GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS
DEPARTMENT

BOMBAY ACT No. XXV OF 1949

The Gujarat Prohibition Act, 1949

(As modifi ed upto the 30th May, 2014)

Printed in India by the Manager, Government Press,
Vadodara, published By the Director, Government Printing, Publications and Stationery, Gujarat State.

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THE GUJARAT PROHIBITION ACT, 1949.

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BOMBAY ACT No. XXV OF 1949.[1]

[THE[2][GUJARAT] PROHIBITION ACT, 1949]+

[20th May 1949.]

Adapted and modifi ed by the Adaptation of Laws, Order, 1950.

Amended by Bom. 28 of 1950.
,, ,, ,, ,, 26 of 1952.
,, ,, ,, ,, 18 of 1953.
,, ,, ,, ,, 67 of 1953.
,, ,, ,, ,, 21 of 1954.
,, ,, ,, ,, 36 of 1954.
,, ,, ,, ,, 64 of 1954.
,, ,, ,, ,, 20 of 1955.

Adapted and modifi ed by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Amended by Bom. 12 of 1959.
,, ,, ,, ,, 22 of 1960.

Adapted and modifi ed by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Guj. 16 of 1964.
,, ,, ,, ,, 09 of 1978.
,, ,, ,, ,, 21 of 2003.
,, ,, ,, ,, 27 of 2003.
,, ,, ,, ,, 07 of 2005.
,, ,, ,, ,, 15 of 2011.
,, ,, ,, ,, 29 of 2011.

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of prohibition and also the Abkari law in the [3][State]

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition; and whereas it is also necessary to amend and consolidate the Abkari law in the [3][State] of Bombay for the said purpose and to provides for certain other purposes hereinafter appearing; It is hereby enacted as follows.

CHAPTER 1

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be cited as the [2][Gujarat] Prohibition Act. 1949.

[4][(2) It extends to the whole of the [5][State of Gujarat].]

+ This Act was extended to these areas of the State of Bombay to which immediately before the commencement of Bom. 12 of 1959, it did not extend (*vide* Bom. 12 of the 1959, s.2).

2. This word was and was deemed to have been substituted on 1st May, 1960 for the word "Bombay" by Guj. 15 of 2011, s.3, sch., Sr. No. 32.

3. This word was substituted for the word "Province" by Bom. 12 of 1959, s. 4.

4. This sub-section wassub stituted *ibid,* s. 5 (a).

5. These words ware substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

H-2065—1

(3) It shall come into force [1][in the area comprising the Pre-Reorganisation State of Bombay] on such date as the [2][State] Government may by notifi cation in the *Offi cial Gazette*[3][Specify.

Bom. XII of 1959.

In those areas of the State to which it is extended by the Bombay Prohibition Extension and Amendment) Act, 1959, it shall come into force on such other date as that Government may, by like notifi cation, appoint ;

Bom. XII of 1959.

[4][* * * *]

[5][* * * *]].

*[6][(4) On the commencement of this Act in the manner provided in sub-section (3), in any area to which this Act is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, all rules, regulations, orders and notifi cations made or issued or deemed to be made or issued under this Act and in force in the pre-Reorganisation State of Bombay excluding the transferred territories immediately before such commencement, shall also extend to, and be in force in, that area.]

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

(1) "authorization" means an authorization granted under section 45 for the use of liquor for sacramental purposes ;

(2) "to bottle" with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, fl ask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not bottling includes re-bottling ;

[7][* * * *]

[8][(4) "Collector" includes an offi cer appointed by the State Government to exerciseall or any of the powers and to perform all or any of the duties or functions of a Collector under this Act ;

(5) "Director" means an offi cer appointed as the Director of Prohibition and Excise under section 3, and includes any offi cer on whom the State Government may confer all or any of the powers of the Director under this Act;]

(6) "committee [9][or board]" means [10][a committee or board] appointed by the [11][State] Government under section 7 ;

(7) "common drinking house" means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profi t or gain of the person owning, occupying, using, keeping or having the care or management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever and includes the premises of a club or any other place which is habitually used for the purpose of drinking liqour or consuming any intoxicating drug by more than one person without a licence granted under this Act ;

(8) "country liquor" includes all liquor produced or manufactured in India;

1. These words were inserted by Bom. 12 of 1959 s. 5 *(b) (i).*
2. This word was substituted for the word ''Provincial" by the Adaptation of Laws Order, 1950. 3. This portion was substituted for the word "specify" by Bom. 12 of 1959 s. 5 (b) (ii).
4. This proviso was omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
5. This Explanation to sub-section (3) was omitted, *ibid.*
6. This sub-section was added by Bom. 12 of 1959, s. 5*(c)*.
7. Clause (3) was deleted by Bom. 22 of 1960, s. 2*(a).*
8. These clauses were substituted by Bom. 12 of 1959, s. 6*(a).*
9. These words were inserted by Bom. 22 of 1960, s. 2*(b).*
10. These words were substituted for the words "any of the committees", *ibid*.
11. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950. *Sub-section (4) of section 1 shall stand unmodifi ed vide the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[1][(9) "cultivation" means raising a plant from seed and includes the tending or protecting of a plant during its growth;]

(10) "denatured" means subjected to a process prescribed for the purpose of rendering unfi t for human consumption;

[2][(10a) "denatured spirituous preparation" means [3][any liquid preparation made with and containing denatured spirit] [4][or denatured alcohol] and includes lacquers, French polish, and varnish prepared out of such spirit or alcohol ;]

[5][* * * *]

(12) "to drink" with its grammatical variations, means to drink liquor or to consume any intoxicating drug;

(13) "excisable article" means —

(a) any alcoholic liquor for human consumption,

(b) an intoxicating drug [6][or hemp],

(c) opium,

[7][(d) other narcotic drugs and narcotics which the State Government may, by notifi cation in the *Offi cial Gazette*, declare to be an excisable article;]

(14) "excise duty" and "countervailing duty" means such excise duty or countervailing duty, as the case may be, as is mentioned in [8][entry 51 in List II in the Seventh Schedule to the Constitution;]

(15) "excise revenue" means revenue derived or derivable from any duty, fee, tax, fi ne (other than a fi ne imposed by a court of law) or confi scation or forfeiture imposed or ordered under the provisions of this Act, or of any other law for the time being inforce relating to intoxicants;

(16) "export" (except in section 147) means to take out of the [9][State] otherwise than across a customs frontier [10] * * *

(17) "Foreign liquor" [11][means all liquor " or produced or manufactured outside India] :

Provided that the [12][State] Government may, by notifi cation in the *Offi cial Gazette,* declare that any specifi ed description of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor ;

(18) "hemp" means any variety of the Indian hemp plant from which intoxicating drugs can be produced;

(19) "hotel licence" means a licence granted under section 35 :

[13][(19*a*) "household" means a group of persons residing and messing jointly as members of one domestic unit, but does not include their servants];

(20) "import" (except in section 147) means to bring into the [9][State] otherwise than across a custom frontier [10]* * * * *;

1. This clause was substituted by Bom. 22 of 1960, s. 2(c).
2. Clause (10a) was inserted by Bom. 36 of 1954, s. 2.
3. These words were substituted for the words "any preparation made with denatured spirit" by Guj. 16 of 1964, s. 2.
4. These words were substituted for the words "or alcohol" by Bom. 22 of 1960, s. 2 (d).
5. Clause (11) was deleted, *ibid*., s. 2 (e).
6. These words were added, *ibid*.,s. 2. (*f*).
7. This clause was substituted for clauses (d) and (e), *ibid*.
8. This portion was substituted for the portion "Item 40 in List II in the Seventh Schedule to the Government of India Act, 1935" by the Adaptation of Laws Order, 1950.
9. This word was substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.

10. The words "as defi ned by the Dominion Government" were deleted by Bom. 26 of 1952.s. 2(1). 11. These words were substituted for the words "includes all liquor brought into India by sea, air or land" by Bom. 22 of 1960, s.2 (g).
12. This words was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
13. This clause was inserted by Bom. 22 of 1960, S. 2 (h).

(21) "interim permit" means a permit granted under section 47 ;

(22) "intoxicant" means any liquor, intoxicating drug, opium or any other substance which the [1][State] Government may, by notifi cation in the *Offi cial Gazette,* declare to be an intoxicant ;

(23) "Intoxicating drugs" means —

(*a*) the leaves, small stalks and fl owering or fruiting tops of the Indian hemp plant (Cannabis Sativa L,) including all forms known as *bhang,sidhi* or *ganja ;*

[2][*(b*) *Charas,* that is, the separated resin, whether crude or purifi ed obtained from cannabis plant];

(*c*) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared thereform ;[3]*

[4][(*d*) any other intoxicating or narcotic drug or substance together with every preparation or admixture of the same which the State Government may by notifi ca-tion in the *Offi cial Gazette*, declare to be an intoxicating drug for the purposes of the Act, such drug, substance, preparation or admixture not being opium, cocaum leaf or a manufactured drug as defi ned in section 2 of the Dangerous Drug Act, 1930 ;] II of 1930

[5][(23A) "Laththa" means spurious liquor, which contains methanol or any other poisonous substances, which may cause harmful or injurious effects to the human body or death of a person;]

(24) "liquor" includes—

(a) [6][Spirits], [7][denatured spirits] wine, beer, toddy and all liquids consisting of or containing alcohol and

(b) any other intoxicating substance which the [1][State] Government may, by notifi cation in the *Offi cial Gazette*, declare to be liquor for the purposes of this Act ;

(25) "manufacture" includes—

(a) every process whether natural or artifi cial by which any liquor or intox-icating drug is produced, prepared or blended and also redistilation and every process for the [8][rectifi cation, fl avouring, or colouring of iliquor or intoxicating drug], but does not include fl avouring, blending or colouring of liquor or intoxicanting drug lawfully possessed for private consumption ; and

(b) every procesing of producing and drawing of toddy from trees ;

(26) "Medical Board" means a board constituted under section 8 ;

(27) "mhowra fl ower" does not include the berry or seed of the mhowra tree ;

(28) "molasses" means the heavy, dark coloured [9][viscous liquid produced] in the fi nal stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, [10][and includes the solid form of such liquid and also any product formed by the addition to such liquid or solid of any ingredient which does not substan-tially alter the character of such liquid or solid but does not include any article which the [1][State] Government may, by notifi cation in the *Offi cial Gazette*, declare not to be molasses, for the pruposes of this Act ;

1. This word was substituted for the word "Provincial' by the Adaptation of Laws Order 1950.
2. This sub-clause was substituted by Guj. 9 of 1978, s. 2 (1).
3. The word "and" was deleted by Bom. 26 of 1952 s. 2(2) (a).
4. Clause (d) was subsituted for the original clause with the proviso, *ibid*. s. 2(2) (b).
5. Clause (23A) was inserted by Guj. 29 of 2011, s. 2.
6. This word was substituted for the words "spirits of wine" by Bom. 22 of 1960, s.2(l).
7. These words were substituted for the words "methylated spirits" by Bom. 26 of 1952 s. 2(2).
8. These words were substituted for the words "rectifi cation of liquor" by Bom. 22 of 1960, s. 2 (*j*). 9. These words were substituted for the words "residual syrup drained away", *ibid*, s. 2(*K*)*(i)*.

10. These words were substituted for the words beginning with the words "and includes" and ending with the words "alter the character of such syrup", *ibid. s.2(k) (ii).*

(29) "Offi cer in charge of a Police Station" includes—

[1][* * * * *]

(b) [2][**] the offi cer in charge of a police station as defi ned in the Code of Criminal Procedure, 1898 ; v of 1898.

(30) "opium " means—

(a) the capsules of the poppy (Papaver Somniforum L,) [3][whether in their original form or cut or crushed or powdered and whether or not the juice has been extracted there from] ;

(b) the spontaneously coagulated juice of such capsules [4][* * * * *] ; and

(c) any mixture with or without neutral materials of any of the above forms of opium ;

but does not include any preparations containing not more than 0.2 per cent. of morphine, or a manufactured drug as defi ned in section 2 of the Dangerous Drugs Act, 1930 ; II of 1930.

[5][* * * * * *]

(32) "permit" means a permit granted under [6][the provisions of this Act] and the expression "permit holder" shall be construed accordingly;

(33) "police station" means [7][* * * * * *] any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1898 ; V of 1898.

(34) "prescribed" means prescribed by the rules, orders or regulations under this Act ;

(35) "Prohibition offi cer" includes the [8][Director], Collector or any offi cer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of tlis Act [9][and also includes any offi cer or person invested with any such powers and on whom any such functions or duties are imposed, and any member of a committee, board or medical board] ;

[10][(36) "State" means the [11][State of Gujarat], including the space within the limits of the territorial waters appertaining to it;]

[12][(37) "rectifi cation" includes every process whereby liquor is purifi ed or refi ned;]

XVI of 1948. Bom LXV III of 1953

[13][(38) "registered medical practitioner" means a person who is entitled to practise any system of medicine in the State under any law for the time being in force relating to medical practitioners, and includes registered dentists as defi ned in the Dentists Act, 1948 and a veterinary practitioner registered under the Bombay Veterinary Practitioner Act, 1953 or under any law corresponding thereto in any part of the State;]

1. Sub-clause (a) was omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2. The word "elsewhere" was omitted, *ibid*.

3. These words were added by Bom. 22 of 1960 s. 2(1).

4. The words "which has not been submitted to any manipulation other than those necessary for packing and transport" were deleted by Guj. 9 of 1978, s. 2(2).

5. Clause (31) was deleted by Bom. 22 of 1960, s. 2 (m).

6. These words were substituted for the words and fi gures'"section 40, 41, 46 or 47" by Bom. 26 of 1952, s. 2 (4). 7. The words and fi gures "in the Greater Bombay a police section as provided under the provisions of the Bombay Police Act, 1951 and elsewhere" were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

8. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

9. These words were substituted for the words "and also includes any member of a committee or the Medical Board" by Bom. 22 of 1960, s. 2 (n).

10. This clause was substituted by Bom. 12 of 1959, s. 6 (*c*).
11. These words were substituted for the words •' State of Bombay" by the Gujarat Adpatation of Laws (State and Concurrent Subjects) Order, 1960.
12. This clause was substituted by Bom. 22 of 1960, s. 2 (*o*)
13. This clause was substituted by Bom. 12 of 1959. s. 6 (d).

