THE DELHI EXCISE ACT, 2009

[Delhi Act 10 of 2010, dt. 1-7-20101

An Act to consolidate, amend and update the Excise Laws relating to manufacture, import, export, transport, possession, purchase, sale, etc., of liquor and other intoxicants, in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixtieth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement

(1) This Act may be called the Delhi Excise Act, 2009.

(2) It extends to the whole of the National Capital Territory of Delhi.

2. **Definitions**

In this Act, unless the context otherwise requires,—

(1) "alcohol" means ethyl alcohol of any strength and purity having the chemical composition C2H4OH;

(2) "alcoholic beverage or potable liquor" means any beverage containing alcohol in conformity with the BIS standards which may be intoxicating and is fit for human consumption;

(3) "alcoholic strength by volume (% vol.) of a mixture of water and alcohol" means the ratio of volume of alcohol, measured at 20°C, contained in the mixture to the total volume of the mixture;

(4) "appellate authority" means the Deputy Commissioner, the Excise Commissioner, or the Financial Commissioner, as the case may be, for the purposes of this Act;

(5) "authorized officer" means an officer authorized to exercise and power or to perform any duties and functions conferred on or imposed under this Act;

(6) "Assistant Commissioner" means an officer appointed by the Government as Assistant Commissioner of Excise under section 5 of this Act;

(7) "beer" means alcoholic beverage prepared from malt or grain with or without addition of sugar and hops and indudes black beer, ale, stout, porter and such other substance as may be notified by the Government;

or the st ndards prescribed by any other Central Government

1 W.e.f. 4-10-2010 vide Noti. No. F-10(5)/Fin (T&E)/2009-10/SSF/103, dt. 4-10-2010.

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(9) "black jaggery" means coarse brown sugar made from palm tree or cane juice ordinarily unfit for human consumption but contains sufficient quantity of fermentable sugar for manufacture of ethyl alcohol;

(10) "blending" means mixing of two or more spirits which may be of different strengths and different qualities;

(11) "blended warehouse" means a licensed private bonded warehouse or part of a public bonded warehouse, established under this Act for storing liquor on which duty has not been paid;

(12) "bottling" means transfer of liquor from a cask or other *vessel* to a bottle or other approved receptade for the purpose of sale whether any process of rectification be employed or not and includes rebottling;

(13) "bottling plant" means premises where bottling of liquor is done and includes every place therein where it is stored or wherefrom it is issued; (14) "brewery"means premises where beer is manufactured and includes every place therein where beer is stored or wherefrom it is issued;

(15) "compounding" means the manufacture of alcoholic beverage by addition to spirit of a flavouring or colouring matter or both;

(16) "counterfeit liquor" means a liquor in respect of which—

(a) there is any violation of any right under the Trade Marks Act, 1999 (47 of 1999) or the Copyright Act, 1957 (14 of 1957) or any other similar Act in force, or

(b) in respect of which an offence under section 481 or section 483 or section 486 of the Indian Penal Code, 1860 (XLV of 1860) has been committed;

(17) "country or traditional liquor" means plain or spiced spirit which has been manufactured in India from material recognized as base for country or traditional spirit namely mahua, rice, gur, molasses etc. and notified as such liquor by the Government;

(18) "Delhi" means the National Capital Territory of Delhi;

(19) "denaturant" means any substance completely miscible in spirit and of such a character that its addition renders the material, or any aqueous dilution of it, non-potable;

(20) "denatured spirit" means spirit with added denaturant to render it effectively and permanently unfit for human consumption;

(21) "Deputy Commissioner" means the officer appointed by the Government as Deputy Commissioner of Excise under section 5 of this Act;

(22) "distillery" means premises where spirit is manufactured and includes every place therein where it is stored or wherefrom it is issued;

(23) "duty" means the excise duty or the countervailing duty as mentioned in Entry 51 of List II of Seventh Schedule of the Constitution, or, as the case may be, special duty;

(24) "excisable article" means any alcoholic liquor for human consumption or any other similar article which the Government may declare to be an excisable article;

(25) "Excise Commissioner" means the officer appointed by the Government as Excise Commissioner under section 3 of this Act;

(26) "excise officer" means any officer or person appointed or invested with powers under this Act;

(27) "excise revenue" means revenue derived or derivable from any payment, duty, fee, tax, confiscation or fine, imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to intoxicants but does not include fine imposed by a court of law;

(28) "excise tree" includes the gul, mahua, coconut, palm, palmyra, date, begani or doddasal tree or any other tree, the fermented or unfermented juice of which contains alcohol and from which toddy or any other liquor can be prepared;

(29) "export" means to take out of Delhi to any other State within the country;

(30) "export out of India" with its grammatical variations and cognate expressions means taking out of Delhi to any place outside India;

(31) "extra neutral alcohol or silent spirit" means spirit as may be specified by the relevant Central Government Authority;

(32) "fermented liquor" means liquor obtained by the process of fermentation and includes beer, ale, stout, porter, wine, pachwai, fermented taxi and any other similar liquor;

(33) "Financial Commissioner" means the Financial Commissioner of the National Capital Territory of Delhi;

(34) "foreign liquor" means any liquor imported by land, sea or air into India;

(35) "Government" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution;

(36) "illicit liquor" means any liquor manufactured or stored or distriLuted or sold, in contravention of the provisions of this Act or the rules framed thereunder or liquor on which appropriate duty or fee leviable under this Act or the rules framed thereunder, has not been paid and includes foreign liquor on which appropriate duty of customs has not been paid;

(37) "import" means to bring into Delhi from any other State of the country;

(38) "import into India" with its grammatical variations and cognate expressions, means bringing into Delhi from any place outside India;

(39) "Indian liquor" means liquor manufactured in India by process of distillation or using alcohol obtained by distillation such as whisky, brandy, rum, gin, vodka, liqueurs, but does not include country. liquor or fermented liquor;

(40) "intoxicant" means and includes,—

(a) any liquor;

(b) any spirit;

(c) any intoxicating drug;

(d) any other article, which the Government may from time to time declare

to be intoxicant, except the substances covered under the Narcotic Drugs and Psychotropic Substances Act, 1985, for the purpose of this Act;

(41) "intoxicating drug" means—

(a) the dried leaves of the Indian hemp plant known as bhang, sidd hi or patti or cannabis sativa,

