND TINKER SHOPS (REGULATION, CONTROL AND LICENSING) ACT, 1985

1986 'hMARGAZHi NADU GOVERNMENT EXTRAORDINARY MADRÅS, MONDAY, *'JANUARY 1986 Part IV—Section 2 Tamil', Amo OidÅ Act of • Tamir. Nadw assent of; the: •President' on the 8th Janüary 1586 and is ' published for general information:— ACT .No. OF 1986. An Act to regulate' and control in the public interest -the: Scrap; merchants and dealers in second-hand property and the ownerff of automobile workshops and. tinker :shopg and f.or the: licenyihg• I •Of _ such • scrap merchants and. dealers in second:hand• propeny' owners of automobile workshops and 'inker shops in the -State,, :of• Tamii Nadu and for matters connected' therewith, BE it. enacted b' the Legislature of the State• of Tamil \$he Thirty-sixth Year of the Republic of India as follows Short title, extent and This Act be called', the Tamib Nadu• Scrap Merchants 'and' Dealers rin- Secbd& hand' Property and' Owners: .:of :Automobile. Wdrksffovs •and' Tin4éÉ... Shops. (Regulation, Control and Licensing)' Act], 11985. (2)' Li extends to the whole. of the, State •of (Tamil' Nadu.. -shall- come into force on such • as-ethé Gover.nmentr may, by. .1V-2 Ex. (15)--1 1 •2 NADO GOVERNMDNTI

2. Defiqitions.—In this Act, unless the context 'Equiies•,— (a) • "déaler in second-hand property " means any person who ips- on the business of buying selling any, second-hand property. - Cinäudes an agent or thköügh his servants, * buys •ells any second-hand property .on behalf:of any dealer ; • i -tb)• ' eGovernment" means athe State. Go.yernmeli'tL; i .(â) f O"wner " in relation to an automobile workshop or a tiliker the person who, or the authority which, has the ultimate cqqtrol OVeg the affairs O?" -the •automobile workshop or as the case may bé, Che tinker shop; and where' the säid affairs are entrusted to any' other person. whether galled.' a manager,. managing director* managing. agent, superintendent or by any other name, such other persön "place ot büsineSs " iii -relatori to a' sciap merchant or •dea3ör•. in second-hanQ.. property,- or to . an -owner of;- an: ..I. F.automobile workshop or a tinkér includes— (i) in case where h? carries on business through an •agent (by •dame called), the place Of business of Isuch agent ; (ii) a warehouse, godown or other •place where he stores the property or goods or materials relating to his bü\$iness ; and (iii), a place where- he keeps his books of. account ; . ft'scxap merchant"! means any person who carries on the of buyihg of selling any scrap rnåterials ; (f) "tinker shop RI means a place where F' gadgeté, niaChines, household utensils or ethe like are repaired,- adjusted, changed 3'. ' Seræ merchants .an4 dealers I in ,second-hand• property •and åuldh1Q4ii& •woÆshops and Einkér.. -shöps td öbtain•-licencec No, deåler iii second-hand pröperty ör• öWfier of an 'autpmobilp. workshop or a tinker shop shall, *on- *after the date df commencement of this Act, carry on, .01 gontinue to, carry •merchant or déaler in second- ffunning such äutomdb.ile• WorkShop or. shöp in' any area in- he• licence •in under this Act. hhd shop same obtai busil fron licei as I und •off in ta TASiii., scrap . merchagt:orl dealer fiåhd p}dperty Or an owner of an; workshop:or x-å%tinker .shop has. than one shop or place. pf business; - whether. , same town village, or in "different .towns and obtain .a• separ.ate licnce. in respect* of each Such shop er• placéNÖf business. (2) Every licence granted under this. Act shall e*ßire Oli last day of the year for which it ' was granted, but may be renewed from year to year. --- (1) Every apBflca•iiog : 4. - 'Grant • and •refusal of licences. licence :uhdcr section 3 shall be made in writing to such authoi#y as •may. be -prescribed (hereinafter referred to as the licensing. authority). -In. considering the application för the grant' Of. a licence under this section, the licensing have following matters, namely (a) the interest of the public. generally:-,•• (b) whether the applicant has •been •convicted of hany, •offence iunishable under Chapter XVII of the. •Indian Penal* code (Central Act XLV of 1860) ; (c) whether permission has been obtained. under :séctiöåi in respect .of. the place of business (d) such other matters as may be prescribed. (3)' Bef(fré any licence is refused under -subsection applican! shall .be given an opportunity make his... • tiöns •within' a?' •reaiönåblé t.iiie; • not ordiriår.ily*.exqeeding and any representati01i' 'hiädé• 'by him in, •this behalf shlail•• b'eftl•dåly taken into. 'consideration before final orders are: passedä (4): or féfüsing Ito grånf:å• licence, • liéefi5ing: aÜffiÖrity may ednéult• such äs• •may be liräribed. (5) •Any person aggrieved by an order of the : •liteliSingIli authority under this section- may, within such' period and in, such. •manner as ••may be prescribed; .to-: •Such •:authbtity the •Govenmeot.rnüLy specify tæehalf åh•d •such': sugb -order in i:he: case Ima.y• thidk fit. form-narid1*SÜ\$PÅl_ to sudlt:- coiltliöns -is •may •be'