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(39) "regulations" means regulations made under this Act ;

1[(39A) " rotten gur" means the article known as gur, gul, jaggery, palmyra jaggery or rab and other intermediary product prepared by boiling or processing juice pressed out of sugar cane or extracted from palmyra palm, date palm ,sago palm, barb palm or coconut palm with or without admixture of molasse and which is in a liquid form or a semi-liquid or viscous form and which has a dark brown or a black colour or which, inspite of being in a solid liquid, semi-liquid or viscous form, is unfi t for human consumption owing to its becoming fi lthy, putrid, disgusting or decomposed 2 ["and shall include on chemical analysis, if it contains-

(i) total sugar (expressed as invert sugar) less than 90 per cent. and sucrose less than 60 per cent., or

(ii) extraneous matter insoluble in water more than 2 per cent., or

(iii) total ash more than 6 per cent., or

(iv) ash insoluble in by hydrochloric acid (HCL) more than 0.5 per cent., or (v) more than 10 per cent. of moisture, or

(vi) sulphur dioxide in concentration exceeding 70 parts per million ;] (40) "rules" means rules made under this Act;

(41) "sell" with its grammatical variations includes—

(a) any transfer whether such transfer is for any consideration or not, (b) any supply or distribution for mutual accommodation, and (c) any supply by a club to its members on payment of price or of any fees or subscription, but does not include selling of opium for export across the customs frontier 3[* * * *];

The word "buy" with its grammatical variations shall be construed accordingly ;

4[* * * * *]

(43) "spirit" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not) ;

(44) "sweet toddy or nira or neera" means unfermented juice drawn from a cocoa-nut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation;

5[(45) "territorial waters" with referenee to the State, means any part of the open sea within a distance of twelve nautical miles from the nearest point of the appropriate base line or such other distance as may be fi xed by or under any law made by Parliament ;] (46) "toddy" means fermented or unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera;

(47) "to tap" means to prepare any part of a tree, or to use any means, for the pur-pose of causing juice to exude from the tree;

1. Clause (39A) was inserted by Gui. 9 of 1978, s. 2 (3).
2. This portion was added at the end by Guj. 27 of 2003, s. 2
3. The words "as defi ned by the Dominion Government" were deleted by Bom. 26 of 1952, s. 2(1).
4. Clause (42) was deleted by Bom. 22 of 1960, s. 2 (*p*).
5. This clause was substituted by Guj. 9 of 1978, s. 2 (4).

1[(47A) "tourist" means a person who is not a citizen of India and who is either born or brought up or domiciled in any country outside India, but who visits India on a tour for a temporary period ;

(47B) "tourist's permit" means a permit granted under section 46-A;]

(48) "trade and import licence" means a licence granted under section 33;

(49) "transport" means to move from one place to another within the 2[3[(State)]];

(50) "vendor's licence" means a licence granted under section 34;

(51) "visitor's permit" means a permit granted under section 46;

V of 1898. Bom. VI of 1933. Bom. XXI of 1951.

[4][(52) any reference to the Code of Criminal Procedure, 1898, the Bombay Village Panchayats Act, 1933, or the Bombay Police Act, 1951, includes a reference to any law corresponding to those Acts respectively, in force in any part of the State.]

CHAPTER II.

ESTABLISHMENT.

[6][Director of Prohibition and Exise]

3. The [5][state] Government may, by notifi cation in the *Offi cial Gazette*, appoint an offi cer to be called the [6][Director of Prohibition and Excise], who, subject to the control of the [5][State] Government and subject to such general or special orders as the Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act :

Bom. XII of 1959.

[7][Provided that the person holding the offi ce of Director of Excise and Prohibition immediately before the commencement of the Bombay Prohibition (Extension and Amendment) Act, 1959, shall be the Director of Prohibition and Excise for the State and shall hold that offi ce until the State Government otherwise directs; and accordingly, any reference by whatever form of words to ‘’the Director of Excise and Prohibition” in any law for the time being in force, or in any instrument or document, shall be construed as a reference to the Director of Prohibition and Excise, and all proceedings pending before the Director of Excise and Pohibition shall be deemed to be transferred to the Director of Prohibition and Excise for disposal according to law, and if in any legal proceeding pending before any court, tribunal or authority, the Director of Excise and Prohibition is a party, the Director of Prohibition and Excise shall be substituted as a party to those proceedings].

Collectors.

4. *(1)* The Collectors shall, within the limits of their jurisdiction [8][** * * * *] exercise such powers and perform such duties and functions as are provided by or under the provisions of this Act.

(2) For the purposes of this Act all Collectors [9][* * *] Shall be subordinate to the [10][Director].

1. Clauses (47A) and (47B) were inserted by Bom. 20 of 1955, s. 2.
2. The words “Pre-Reorganisation State of Bombay excluding the transferred territories”. were subsitituted for the word “State” by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
3. This word was substituted for the words ‘Pre-Reorganisation State of Bombay excluding the transferred territories” by Bom. 12 of 1959, s. 3.
4. This clause was added, *ibid*., s. 6(f).
5. This word was substituted for the word ‘Provincial by the Adaptation of Laws Order, 1950.
6. These words were substituted for the words “Director of Excise and Prohibition” by Bom. 12 of 1959, s. 7 (*a*).
7. This proviso was subsititued, *ibid*, s. 7 (b).
8. The words and fi gures “for which they are appointed as Collectors under the Bombay Land Revenue Code, 1879” were deleted *ibid.*, s. 8 (*a*).
9. The words “including the Colletor of Bombay” were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
10. This word was substituted for the word “Commissioner” by Bom. 28 of 1950. sch.

(3) The [1][State] Government may, by notifi cation in the *Offi cial Gazette*, appoint any person other than the Collector [2][***] to exercise in any district or place [3][all or any of the powers and perform all or any of the duties] and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the [4][Director] and of the [1][State] Government, as the [1][State] Government may from time to time direct.

Subordinate offi cers.

5. To aid the [4][Director] and the Collectors in carrying out the provisions of this Act, the [1][State] Government may appoint such subordinate offi cers with such designations and assign to them such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary.

Investigating

6. (*1*) The [1][State] Government may invest any offi cer of the Police depart-

offi cers of [6][Police and] other department with power and duties under

ment or any offi cers of any other department, either personally or in right of his offi ce with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such offi cers shall, thereupon, exercise the said powers, discharge the said duties and perform the said functions in addition to the powers, duties and functions his principal offi ce.

(2) The [1][State] Government may also invest any person [5][****] with such powers, impose on him such duties and direct him to perform such functions under this Act, rules, or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designations as the [1][State] Government may deem fi t.

Board of Experts.

[7][6A.[8][(1)[9][For the purpose of enabling the State Government to determine] whether —

(a) any medicinal or toilet preparation containing alcohol, or

(b) any antiseptic preparation or solution containing alcohol, or,

(c) any fl avouring extract, essence or syrup containing alcohol,

[10][is an article fi t for use as intoxicating liquor, the State Government shall constitute a Board of Experts]].

(2) The Board of Experts constituted under sub-section (1) shall consist of such members, not less than [11][fi ve in number], with such qualifi cations as may be prescribed. The members so appointed shall hold offi ce during the pleasure of the State Government.

(3) [12][Three members] shall form a quorum for the disposal of the business of the Board.

(4) Any vacancy of the member of the Board shall be fi lled in as early as practicable :

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

(5) The procedure regarding the work of the Board shall be such as may be prescribed.

1. This word was substitated for the word “Provincial” by the Adaptation of Laws Order, 1950.
2. This words “of land revenue” were deleted by Bom. 12 of 1959, s. 8 (*b*) (*i*).
3. These words were substituted for the words “all the powers and perform all the duties”, *ibid*., s. 8 (*b*) (*ii*).
4. This word was substituted for the word “Commissioner” by Bom. 28 of 1950. sch.
5. The words “working in an honorary capacity or otherwise” were deleted by Bom. 22 of 1960, s. 3 (*a*).
6. The words “Police and” shall be inserted, *ibid., s.3(6)*.
7. Section 6A was inserted by Bom. 26 of 1952, s. 3.
8. Sub-section (1) was substituted for the original by Bom. 36 of 1954, s. 3 (*i*).
9. These woids were substituted for the words “For the purpose of determining” by Bom. 22 of I960, s. 4 (*a*).
10. These words were substituted for the words “is or is not an article unfi t for use as intoxicaiing liquor, the State Government shall constitute a Board of Experts’”, *ibid*.
11. These words were substituted for the words, ‘’three in number”, *ibid*, s. 4(*b*).
12. These words were substituted for the words “Two members”., *ibid*, s. 4(*c*).

[1][*(6)* It shall be the duty of the Board to advise the State Government on the question whether any article mentioned in sub-section (1) is fi t for use as intoxicating liquor and also on any matters incidental to the question, referred to it by the State Government. On obtaining such advice, the State Government shall determine whether any such article is fi t for use as intoxicating liquor and upon determination of the State Government that it is so fi t, such article shall until the contrary is proved, be presumed to be fi t for use as intoxicating liquor.]

[2][*(7)* Until the State Government has determined, as aforesaid any article mentioned in sub-section (1) to be fi t for use as intoxicating liquor, every such article shall be deemed to be unfi t for such use.]

[4][Other Boards and Committees]

7. *(1)* The [3][State] Government may appoint [4][other boards and committees] to advise and assist offi cers in carrying out the provisions of this Act.

(2) Such [4][other boards and committees] shall perform such functions [5][as may be prescribed.]

(3) The constitution of such [4][other boards and committees] and the procedure regarding their work shall be as may be prescribed.

(4) The [3][State] Government may direct that the members of such [4][other boards and committees] shall be paid such fees and allowances as may be preescribed.

Medical boards

8. *(1)* The [3][State] Government may constitute one or more medical boards [6][or panels thereof] for such areas and consisting of such members as it may deem fi t.

(2) A medical board [7][or a panel thereof] so constituted shall perform such functions [8][as are prescribed.]

(3) The procedure regarding the work of the medical board [9][or a panel thereof] shall be as may be prescribed.

(4) The members of the medical board [9][or a panel thereof] shall be entitled to such fees and allowances as may be prescribed.

Control of [9][Directors] over Prohibition Offi cers and other

9. In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder, all Prohibition Offi cers and all offi cers including the offi cers of the Police and other departments shall, subject to the general or special orders of the [3][State] Government be subordinate to and under the control of the [10][Director] and shall be bound to follow such orders as the [9][Director] may, from time to time, make.

Delegation.

10.*(1)* The [3][State] Government may delegate any of the power exercisable by it under this Act to the [9][Director] or such other offi cers as it deems fi t.

(2) Subject to the control and direction of the [3][State] Government the pow-ers conferred on the [10][Director] or any other offi cer appointed or invested with pow-ers under this Act may be delegated by him to any of his subordinates.

1. Sub-section (6) was substituted by Bom. 22 of 1960, s. 4 (*d*).
2. Sub-section (7) was added ibid. s. 4 *(e)*.
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
4. These words were substituted for the word "committees" by Bom. 22 of 1960, s. 5 *(a)*.
5. These words were substituted for the words "as are provided by or under the provisions of this Act", *ibid.*, s. 5 *(b)*.
6. These words were inserted, *ibid* s. 6 *(a)*.
7. These words were inserted, *ibid.*, s. 6 *(b)*.
8. These words were substituted for the words "as are provided by or under this Act," *ibid* 9. These words were inserted, *ibid.,* s. 6 *(c)*.
10. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

CHAPTER III.

PROHIBITIONS.

Manufacture, etc. of intoxicant to be permitted in accordance with provisions of Act, rules, etc.

11. Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture, [1][bottle,] sell, buy, possess, use or consume any intoxicant or hemp [2][or to cultivate or collect hemp] or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or permit toddy to be drawn herefrom, in the manner and to the extent provided by the provisions of the Act [3][or] any rule , regulations or orders made or in accordance with the terms and conditions of a licence, permit, pass or authorization granted thereunder,

Prohibition of manufacture of liquor and construction and working of distillery or brewery.

12. No person shall-

(b) construct or work any distillery or brewery;

(c) import, export, transport or possess liquor; or

(d) sell or buy liquor.

Prohibition of sale, etc., of liquor.

13. No person shall—

(a) bottle any liquor for sale ;

(b) consume or use liquor ; or

(c) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any liquor.

Prohibition of export, import, transport, sale, manu-facture, etc., of intoxicat-ing drugs.

14. No person shall—

(a) export, import, transport or possess any intoxicating drug;

(b) cultivate or collect the hemp [4] * * * *,

(c) use, keep, or have in his possession any materials, still, utensils, imple-ments or apparatus whatsoever for the manufacture of any intoxicating drug ;

(d) sell or buy any intoxicating drug ;

(e) consume or use any intoxicating drug ; or

(f) manufacture any intoxicating drug.

Prohibition of import, export, transport, sale, etc., of sweet toddy.

15. No person shall—

(a) import, export, transport or possess sweet toddy or nira ;

(b) bottle sweet toddy or nira for sale ; or

(c) sell or buy sweet toddy or nira.

Prohibition of tapping of toddy pro-ducing trees and drawing

16. No person shall—

(a) tap any toddy producing tree or permit to be tapped any toddy producing tree belonging to him or in his possession ; or

(b) draw toddy from any tree or permit toddy to be drawn from any tree belonging to him or in his possession.

Prohibition of posses-sion, etc., of opium

17. No person shall—

(a) possess opium ;

(b) transport opium ;

(c) import or export opium,

(d) Sell or buy opium ; or

(e) consume or use opium.

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1. This word was inserted by Born. 22 of 1960, s. 7.
2. These words were inserted by Bom. 26 of 1952, s. 4 (1).
3. This word was inserted, *ibid.* s,. 4(2).
4. The words "or extract any portion of such plant from which intoxicating drug can be manufactured" were deleted by Bom. 22 of 1960, s. 8.

Prohibition of sale to [2][minors.]

18. No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoixcant [1][to any person who is a minor,] whether for such person or by other person and whether for consumption on or off the premises of such licensed vendor.

19. *[Prohibition of sale of toddy]. Deleted by Bom. 22 of 1960 S.10.*

20. No person shall—

Prohibition of produc-tion, etc., of charas.

(a)	produce,	(f)	transport,
(b)	manufacture,	(g)	buy,
(c)	possess,	(h)	sell,
(d)	export,	(i)	consume, or
(e)	import,	(j)	use,

charas.

21. No person shall—

Alteration of denatured spirit

(a) alter or attempt to alter any denatured spirit by dilution with water or by any method whatsoever, with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine in any other way whatsoever, or

(b) have in his possession any denatured spirit in respect of which he knows or has

reason to believe that such alteration or attempt has been made.

[3]**[21A.** No person shall—

Alteration of denatured spirituous preparation.

(a) alter or attempt to alter any denatured spirituous preparation by dilution with water or by any method whatsoever, with the intention that such preparation may be used for human consumption as an intoxicating liquor ; or

(b) have in his possession any denatured spirituous preparation in respect of which he knows or has reason to believe that such alteration or attempt has been made.]

Prohibition of allowing any premises to be used as common drinking

22. No person shall—

(a) open or keep or use any place as a common drinking house ; or

(b) have the care, management or control of, or in any manner assist in conducting the business of, any place opened, or kept or used as a common drinking house.

Prohibition of issuing prescrip-tions for intoxicating liquor except by registered medical practition-ers.

[4]**[22A.***(1)* No person other than registered medical practitioner, shall issue any prescription for any intoxicating liquor.

(2) No registered medical practitioner shall prescribe such intoxicating liquor, unless he believes in good faith aft er careful medical examination of the person for whose use such prescription is sought, that the use of such intoxicating liquor by such person is necessary, and will aff ord relief to him from some known ailment.