(b) any mixture with or without natural materials of bhang, siddhi or patti or cannabis sativa or any drink prepared therefrom;

(42) "Legislative Assembly" means the Legislative Assembly of the National Capital Territory of Delhi;

(43) "Licence" means a licence granted under this Act and the rules framed thereunder;

(44) "licensing authority" means an officer who is authorized to grant, suspend and cancel licence, permit and pass under this Act;

(45) • "Lieutenant Governor" means the Lieutenant Governor of Delhi appointed by the President under article 239 of the Constitution;

(46) "liquor" means any alcoholic beverage and includes whisky, brandy, beer, wine, toddy, trai, pachwai, vodka, gin, tequila, country liquor, arrack and intoxicating liquid consisting of or containing alcohol as may be specified under BIS standard besides any similar substance which the Government may by notification declare to be liquor for the purpose of this Act; (47) "major and minor offences"

(a) major offences mean—

(i) adulteration;

(ii) sale of non-duty paid liquor, (NDPL);

(iii) illicit manufacture, possession, transport, transit and sale of liquor;

(iv) rendering denatured spirit fit for human consumption;

(v) mixing noxious substance with liquor;

(vi) tampering with sealed bottles;

(vii) sale to minor,

(b) the remaining offences under this Act shall be minor offences; (48) "manufactory" means any distillery, brewery, winery or any establishment distilling, brewing, manufacturing, blending or bottling liquor;

(49) "manufacture" includes any process—

(a) incidental or ancillary to the completion of manufactured intoxicants,

(b) whether natural or artificial, by which any intoxicant is produced or prepared and also re-distillation and every process for the rectification, reduction, flavouring, blendng or colouring of liquor, or

(c) which in relation to intoxicant involves packing or repacking of such article in bottle or unit package or labelling or re-labelling of bottles or unit package, including the declaration or alteration of maximum

retail price (MIRP) on it or adoption of any other treatment on the intoxicant for sale to the consumers.

Explanation: For the removal of doubt, it is hereby clarified that labelling of bottles or unit packages, imported into India or into Delhi, to comply with statutory requirements shall not be construed as manufacture;

(50) "manufacturer" means any person who manufactures intoxicants and includes a manufacturer of alcohol subject to excise duty under the Central Excise Act, 1944 (1 of 1944);

(51) "molasses" means heavy viscous liquid produced, in the final stage of manufacture of gur or sugar including khandsari, sugar from sugar cane or

gur, when liquid as such or in any form or ad-mixture containing sugar which can be fermented;

(52) "MRP" means the maximum price at which the liquor may be sold to the ultimate consumer and shall include all taxes, freight, transport charges, commission or trade margin payable to dealers, and all charges towards marketing, delivery, packing, forwarding and the like, as the case may be;

(53) "notification" means a notification issued under this Act and the rules framed thereunder and published in the Official Gazette;

(54) "officer-in-charge" means the excise officer authorized to supervise and control manufactory or warehouse;

(55) "pachwai" means fermented rice, millet or other grain, and includes liquid obtained therefrom, whether diluted or undiluted, but does not include beer;

(56) "permit" means an authorization granted under this Act and/or the rules framed thereunder;

(57) "place" includes a house, building, shop, booth, tent enclosure, vessel boat, raft and vehicle;

(58) "police station" means a police station having jurisdiction over the place and any other place, which the Government may, by notification, declare to be a police station for the purpose of this Act;

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

(60) "rectification" includes every process whereby spirit is purified or is coloured or flavoured by mixing any material therewith;

(61) "rectified spirit" means un-denatured alcohol, including absolute alcohol, extra neutral alcohol and alcohol derived from malt as may be specified by the BIS standard;

(62) "relevant laws" means the Indian Power Alcohol Act, 1948 (22 of 1948), the Motor Spirit Taxation Act, the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 (16 of 1955), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and such other Acts relevant to excise

revenue;

(63) "retail price" means the price fixed by the Excise Commissioner for the sale of intoxicant at which the licensee is bound to sell the intoxicants;

(64) "retail sale" means sale in quantities not exceeding the limits of sale by retail for any consideration or not;

(65) "special duty" means a tax on the import of any excisable article being an article on which countervailing duty as is mentioned in Entry 51 of List II in the Seventh Schedule to the Constitution is not imposable on the ground merely that such article is not being manufactured or produced in the territory to which this Act extends;

(66) "spirit" means any liquid containing alcohol obtained by distillation, whether denatured or not;

(67) "spirituous preparation" means—

(a) any medicinal or toilet preparation containing alcohol,

(b) any antiseptic preparation or solution containing alcohol,

(c) any flavouring extract, essence or syrup containing alcohol;

(68) "still" includes any apparatus or part thereof, for distillation or manufacture of spirit;

(69) "sub-standard liquor" means liquor, which does not meet the BIS standards and includes liquor whose nature, substance or quality is so affected—

(a) by liquor itself, or the package thereof which is composed, whether wholly or in part of poisonous or deleterious substances,

(b) by virtue of unhygienic processing or presence in that article of any harmful substance,

(c) by substitution of any inferior or cheaper substance whether wholly or in part,

(d) by addition of substance directly or as an ingredient which is not permitted,

(e) by the presence of any colouring matter preservative other than specified in respect thereof,

(f) by the presence of worm, weevil or insect,

(g) by virtue of its being prepared, packed or kept under insanitary conditions, or

(h) by dilution;

(70) "toddy and tari" means fermented or unfermented juice drawn from a coconut, palmyra, date or any other kind of palm tree;

(71) "transit" means to move from one State to another through Delhi;

(72) "transport" means to move from one place to another within Delhi;

(73) "VAT" means tax on sale or purchase of goods referred to in Entry 54 of the State List (List-II) of the Seventh Schedule to the Constitution;

(74) "warehouse" means a place where storage of liquor is permitted and includes the relevant part of manufactory;

(75) "wholesale sale" means sale in quantities exceeding the limit of sale by retail;

(76) "wine" means a fermented juice of grapes or other fruits with or without the addition of sugar or jaggery containing self-generated alcohol and includes fortified wine;

(77) "winery" means—premises where wine is manufactured and includes every place therein where wine is stored or wherefrom it is issued.

CHAPTER II

ESTABLISHMENT AND CONTROL 3.