preiciibégl - fee not exceeding twenty-five rupees as* fila-y prescribed: NADU -GOYERN'UNT GAZETTE 5. Application to '-be made for establishment of any place of *business of scrap merch'ant' •Di' for dealing in secnd4iãnd property :utomobile wokkshop br tinker shop.-r-(l) Every person in- 'l- &iding. Establish. •any place of business of -scrap merchant or •for in" second-hand' property or any automobile workshop or '*inker shop shall, •before establishing such place, make an applica- • •tion•in: •writing to ' the licensing authority for permission to' -undef- taky the jntended w.or,k. The application shall be accompanied by— (a) plan of,the place of business .or automobile work- or tinker' shop .prepared in such. manner as may be prescri- bed (b) such other particulars as may be prescribed. (3) The licensing shall, as soon as may be, after meipt of' . application— (a) grant the permission apOiiied for subject to such con- ditions as it thinks fit •to •impose,• or .(b) refuse permission if-it is of opinion, that such e;tablish- rant--- (i) is objectionable by reason of the density of popula- . tign lthe locality ; or (ii) is likely to cause a nuisance to the residents of the localiiy ; or (iii) is likely to cause tramc or health. hazards to the residents pf -the locality ; or (iv) - does not contain adequate for, parking the •yéhighlgs which, would noi;mallly. - attracted. (4) Before" any permission is refused undef clause (b) of gub-segtioj (3), lthe applicant shall •be given arL opportunity to make his within a reasonable time, not ordinarily exceed- ing'fifteen days and - any representation made •by him. in this behalf shall: be duly takeo into .consideration before final orders are payسد. (5) •BZfore granKing: or •Refusing •pefmission under this section, -t.hp licensing • authority shall coqsult and have due regard to the opinions of 'the healthr omcer and traffic police as regards the suitability of the Dlace where the business of scrape merchant or dealing in property or the automobile workshop or •tinkeöshop is to be established, s 1 TAMIL NADU GOVERNMENT EXTiAORDINARY 5 (6) If orders on an åpplication for permission under subt section (1) ace hot received •by the applicant within -sixty. days a.ftei the receipt of the application. by the licensing authority, permissioii shall be deemed to have been granted subject to •the any law for the time being in force applicable to the establishrhe(it;• of the automobile •workshop or •the -tinker sh6p. (7) Any person aggrieved' by an •order •the under this section refusing, to grant. a, permission may, within such time as may be Presegibed, appeal rity as the Government may specify in this behalf and such ' ai.fthöfi _ii_ may make •Such order in the case as it may think' fit. (8) Every permission shall • be suéh subject to such conditions as may be prescribed. and••• •on such fee not exceeding two hundred rupees as may be 6. Provision in respect of certain place's of : (l) •Notwithstanding anything cöntaiped in this A'ct and provisions ot sub-section (2), every scrap merchant. second-hand property or an owner of an automobile tinker sh06 carrying on the business as such scrap in second-hand property or the bushtess of' running.sue@åitöindbii workshop or tinker shop in any place of the date of the eommeneemnt of/ this Act, may . business at such- place of business. (2) No person entitled. to carry on any section (1) shall continue to carry •on such business of a period' of six months from the date of cömmencerfieii'i'dt\$fi.i.ii• Act unless he obtains a licence -under section 4% for such business and a permission under section, 5, in respect. place of business