(3) A registered medical practitioner shall state, in every prescription for intoxicating liquor issued by him, the name and address of the person to whom issued, the date of issue, directions for use, and the amount and frequency of the dose, and shall preserve a copy of the prescription for one year from the date of issue. On the copy so preserved he shall state the purpose or ailment for which the intoxicating liquor is prescribed.]

1. Th ese words were substituted for the words “to any person apparently under the age of twenty-one years” by Bom. 22 of 1960, s. 9 (a).

2. Th is word was substituted for the word “children”, *ibid*., s. 9 (b).

3. Section 21A was inserted by Bom. 36 of 1954, s. 4.

4. Section 22A was inserted by Bom. 22 of 1960, s. 11.

[4][Prohibition of soliciting use of intoxicant or hemp or doing any act calculated to incite or encourage member of publicto commit of-fence.]

23. No person shall—

(a) [1]* solicit the use of, [2][or] offer, any intoxicant or hemp ; or

[3]* * * * *

(c) do any act which is calculated to incite or encourage any member of the public or a class of individuals or the public generally to commit any offence under this Act or to commit a breach of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

Prohibition of publica-tion of ad-vertisements relating to intoxicant, etc

24. *(1)* No person shall print or publish in any newspaper, news-sheet, book, leafl et, booklet or any other single or periodical publication or otherwise display or distrib-ute any advertisement or other matter, —

(a) which [5][*] solicits the use of or offers any intoxicant or hemp;

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

(2) Save as otherwise provided in sub-section (3), nothing in this section shall apply to —

(a) catalogues or price lists which may be generally or specially approved by the [6][Director] in this behalf;

(b) any advertisement or other matter contained in any newspaper, news-sheet, book, leafl et, booklet or other publication printed and published outside the [7][State] ;

(c) any advertisement or other matter contained in any newspaper printed, and published in the [7][State] before such date as the [8][State] Government may, by notifi cation in the *Offi cial Gazette*, specify; and

(d) any other advertisement or matter which the [8][State] Government may, by notifi cation in the *Offi cial Gazette,* generally or specially exempt from the opera-tion of this section.

(3) Notwithstanding anything contained in sub-section (2), the [8][State] Government may, by notifi cation in the *Offi cial Gazette*, prohibit within the [7][State] the circulation, distribution or sale of any newspaper, news-sheet, book, leafl et, book-let or other publication printed and published outside the [7][State] which contains any advertisement or mattes,—

(a) which [5][*] solicits the use of or offers any intoxicant or hemp ; or

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any off ence under this Act to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder.

1. The word "commends" was deleted by Bom. 26 of 1952, s. 5 (1) (*a*).
2. This word was inserted, *ibid*., s. 5 (*1*) (*b*).
3. Clause (b) was deleted, *ibid*., s. *5* (*2*).
4. This marginal note was substituted for the original, *ibid*., s, 5 (*3*).
5. The word "commends" was deleted, *ibid*., s. 6.
6. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, sch.
7. This word was substituted for the words "pre Reorganisation State of Bombay, excluding the transferred territories," by Bom. 12 of 1959, s. 3.
8. This word was substituted for the word " Provincial" by the Adaptation of Laws Order, 1950.

[1]**[24-1A.** No person, shall for the purpose of producing a state of intoxication, consume any medicinal preparation containing alcohol in any quantity exceeding the normal dose.

Prohibition of consumption of medicinal preparation containing alcohol in excess of

Explanation.—Th e expression "normal dose" in relation to any medicinal preparation, means the quantity prescribed by a registered medical practitioner to be taken at a time and in a case where no such prescription has been obtained, the quantity indicated be taken at a time in the directions given by the manufacturer of the medicinal preparation.

24-1B. No person who has consumed any intoxicant (other than opium) or hemp in any place outside the State shall enter any territory of the State while he is in an intoxi-cated condition or under the infl uence of such intoxicant or hemp.]

Prohibition of entry in State in intoxicated condition.

[2]**[24A.** Nothing in this Chapter shall be deemed to apply to —

Th is chapter not to ap-ply to [5][certain articles.]

(1) any toilet preparation containing alcohol which is unfi t for use as in toxicating liquor;

(2) any medicinal preparation containing alcohol which is unfi t for use as intoxicating liquor;

[3][*(3)* any antiseptic preparation or solution containing alcohol which is unfi t for use as intoxicating liquor;

(4) any fl avouring extract, essence or syrup containing alcohol which is unfi t for use as intoxicating liquor]:

Provided that [4][such article] corresponds with the description and limitations men-tioned in section 59A:

Provided further that the purchase, possession or use of any liquor or alcohol for the manufacture of auy [4][such article] shall not be made or had except under a licence granted under section 31A.]

6[Explanation.—Nothing in this section shall be construed to mean that any person may drink any toilet preparation, or antiseptic preparation, or solution, containing alcohol; and it is hereby provided that no person shall drink any such preparation.]

CHAPTER IV.

CONTROL, REGULATION AND EXEMPTIONS.

Exemption of preparations.

25. The 7[State] Government may, by notification in the *Official Gazette*, direct any preparation containing alcohol not exceeding a specified percentage by volume shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

Distilleries and warehouses for intoxicants.

26. The 8[State Government] may-

(a) establish a distillery in which spirit may be manufactured in accordance with a licence issued under this Act on such conditions as the 7[State] Government deems fit to impose;

(b) discontinue any distillery established :

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1. Sections 24-IA and 24-1 B were inserted by Guj. 9 of 1978, s. 3.
2. Section 24A was inserted by Bom. 26 of 1952, s. 7.
3. Clauses (3) and (4) were inserted, by Bom. 36 of 1954, s. 5 (*i*).
4. These words were substituted for the words "such preparation", *ibid*, s. 5 (*ii*).
5. These words were substituted for the words "certain toilet and medisnal preparatiorns, *ibid.*, s. 5 (*iii*). 6. This is Explanation was added by Bom. 22 of 1960, s. 12.
7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950. 8. These words were substituted for the word "Director" by Bom. 22 of 1960, s. 13(2).

(c) license, on such conditions as the 1[State] Government deems fit to impose the construction and working of a distillery or brewery;

(d) establish or licence a warehouse wherin any 2[intoxicant], hemp, mhow-raflowers or molasses may be deposited and kept without payment of duty; and

(e) discontinue any warehouse so established.

3[intoxicant] or hemp not to be removed from warehouse, etc.

27. No 2[intoxicant], hemp, mhowra flowers or molasses shall be removed from any distillery, warehouse or other place of storage established or licensed under this Act, except under a pass and unless the duty, if any, imposed under the provisions of this Act, has been paid or a bond has been executed for the payment thereof.

Passes for import, etc.

28. *(1)* The 1[State] Government may, by general or special order, authorize a Collector or any other officer to grant passes for the import, export or transport of any 2[intoxicant] or hemp.

(2) Such passes may be either general for definite periods of time and definite kinds of 2[intoxicant] or hemp or special for specified occasions and particular consignments only.

(3) Every such pass shall specify—

(a) the name of the person authorised to import, export or transport 2[intoxicant] or hemp;

(b) the period for which the pass is to be in force ;

(c) the quantity and description of 2[intoxicant] or hemp for which it is granted ; and

(d) the places from and to which 2[intoxicant] or hemp are to be imported, exported or transported and in the case of places more than 4[sixteen kilometres] apart, the route by which they are to be conveyed.

Through transport.

5**[29.** The through transport—

(a) of any consignment of any intoxicant, hemp, denatured spirituous prepa-

ration, [6][mhowra fl owers, molasses rotten gur or ammonium chloride] by a railway, administration or by any steamer, ferry, road transport or air service, or

(b) of any intoxicant, hemp, denatured spiritupus prepartion, [6][mhowra fl owers, Molasses, rotten gur or ammonium chloride,] otherwise than by way of consignment,

shall be subject to such conditions as may be prescribed.]

30. [*Licence for possession of denatured or rectifi ed spirit and alcohol for industrial or medical purpose.*] *Deleted by Bom. 22 of 1960, section 15*.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the words "liquor, intoxicating drug" by Bom. 22 of 1960, s. 13(1).

3. This word was substituted for the words "Intoxicating drug", *ibid*., s. 13(3).

4. These words were substituted for the words "ten miles" by Guj. 9 of 1978, s. 4.

5. This section was substituted by Bom. 22 of 1960, s. 14.

6. These words were substituted for the words "mhowra fl owers or morasses" by Guj., 27 of 2003, s. 3.

Licences for bona fi de medicinal or other purpose.

[1]**[31.** The State Government may by rules, or by an order in writing, authorise an offi cer to grant licences to any person, or institution, whether under the management of Government or not, for the manufacture, sale, purchase, possession, consumption, or use of any intoxicant or hemp or any article containing an intoxicant or hemp for a bon-afi de medicinal, scientifi c, industrial or eductional purpose :

Provided that, where any intoxicant or hemp, or article containing such intoxicant or hemp, has been obtained by any person for a bona fi de medicinal purpose, from any person or institution licensed to sell the same under this section, it shall not be necessary for such person to obtain a licence for the possession, purchase, consumption or use thereof :

Provided further that, no licence shall be necessary for the possession of denatured spirit to the extent of such quantity as may be prescribed.]

Licences, for purchase, etc., of liquor for manufacture of [4][articals] mentioned in section 24-A.

[2]**[31A.** The State Government may, by rules or an order in writing, authorize an offi cer to grant licences for the purchase, possession, or use of any liquor or alcohol for the manufacture of [3][any articles mentioned in section 24A] on such conditions as may be prescribed.]

Licences for

32. The [5][State] Government may authorize an offi cer by rules or an order in writing to grant licences for [6][the tapping of, [7][and drawing juice from], any palm trees for the purpose of sale or consumption as neera or] [8][* * *] manufacture of gur or any other article which is not an intoxicant [9][and on a licence being granted, the person to whom the trees belong, or who is in possession of such trees, may permit them to be tapped or permit toddy to be drawn therefrom.]

Trade and import licences.

33. The [5][State] Government may, by rules or an order in writing, authorise an offi cer to grant trade and import licences to persons intending to import and to sell by wholesale any [11][foreign liquor.]

vendor's licence.

34.*(1)* The [5][State] Government may, by rules or an order in writing, authorize an offi cer to grant a vendor's licence [12][for the sale of foreign liquor],

(2) A vendor's licence shall be granted on the following conditions :—

(i) the stock of foreign liquor with the licensee (except what is permitted for the disposal in the shop) shall be kept by him at [13][godown] approved by Govern-ment;

[14][* * * * * * * *]

(iii) the licensee shall pay all rent, costs, charges and expenses incidental to warehousing and supervision;

[15][*(iv)* The licensee may sell any part of the stock of foreign liquor to foreign liquor licensees or to chemists, canteens, messes and clubs, holding

licences in the State, or to any persons outside the State, subject to such conditions as the Director may impose.;

1. This section was substitutued by Bom. 22 of 1960, S. 16.
2. Sectioa 31A was inserted by Bom. 26 of 1952, s. 9.
3. These words were substituted for ths words, fi gure and letter "any preparation to which section 24A applies" by Bom. 35 of 1954, s. 6 (*i*).
4. These words were substituted for the words "preparations referred to", *ibid*., s. 6 (*ii*).
5. This words was substituted for the word '' Provincial" by the Adaptation of Laws Order, 1950.
6. These words were substituted for the words "the tapping of palmyra or date plam trees for juice intended to bo used "by Bom. 26 of 1952, s. 10(1).
7. These words were substituted for the words "or drawing juice from'' by Bom. 22 of 1960., s. 17(*a*). 8. The words "for the" were deleted *ibid*., s. 17 (*b*).
9. This portion was added, *ibid*., i. 17(*c*).
10. This word was substituted for the word :'toddy" by Bom. 26 of 1952, S. 10(2).
11. These words were substituted for the words "liquor, intoxicating drug or hemp" by Born. 22 of 1960, s. 18. 12. These words were added, *ibid.*, s. 19(a).
13. This word was substituted for the word "warehouse", *ibid*., s. 19(b)(i).
14. Clause (ii) was deleted, *ibid*., s. 19(b) (ii).
15. These clauses were substituted, *ibid.,* s. 19(b) (iiiv).

(v) The licensee shall be permitted to sell foreign liquor only to holders of permits or authorizations];

(vi) The licensee shall be entitled to keep in his shop such quantity of liquor as may be required by him from time to time for retail sale;

(vii) The licensee shall keep accounts and shall dispose of [1][foreign liquor] according to such instructions as may be given by the [2][Director] or any offi cer authorized in this behalf by the [2][Director].

Hotel licences.

35.*(1)* The [3][State] Government may, by rules or an order in writing, authorize an offi cer to grant licences to the managers of hotels to sell foreign liquor to the holders of permits granted under this Act:

Provided that the [3][State] Government is satisfi ed that such hotel has ordinarily a suffi cient number of boarders eligible to hold permits.

(2) Such licences shall be issued on the following conditions :—

(i) liquor shall be sold [4][* * *] to the permit holders [5][residing or boarding] at the hotel,

(ii) consumption of liquor sold shall not be allowed in any of the rooms of the hotel to which any member of the public has access,

(iii) The holders of hotel licences shall pay the expenses of any offi cer of the excise establishment, if any, required for the grant and control of permits on the premises [6][or for the supervision over the issue and consumption of foreign liquor in the hotel.]

36. *[Special import licences to hotels.] Deleted by Bom.* 22 *of* 1960: s. 21.

37. *[Dining car licences.] Deleted by Bom* 22 *of 1960,* s. 21.

Licences to shipping companies [9][and to Masters of ships].

38. The [3][State] Government may, by rules or an order in writing, authorise an offi cer to grant licences to any shipping company for each ship [7][or to the Master of any ship] to sell foreign liquor [8][and to permit the use or consumption of foreign liquor on such ship on such conditions as may be prescribed.]

Permission to use or consume foreign liquor on [11]1**] warships troopships and in [12][messes and canteen of armed forces].

39. The [3][State] Government may, on such conditions as may be specifi ed [10][by a general of special order, permit —

(i) the sale of foreign liquor to,

(ii) the purchase, use or consumption of such liquor by, —

(a) the members of the armed forces in messes and canteens [13][of the armed forces], and

(b) the crew of warships or troopships and the members of the armed forces thereon.]

1. These words were substituted for the words "the goods by Bom. 22 of 1960, S. 19(b) (iv).

2. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
4. The words "in sealed bottles" were deleted by Bom. 26 of 1952, s. 12(1).
5. These words were substituted for the word "residing", *ibid.,* s. 12(2).
6. This portion was added by Bom. 22 of 1960, s. 20.
7. These words were inserted by Bom. 26 of 1952, s. 14(1).
8. These words were substituted for the words "on condition that such liquor shall be sold only to *bona fi de* passengers on such ship", *ibid,*s. 14(2).
9. These words were added, *ibid.,* s.14(3).
10. This portion was substituted for the words beginning with the words "in the notifi cation" and ending with the word "canteens", *ibid*., s. 15 (1).
11. The words "cargo boats" were deleted, *ibid*, s. 15 (2).
12. These words were substituted for the words "military and naval messes and canteens" *ibid*., s. 15 (2) (6).
13. These words were inserted by Bom. 22 of 1960, s (22)

. (22)

[9][Temporary resident's permits.]