Appointment of Excise Commissioner

The Government may, by notification, appoint an officer as Excise Commissioner who, subject to the control and orders of the Government in this behalf, shall be the chief controlling authority in all matters connected with the administration of this Act.

4. Powers and functions of Excise Commissioner

The powers and functions of the Excise Commissioner shall be—

(a) to regulate, control and monitor manufacture, possession, import, export, transport, sale and consumption of liquor and other intoxicants; -

(b) to curb illegal trade in liquor and illicit distillation;

(c) to protect excise revenue and ensure prompt recovery;

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(d) to submit returns and information as required by this Act or the rules framed thereunder, to the Government upon all matters concerning excise; (e) to ensure social well-being through education for responsible drinking; (f) to introduce e-governance in various aspects of excise administration; (g) to submit to the Government an annual report on the administration of this Act in the format prescribed;

(h) to perform such other functions and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

5. Appointment of certain officers and staff

The Government may appoint such numbers of Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners, Excise Inspectors and such other officers and staff as it may deem fit for the purpose of performing the functions under this Act.

6. Excise Intelligence Bureau

(1) There shall be an Excise Intelligence Bureau, headed by the Excise Commissioner, consisting of such number of excise officers and staff as may be appointed by the Government and such other officers and staff as may be appointed by the Excise Commissioner with the prior approval of the Government.

(2) The Excise Intelligence Bureau shall—

(a) collect intelligence, keep surveillance and maintain information of excise offences;

(b) collect and disseminate information regarding prominent excise offenders and history sheeters;

(c) detect, monitor detection, investigation and trial of offences under this Act.

7. Excise administration

(1) The Deputy Commissioner shall be the licensing authority who shall exercise all powers and functions under this Act, subject to the control and supervision of the Excise Commissioner.

(2) The Deputy Commissioner shall, within the limits of his jurisdiction, exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act subject to such control as the Government may from time to time direct.

(3) The Assistant Commissioner and other subordinate officers shall assist the Deputy Commissioner in exercising his functions.

8. Delegation and withdrawal of powers

(1) The Government may delegate its powers to the Excise Commissioner subject to such limitations and conditions as may be specified in the order of delegation.

(2) The Excise Commissioner and the Deputy Commissioner may, by order, delegate their powers under this Act to any subordinate officer subject to such limitations and conditions as may be specified in the order of delegation.

(3) The Excise Commissioner or the Deputy Commissioner, as the case may be, may by an order also withdraw from any officer or person any or all the powers so delegated.

9. Investing persons with special powers

The Government may, by notification, invest in any Government functionary not being an excise officer, with powers to perform all or any of the functions of any excise

officer under this Act, and such person shall, in the exercise of these functions, be deemed to be an excise officer.

10. Reward for seizure of intoxicants and vehicles, etc.

The Excise Commissioner may grant reward to excise officers out of the sum collected from the sale of intoxicants, apparatus and vehicles carrying such intoxicants, or otherwise and also to such informers for such work subject to such terms and conditions as may be prescribed.

CHAPTER III

LICENCE AND PERMIT FOR MANUFACTURE, POSSESSION, SALE, ETC., OF INTOXICANT

11. Prohibition of import, export, transport, manufacture, possession, sale, etc. of intoxicant

(1) No person shall construct or establish any manufactory or warehouse, bottle, import, export, transport, transit, manufacture, collect, possess, sell or purchase any intoxicant or use, keep or have in his possession any material whatsoever, still, utensil, implement, apparatus, label, cork, capsule or seal for manufacture of any intoxicant except under the authority and in accordance with the terms and conditions of a licence or letter of intent or permit granted under this Act and the rules framed thereunder.

(2) The possession of labels, corks or capsules by its printer or manufacturer, as the case may be, will not amount to illegal possession and offence under this section if printed or manufactured under the authority from the holder of licence to manufacture intoxicant, issued under this Act.

12. Grant of **letter of intent, licence or permit**

Every letter of intent, licence or permit under this Act shall be granted on payment of such fees, for such period and subject to such restrictions, conditions and in such form and contain such particulars, as may be prescribed.

13. **Qualifications for grant of licence**

(1) While considering an application for grant of licence or permit, the licensing authority shall have regard that the applicant—

(a) ,is a citizen of India;

(b) is not a defaulter, or black-listed or debarred from holding an excise licence; (c) possesses good moral character and has no criminal background or has not been convicted of any offence punishable under this or other relevant Acts:

PROVIDED that in case he is selected as licensee, he shall furnish within thirty days of the grant of licence a certificate issued by the Superintendent of Police of the district or the Commissioner of Police, as the case may be, of which place he is the resident, showing that he possesses good moral character and has no criminal background or criminal record;

(d) is not in arrears of any Government or public dues; and

(e) is solvent and has the necessary funds or has made arrangements for it, for conducting the business:

PROVIDED that the details of such funds shall be made available to the licensing authority, if required;

(f) possesses or has an arrangement for taking on rent suitabl9 premises for the licence and such premises have not been constructed in violation of any law;

(g) shall not employ any salesman or representative who has criminal background or suffers from any infectious and contagious disease or is below twenty-one years of age.

(2) The licence shall be liable for cancellation, if any document produced with the application is found to be false or forged.

14. Power to take security and counterpart agreement

Subject to such rules as may be prescribed, any authority granting a licence under this Act, may require the licensee—

(a) to give security for the observance of the terms of his licence; and

(b) to execute a counterpart agreement in conformity with the tenor of his licence.

15. Technical defects in licence and permit

(1) No licence or permit granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or permit, or in any proceedings conducted prior to grant thereof.

(2) The decision of the licensing authority, as to what is a technical defect, irregularity or omission shall be final and binding.

16. Power **to** withdraw licence and **permit**

(1) Whenever the authority which granted a licence or permit under this Act, considers that such licence or permit should be withdrawn for any reason, it may do so on expiry of fifteen days' notice of its intention to do so or forthwith for reasons to be recorded.

(2) If any licence or permit is withdrawn, the licensee or the permit holder shall be refunded any fee paid in advance or deposit made by the licensee or the permit holder in respect thereof after deducting the amount recoverable by the Government.