7. Scrap merchants and dealers in second-hand owners of aütomobile workshops .or tinker -'shops .to •keep and tain accounts and Every Scrap merchant or* second-hand property arid every owner of an automobile' .or tinker shop shall be bound to keep and maintain such and books and in such manner as may be prescribed.' Hé responsible for the correct and urto-date maintenance accounts and books. The• accounts and books shall contain *Cthé• ' folloväng particulars, namely :-- (a) the names and addresses of the persons from, whom tho goods relating to the business s,vcre purchased ; 6 TAMIL NADU EXTRAORDINARY (b) the dates of such purchases • and the amounts paid för :suéh 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 omcer having jurisdiction. 8. -Scrap merchant or dealer in setond-hand property and •owner oft automobile workshop or tinker shop to. keep and maintain a regijter of workers employed.— Every scrap merchant or dealer in. éecond-hand property and every owner of an automobile work- .shop or tinker shop, shall) in addition to th•e• 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 (l) 'the names and addresses of the workers; (2) • .p4ssport size photographs of the workers taken åffxed •aÅainst -the names of the workers; (3) character and conduct roll of the workers; (4) such other matters as may be Drescribed. and 9. •.Power to cancel . The licensing authority may, :at any time, during

the term 'Of, any. licence, by am order. in writing, cancel the licence— (a) if the. licensee earries on the business in contravention of the provisions of this Act, or the rules made thereunder •öi?öf the conditions' the licence, Or .(b): if any reason for which' -such authority could -'have to: grant -the •licence •under .süb-sectionr (2) •of : seetion"" 4," is »brought• r.to•, the •of : that •authority • • after •the grant-' of ' ithe lieence, or k (c) if the licensee is cckhVic.ted Lof . a'ny åffence .. against . .this Act or' Of any cognizable and non-bai}able offence, (d) jf the false: accounts.:v.- TAMIL NADO GOVfi11NMfrNT GAZIjfiF, . • 1, (2) Before cancelling a licence under ' Sub-section the- licensing authority shall give .the licensee a notice in- writing Stating the grounds on whiOh 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 authö- rity cancelling a license under sub-section (1), • may, with_in --•.such•. time and in such manner as may be prescribed, appeal to ' -'such. authority as the Government may specify in this , benalt. and such authority may make such order in the case as it may think fit

10. Certain acts.- of scrap merchants, 4eglers. •in .2 se.condshand.j. •.. properly, owners of autömobile workshops or tinken shops: and • .bf• persons offering for sale to such merchant, dealer or •be.- punishable. —(1) Any person who—e (a) offers to a scrap merchant of. "dealer in . second-häiid property: or. an owner of an •automobile wörkshop •or tinker .shbp any •article• by way of sale, or otherwise, •.being unã>le. 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, dealcr 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 hame. and address, or as to the name and address of .the owner of. •the•. shall be punished with imprisonment for a term which may extöld to six. months or with fine whiOh may extend to one• thousand rupees or with both. . (2) In every case falling undeli sub •section (-1) and also in any case where, on an article being offered by way of sale or other- wise to such merchant, dealer or Owner, he reasonably suspects• it has been stolen or otherwise illegally or clandestinely obtained, such merchant, dealer Gr owner shall, in. the absence of reasonable excuse. inquire into the name and. address of •the- person cdngerned, and forthwith communicate to .the nearest poliée ;station the facts.,of üle case. 8 .'AM11., NA-DÜ EXTRAORDINARY (3) A FRt of articles believed to have been stolen may be deliv.ecéd by the police to, any such merchant, dealer or roymr 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 provi- sions of sub:section (2) ; and. (b) if any such article is already in his possession, forth- with 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, ii so required by the police, to deliver thee article to them. (4) Every scrap merchant, dealer in second-hand property or owner; ot an. automobile- workshop or tinker shop buying any article •knowing. or having reason toe believe the same to be stolen. property be punished with imprisonment of either description for a term '*Mich-may extend to thrw years and with fine. ill. Penal(j)' for carrying one business without' licence.—Whoever 'carries on the business of scrap merchant or dealer in second-hand or the business of - running an automobile workshop or a tülker- shop without licence or Otherwise than in conformity with the terms and conditions of a licence shall be punished with impri- soument which may extend to one year or with fine which may, .extend• to five thousand nipees