40. *(1)* The [1][State] Government may, by rules or an order in writing, authorize an offi cer to grant [2][a temporary resident's permit] for the use or consumption of foreign liquor to person on the following conditions. —

(a) that such person is not a minor ;

[3][* * ' * * * * *]

(c) (i) that such person was either born and brought up or domiciled in any country outside India where such liquor is being generally used or consumed ; or

(ii) that such person is on the Register of Foreigners under the Registration of Foreigners Act, 1939, and is not domiciled in [4][India:

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Provided that., in the case of any person falling under sub-clause (i) or (ii)-

(a1) such person has been residing and intends to reside in India temporarily and that such person has a fi xed and settled purpose of making his sole and permanent home in any country outside India.; and

(b1) that such person has been ordinarily using or consuming such liquor.

[5][* * * * * *]

(3) Such permits shall be granted for such quantities as may be prescribed.

[6][(4) If any question arises whether the conditions imposed by clause (a) or (c) of sub-section (1) are satisfi ed or not in any case, the State Government shall decide the question and its decision shall be fi nal.]

[7][* * * * * *]

[8][40A.*(1)* The State Government may by rules or orders in writing authorize an offi cer to grant a health permit for the use or consumption of foreign liquor to any who requires such liquor for the preservation or maintenance of his health :

Health permit.

Provided that no such permit shall be granted to a minor.

(2) Such permit shall be granted for such quantity and shall be subject to such further conditions as may be prescribed.

40B. *(1)* The State Government may rules or orders in writing authorize an of-

Emergency permits.

fi cer to grant emergency permits for the use or consumption of brandy, rum or champagne or any other kind of liquor to any person for his own use or consumption or to any head of a household for the use of his household for medicinal use on emergent occasions :

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. These words were substituted for the word "permit" by Gui. 9 of 1978 s 5(a) -
3. Clause (b) was deleted by Bom. 26 of 1952, s. 16(1).
4. This words was substituted for the words "the dominion of India "by the adoptation of laws order, 1950.
5. Sub-section (2) was deleted by Bom. 22 of I960, s. 23.
6. Sub-section (4) was added by Bom. 26 of 1952, s. 16(2).
7. The explanation was deleted, *ibid,* s. 16 (3).

8. Section 40 A and 40 B were inserted, ibid., S. 17.

9. This marginal note was substituted for the orginal by Guj. 9 of 1978, s. 5(b).

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Provided that the person to whom a permit is granted under this section may [1][subject to such conditions as may be prescribed] allow the use or consumption of liquor in respect of which the permit has been granted to any other person who requires the use thereof for medicinal purpose on emergent occasions :

Provided further that no permit shall be granted to more than one member of a house-hold at any one time.

[2][* * * * * *]

(3) Such permits shall be granted for such quantities and shall be subject to such further conditions as may be perscribed.

[2][* * * * * *]

41. The [3][State] Government may grant special permits for the use of consumption of foreign liquor [4][to any person who is—

Special permits to foreign sovereigns, etc.

(a) a Sovereign or Head of a foreign State ;

(b) an Ambassador, Diplomatic Envoy or Consul, Honorary Consul or Trade, Commerce or other representative of a foreign State ;

(c) a member of the staff appointed by or serving under any person, speci-fi ed in clause (a) or (b) : Provided that such member is a national of a foreign State ; [5][*]

[6][(c1) a member of a foreign Government;

(c2) a representative or offi cer of any international organization to which privileges and immunities are given from time to time by or under the United Nations (Privileges and Immunities) Act, 1947 ; and]

XLVI of 1947

(d) The Consort of any person specifi ed in clause (a), (b), [7][(c), (c1) or (c2)] or any relation of such person dependent upon him .]

42. [*Permits to be non-transferable.*] *Deleted by Bom.22 of 1960, s. 26.*

Regulation of use or consumption of foreign liquor by certain per-

[8][43. *(1)* No holder of a permit granted under any of the provisions of this Act other than section 40B shall drink in a public place or in the rooms of a hotel or institution to which the public may have access.

(2) No holder of a permit granted under section 40A shall allow the use or consumption of any part of the quantity held by him to any other person.

1. These words were inserted by Bom. 22 of 1960, s. 24 (a).

2. Sub-section (2) and the *Explanation* were deleted, *ibid,* s 24 (b).

3. This word was substituted for the word " Provincial" by the Adaptation of Laws Order, 1950.

4. This portion was substituted for the words begining with the words "to sovereigns" and ending with the words "envoy or consul" by Bom. 26 of 1952, s. 18.

5. The word "and" was deleted by Bom. 22 of 1960, s. 25 (a).

6. Clauses (cl) and (c2) were inserted, *ibid,* s. 25 (b).

7. These brackets, letters, fi gures and word were substitiuted for the word, brackets and letter "or (c)", *ibid.,* s. 25 (c).

8. Section 43 was substituted for the original by Bom. 26 of 1952, s. 20.

[1] *[(3)* A persons holding a permit under section 40, 41, 46, 46A or 47 may allow the use or consumption of any part of the quantity of foreign liquor possessed by him under the permit, to any other person who holds a permit under any of those sections.

(4) No holder of a permit under section 40, 41, 46, 46A or 47 shall serve any

liquor at any ceremonial or other function or any assembly of persons where persons (not being members of his family or his employees) who do not hold any of the permits aforesaid, are present.]

Licence to clubs.

44. *(1)* The [2][State] Government may, by rules or an order in wirting [3][grant or authorize an offi cer to grant] licences to a club approved by the [2][State] Government in behalf to sell foreign liquor [4][to its members holding permits],

(2) Such licences shall be granted on the following conditions :—

[5][* * * * * *]

(b) That no liquor shall be served to the holder of any permit in any room of the club to which the public have access at the time when any person who does not hold such permit is present;

(c) that the club when authorized [6][in writing] by any member who is the holder of a permit may stock the permitted quantity of liquor on account of such member, [6]*

[5][* * * * *]

[7][* * * * *]

Authorization for sacramental purposes

45. *(1)* The [2][State] Government may, by rules or an order in writing, authorize an offi cer to grant any authorization to any person for the use of liquor for sacramental purposes:

Provided that the offi cer so authorized is satisfi ed that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

[8][*(2)* An authorization under this section shall be granted on the recommendation of such members of the community to which the person applying for the authorization belongs, as may be approved by the State Government in that behalf.]

[9][* * * *]

(4) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the [11][Director].

The [10][Director] after holding a summary inquiry [11][* * *] shall decide whether or not the liquor is required by the person for sacramental purposes.

(5) The decision of the [10][Director] under sub-section (*4*) shall be fi nal.

1. Sub-sections (3) and (4) were substituted for the original sub-section (3) by Bom. 22 of 1960, s. 27.
2. This word was substituted for the word " Provincial" by the Adaptation of Laws Order, 1950.
3. These words were substituted for the words "authorize or grant" by Bom. 26 of 1952, s. 21.
4. These words were added by Bom. 22 of 1960, s. 28 (a).
5. Clauses (a) and (d) were deleted, *ibid,*s. 28 (b) (i).
6. These words were inserted and the word "and" at the end was deleted, ibid s. 28 (*b*) (*ii*).
7. The Explanation was deleted, *ibid*, s. 28 (*b*) (*iii*).
8. This sub-section was substituted by Bom. 22 of 1960, s. 29 (*a*).
9. Sub-section (3) was deleted, *ibid*, s. 29 (*b*).
10. This word was substituted for the word "Commissioner", by Bom. 28 of 1950 Sch.
11. The words "in the prescribed manner" were deleted by Bom. 22 of 1960, s. 29 (*c*).

Visitor's permit.

[1]**[46.***(1)* The State Government may by rules, or an order in writing, authorise an offi cer to grant visitor's permit for the purchase, possession, use or consumption of foreign liquor to a person who—

(a) (i) is a citizen of a foreign country, or a citizen of India and resides in any part of India, where consumption of alcoholic liquor is not generally prohibited by law ; or

(*ii*) is a citizen of a foreign country or is a citizen of India and resides in any part of India, where consumption of liquor is prohibited by law, but has been consuming such liquor under a permit or other authorization ; and

(b) visits the State for a period of not more than a week.

(2) Such permit shall be granted ordinarily for a period not exceeding one week at any one time ; but may be extended from time to time for further periods not exceeding one week at a time, so however that the total period shall not exceed in the aggregate one month.]

6[Tourist's permit.]

2[**46A.***(1)* The State Government may, by rules or an order in writing authorize an offi cer to grant 3[a tourist's permit] to consume, use and buy foreign liquor to a person is a tourist.

(2) A tourist's permit may be granted for the period of the tourist's intended stay in the 4[State], but shall in no case be granted for a period exceeding one month.

(3) Such permits shall be available at such places as may be 5[fi xed] by the Directors in this behalf.

Interim, permits.

47. *(1)* Notwithstanding anything contained in sections 7[40, 40A and 41], the 8[State] Government may, by rules or an order in writing, 9[authorize an offi cer to] grant interim permits to persons applying for permits under any of the said provisions.

(2) Such interim permists shall not be granted for any period exceeding two months.

14[15[Permits] for consumption [illegible] of intoxicating drugs] 16[or opium.]

48. *(1)* The 8[State] Government may, by rules or an order in writing, authorize an offi cer to grant [permits] for the 11[consumption or use] of 12[intoxicating drugs] 13[or opium] in such quantities as may be perscribed.

1. Section 46 was substituted by Bom. 22 of 1960, s. 30.
2. Section 46A was iuseted by Bom. 20 of 1955, s. 4.
3. These words were substituted for the words ''tourists permits" by Bom. 22 of 1960 s. 31 (*a*).
4. This word was substituted for the words " Pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.
5. This word was substituted for the word "notifi ed" by Bom. 22 of 1960, s. 31 (*b*).
6. This marginal note was substituted for the marginal note ''tourists permit" by Bom. 22 of 1960, s. 31 (*c*). 7. These fi gures, letter and word were substituted for the fi gures and word "40 and 41" by Bom. 26 of 1952, s. 22 (1).
8. This word was substituted for the word " Provincial" by the Adaptation of Laws Order, 1950. 9. These words were inserted by Bom. 26 of 1952, s. 22 (2).
10. This word was substituted for the word "licences" by Bom. 22 of 1960, s. 32 (*a*).
11. These words were substituted for the word "sale" by Bom. 26 of 1952, s. 23 (1) (i).
12. These words were substituted for the words "hemp drugs", *ibid*., s. 23(1) (ii).
13. These words were inserted by Bom. 22 of 1960, s. 32 (*b*).
14. This marginal note was substituted for the original by Bom. 26 of 1952, s. 23 (2).
15. This word was substituted for the word "Licence" by Bom. 22 of 1960, s. 32 (*c*).
16. These words were inserted, *ibid*.

(2) Such 1[permits] shall be granted on the certifi cate of the Medical Board.

Permit to be non- transferable.

2[**48A.** Permits granted under section 40, 40A, 40B , 41, 46, 46A. 47 or 48 shall be non-transferable.]

49. *[Power to make rules or pass orders for possesion, etc., of opium] Deleted by Bom. 22 of 1960, s. 34.*

50. *[Warehousing of opium.] Deleted by Bom. 22 of I960, s. 34.*

51. [*Rules for sale, etc.,* of warehoused intoxicant of hemp] *Deleted by Bom.***22** of *1960. s.***34**.

52. Notwithstanding anything in this Act, it shall be lawful for any offi cer author- Power of

ized by the [3][State] Government in this behalf to grant any licences, passes or permits for import, export, transport, possession, sale, buying, cultivation, collection, manufacture, [4][bottling,] consumption and use of any intoxicant, hemp or mhowra fl owers or molases or for the tapping of any toddy producing tree or the drawing of toddy from such tree in cases other than those specifi cally provided under any of the

authorised offi cers to grant licences, permits and passes in certain cases.

53. All licences, permits, passes, or authorizations granted under this Act shall be in such form and shall, in addition to or in variation or subsititution of any of the conditions provided by this Act, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee :

General conditions regarding licences, etc.

Provided that every licence, permit, pass or authorization shall be granted only on the condition that the [5][person applying] undertakes, and in the opinion of the offi cer authorized to grant the licence, permit, pass or authorisation is likely to abide by all the conditions of

the licence, permit, pass or authorization and the provisions of this Act. [6][* * * *]

[7]**[53A.** Every person who manufactures or sells an intoxicant or hemp under a licence granted under this Act, shall be bound—

Certain licencees required to keep measures, etc.

(a) to equip himself with and keep such measures and weights and such instruments for testing the strength or quality of the intoxicant or hemp as the Collector may pescribe, and to keep the same in good condition, and

(b) on a requisition of and Prohibition Offi cer duly empowered in this behalf, at any time to measure, weigh or test any intoxicant or hemp in his possession or to have it measured, weighed or tested in such manner as the Prohibition Offi cer may require.]

54. *(1)* [8][The authority granting any licence, permit, pass or authorization under this Act may for reasons to be recorded in writing cancel or suspend it-]

Power to cancel or suspend licences and permits.

(a) if any fee or duty payble by the holder thereof is not duly paid ;

(b) if the purpose for which the licence, permit, pass or authorization was granted ceases to exist ;

1. This word was substituted for the word " Licences" by Bom. 22 of 1960, S. 32 (a)

2. Section 48A was inserted, by Bom. 22 of 1960, s. 33.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. This word was inserted by Bom. 22 of 1960, s. 35.

5. These words were substituted for the words "holder thereof" *ibid.,* s. 36.

6. The words beginning with the words "and not to do anything" and ending with the words "object and pur-poses of this Act" were deleted by Bom. 26 of 1952, s. 24.

7. This section was inserted by Bom. 22 of 1960, s. 37.

8. These words were substituted for the portion beginning with the words "The Director or any offi cer author-ised in this behalf" and ending with the words "granted under this Act", *ibid.,* s. 38 *(a) (i)*.

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

(d) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or if the holder of the licence, permit, pass or authoriza-tion is convicted of any congnizable and non-bailable offence or [1][of any offence under the Dangerous Drugs Act, 1930 [2][or under the Drugs and Cosmetics Act, 1940 or under the Bombay Drugs (Control) Act, 1959] or under the Indian Mercandise Marks Act, 1889, or any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, [3][or of any offence punishable under section 112 of the Customs Act, 1962 for an act specifi ed in clause (d) of section 111 of the said Act, 1962.

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including the abetment of the doing, or the omission, of such act ;]

[4][*(e)* if the licence, permit, pass or authorization has been obtained through wil-ful misrepresentation or fraud.]

(2) Where a licence, permit, pass or authorization held by any person is cancelled under sub-section (1), the authority aforesaid may cancel any other licence, permit, pass or authorization granted or deemed to have been granted to such persons under this Act.

[5][*(3)* Notwithstanding anything contained in this section, the State Government may, for reason to be recorded in writing, suspend or cancel any licence, permit, pass or authorization.]