17. Power to suspend or cancel licence and permit

(1) Subject to such restrictions as the Government may prescribe, the authority granting any licence or permit under this Act may suspend or cancel it in the following circumstances after giving reasonable opportunity of being heard—

(a) if the licence or permit is transferred or sublet by the holder thereof without the permission of the licensing authority;

(b) if any excise revenue payable by the holder thereof is not duly paid;

(c) in the event of any breach by the holder of such licence or permit or by his servant, or by any one acting on his behalf, with his express or implied permission, of any of the terms and conditions of such licence or permit;

(d) if the holder of licence or permit or his agent or employee is convicted of an offence punishable under this Act or any other law for the time being in force, relevant and connected with excise matters relating to excise revenue or of any cognizable and non-bailable offence under any other relevant law;

(e) if the purpose for which the licence or permit was granted ceases to exist;

(f) if the licence or permit has been obtained through mis-representation or fraud.

(2) When a licence or permit is cancelled under sub-section (1), the aforesaid authority may cancel any other licence or permit granted to such person under this Act or under any other law relating to excise revenue.

(3) In the case of cancellation or suspension of licence under sub-section (1), the fee payable for the balance of the period for which any licence would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise revenue.

(4) The holder of a licence or permit shall neither be entitled to any compensation for the cancellation or suspension thereof nor to refund of any fee paid or deposit made in respect thereof.

18. Bar to the **right of renewal and to compensation**

No person to whom a licence or permit has been granted, shall be entitled to claim any renewal thereof, and no claim shall lie for damages or otherwise in consequence of any refusal to renew a licence or permit on the expiry of the period for which the same remains in force.

19. Surrender of licence

No holder of a licence granted under this Act shall surrender his licence except on the expiration of one month's notice in writing given by him to the licensing authority of his intention to surrender the same on payment of the fee payable for the licence for the whole period for which it would have been current **but** for the surrender:

PROVIDED that if the licensing authority is satisfied that there are sufficient reasons for surrendering the licence, he may remit to the holder thereof the sum so payable, or any portion thereof, on surrender.

20. Transfer of licence or permit

The licence or permit granted under this Act is not transferable except with the prior approval of the licensing authority subject to such terms and conditions as may be prescribed.

21. Grant of exclusive privilege of manufacture, etc.

Subject to the provisions of this Act and the terms and conditions as may be prescribed, the Government may grant to any person a licence either jointly or severally, for the exclusive privilege of manufacturing, supplying by wholesale and sale by retail within any local area.

22. Removal of liquor from manufactory, warehouse, etc., on payment of duty

No liquor shall be removed from any manufactory, warehouse or other place of storage established under this Act without a relevant pass and unless duty and fee payable has been paid or a bond as maybe prescribed, has been executed for the payment thereof.

23. Prohibition of sale to certain persons

No person or licensed vendor or his employee or agent shall sell or deliver any liquor to any person apparently under the age of twenty-five years, whether for consumption by self or others.

24. Prohibition **of employment of certain persons**

No licensee shall employ or permit to be employed in his premises any person under the age of twenty-one years, or suffering from contagious disease.

25. Closing of shops for preservation of public peace

The Deputy Commissioner or any other officer authorized by him may, by notice in writing to the licensee, require that any shop in which any liquor is sold shall be closed at such time or for such period as he may think necessary for preservation of public peace:

PROVIDED that the total closure days in the licensing year shall not exceed fifteen - days in all or more than three days continuously at any one time:

PROVIDED FURTHER that if the Excise Commissioner is of the opinion that any particular shop or all shops in any particular area shall be dosed for a period exceeding fifteen days in a year or more than three days continuously at any one time, he may do so for reasons to be recorded.

CHAPTER IV

EXCISE REVENUE

26. Nature and components of excise revenue

Excise revenue shall be levied and recovered under the following heads, namely:—

(a) duty;

(b) licence fee;

(c) label registration fee;

(d) import or export fee.

27. Excise duty, countervailing duty and special duty

(1) There shall be levied and collected duty on all intoxicants which are produced, manufactured, transported or imported into Delhi at such rates as may be prescribed, not exceeding the rates set forth in the Schedule.

(2) There shall be levied and collected fees for terms, conditions and form of, and duration of, licence, permit and pass.

(3) In computing the retail price, notwithstanding anything contained in sub-section (1) of section 27, the duty shall be so increased and computed that the retail price is rounded off up to the next higher multiple of ten rupees, as notified by the Government and such increased duty shall be collected by the Government in the manner prescribed.

28. Power of Government **to** vary **duty**

(1) Where, in respect of any intoxicant, the Government is satisfied that the duty leviable thereon under section 27 of this Act should be increased or decreased and that circumstances exist which render it necessary to take immediate action, the Government may, by notification in the Official Gazette, direct an amendment of the Schedule to be made so as to substitute for the rate of duty specified in the Schedule in respect of such intoxicant.

(2) Every notification under sub-section (1) shall be laid before the Legislative Assembly, if it is sitting, as soon as may be after the issue of the notification, and, if it is not sitting, within seven days of its re-assembly, and the Government shall seek the approval of the Legislative Assembly to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the Legislative Assembly. If the Legislative Assembly makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

29. Recovery of **duty and other levies and lien on the property of defaulter (1) All** excise revenue, payable to the Government under this Act, may be recovered from the person liable to pay the same or his legal successors or from his surety or his agent as if they were the arrears of land revenue.

(2) In the event of default in payment of excise revenue or otherwise, by any persc licensed under this Act, his manufactory, warehouse, shop or premises and all fittings, apparatus, stocks of liquor or material for the manufacture of the same, held therein shall be liable to be attached towards any claim for excise revenue or in respect of any loss incurred by the Government through such default and be sold to satisfy such claim which shall be the first charge upon the proceeds of such sale.

(3) Where duty due is not levied or not paid or short-levied or short-paid or erroneously refunded,—

(a) the Assistant Commissioner may, within four years from the relevant date, serve notice on the person chargeable with the duty which has not been levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

Explanation I : Where the service of the notice is stayed by an order of the court, the period of such stay shall be excluded in computing the aforesaid period of four years.

Explanation II : For the purposes of this clause "relevant date" means— (i) in the case of intoxicants on which duty has not been levied or paid or has been short-levied or short-paid, the date on which the duty is to be paid under this Act or the rules made thereunder,

(ii) in a case where duty is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof,

(iii) in the case of intoxicants on which duty has been erroneously refunded, the date of such refund;

(b) the Assistant Commissioner shall, after considering the representation, if any, made by the person on whom notice is served under clause (a), determine the amount of duty due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

30. Interest payable for failure to pay excise revenue

If the excise revenue payable by a person under this Act or the rules made thereunder is not paid within time, he shall be liable to pay on the sum due, a simple interest at the rate of twelve percent per annum from the date next following the day on which such payment became due.