112. Offehces by Where an offence under this AGt: has been committed.by a company, •every person who, at the time..the • offence •was committed, •was in-charge of, and was respon- Sible 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 exer- cigd:rall' due diligence to prevent the commission of such offence. .(2) Notwithstallding anything contained in, sub-section. offence under this Act has been• committed by a company andiätvis• proved that the offence has been committed with ' the consent 'or connivance of, or is attributable to, any. negleci' on the NADU EXTRAORDINARY 9: part of any director, manager,• secretary or other. % the company,- such, director,. .or .-other,. omcer shall-.he. deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.—For •the Purposes. of- this• sections— include 'a (a) " company " means any body

corporate* and firm or other association of individuals ; and (b) " director ' - in : relation to a ' firm ' means a - partner in ... the .. firm. 13 : contra Vences any = of the. • provisions this Act- or any rule made thereunder or - of any terms., and ... condi.. tions of a ' licence or permission granted Shall], if, no, r other - . penal. ty.. is elsewhere • provided in this ' A: ct• 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. to try offences.—(1) • No court - that 40 f at Metropolitan' Magistrate or a Judicial Magistrate• of the . first-class: shall try any offence punishable tmdef this Act: (2) Notwithstanding anything . contained- irk section .29. Code of Criminal Procedure, 1973 (Central Act 2 of .1'994), 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 (' f an offence punishable under this Act other tharr an- offence* • punishable under section 10 except on a complaint in writing rnade by any prescribed authority

15. Cognizance of offences.—Notwithstanding _ anything con- tained 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 omcer below the rank of a Sub-Inspector shall investigate any offence punishable under section 10 or shaFli make an • arrest. (A Group) IV-2 Ex. 10 TAMIL NADU *GOVERNMENT, Q•AZDTTE 16. Power to make. rules.---(1)- The Government- may • make for carrying.. mit all or:..any:, of the. purposes of this Act. (2) (a) All rules made uider. this. Act shal:L be published in the Tamil Nadu Government Gazette; a-nd unless they are expressed towme into force, particular days shall come into force on the day on which they are so published. (b) A.n notifications issued under this. Act. shall, unless they are expressed to come into force on a particular day, come into foicer, on the day wh.ich:they are • published. (3) Every rule made or notification issued under this Act 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 of, the session in which it is so placed or next session, Goth. Houm 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 caly in. such modified form. or be of no effect, as the case be,. so, however, that any such modification or annulment Shail be without prejudice to the validity o..c anything previously dōne under that rule or notification. 17. provisions of this Act shall be in addition *to, .and not. in derqgation 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, •äp!art. from' this 'Act be' instituted against him. (By order- of the Gooecnor) S. VADIVELU, Commissioner and Secretary to Government, Law' - Department. *REOf0B SNTIONBBY AND BÜ.AL' OV or TAMn. TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 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 N? du 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) This Act may be called the Tamil Nadu Scrap Merchants and Dealers in Second-Hand Property and Owners of Automobile Workshops end Tinker Shops (Regulation, Control and Licensing) Amendment Act, 2008. (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),—(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" Shatf be substituted

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.⁷³ Short title and commence- ment. Amendment of section 3. Amendment of section 4. Amendment of section 5. (By Order of the Governor) S. DHEENADHAYALAN, Secretary to Government, Law Department. D AND PUBLISHED BY THE SPECIAL COMMISSIONER AND COMMISSIONER OF STATIONERY AND PRINTING, CHENNAI ON BEHALF OF THE GOVERNMENT OF TAMIL NADU