Holder of licences, etc. not entitled to compensation or refund of fee for cancellation or suspension thereof.

55. No holder of a licence, permit, pass or authorization shall be entitled to any compensation for the cancellation or suspension of the licence, permit, pass or authorization under section 54 nor to a refund of any fee or deposit made in respect thereof.

Cancellation for other reasons.

56. *(1)* Whenever the authority granting a [6][licence, permit, pass or authorization] considers that it should be cancelled for any cause other than those specifi ed in section 54, he may cancel [7][it] either —

(a) on the expiration of not less than fi fteen days' notice in writing of his intention to do so ; or

[8][*(b)* forthwith without notice, recording his reasons in writing for doing so].

1. The words and fi gures "of any offence under the Dangerous Drugs Act 1930, or under the Drugs Act, 1940, or under the Bombay Drugs (control) Act, 1952" were substituted for the words and fi gures "of any offence under the Dangerous Drugs Act, 1930" by Bom, 22 of 1960, s. 38 (a)(ii).
2. These words fi gures and brackets were substituted for the words, fi gures and brackets "or under the Drugs Act, 1940, or under the Bombay Drugs (Control) Act, 1952" by Guj. 9 of 1978, s. 6 (i).
3. These words, fi gures, brackets and letter were substituted for the words and fi gures "or of any offence punish- able under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878", *ibid*,, s. 6 (ii).
4. This clause was inserted by Bom. 22 of I960, s. 38 (a) (iii).
5. This sub- section was substituted for the original, *ibid*., s. 38 (d).
6. These words were substituted for the word "licence", *ibid*., s. 39(a)(i).
7. This word was substituted for the words "the licence *ibid*., s. 39 (a) (ii),
8. This clause was substituted, ibid., s. 39 (a) (iii).

[1][*(2)* Where a licence, permit, pass or authorization is cancelled under sub-section (*1*), a part of the fee for the licence, permit, pass or authorization proportionate to the unexpired portion of the term thereof and the deposit made by the holder thereof in re-spect of such licence, permit, pass or authorization shall be refunded to him after deducting any amount due from him to the State Government.]

Attachment of licence.

57. Notwithstanding anything contained in any other section, when a licence is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof, the authority granting the licence may attach and take such licence under management, and if the profi ts received from such management after meet-ing all the expenses of such attatchment and management are less than the amount of the arrears for which the licence was attached and the amount falling due on such licence during the remaining period of such licence, the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the provisions of this Act, and in the event of the said profi ts exceeding the amount so due under the licence, the licen-see shall not be entitled to receive any of the said profi ts.

58. Notwithstanding anything contained in any law for the time being in force no

Right, title

right, title or interest in any licence, permit, pass or authorisation granted under this Act shall be liable to be sold, transferred or attached in execution of any process of any civil or any other court.

or interest under licence not liable to be sold or execution

[2][**58A.** The State Government may by general or special order direct that the manufacture,import, export, transport, storage, sale purchase, use, collection, or cultivation of any intoxicant, denatured spirituous preparation, hemp, mhowra fl owers, or molasses shall be under the supervision of such Prohibition and Excise or Police staff as it may deem proper to appoint, and that the cost of such staff shall be paid to the State Government by the person manufacturing, importing, exporting, transporting, storing, selling, purchasing, using, collecting or cultivating the intoxicant, denatured spirituous preparation, hemp, mhowra fl owers, or molasses :

Supervision over manu facuture, etc.

Provided that the State Government may exempt any class of persons or institu-tions from paying the whole or any part of the cost of such staff.]

59. *(1)* Notwithstanding the fact that the period during which any licence, permit, pass or authorization is to be in force as not expired, the [3][Director] may direct the holder thereof to dispose of his stock of intoxicant, [4][denature spirituous preparation,] or hemp or mhowra fl owers before such date as may be specifi ed in the order.

[3][Director] entitled to require licence holder [6][or owner] to dispose of stocks.

[5][1A) The Director may also direct the owner of the stock of any intoxicant. [6][denatured spiritious preparation,] hemp or mhowra fl owers who does not hold any licence, permit, pass or authorization for such stock to dispose of the said stock before such date as may be specifi ed in the order, and the owner shall comply with such direction.]

1. This sub-section was substituted by Bom. 22 of 1960, s. 39 (b).
2. This section was inserted, *ibid* ., s. 40.
3. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, sch.
4. These words were inserted by Bom. 22 of 1960, s. 41 (a).
5. Sub-section (1A) was inserted by Bom. 26 of 1952, s. 26(1).
6. These words were inserted, ibid ., s. 26 (2)

(2) Any stock of intoxicant, [1][denatured spirituous preparation,] hemp or mhowra fl owers left undisposed of after the date so specifi ed shall, together with receptacles or packages in which it is contained, be liable to forfeiture to [2][the State Government] by the order of the [3][Director.] On the cancellation or the expiry of the period of any licence, permit, pass or authorization, the [3][Director] may also direct that any stock of any intoxicant, [1][denatured spirituous preparation,] hemp or mhowra fl owers remaining with the holder of the licence, permit, pass or authorization together with receptacles of packages thereof be forfeited to [2][the State Government].

(3) If the articles which are forfeited under sub-section (2) are sold, the [3] [Director] may, if he thinks fi t, order the whole or any portion of the sale proceeds of such articles to be paid to the owner thereof.

[4][*(4)* No direction or order under sub-section (1), (l-A), (2) or (3) shall be made unless the person likely to be adversely affected by such direction or order is given reasonable opportunity of being heard, and the reasons for the direction given or order made are recorded in writing by the Director].

[5][CHAPTER IV-A.

CONTROL AND REGULATION OF[6][ARTICLES MENTIONED IN SECTION 24A] TO PREVENT THEIR USE AS INTOXICATING LIQUOR.

Control on

[7][**59AA.** No article mentioned in section 24A shall be manufactured, imported

manufacture, etc., of articles mentioned in section 24A

exported except under a licence which shall, subject to the provisions of any rules made in that behalf, be granted by an offi cer authorised in that behalf by an order in writing by the State Government :

Provided that no such licence shall be necessary for the import or export of such article to the extent of such quantity as may be prescribed.]

8[Manufacture of articles mentioned in section 24A]

59A.*(1)* No manufacturer of any of the articles mentioned in section 24A shall sell, use or dispose of any liquor purchased or possessed for the purposes of such manufacture under the provisions of this Act otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any of the articles mentioned in section 24A than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the articles :

Provided that in the case of manufacture of any of the articles mentioned in section 24A in which the alcohol is generated by a process of fermentation the amount of such alcohol shall not exceed 12 per cent. 9[by volume].

(2) No person shall—

(a) knowingly sell any 10[article mentioned in section 24A] for being used as an intoxicating drink, or

(b) sell any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

1. These words were inserted by Bom. 22 of 1960, s. 41 (a).
2. These words were substituted for the words " His Majesty" by the Adaptation of Laws Order, 1950. 3. This word was substituted for the word "Comissioner" by Bom. 28 of 1950, sch.
4. This sub-section was inserted by Bom. 22 of 1960, s. 41 (b) .
5. Chapter IV-A was inserted by Bom. 26 of 1952, s. 27.
6. These words were substituted for the words "Medicinal and Toilet preparations" by Bom. 36 of 1954, s. 7. 7. This section was inserted by Bom. 22 of 1960, s. 42.
8. This marginal note was substituted by Bom. 36 of 1954, s. 8 (ii).
9. These words were added by Bom. 22 of 1960, s. 43.
10. These words were substituted for the words, fi gures and letter "article to which section 24 A applies" by Bom. 36 of 1954, s. 8 (*i*).

1[Analysis of articles mentioned in section 24A]

59B. 2*[1]* Whenever the Director has reason to believe that any of the articles mentioned in section 24A does not correspond with the description and limitations provided in section 59A, he shall cause an analysis of the said articles to be made, and if upon such analysis, the Director shall fi nd the said articles does not so correspond, he shall give not less than 15 days notice, in writing to the person who is the manufacturer thereof or is known or believed to have imported 3[or obtained] such article to show cause why the said article should not be dealt with as an intoxicating liquo, such notice to be served personally or by registered post, as the Director may determine, and shall specify the time when, place where, and the name of the offi cer before whom such person is required to appear.]

4[(1A)] If such person fails to show to the satisfaction of the Direction that the said article corresponds with the description and limitations provided in section 59A, the Director may, by notifi cation in the *Offi cial Gazette*, direct that the said article be dealt with as an intoxicating liquor and thereupon the provisions of this Act relating to liquor shall apply to that article.]

5[*(2)* Whenever the Director causes analysis of an article mentioned in section 24A to be made under sub-section (*1*), 6[or gives notice thereunder], he may require the person who is the manufacturer thereof or who is known or believed to have imported 6[or obtained] such articles not to sell, distribute or otherwise deal with such article, or to remove it from any place without the previous permission of the Director, for any period not exceeding three months from the date of such requisition or till the result of the analysis is known and 7[communicated to him in writing by the Director, whichever is earlier, or as the case may be, till such manufacturer or other person satisfi es the Director that the article corresponds to the description limitations provided in section 59A] ; and thereupon such manufacturer or person shall comply with such requisition during the said period.]

[8][CHAPTER IV-B.

CONTROL AND REGULATION OF DENATURED SPIRITUOUS PREPARATION TO PREVANT THEIR USE AS INTOXICATING LIQUOR.

Prohibition against possession of denatured spirituous in excess of prescribed limit and the regulation of its possession in excess of prescribed limit.

59C. *(1)* No person shall have in his possession, except, under a permit granted by any offi cer empowered by the State Government in that behalf, any quantity of denatured spir-ituous preparation in excess of such quantity as the State Government may, by notifi cation in the Offi cial Gazette, specify.

(2) In specifying quantity of possession of denatured spirituous pereparation under sub-section (1) regard shall be had to the necessity for the free possession of such prepara-tion for legitimate domestic and other purposes, and different limits may be fi xed for —

(*i*) different local areas,

(*ii*) different classes of persons, and

(*iii*) different occasions.

1. This marginal note was substituted by Bom. 36 of 1954 by Bom. 36 of 1954, s. 9.
2. The original section 59B was renumbered as sub-section (1) of that section by Bom. 20 of 1955, s.
5. 3. These words were inserted by Bom. 22 of 1960, S. 44(1).
4. This sub-section was inserted, *ibid*., s. 44(2).
5. Sub-section (2) was added by Bom. 20 of 1955, s. 5.
6. These words were inserted by Bom. 22 of 1960, s. 44(3).
7. These words, fi gures and letter were substituted for the words "communicated to him, whichever is earlier", *ibid*.
8. Chapter IV-B was inserted *ibid*., s. 45.

Regulation of manufac-ture, etc., of denature spirituous preparation.

59-D.*(1)* No person shall—

(a) manufacture, sell or bottle for sale any denatured spirituous preparation, except under the authority and in accordance with the terms and conditions of a licence,

(b) import, export or transport any denatured spirituous preparation in ex-cess of the limit of possession specifi ed under sub-section (1) of section 59-C, except under the authority and in accordance with the terms and conditions of a pass,

(c) drink any denatured spirituous preparation.

(2) A licence or pass required under sub-section (1) shall be granted by any offi cer empowered in writing in that behalf by the State Government.]

CHAPTER V.

MHOWRA FLOWERS.

Prohibition of export or import of mhowra fl owers.

60. *(1)* No person shall export or import mhowra fl owers except under a pass granted by the Collector or an offi cer authorised in this behalf.

Control and regulation of transport, sale etc., of mhowra

(2) [1][No person or head of household on his behalf or on behalf of the members of his household shall in the aggregate] collect or transport or sell or buy or have in his possession mhowra fl owers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted [2] [by the Collector or an offi cer authorised] in this behalf :

Provided that no licence, permit or pass shall be necessary for the collection, transport, sale, purchase, or possession within such area and during such period (hereinafter called vacation period) as the [3][State] Government may, by notifi cation in the Offi cial Gazette, notify, of any quantity of mhowra fl owers which shall be the produce of that year [4][and of that area] :

Provided further that unless the [3][State] Government by a notifi cation in the *Offi cial Gazette*, otherwise directs, no licence, permit or pass shall be necessary for the transport by

rail of any quantity of mhowra fl owers through an area which has no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that—

(i) the said fl owers are not unloaded in transit, and

(ii) there is a vacation period at the place from which and to which the said fl ow-ers are transported at the time when the said fl owers are despatched or arrived, as the case may be.

5[* * * * * *]

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1. These words were substituted for the words "No person shall" by Bom. 26 of 1952, s. 28(1).

2. These words were inserted, *ibid*., s. 28(2).

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. These words were added by Bom. 26 of 1952, s. 28 (3).

5. The Explanation which was inserted by Bom. 26 of 1952 s. 28 (4) was deleted by Bom. 22 of 1960, s. 46.

CHAPTER VI

Control And Regulationof Molasses.

Control of export,etc., of molasses.

61. *(1)* Except as otherwise provided in sub-sections (2) and (3), no person shall,export, import, transport, sale or have in his possession any quantity of molasses.

(2) The 1[State] Government may, by general or special order, authorise any Collector 2[or any other offi cer] to grant licences for the import, export, sale or possession of molasses.

(3) The 1[State] Government may also authorise any Collector or any other offi cer to grant permits for the transport of molasses.

Provisions of sections 53 to 59 to apply to licences granted under section 61.

62. The provisions of sections 53 to 59 3[(Both inclusive)] shall, so far as may be applicable, apply to licences or permits granted under section 61.

Povision of Act in rel ation to mo-lasses to be in addition to and not in derogatio n of Bom. XXXVIII of 1956.

Bom. XXX VIII of 1956.

4[**63**. The provisions of this Act in relation to molasses shall be in addition to, and not in derogation of, the provisions of the Bombay Molasses (Control) Act, 1956 or of any rule or order made thereunder.]

64. *[Power of State Government to direct holder of stock of molasses to sell them at fi xed price to any offi cer, person or class of persons.] Deleted by Bom. 26 of 1952, s. 30.*

5[CHAPTER VI—A.

Controland Regulationof Rottengurand Ammoniumchloride.

Prohibi-tion against possession of rotten gur in excess of

64. No person shall have in his possession, except under a permit granted by an offi cer empowered by the State Government in that behalf, any quantity of rotten gur in excess of such quantity as the State Government may, by notifi cation in the *Offi cial Gazette,* specify.

prescribed limits.

64A. No person shall manufacture, use or consume rotten gur except under the authority, and in accordance with the terms and conditions of, a licence, permit, pass or authorisation granted for the purpose by an offi cer empowered in that behaif by the state Government.

Regulation of manufacture, etc., of rotten gur.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2 These words were inserted by Bom. 26 of 1952, s. 29.

3. These brackets and words were inserted by Bom. 22 of 1960, s. 47.

4. This section was inserted *ibid*., s. 48.

5. Chapter VI-A which was deleted by Bom. 26 of 1952, s. 30 was inserted by Guj. 9 of 1978, s. 7.

Regulation of manufacture, etc., of ammonium chloride.