Explanation : Where the duty determined to be payable is reduced or increased by the appellate authority or court, the interest shall be payable on such reduced or increased amount of excise revenue, as the case may be.

31. Power to reduce or waive interest in certain cases

Notwithstanding anything contained in this Act, the Excise Commissioner may, on the application made in this behalf by a person, with the approval of the Government and after recording his reason for so doing, reduce or waive the amount of any interest payable by him under this Act if he is satisfied that—

(a) to do otherwise would cause genuine hardship to the person having regard to the circumstances of the case; and

(b) the person has co-operated in any proceeding for the recovery of any amount due from him.

Accounts and returns

Every licensee shall maintain such accounts and submit to the authorized officers such returns in such forms containing such particulars relating to stock, apparatus, duty, fee payable and paid to the Government and such other information at such intervals as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

33. Penalty for unlawful import, export, transport, manufacture, possession, sale, etc.

(1) Whoever, in contravention of provision of this Act or of any rule or order made or notification issued or of any licence, permit or pass, granted under this Act— •

(a) manufactures, imports, exports, transports or removes any intoxicant;

(b) constructs or works any manufactory or warehouse;

(c) bottles any liquor for purposes of sale;

(d) uses, keeps or has in his possession any material, still, utensil, implement or apparatus, whatsoever, for the purpose of manufacturing any intoxicant other than toddy or tari;

(e) possesses any material or film either with or without the Government logo or logo of any State or wrapper or any other thing in which liquor can be packed or any apparatus or implement or machine for the purpose of packing any liquor;

(f) sells any intoxicant, collects, possesses or buys any intoxicant beyond the prescribed quantity,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to one lath rupees.

34. Penalty for rendering denatured spirit fit for human consumption

Whoever renders or attempts to render fit for human consumption any spirit, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that such attempt has been made, shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to five years, and with fine, which may extend to two lath rupees.

35. **Penalty for mixing noxious substance with liquor**

Whoever mixes or permits to be mixed with any liquor sold or manufactured or possessed by him any noxious drug or any foreign ingredient likely to cause disability or grievous hurt or death to human beings, shall be punishable—

(a) if as a result of such an act, death is caused, with death or imprisonment for life and shall also be liable to fine which may extend to ten lakh rupees;

(b) if as a result of such an act, disability or grievous hurt is caused, with imprisonment for a term which shall not be less than six **years but which may extend to imprisonment for life, and with fine which may extend to five lakh rupees;**

(c) if as a result of such an act, any other consequential injury is caused to any person, with imprisonment for a term which may extend to one year and fine which may extend to two lakh fifty thousand rupees;

(d) if as a result of such an act, no injury is caused, with imprisonment which may extend to six months and fine which may extend to one lakh rupees.

Explanation : For the purpose of this section, the expression "grievous hurt" shall have the same meaning as in section 320 of the Indian Penal Code, 1860 (XLV of 1860).

36. Order to pay compensation

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) the court, when passing an order under this Act may, if it is satisfied that death or injury has been caused to any person due to consumption of liquor sold in any place, order the manufacturer and seller, whether or not he is convicted of an offence, to pay, by way of compensation, an amount not less than three lakh rupees to the legal representatives of each deceased or two lakh rupees to the person to whom grievous hurt has been caused, or twenty thousand rupees to the person for any other consequential injury:

PROVIDED that where the liquor is sold in a licensed shop, the liability to pay the compensation under this section shall be on the licensee.

(2) Any person aggrieved by an order under sub-section (1) may, within thirty days from the date of the order, prefer an appeal to the High Court:

PROVIDED that no appeal can be filed by the accused unless the amount ordered to be paid under sub-section (1) is deposited by him in the court:

PROVIDED FURTHER that the High Court may entertain appeal after expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

37. Penalty **for selling spurious liquor**

Whoever sells or keeps or exposes for sale as foreign liquor which he knows or has reason to believe to be Indian liquor shall be punishable with imprisonment which may extend to six months and fine which may extend to one lakh rupees.

38. Penalty for possession **of liquor unlawfully imported, non-duty paid,** etc.

Whoever has in his possession any liquor knowing the same to have been unlawfully imported, transported or manufactured or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months and fine which may extend to one lakh rupees.

39. Penalty for consumption of **liquor in chemist s shop**

(1) If a chemist, druggist, apothecary or keeper of a dispensary, allows any liquor which has not been bonafidely medicated for medicinal purposes to be consumed on his business premises by any person, he shall be punishable with fine which may extend to five thousand rupees.

(2) If a person consumes any such liquor on such premises, he shall be punishable with fine which may extend to two thousand rupees.

40. Penalty for consumption of liquor in public place

Whoever, in contravention of this Act or the rules, notification or order made thereunder—

(a) consumes liquor in a public place;

(b) consumes liquor in public place and creates nuisance;

(c) permits drunkenness or allows assembly of unsocial elements on the premises of liquor establishment,

shall be punishable,—

-^\ **(1) in** case of an offence falling under clause (a), with fine which may extend to five thousand rupees;

(2) in case of an offence falling under clause (b), with imprisonment for a term which may extend to three months and fine which may extend to ten thousand rupees;

(3) in case of an offence falling under clause (c), with imprisonment for a term which may extend to six months and fine up to fifty thousand rupees.

41. Penalty for uklawful advertisement

Whoever prints, publishes or gives an advertisement directly or indirectly in any media soliciting the use of any liquor, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten lath rupees, or with both:

PROVIDED that this section shall not apply to catalogue and price list and advertisement generally or specially approved by the Excise Commissioner for display at the points of sale for consumer information and education.

42. Penalty **for employing minors or selling liquor to minors**

(1) If any licence holder or any person acting on his behalf, sells or delivers any liquor to any person apparently under the age of twenty-five years, he shall be punishable with fine which may extend to ten thousand rupees.

(2) If a licence holder employs any person under the age of twenty-one years, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to fifty thousand rupees, or with both.