64B. No person shall manufacture, use or have in his possession ammonium chloride, in excess of such quantity as the State Government may, by notifi cation in the *Offi cial Gazette,* specify, except under a licence, permit, pass or authorisation granted by an offi cer empowered by the State Government in that behalf.

Provision of sections 53 to 59 to apply to licences, permits, etc., granted under sections 64, 64 A and 64 B.

64C. The provisions of sections 53 to 59 (both inclusive) shall, so far as may be applicable, apply to licences, permits, passes or authorisations granted under sections 64, 64A and 64B.]

CHAPTER VII.

OFFENCESAND PENALTIES.

Penalty for illegal import, etc., of intoxicant or hemp.

65. Whoever, in contravention of the provisions of this Act, or of any rule, for regulation or order made or of any licence, pass, permit or authorization granted thereunder—

(a) impots or exports any intoxicant [1][(other than opium)] or hemp,

(b) manufactures any intoxicant [1][(other than opium)],

(c) constructs or works any distillery or brewery,

(d) bottles liquor,

(e) sells or buys any intoxicant [1][(other than opium)] or hemp, or

(f) uses, keeps or has in his possession any materials, still, utensils, implements or apparatus for the purpose of manufacturing any intoxicant [2][(other than opium)],

[3][*(g)* cultivates or collects hemp],

[4][shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fi ne :

[5][* * * * *]

(i) for a fi rst offence, such imprisonment shall not be less than six months, and fi ne shall not be less than fi ve hundred rupees ;

(ii) for a second offence, such imprisonment shall not be less than nine months, and fi ne shall not be less than one thousand rupees ;

(iii) for a third or subsequent offences, such imprisonment shall not be less than one year, and fi ne shall not be less than one thousand rupees.]

Punishment for *laththa*.

[6][**65A.***(1)* Notwithstanding anything contained in this Act, whoever,-

(a) manufactures *laththa*,

(b) constructs or works any distillery or brewery for it,

(c) sells or buys *laththa*, or

1. These brackets and words were inserted by Bom. 22 of 1960, s. 49(a).
2. These brackets and words were substituted for the brackets and words "(other than toddy)", *ibid*., s. 49(b).
3. This clause was inserted *ibid*., s. 49(c).
4. This portion was substituted for the portion beginning with the words "shall on conviction be punished" to the end of the section, *ibid*., s. 49(d).
5. This proviso was delected by Guj. 29 of 2011, s. 3.
6. Section 65A was inserted *ibid*, s. 4.

(d) uses, keeps, transports or has in his possession *laththa,*

shall, on conviction be punished with imprisonment for a term which may extend to ten years, but shall not be less than seven years and also with fi ne.

(2) When there has been death of any person by the consumption of the said *laththa* mentioned in sub-section (1) above, the person who has manufactured, kept, sold or arranged to make it drink or distributed *laththa* shall, on conviction, be punished with death or imprisonment for life and shall also be liable to fi ne.

(3) Whoever keeps, sells, buys or supplies any material for manufacture of the *laththa* and when there has been death of person by the consumption of the said *laththa* shall, on conviction, be punished for a term up to imprisonment for life and shall also with fi ne."]

Penalty for iilegal cultivatation and collec-tion of hemp and other matters.

66. [1][*(1)*] Whoever in contravention of the provisions of this Act, or of any rule regulation or order made, or of any licence, permit, pass or authorization issued, thereunder—

[2][* * * * * *]

(b) consumes, uses, possesses or transports any intoxicant [3][other than opium,] or hemp,

(c) taps or permits to be tapped any toddy producing tree,

(d) draws or permits to be drawn toddy from any tree,

[4][(e) enters the territory of the State in an intoxicated condition or under the infl uence of an intoxicant (other than opium) or hemp, after having consumed such intoxicant or hemp at any place outside the State,]

shall, on conviction, be punished,—

(i) for a fi rst offence, with imprisonment for a term which may extend to six months and with fi ne which may extend to one thousand rupees;

[5][* * * * *]

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fi ne which may extend to two thousand rupees;

[6][* * * * *]

(iii) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fi ne which may extend to two thousand rupees;

[7][* * * * *]

[8][*(2)* Subject to the provisions of sub-section *(3)*, where in any trial of an offence under clause (b) of sub-section *(1)* for the consumption of an intoxicant [9][or in any trial of an offence under clause (e) of sub-section (1) for entry in the terri-tory of the State after consumption of an intoxicant or hemp at any place outside the State], it is alleged that the accused person consumed liquor, and it is

proved that the concentration of alcohol in the blood of the accused person is [10][not less than 0.05

1. Section 66 was renumbered as sub-section (1) by Bom. 12 of 1959, s. 9.
2. Clause (a) was deleted by Bom. 22 of 1960, s. 50 (a).(i).
3. These brackets and words were inserted *ibid.*, s. 50 (a) (//).
4. Clause (e) was inserted by Guj. 9 of 1978, s. 8(1).
5. This proviso was deteted by Guj. 7 of 2005, s. 2 (i).
6. This proviso was deteted *ibid.*, s. 2 (ii).
7. This proviso was deteted *ibid.*, s.2 (iii).
8. Sub-sections (2) and (3) were added by Born. 12 of 1959, s. 9.
9. These words, brackets, letter and fi gure were inserted by Guj. 9 of 1978, s. 8(2)(a).
10. These words and fi gures were substituted and were deemed always to have been substituted for the words and fi gures "not less than 0.05 per cent." by Bom. 22 of 1960, s. 50(b)

per cent., weight in volume], then the burden of proving that [1][the liquor consumed was a medicinal preparation consumed in quantity not in excess of normal dose as defi ned in section 24-1A or that the liquor consumed was a toilet preparation] or an antiseptic preparation or solution, or a flavouring extract essence or syrup, containing alcohol, the consumption of which is not in contravention of the Act or any rules, regulations or orders made thereunder, shall be upon the accused person, and the Court shall in the absence of such proof presume the contrary.

(3) The provisions of sub-section *(2)* shall not apply to the consumption of any liquor—

(a) by in-door patients during the period they are being treated in any hospital, convalescent home, nursing home, or dispensary, maintained or supported by Government or a local authority, or by charity, or

(b) by such other persons, in such other institutions, or in such circum stances as may be prescribed.]

Penalty for illegal import, etc., of opium.

[2]**[66A.** Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder or of any licence, pass, permit or authorisation granted by or under this Act, imports, exports, transports, consumes, uses, pos-sesses, sells or buys, opium shall, on conviction be punished for each such offence with imprisonment for a term which may extend to three years and also with fine :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court,—

(*i*) for a fi rst offence, such imprisonment shall not be less than six months, and fine shall not be less than five hundred rupees,

(ii) for a second offence, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees,

(iii) for a third or subsequent offences, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.]

Penalty for alteration or attempting to

67.[3][*(1)*] Whoever in constravention of section 21 alters or attempts to alter any denatured spirit or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction be punished with imprisonment for a term which may extend to one year and with fi ne which may extend to one thousand rupees :

Provided that in ihe absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

[4][*(2)* In prosecutions under this section, it shall be presumed, until the contrary is proved, that the alteration or attempt to alter any denatured spirit was done with the intention that such spirit may be used for human consumption as an intoxicating liquour.]

Penalty for altera tion or attempting to alter denatured spirituous preparation

[5][**67-1A**. *6[(1)]* Whoever in contravention of section 21A alters or attempts to alter any denatured spirituous preparation or has in his possession any such preparation in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fi ne which may extend to one thousand reupees:

1. These words, fi gures and letter were substituted for the words “the liquor consumed was a medicinal or toilet preparation” by Guj. 9 of 1978, s. 8(2) (b).
2. This section was inserted by Bom. 22 of 1960, s. 51.
3. Section 67 was renumbered as sub-section (1), *ibid.*., s. 52.
4. This sub-section was added, *ibid.*
5. Section 67-A was inserted by Bom. 36 of 1954, s. 10.
6. Section 67-A was renumbered as sub-section (1) by Bom. 22 of 1960, s. 53.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.]

[1][(2) In prosecutions under this section it shall be presumed, until the contrary is proved, that the alteration or attmept to alter any denatured spirituous prepara tion was done with the intention that it may be used for human consumption as an intoxicating liqour.]

Penalty for contraven-tion of provision regarding prescrip tions.

[2]**[67-1B**. Whoever—

(a) not being a registered medical practitioner issues a prescription for intoxicating liquour, or

(*b*) being a registered medical practitioner,—

(i) prescribes intoxicating liquor in contravention of the provisions of sub-section (2) of section 22A, or

(ii) fails, without reasonable excuse, to state in the prescription for intoxicating liquor the particulars required by that section to be stated therein, or

(iii) fails to preserve such prescription, or a copy thereof, for the period for which it is required by that section to be preserved,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to one thousand rupees or with both.]

Penalty for manufac-turenig [7][articles mentioned in section 24A] in contraven-tion of the provisions of section

[3][**67A.** (*l*) Whoever in contravention of the [4][provisions of section 59AA or, as the case may be, of section 59A]—

[5][(la) manufactures, imports or exports any article mentioned in section 24A, or]

(a) sells, uses or disposes of any liquor otherwise than as an ingredient of any [6][article mentioned in section 24A], or

(b) uses more alcohol [8][in the manufacture of any of the articles mentioned in section 24A] than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of such [9][article], or

(c) knowingly sells [10][any such article] for being used as an intoxicating drink, or sells any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose,

shall, on convicition, be punished with imprisonment for a term which may extend to one year or with fi ne or with both.

1. This sub-seciion was added by Bom. 22 of 1960s. 53.
2. This section was inserted, *ibid.,* s. 54.
3. Sections 67A and 67B were inserted by Bom. 26 of 1952, s. 31.
4. These words, figures and letters were substituted for the words, figures and letter “provisions of section 59A” by Bom. 22 of 1960, s. 55(a)(*i*).
5. Clause *(la)* was inserted, *ibid.,* s. 55 *(a)* (*ii*).
6. These words, figures and letter were substituted for the words “medicinal or toilet preparation” by Bom. 36 of 1954, s. 11 *(i)(a).*
7. These words, figures and letter were substituted for the words “medicinal or toilet preparations”, *ibid.,* s.11(*iii*).
8. These words, fi gures and letter were substituted for the words “in the manufacture of such article which may be used as intoxicating liquor” by Bom. 22 of 1960, *s.55(a) (iii).*
9. This word was substituted for the word “preparation” by Bom. 36 of 1954,s.ll(i)(b).

10. These words were substituted for the words, fi gures and letter "any article to which section 24 A applies", *ibid,* s. *ll(i)(c).*

(2) No person who has been convicted for any offence under this section or has paid any sum of money under section 104 [1][by way of composition] for such offence shall be entitled to manufacture, import or to sell any [2][articlc mentioned in section 24A] for a period of one year from the date of such convic tion or payment, and any person who imports, manufactures or sells any [3][such article] in contravention of this sub-section shall be liable to the same punish ment as is provided for an offence punishable under section 65.

[6][Penalty for failure to satisfy the Director under sub-sec tion (1), or to comply with a requisition under sub-section (2), of section 59 B].

67 B.[4][*(1)*] If the manufacturer of any of the articles mentioned in section 24A fails to show to the satisfaction of the Director that the article correspondens to the description and limitations provided in section 59A, his licence for the purchase, use of possession of liquor or alcohol for the manufacture of such article shall be revoked.

[5][*(2)* Any person who fails to comply with any requisition made by the Director under sub-section (2) of section 59B, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fi ne or with both.]

Penalty for posses-sing, etc., denatured spirituous preparation in contra-vention of provisions of sections 59C and

[7][**67C.** Whoever,—

(a) in contravention of the provisions of section 59C possesses, without a permit, any denatured spirituous preparation in excess of the quantity prescribed under that section, or

(b) in contravention of the provisions of section 59D, manufactures, sells, bottles for sale or imports, exports or transports, any denatured spirituous preparation, or

(c) drinks any denatured spirituous preparation,

shall, on conviction, be punished-

(i) for a fi rst offence, with imprisonment for a term which may extend to six months and with fi ne which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary, to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fi ne shall not be less than fi ve hundred rupees ;

(ii) for a second offence, with imprisonment for a trerm which may extend to two years and with fi ne which may extend to two thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary, to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and the fi ne shall not be less than one thousand rupees ;

(iii) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fi ne which may extend to two thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary, to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fi ne shall not be less than one thousand rupees.]

1. These words were inserted by Bom. 22 of 1960, s. 55(b).

2. These words, fi gures and letter were substituted for the words, fi gures and letter "preparation to which section 24 A applies" by Bom. 36 of 1954, s. *ll(ii)(a).*

3 These words were substituted for the words "such preparation", *ibid., s. ll(i)(b).*

4. The original section 67-B was renumbered as sub-section (1) of that section by Boa. 20 of 1955, s. 6(1). 5. Sub-section (2) was added, *ibid.*

6. This marginal note was substituted *ibid.,* s. *6* (2).

7. This section was inserted by Bom. 22 of 1950, s. 56.

68. Whoever—

Penalty for

opening etc., of common driniking house.

(a) opens, keeps or uses any place as a common drinking house ; or

(b) has the care, management or control of, or in any manner assists in conducting the business of any place opened, kept or used as a commondrinking house,

[1][shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fi ne :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court.

(i) for a fi rst offence, such imprisonment shall not be less than six months, and fi ne shall not be less than fi ve hundred rupees ;

(ii) for a second offence, such imprisonment shall not be less than nine months, and fi ne shall not be less than one thousand rupees ;

(iii) for a third or subsequent offences, such imprisonment shall not be less than one year and fi ne shall not be less than one thousand rupees.]

Penalty for illegal import, etc. of mhowra fl owers.

69. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or licence, permit or pass granted thereunder, imports, exports, [2][collects], transports, sells, [2][buys] or has in his possession mhowra fl owers shall, on conviction, be punished,—

(i) for a fi rst offence, with imprisonment for a term which may extend to six months and with fi ne which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fi ne shall not be less than fi ve hundred rupees;

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fi ne which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fi ne shall not be less than one thousand rupees ;

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fi ne which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fi ne shall not be less than one thousand rupees :

Provided further that no person shall be punished in respect of any mhowra fl owers which are either growing on a tree or are lying collected on the ground as they have fallen from a tree.

1. This portion was substituted for the original by Bom. 22 of 1960, s. 57.
2. This word was inserted by Bom. 26 of 1952, s. 32.

Penalty for illegal import, etc., of molasses.

70. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence or permit granted thereunder, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with for a term which may extend to six months or with fi ne which may extend to one thousand rupess or with both.

Penalty for illegal possession, etc., of rotten gur or ammonium chloride.

[1][**70 A.** Whoever in contravention of the provisions of this Act or any rule, regulation or order made or of any licence, permit, pass or authorisation granted thereunder possesses, manufactures, uses or consumes rotten gur or ammonium chloride shall, on conviction, be punished with imprisonment for a term which may extend to six mohths and with fi ne which may extend to one thousand rupees.]