43. Penalty for assault and obstruction

Notwithstanding anything contained in the Indian Penal Code, 1860 (XLV cif 1860) any person who assaults or threatens to assault or obstructs or attempts to obstruct any excise officer in the discharge of his official duties shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.

44. Liability of employer for offence committed by his employee or agent

The holder of a licence or permit granted under this Act, as well as **the** actual offender, shall be liable for an offence committed by his employee or his agent, unless he proves that due and reasonable precautions were exercised by him to prevent commission of such offence.

45. Penalty for manufacture, sale or possession by one person on account of another (1) Where any intoxicant has been manufactured or sold or is possessed by any person on account of any other person and such other person knows or has, reason to believe thatsuch manufacture or sale was or that such possession is, on his account, the intoxicant shall, for the purposes of this Act, be deemed to have been manufactured or sold by or to be in the possession of such other person.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has in possession any intoxicant on account of another person, from liability to any punishment under this Act for unlawful manufacture, sale or possession of such intoxicant.

46. Penalty for non-payment of duty or fee

If any person fails to pay any duty or fee, which under this Act he is liable to pay, he shall be punishable with imprisonment for a term which may extend to one year and also **with fine which may extend to one lath rupees.**

47. Penalty for allowing premises, etc., **to be used for** commission of an offence Whoever, being a licensee under this Act and having the control or use of any-house, room, enclosure, space, animal, or conveyance, knowingly permits it to be used for commission by any other person of an offence punishable under any provision of this Act, shall be punishable in the same manner as if he had himself committed the said offence.

48. Penalty for attempt **to commit an** offence

Whoever attempts to commit an offence punishable under this Act, shall be liable for half the punishment provided for the offence under this Act.

49. Penalty on excise officer for making vexatious search, seizure, detention or arrest

Any excise officer or other person who vexatiously and without reasonable ground for suspicion—

(a) enters or searches or causes to be entered or searched any dosed place under colour of exercising any power conferred by this Act;

(b) seizes the movable property of any person on the pretext of seizing or searching for any article liable to confiscation under this Act;

(c) searches, detains or arrests any person;

(d) in any other way exceeds his lawful powers under this Act,

shall be liable to imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both.

50. Penalty on excise **officer refusing to do duty**

Any excise officer who, without lawful excuse, refuses to perform or withdraws himself from the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his official superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to ten thousand rupees, or with both.

51. Penalty for offences not otherwise provided for

Whoever does any act in contravention of any of the provisions of this Act or any rule or order made thereunder and punishment for which has not been otherwise provided for such contravention, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

52. Presumption as **to commission of offence in certain cases**

(1) In prosecution under section 33, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of any intoxicant, still, utensil, implement or apparatus, for the possession of which he is unable to account satisfactorily.

(2) Where any animal, vessel, cart or other vehicle is used in the commission of an offence under this Act, and is liable to confiscation, the owner thereof shall be deemed to be guilty of such offence and such owner shall be liable to be proceeded against and punished accordingly, unless he satisfies the court that he had exercised due care in the prevention of the commission of such an offence.

53. Enhanced punishment after previous conviction

If any person, after having been previously convicted of an offence punishable under this Act, subsequently commits and is convicted of an offence under this Act, he shall be liable to twice the punishment, provided for the first conviction.

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454., Power of court to implead manufacturer, etc.

Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any intoxicant, the court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then, the court may, notwithstanding anything contained in sub-section (3) of section 319 of the Code of Criminal Procedure, 1973 (2 of 1974), proceed against him under any section of this Chapter.

55. Magistrate s power to impose enhanced penalties

Notwithstanding anything contained in section 29 of the Code' of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate to pass any sentence, authorized by this Act, except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section.

56. Commission of offence by companies

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to, the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of offence, and shall be liable to be proceeded against and punished accordingly:

PROVIDED that where a company has different establishments or branches or different units in any establishment or branch, the concerned Chief Executive and the person in charge of such establishment, branch, unit nominated by the company as responsible for the conduct of the business shall be liable for contravention in respect of such establishment, branch or unit:

PROVIDED FURTHER that nothing 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 exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commix ion of the offence is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation : For the purpose of this section—

"company" means any body corporate and includes a firm or other association of individuals; and "director", in relation to firm, means a partner in the firm.

57. Compounding of certain offences

(1) Minor offences shall be compoundable under this Act.

(2) Any person who is reasonably suspected of having committed a minor offence under this Act, may apply to the Assistant Commissioner for compounding of the offence, before he is convicted.

(3) On receipt of such application, the Assistant Commissioner, having regard to the circumstances of the case, may in his discretion order for compounding of the offence on payment of a sum of money by way of compounding fee or compensation for the offence on such terms and conditions as he deems fit.

(4) On payment by the person such sum of money, such person, if in custody, shay be set at liberty and no proceeding shall be instituted or continued against such person in any criminal court:

PROVIDED that the sum of money fixed as compounding fee or compensation by the Assistant Commissioner under this section shall not be less than five times and not be more than ten times the duty, involved or value of intoxicant, apparatus, vehicle and other material, whichever is higher:

PROVIDED FURTHER that where intoxicant, apparatus, vehicle or other material is seized, the same shall not be released but shall be disposed of in such manner as may be prescribed.

58. Certain things liable **to confiscation**

Whenever an offence has been committed, which is punishable under this Act, following things shall be liable to confiscation, namely:—

(a) any intoxicant, material, still, utensil, implement, apparatus in respect of or by means of which such offence has been committed;

(b) any intoxicant unlawfully imported, transported, manufactured, sold or brought along with or in addition to, any intoxicant, liable to confiscation under clause (a);

(c) any receptacle, package, or covering in which anything liable to confiscation under clause (a) or clause (b), is found, and the other contents, if any, of such receptacle, package, or covering;

(d) any animal, vehicle, vessel, or other conveyance used for carrying the same.

59. Confiscation by Deputy **Commissioner in certain cases**

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, where anything liable for confiscation under section 58 is seized or detained under the provisions Of this Act, the officer seizing and detaining such property shall, without any unreasonable delay, produce the said seized property before the Deputy Commissioner.

(2) On production of the said seized property under sub-section (1), the Deputy Commissioner if satisfied that an offence under this Act has been committed may, whether or not prosecution is instituted for the commission of such an offence, order confiscation of such property, otherwise he may order its return to the rightful owner.