71. [*Penalty for selling molasses at price exceeding fi xed price.] Deleted by Bom.* 26 *of 1952, s. 33.*

Panelty for removal of intoxi cant, etc.

[2][**72.** Whoever, in contravention of the provisions of this Act or of any rule, regulation or order made, or pass granted, thereunder, removes any intoxicant, hemp, mhowra fl owers or molasses from any distillery, warehouse, godown or other place of or licensed under this Act shall, on conviction, be punished with imprisotiment for a term which may extend to one year or with fi ne which may extend to one thousand rupees or with both.]

Penalty for printing or publishing advertise-ment in contraven-tion of

73. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder, prints, or publishes in any newspapers news-sheet, book, leafl et, booklet, or any single or periodical publication otherwise displays or distributes any advertisements or other matter—

(a) which [3][*]solicits the use of or offers any intoxicant or hemp, or

(b) which is calculated to encourage or incite any individuals or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of, or to evade the provisions of, any rule, regulation or order made thereunder or of the conditions of a licence, permit, pass or authorization granted thereunder.

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to fi ve hundred rupees or with both.

Penalty for circulating, etc., news papers etc., containing advertise-ments regarding intoxicants,

74. Whoever, in contravention of a notifi cation issued under sub-section (3) of section 24, circulates, distributes or sells any newspaper, news-sheet, book, leafl et, booklet, or other publication printed and published outside the [4][State] which contains any advertisement or matter,—

(a) which [5][*] solicits the use of or offers any intoxicant or hemp, [6][or]

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

1. Section 70 A was inserted by Guj. 9 of 1978 s. 9
2. This section was substituted by Bom. 22 of 1960, S. 58.
3. The word " commends " was deleted, by Bom. 26 of 1952, S. 34.
4. This words were substituted for the words "prereorganisation state of Bombay excluding the transferred territories" by Bom. 12 of 1959, S. 3.
5. The words "commends" was deleted by Bom. 26 of 1952, S. 35 (1)
6. This word was inserted, *ibid.*, S. 35 (2)

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to one thousand rupees or with both.

Penalty for inciting or encouraging certain acts.

75. Whoever, in contravention of the provisions of this Act or any rule, regulation or order made thereunder—

(a)[1][*] solicits the use of or offers any intoxicant or hemp, or

[3][* * *]

(c) does any act which is calculated to incite or encourage any individual or a class of individuals or the public generally to commit an offence under this Act or to commit a breach of any rule, regulation or order made or of conditions of a licence, permit, pass or authorization granted thereunder.

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to one thousand rupees or with both.

Penalty for contrav en-

[4][**75A.** Whoever, in contravention of the provisions of section 43,—

tion of provisions of section 43.

(a) drinks in a public place or in the rooms of a hotel or institution to which the public may have access,

(b) allows the use or consumption of any quantity of foreign liquor possessed by him to any other person,

(c) serves liquor at any ceremonial or other function or any assembly of per-sons where persons (not being members of his family or his employees) not holding permits under sections 40, 41, 46, 46A or 47 are present,

shall, on conviction, be punished for every such offence with imprisonment which may extend to six months or with fi ne which may extend to one thousand rupees, or with both.]

Penalty for neglect to keep measures, etc.

76. Whoever in contravention of the provisions of this Act, rule or regulation or order or condition of any licence, permit or pass granted under this Act,—

(a) neglects to supply himself with measures and weights for measuring and weighing any intoxicant or hemp, or with instruments for testing the strength of liquor or keep the same in good condition, or

(b) refuses to measure, weigh or test any intoxicant or hemp in his possession[5] [or to have it weighed, measured or tested],

shall, on conviction be be punished for each such offence with fi ne which may extend to two hundred rupees.

1. The word " commends " was deleted by Bom. 26 of 1952, s. 36 (1).
2. Clause (b) was deleted, *ibid.*, 36 (2).
3 The words "prustrating provisions of this Act" were deleted *ibid.*, s. 36 (3).
4. This section was inserted by Bom. 22 of 1960, s. 59.
5. These words were added, *ibid*., s. 60.

Penalty for misconduct by licence, etc.

77. Whoever, being the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(a) fails to porduce licence, permit, pass or authorization on demand by a Prohibition Offi cer or any other offi cer duly empowered if such licence, permit, pass or authorization is in his possession or control, or

(b) wilfully does or omits to do anything in contravention of any rule, regulation or order made under this Act, or

[1][* * * *]

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to [2][six] months, or with fi ne which may extend to [3][fi ve hundred] rupees or with both.

Penalty for misconduct by licensed vendor or manufac-turer.

78. Whoever, being the holder of a licence for the sale or manufacture of any introxicant undet this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(a) mixes or permits to be mixed with the said intoxicant any noxious drug or any foreign ingredient likely to add to the actual or apparent intoxicating quality or strength or any article prohibited by any rule made under this Act or water except for the purpose of reducing liquor to the strength prescribed in the licence, or any diluting or colouring substance or any ingredient whatsoever likely to render the intoxicant inferior in quality whether such ingredient is or is not prohibited as aforesaid, when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code, or

XLV of 1860.

(b) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liqour, or

(c) marks the cork of any bottle, or any bottle, case, packages or other receptacle, containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor with, any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to an offence of using a false trade mark with intent to deceive or injure any person under section 482 of the Indian Penal Code, or XLV of 1860.

1. Clause (*c*) was deleted by Bom. 22 of 1960, s. 61 (a).

2. This word was substituted for the word "three" *ibid.,* s. 61 (b).

3. These words were substituted for the words "two hundred." *ibid.*

(*d*) sells or exposes for sale, any country liquor in a bottle case or package or other receptacle, with any mark thereon, or on the cork thereof with the inten-tion of causing it to be believed, that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, or XLV of 1860.

(*e*) sells any intoxicant which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any intoxicant which is not of the nature, substance and quality authorised by the terms of the licence to be kept for sale by the holder of the licence,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months and with fi ne which may extend to one thousand rupees.

Liability of licensee for acts of servants

79. The holder of a licence, permit, pass or authorization granted under this Act shall be responsible as well as the actual offender, for any offence committed by any per-son in his employ or acting with his express or implied permission on his behalf under the provisions of this Act as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fi ne.

import, ex-port, etc. of intoxicant by any person on account of another.

80. (1) Whenever any intoxicant, hemp, mhowra fl owers or molasses are manufactured, imported, exported, transported, sold or are possessed by any per-son on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or possession is, on his account, the intoxicant, hemp, mhowra fl owers or molasses, as the case may be,

shall for the purposes of this Act, be deemed to have been manufactured, imported, exported, transported or sold by or to be in possession of, such other person.

(2) Nothing in sub-section (*1*) shall absolve any person from liability to any punishment under this Act for the unlawful manufacture, import, export, trans-port, sale or possession of such articles.

Penalty for attempts or abetment.,

81. Whoever, attempts to commit or abets the commission of an offence under this Act shall, on conviction, be punished for such attempt or abetment with the same punishment as is provided for the principal offence.

Breach of licence, permit, etc.

82. (1) In the event of any breach by the holder of any licence, permit, pass

or authorisation granted under this Act or by his servants or by any person acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorisation, such holder shall, in addition to the cancellation or suspension of the licence, permit, pass or authorisation granted to him, be punished, on conviction with imprisonment for a term which may extend to six months or with fi ne which may extend to fi ve hundred rupees or with both, unless it is proved at all due and reasonable precautions were exercised by him to prevent any such breach. to be an offence.

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(a) Any person who commits any such breach shall, whether the acts with or without the permission of the holder of the licence, permit, pass or authorization be liable to the same punishment.

Penalty for conspiracy.

83. When two or more persons agree—

(a) to commit or cause to be committed any offence under this Act, or

(b) [1][***] to commit a breach of a condition of a licence, permit, pass or authorization,

each of such persons shall, on conviction, be punished with imprisonment for a period which may extend to two years or with fi ne which may extend to one thousand rupees or with both.

Penalty for being found drunk in any drinking

84. Whoever is found drunk or drinking in a common drinking house or is found there present for the purpose of drinking, shall, on conviction, be punished with fi ne which may extend to fi ve hundred rupees. Any person found in a common drinking house during any drinking therein shall be presumed, until the contrary is proved, to have been the purpose of drinking.

Penalty for being drunk and for disorderly behaviour.

85. [2][(1)] Whoever, in any street or throughfare or public place or in any place to which the public have or are permitted to have access—

(1) is drunk and incapable of taking care of himself, or

(2) behaves in a disorderly manner under the infl uence of drink, [3][or

(3) is found drunk but who is not the holder of a permit granted under the provisions of this Act or is not eligible to hold a permit under section 40, 41, [4][46 or 46A]].

shall, on conviction, be punished, —

(*i*) for an offence under clause (1) [5][or clause (3)],

(a) for a fi rst offence, with imprisonment for a term which may extend to one month and with fi ne which may extend to two hundred rupees:

[6][* * * * *]

1. The words " to defeat or frustrate the provisions of this Act, rules, regulation or order, or" were deleted by Bom. 26 of 1952, s. 37

2. Section 85 was renumbered as sub-section (*1*) of the said section, *ibid,* s. 38.

3. This portion was inserted, *ibid*., s. 38 (1).

4. There fi gures, word and letter were substituted for the word and fi gures "or 46'' by Bom. 20 of 1955, s. 7.

5. These words, brackets and fi gure were inserted by Born. 18 of 1953, s 3 Second Schedule.

6. This proviso was deleted by Guj, 7 of 2005, s. 3 (a) (*i*).

(b) for subsequent offence, with imprisonment for a term which may extent to six months and with fi ne which may extent to fi ve hundred rupee;

[1][* * * * *]

(*ii*) for an offence under clause (2),—

(a) for a fi rst offence, with imprisonment for a term which may extent to three months and with fi ne which may extent to fi ve hundred rupee;

[2][* * * * *]

(b) for a subsequent offence, with imprisonment for a term which may extent to one year and with fi ne which may extent to one thousand rupees;

[3][* * * * *]

[4][(2) In prosecution for an offence under sub-section (7), it shall be presumed until the contrary is proved that the person accused of the said offence has drunk liquor or con-sumed any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose.]

Penalty for allowing any premises to be used for purpose of committing an offence under Act.

86.*(1)* Whoever, being the owner or occupier, or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of the commission by any other person of any offence punishable under this Act, shall on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to one thousand rupees or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, the imprisonment shall not be less than three months and fi ne shall not be less than fi ve hundred rupees.

(2) It shall be presumed until the contrary is proved, that a person accused of an offence under sub-section (*1*) as committed such offence if the offence committed by that other person is proved to have been committed in the premises in his immediate possession

Penalty for chemist, druggist or a pothecary for allowing his premises to be used for consumption of liquor.

87. A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been *Bona fi de* medicated for medicinal purposes according to the prescription of a [5][registered medical practitioner] or any intoxicaing drug to be consumed on his business premises by any person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fi ne which may extend to one thousand rupees, or with both.

1. 2. 3. 4. 5. This proviso was deleted by Guj. 7 of 2005, s. 3 (a) (ii).
This proviso was deleted, *ibid*, s. 3 (b) (*i*).
This proviso was deleted *ibid*, s. 3 (b) (*ii*).
Sub-section (2) was added by Bom. 26 of 1952, s. 38 (2).

Penalty for issuing false prescription.

88. If a [1][registered medical practitioner] issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor, intoxicating drug or opium in contravention of the provisions of this Act, or rule, regulation or order made-thereunder or any licence, permit, pass or authoriza-tion granted under this Act, be shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to one thousand rupees or with both.

Penalty for maliciously giving false information.

89. Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to one thousand rupees or with both.

Penalty for offences not otherwise provided for.

90. Whoever is guilty of any wilfull act or intentional omission in contravention of the provisions of this Act, or any rule, regulation, or order made thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act, shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fi ne which may extend to fi ve hundred rupees or with both.

Demand for security for

91. (1) Whenever, any person is convicted of an offence punishable under this

abstaining from commission of certain offences.

Act, the court convicting such person may, at the time of passing the sentence on such person, order him to execute bond for a sum proportionate to his means with or without sureties to obtain from the commission of offences punishable under the provisions of this Act during such period not exceeding three years as it may direct.

(2) The bond shall be in such form as may be provided under the provisions of the Code of Criminal Procedure, 1898, and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(3) If the conviction is set aside in appeal the bond so executed shall become void.

Ranadering community service in lieu of imprisonment.

[2][**92.** (1) Where the court, on conviction for the fi rst offence under claues (b) of sub- section (1) of section 66 for consumption of an intoxicant or sub-section (1) of section 85 or both sentences a person to simple imprisonment for certain term, [3][it may] in lieu of such imprisonment require such person to execute a bond with suretiesing conditions in such form as may be prescribed, for rendering such community service and subject himself to such medical treatment for getting freed from addiction of intoxicant as may be prescribed for the term of such imprisonment.

(2) On execution of the bond under sub-section (1), the sentence shall stand suspended and the person shall be released :

Provided that if the person commits breach of any condition of the bond, the suspension of sentence shall stand cancelled and. the sentence shall revive and the person shall be arrested by any police offi cer without warrant and remanded to undergo the unexpired portion of the sentence.

1. These words were substituted for the words 'medical practitioner" by Bom.12 of 1959, s. 10.

2. Original section 92 was deleted by Bom. 67 of 1953, s.2. which was inserted by Guj. 21 of 2003, s.2.

3. These words were substituted for the words "it shall" by Guj. 7 of 2005. S.4.

Explanation.- Nothing in this section shall be deemed as granting of probation to offender"].

Demand of security for good behaviour

93. (1) Whenever [1][2][* * *] a District Magistrate, or Sub-Divisional Magistrate] receives information that any person within the local limits of his jurisdiction habitually commits or attempts to commit or abets the commission of an offence punishable under this Act such magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate may direct.

V of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898, shall in so far as they are applicable apply to any proceedings under sub-section (7) as if the bond referred to therein were a bond required to be executed under section 110 of the said Code.

Executior of bonds in respect of minors.

94. If any person in respect of whom a bond is ordered to be executed uner [3][sections 91 and 93] is a minor, the bond shall be executed by his guardian.

Punishment for failure in duty by Prohibition Offi cer or Police Offi cer.

[4][**94 A.** Any Prohibition Offi cer or Police Offi cer duty bound under section 116C, fails to send the sample of liquor to Forensic Science Laboratory of the State for its detailed report shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fi nd which may extend to three thousand rupees].

Punishment for vexatious search seizure or arrest.

95. Any offi cer or person exercising powers under this Act who-

(a) maliciously enters or searches or causes to be entered or searched, any building or house or similar dwelling place; or

(b) vexatiously and unnecessarily seizes the property of any person on the

presence of seizing or searching for anything liable to confi scation under this Act; or

(c) vexatiously and unnecessarily detains, searches or arrests may person; or

(d) in any other way maliciously exceeds or abuses his lawful powers,

shall on conviction, be punished with imprisonment for a term which may extend to one year or with fi ne which may extend to one thousand rupees, or with both.