(3) While making an order of confiscation under sub-section (2), the Deputy Commissioner may also order that such of the operties to which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed. Whenever any confiscated article has to be destroyed in conformity with these provisions, it shall be destroyed in the presence of the excise officer not below the rank of an inspector.

(4) Where the Deputy Commissioner, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction or dispose it of otherwise.

(5) When an order for confiscation of any property has been passed under section 59 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

(6) The Deputy Commissioner shall submit a report of all particulars of confiscation to the Excise Commissioner within one month of such confiscation.

(7) Any intoxicant, mahua flowers or molasses and any other property if confiscated in a case compounded under section 57 of the Act or in respect of which an offence has been committed and the offender is not known or cannot be found, shall be disposed of in the manner as prescribed.

60. Order of confiscation and destruction not to interfere with other punishment (1) The order of confiscation under section 58 shall not prevent imposition of any other punishment to which a person is liable under this Act.

(2) Notwithstanding anything contained in any other law for the time being in force, the disposal of confiscated goods in the manner, thereby non-production of case property before the trial court, shall not affect the conviction for an offence under this Act:

PROVIDED that the samples of the intoxicants and the photographs of the confiscated property may be preserved to meet the evidentiary requirements.

61. Bar of jurisdiction in confiscation

Whenevei any intoxicant, material, still, utensil, implement, apparatus or any receptacle, package, vessel, animal, cart, or other conveyance used in committing any offence, is seized or detained under this Act, no court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, have jurisdiction to make any order with regard to such property.

62. Relevancy of statements under certain circumstances

(1) A statement made and signed by a person before any gazetted excise officer, during the course of an inquiry or proceeding under this Act, shall be relevant for the purpose of proving, in any prosecution for an offence under this Act, the truth of the fact which it contains,—

(a) when the person who made the statement is dead or cannot be found or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of opinion that having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

(2) The provisions of sub-section (1) shall so far as may be, apply in relation to any proceeding under this Act, other than proceeding before a court, as they apply in relation to a proceeding before a court.

CHAPTER VI

DETENTION, INVESTIGATION AND TRIAL OF OFFENCES

63. Power to obtain information

The Excise Commissioner or any authorized excise officer may by order, require any

person or any establishment deemed reasonably connected with any unlawful handling of any intoxicant to furnish to him such information as may be specified in the order.

64. Landholders, officers and others to give information

(1) Whenever any liquor is manufactured, imported, exported, transported, collected, possessed or sold in contravention of this Act, the owner or occupier of the land or building or his agent, and every officer of police, land revenue department, local bodies and block development office shall, in the absence of reasonable excuse, be bound to give notice of the fact to an officer of the excise department as soon as the fact comes to his knowledge.

(2) Every person referred to in sub-section (1) shall be bound to assist the' excise officers in carrying out the provisions of this Act.

(3) Every excise officer shall be bound to give immediate information to the Deputy Commissioner, of all breaches of any of the provisions of this Act, which may come to his knowledge under sub-section (1) or otherwise.

65. Power of arrest, search and seizures

(1) Any excise officer, may search any place, seize any article and arrest or detain any person if there is a reasonable doubt about them being involved in the commission of an offence under this Act:

PROVIDED that no search shall be deemed to be irregular by reason only of the fact that witness for the search is not inhabitant of the locality in which the place searched is situated.

(2) Save as otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search, seizure, arrest, detention, summons and investigation shall apply, as far as may be, to all actions taken in these respects under this Act.

66. Duty of police to accept seized articles

Every officer-in-charge of a police station shall take charge of and keep in safe custody, pending the order of the Magistrate or the Deputy Commissioner, all articles seized under this Act which may be delivered to him and shall allow the excise officer who may accompany such articles, to affix his seal to such articles and to take samples of and from them.

67. Offences **under this Act to be cognizable**

All major offences under this Act shall be cognizable and the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to them.

68. Certain offences to be non-bailable

All offences punishable under this Act with imprisonment of two years and more, shall be non-bailable and the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) with respect to non-bailable offences, shall apply to those offences.

69. Power of court to try cases summarily

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act punishable with fine or with imprisonment for a term not exceeding three years shall be tried in a summary way by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall as far as may be, apply to such trial:

PROVIDED that in the case of any conviction in a summary trial under this section, it shall be lawful for the Metropolitan Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

PROVIDED FURTHER that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Metropolitan Magistrate that the

nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Metropolitan Magistrate shall, after hearing the parties, record an order to that effect

and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

70. Security **for good conduct and abstaining from committing offences**

(1) Whenever any person is convicted of an offence punishable under this Act and the court convicting him is of opinion that such person habitually commits or attempts or commit, or abets the commission of any such offence and that it is necessary to require such person to execute a bond for abstaining from the commission of any such offence, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offence during such period, not exceeding three years, as it thinks fit to fix.

form in terms of the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and shall insofar as they are applicable, apply to all matters connected with such bond to as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an Appellate Court or by the High Court when exercising its power of revision.

CHAPTER VII
REVIEW, APPEAL AND REVISION

71. Review

Any excise officer making an order under this Act may, within sixty days on his own motion or on an application, review his order, if the order contains some error or omission apparent in such order:

PROVIDED that order shall not be reviewed except after giving a reasonable opportunity of being heard to the person affected by that order.

72. Appeal

(1) Any person aggrieved by any decision or order passed under this Act by an excise officer, subordinate to the Deputy Commissioner, may appeal to the Deputy Commissioner.

(2) Any person aggrieved by any decision or order passed under this Act by the Deputy Commissioner may appeal to the Excise Commissioner.

(3) Any person aggrieved by any decision or order passed under this Act by the Excise Commissioner may appeal to the Financial Commissioner.

(4) Such appeal shall be filed within thirty days from the date of communication of such decision or order together with self-attested copy thereof:

PROVIDED that a further period of thirty days may be allowed if the appellant establishes that sufficient cause prevented him from presenting the appeal within the aforesaid period of thirty days.

(5) At the hearing of an appeal, an appellant may be allowed to go into any ground not specified in the grounds of appeal or take additional evidence, if necessary, if it is established that such omission was not wilful or unreasonable.

(6) The appellate authority, after making *such* further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order, as the case may be.

(7) The appeal shall be heard and decided within one year from the date on which such appeal is filed:

PROVIDED that if an appeal is not decided within one year the relief prayed for in the appeal shall be deemed to have been granted.

73. Order of appellate authority

(1) The order of the appellate authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(2) The appellate authority shall communicate the order passed by him to the appellant and the excise officer whose order formed the subject matter of appeal.

74. Deposit of excise revenue before filing appeal

(1) Where the decision or order appealed against under this Chapter relates to any duty, fee or penalty levied under this Act, the person desirous of appealing against such decision or order shall produce satisfactory proof of the payment of the excise revenue before filing the appeal.

(2) Where in any particular case, the appellate authority is of opinion that the appellant has a *prima facie* case in his favour and deposit of duty, fee or penalty levied would cause undue hardship to such person, the appellate authority, on an application from the appellant, may dispense with such deposit and stay its recovery subject to furnishing to such security and to such conditions as he may deem fit to impose, so as to safeguard the interest of revenue:

PROVIDED that no appeal shall be entertained by the appellate authority, unless it is satisfied that such amount of excise revenue, as the appellant may admit to be due from him, has been paid.

(3) Where an application is filed for dispensing with the deposit of excise revenue levied under sub-section (2), the appellate authority shall, where it is possible to do so, decide such application within thirty days from the date of its filing.

(4) Notwithstanding anything contained in sub-section (1), no recovery action shall be initiated against the appellant until the application under sub-section (2) has been decided by the appellate authority.

75. Revision of orders by Excise Commissioner

(1) The Excise Commissioner may, on his own motion, call for the record of any proceeding in which an officer subordinate to him has taken any decision or passed an order under this Act, including those related to the grant, issue or refusal to grant a licence, for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may make such inquiry or cause such inquiry to be made and, subject to the provision of this Chapter, pass such order thereon as he thinks fit.

(2) No order, which is prejudicial to any person shall be passed under this section unless the person has been given an opportunity of being heard.

(3) The Excise Commissioner shall communicate the order passed by him under sub-section (1) to such person and the excise officer whose order formed the subject matter of revision.

(4) No order under this section shall be passed by the Excise Commissioner in respect of any issue if an appeal against such issue is pending before the Deputy Commissioner.

(5) No order under this section shall be passed after the expiry of six months from the date on which the order sought to be revised has been passed.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

76. Power of Government to declare what shall be deemed to be liquor

The Government may, by notification, declare as to what shall be deemed to be liquor for the purpose of this Act or the rules framed thereunder.

77. Power of Government to regulate drinking and to enforce prohibition

The Government may issue such order and take such measures as may be deemed appropriate to regulate drinking or to enforce prohibition in whole or in any part of Delhi.

78. Power of Government to regulate molasses, black jaggery, mahua flower, etc. to prevent misuse

The Government may frame rules to regulate movement, possession and sale of molasses, black jaggery, mahua flower, etc., indicating terms and conditions as are necessary and expedient to prevent their misuse for illicit distillation.

79. Power to regulate advertisement

No advertisement, direct or surrogate, shall be made for promoting consumption of liquor. The Excise Commissioner may, however, at his discretion allow such advertisement which is educative and promotes responsible drinking.

80. Bar and limitation of certain suits

No suit for damages shall lie in hny civil court against the Government or any officer or person for any act done in good faith, in pursuance of this Act or of any other law for the time being in force relating to the excise revenue.

81. Power of Government to make rules

(1) The Government may by notification make rules not inconsistent with the provisions of this Act to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) prescribing the powers and duties of excise officers and delegation of power;

(b) prescribing the time and mariner of presenting appeals and the procedure for prosecuting and dealing with review, appeal and revision;

(c) regulating import, export, transport, manufacture, collection, possession, supply or storage of any intoxicant, mahua flower, black jaggery and molasses;

(d) regulating the sale and possession of toddy, neera or taxi and tapping of trees for drawing toddy or tart

(e) declaring the process of denaturation of spirit;

(f) regulating the wholesale or retail sale of intoxicants;

(g) regulating the time, place, rate and manner of payment of duty or fee and the taking of security for its due payment;

(h) prescribing the authority by which, the form and the manner in which, and the terms and conditions, subject to which any licence, permit or pass shall be granted;

(i) providing for the deitruction or other disposal of any liquor deemed to be unfit for use;

(j) regulating disposal of confiscated articles;

(k) providing for the grant of reward to excise officers and informers;

(1) regulating the grant of expenses to witnesses;

(m) regulating the power of excise officer to summon witnesses;

(n) curbing activities of boot-leggers who distill, manufacture, store, transport, import, export, sell or distribute any intoxicant in contravention of any provision of this Act or the rules made thereunder;

(o) any other matter which is required to be, or may be prescribed under this Act.

(3) Without prejudice to any provision made in this behalf, any rule made under this Act may be made so'as to be retrospective to any date not earlier than the date of commencement of this Act:

PROVIDED that no rule shall be given effect retrospectively if it would have the effect of prejudicially affecting the interest of a person.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid the Legislative Assembly agrees in making any

modification in the rule or the Legislative Assembly agrees that the rule should not be made, the rules shall have effect only in such modified form or be of no effect, as the case maybe; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

82. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be for removing the

difficulty:

PROVIDED that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be after it is made before the Legislative Assembly.

83. Repeal and savings

Immediately with effect from the date on which this Act comes into force, the Punjab Excise Act, 1914 (1 of 1914) as in force in the National Capital Territory of Delhi shall stand repealed, provided that the repeal shall not affect—

(a) the previous operation of the Act under repeal;

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed under the Act under repeal;

(c) any investigation or remedy in respect of any such penalty, forfeiture on punishment;

(d) any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

PROVIDED that subject to the preceding provisions, anything done or any action taken under the Act under repeal, shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

SCHEDULE

(Refer section 27)

S. No.	*Description of intoxicants*	*Rate*
1	2	3
1.	Indian Liquor and Foreign Liquor	400 per cent of the wholesale price.
2.	Wine and Liqueur (Indian and Foreign)	80 per cent of the wholesale price.
3.	Beer and Cider (Indian and Foreign)	200 per cent of the wholesale price.
4.	Country Liquor	250 per cent of the wholesale price.
5.	Spirituous Preparations, including essence, but other than Medicinal and Toilet preparations, as defined in the Medicinal and Toilet (Excise Duties) Act, 1955 (16 of	20 per cent of the wholesale price.
6.	Shang	Rs. 5.00 per kilogram.