Punishment for vexatious delay.

[5][**96.** Any offi cer or Person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to a Magistrate or to the offi cer-in-charge of the nearest police station as required by the provisions of this Act, any person arrested or a article under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fi ne which may extend to one thousand rupees or with both.]

1. The words "Presidency Magistrate specially empowered by the State Government in this behalf in Greater Bombay, and elsewhere, a District Magistrate or Sub-Divisional Magistrate" were substituted for the words " Presidency Magistrate in the Greater Bombay and elsewhere a Magistrate of the fi rst class" by Bom. 21 of 1954, s. 3, second Schedule.
2. The words "Presidency Magistrate specially, empowered by the State Government in this behalf in Greater Bombay, and elsewhere, " were comitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
3.. These words and fi gures were substituted for the words " the last three preceding sections." by 67 of 1953 Bom. s,3.
4. Section 94A was inserted by Guj-29 of 2011, s. 5
5. This section was substituted by Bom. 22 of 1960, s. 62.

Punishment for abetment for escape of persons arrested.

97. Any offi cer or person exercising power under this Act, who—

(a) unlawfully releases any person arrested under this Act, or

(b) abets the escape of any person arrested under this Act, or

(c) abets the commission any offence against this Act, and

any other offi cer of the [1][Government] or of a local authority who abets the commission of any offence against this Act,

shall on, conviction, be punished with imprisonment for a term which may extend to one year or with fi ne which may extend to one thousand rupees or with both.

Things liable to confi scation.

98. (1) Whenever any offence punishable under this Act has been committed,

(a) any intoxicant, hemp, mhowra fl owers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,

(b) where, in the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra fl owers or molasses other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra fl owers, or molasses,

(c) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra fl owers or molasses in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass or authorization, the whole quantity of such intoxicant, hemp, mhowra fl owers or molasses which he has attempted to import, export or transport,

(d) where, in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra fl owers or molasses other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra fl owers or molasses,

shall be confi scated by the order of the Court.

(2) Any receptacle, package or covering in which any of the articles liable to confi scation under sub-section (1) is found and the other contents of such receptacle,

package or covering and the animals, carts, vessels or other conveyances used in carrying any such article shall like-wise be liable to confi scation by the order of the Court.

[2][But it shall not be released on bond or surety till the fi nal judgement of the Court where the quantity of the seized liquor is exceeding the quantity as may be prescribed by the rules.]

Return of things liable to confi scation to *bona fi de* owners.

99. When during the trial of a case for an offence under this Act the court decides that anything is liable to confi scation under the foregoing section, the court may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confi scation, or in the case of any article other an intoxicant, hemp, mhowra fl owers or molasses give the owner an option to pay fi ne as the court deems fi t in lieu of confi scation :

1. This word was substituted for the word "Crowa " by the Adaptation of Laws Order, 1950.

2. Thise words were added by Guj. 29 of 2011, 5, 6.

Provided that no animal, cart, vessel, vehicle or other conveyance shall be confi scated if the owner thereof satisfi es the court that he had exercised due care in preventing the commission of the offence.

Procedure in confi scation.

100. When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confi scation under this Act is found seized, the [1][Director], Collector or any other offi cer authorized by the [2][State] Government in this behalf may make an inquiry and if after such inquiry is satisfi ed that an offence has been committed, may order the thing found to be confi scated :

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing [3][the person, if any, claming any right thereto] and the evidence, if any, which he produces in support of his claim.

Power of Collector, etc., to order sale or destruction of articles liable to confi scation

101. If the thing in question is liable to speedy and natural decay, or if the [1][Director], Collector, [4][Court] or the offi cer authorized by the [2][State] Government in this behalf is of opinion that the sale would be for the benefi t of the owner, the [1][Director], Collector, [4][Court] or the offi cer may at any time direct it to be sold and the provisions of section 99 or 100 shall apply so far as may be to the net proceeds of the sale:

[5][Provided that, where anything is liable to speedy and natural decay, or is of trifl ing value, the Court or the offi cer concerned may order such thing to be destroyed, if in its or his opinion such order is expedient in the circumstances of the case].

Forfeiture of any publication containing advertisement or matter [9][soliciting] use of

102. (1) Where any newspaper news-sheet, book, leafl et, booklet or other publi cation wherever printed or published appears to the [2][State] Government to contain any advertisement or matter [6][*] soliciting the use of, or offering an intoxicant or hemp, the [2][State] Government may, by notifi cation in the *Offi cial Gazette,* declare every copy of such newspaper, news-sheet, book, leafl et, booklet or other publication whether printed or published in the [7][State] or outside to be forfeited to [8][the State Government], and thereupon any Police Offi cer may seize the same wherever found in Any Magistrate may by warrant authorize any Police Offi cer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such a newpaper, news-sheet, book, leafl et, booklet or other publication may be or may be reasonably suspected to be. Every warnant issued under the section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.

V of 1898.

(2) The declaration of the [2] [State] Government under this section shall be fi nal and shall not be questioned in any Civil or Criminal Court.

Presump-

103. (1) In prosecutions under any of the provisions of this Act, it shall be pre-

tion as to commission of offences in certain cases

sumed without further evidence, until the contrary is proved, that the accused person has committed in offi ence under this Act in respect of any intoxicant, hemp, mhowra fl owers or molasses or any still, utensil, implement or apparatus, whatsoever for the manufacture of any intoxicant [10][* * *] [11][or any materials which have undergone towards the manufacture of any intoxicant or from which an intoxicant has been manu-factured,] for the prossession of which he is unable to account satisfactorily.

1. This word was substituted for the word "Commissioner" by Bom. 28 of 1950; Sch,
2. This word was substituted for the word "Provincial" by the Adaptation of Laws "Order, 1950.
3. These words were substituted for the words "any person who can claim any right thereto" by Bom. 22 of 1960, s. 63.
4. This word was substituted for the word "Magistrate" by Bom. 21 of 1954 s 3, Second Schedule.
5. This proviso was substituted by Bom. 22 of 1960, s. 64.
6. The word "commending" was deleted by Bom. 26 of 1952, s. 39.
7. This word was substituted for the words "pre Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.
8. These words were substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950
9. This word was substituted for the word "commending" by Bom. 26 of 1952, s. 39.
10. The words "as are ordinarily used in the manufacture of such intoxicant" were deleted by Bom. 22 of 1960, s. 65 (a).
11. These words were inserted by Bom. 20 of 1955, s. 8.

[1][2][(2) Where in any trial of an offence of manufacturing liquor or any intoxicating drug and using a still for such purpose in contravention of the provisions of this Act, it is proved that the accused person was present by the side of the still while it was working or that he was the owner or occupier having the care, management or control of the place wherein such still was used, then the burden of proving that the accused person had not used, or had not abetted in using the still for manufacturing liquor or an intoxicating drug shall be on the accused person and the court shall, in the absence of such proof, assume to the contrary.]]

103A. [Report of certain registered medical offi cers as evidence.] Deleted by Bom. 12 of 1959, s. 12.

Compound-ing of offences.

104. (1) The [3][State] Government may sanction the acceptance from any person whose licence, permit, pass or authorisation is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under section [4][69,70,77,82 or] 108 of a sum of mony in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be; and in all cases in which any property other than the intoxicant, hemp, mhowra fl owers or molasses has been seized as liable to confi scation under this Act may release the same on payment of the value thereof as estimated by the [3][State] Government or such offi cer as the [3][State] Government may authorize in this behalf :

Provided that where a person who is reasonably suspected of having committed an offence under section [5][69, 70 or] 108 is not the holder of a licence, permit, pass or authori-sation granted under this Act or a person in the employ of such holder or a person acting with his express or implied permission on his behalf, the sum of money which may be ac-cepted from such person by way of composition shall not exceed fi ve hundred rupees :

[6][Provided further that, in the case of a person who is reasonably suspected of having committed an offence under section 108, the sum of money which may be accepted from him by way of composition for the offence shall be in addition to the duty or fee required to be paid by him under this Act.]

(2) On the payment by such person of such sum of money, or such value or both as the case may be, such person, if in custody, shall be set at liberty and the property seized may be released and if any proceedings shall have been instituted against such person in any Criminal Court, the composition shall be held to amount to an acquitital and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

Bombay Probation of Offenders

[7]**[104**A. Nothing in the Bombay Probation of Offenders Act, 1938, or [8][in any law corresponding to that Act in force in any part of the State or in the Probation of Offend-

Bom. XIX of 1938.

and section 562 of Code of Criminal Procedure, 1898, not to apply to persons convicted of offence under this Act.

of the Code of Criminal Procedure, 1898, shall apply to any person convited of any offence under this Act,]

XX of 1958. V of 1898.

1. 2. 3. 4. 5. 6. 7. 8.

Sub section (2) was deleted by Bom. 22 of 1960, s. 65 (b).

Sub section (2) was inserted by Guj. 9 of 1978, s. 10.

This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950. These f and word were inserted by Bom. 26 of 1952, s. 40 (1).

These fi gures and word were inserted ibid., s. 40 (2).

This proviso was added by Bom. 22 of 1960, s. 66.

Section 104 A was inserted by Bom. 67 of 1953 s. 4.

CHAPTER VIII.

EXCISE DUTIES.

Excise duties.

105. 1[(1)] An excise duty or countervailing duty, as the case may be, at such rate or rates as the 2[State] Government shall direct may be imposed either generally or for any specifi ed local area on—

(a) any alcoholic liquor for human consumption,

(b) any intoxicating drug 3[or hemp], :

4[(c) opium],

(d) any other excisable article,

when imported, exported, transported, possessed, manufactured or sold 5[in or from the State , as the case may be] :

XXX-II of 1934. VIII of 1878.

Provided that duty shall not be so imposed on any article which has been imported into 6[the territory of India] and was liable on such importation to duty under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878 7[or on any medicinal or toilet preparation containing alcohol, opium, hemp or other narcotic drugs or narcotics.]

Explanation.—Duty may be imposed under this section at different rates according to the places to which an excisable article is to be removed for consumption or according to varying strengths or quality of such article.

8[9[(2) All notifi cations or orders issued under sub-section (*1*) shall be laid for not less than thirty days before the State Legislature as soon as may be after they are issued and shall be subject to such modifi cations as the State Legislature may make during the session in which they are so laid or the session immediately following].

(3) Any modifi cation so made by the State Legislature shall be published in the *Offi cial Gazette* and shall thereupon take effect].

Manner of levying excise duties.

106. Subject to any regulations to regulate the time, place and manner of payment made by the 10[Director] in this behalf, the duties referred to in section 105 may be levied in one or more of the following ways :—.

(a) in the case of an excisable article imported—

1. Section 105 was renumbered as sub-section (*1*) by the Adaptation of Laws Order, 1950.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950.
3. These words were added by Bom. 22 of 1960, s. 67 (a).
4. This clause was substituted, ibid, s. 67 (b).
5. Chapter IV of this Act" by Bom. 26 of 1952. s. 41.
6. These words were substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.

7. These words were added by Bom. 22 of 1960, s. 67 (c).
8. Sub-section (2) was deleted by Bom. 12 of 1959, s. 14.
9. Sub-sections (2) and (3) were added by Guj. 9 of 1978, s. 11.
10. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

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(i) by payment either in the [1][State] at the time of its import or in the [2][State] or territory of export at the time of its export, or

(ii) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(b) in the case of an excisable article exported by payment in the [1][State] at the time of its export, or in the [2][State] or territory of import;

(c) in the case of excisable articles transported —

(i) by payment in the district from which they are transported, or

(ii) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(d) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(i) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under this Act, or

(ii) by a rate charged in accordance with such [3][scale of equivalents] calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the [4][State] Government may prescribe;

(e) in the case of intoxicating drugs manufactured [5][in the State] by payment upon the quantity produced or manufactured or issued from a warehouse established or licensed under this Act :

Provided that where payment is made upon issue for sale from a warehouse established or licensed under this Act, such payment shall be at the rate of the duty in force at the date of issue from the warehouse :

Provided further that where one and the same person is permitted —

(i) to manufacture or import and to sell, or

(ii) to manufacture and export

country liquor or any intoxicant, such duty may be levied in consideration of the joint privileges granted, as the Collector deems fi t.

Fees.

[6]**[107.** The State Government may, by rules, prescribe the fees payable in respect of any privilege, licence, permit, pass or authorisation granted or issued under this Act].

Declaration of stock of articles mentioned in section 24 A; maintenance of accounts and submission of

[7]**[107**A. Every person who imports or manufactures any of the articles mentioned in section 24A shall—

(a) submit to the Collector within such period and in such form, as may be prescribed, a declaration of the quantity of such articles in his possession on the importation or manufacture of the said articles, as the case may be;

(b) maintain accounts of the articles in such form and submit such returns as may be prescribed.

1. This word was substituted for the words ''pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959 s. 3.
2. This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
3. These words were substituted for the words "sale of equivalents" by Bom. 22 of 1960 s. 68.
4. This word was substituted for the word "provinicial" by the Adaptation of Laws Order, 1950.
5. These words were substituted for the words "in pursuance of a licence granted under this Act" by Bom. 26 of 1952, s. 42.

6. Section 107 which inserted by Guj. 9 of 1978, s. 12 deleted by Bom. 22 of 1960, s. 69 was.

7. Sections 107 A and 107 B were inserted by Bom. 26 of 1952, s. 44.

Power to obtain information and to search and seize excisable

107B.(1) The Collector or any offi cer empowered by the State Government in this behalf may, subject to such conditions as may be prescribed,

(a) by order require any person liable to pay any excise duty or fee under this Chapter to furnish him with any information or to produce before him any accounts or other documents concerning any excisable article as may be necessary for the purposes of this Chapter;

(b) inspect at all reasonable hours the accounts or other documents relating to the stocks of any excisable article imported or manufactured or stored in respect of which such duty or fee has been paid or is payable and any place where such article is manufactured or stored;

(c) for reasons to be recorded in writing, enter any such place where he knows or has reason to believe that any excisable article in respect of which such duty or fee has not been paid is being imported or manufactured or stored and search for the same and seize any stocks of such article found therein and detain the same until such time as proof of payment of such duty or fee is produced or such further time as may be necessary for taking action under section 98, 99, or 100 or for prosecuting for an offence under section108.

(2) Whoever—

(a) fails to furnish any information or produce any accounts or other documents in compliance with an order made under clause (a) of sub-section (1) or [1][furnishes false information or produces false accounts or documents, or]

(b) obstructs, any offi cer making an inspection, entry, a search or a seizure under clause (b) or clause (c) or sub-section (1),

shall, on conviction, be punished with imprisonment for a term which may extended to six months or with fi ne which may extend to one thousand rupees or with both.]

Penalty for import of intoxicant, etc., without payment of duty.

108. Whoever imports, exports, transports, possesses, [2][sells] or manufactures any intoxicant or hemp without the payment of duty or fee provided for under this Act shall on conviction, [3][in addition to being required to pay such duty or fee, be punished with imprisonment for a term which may extend to one year or with fi ne which may extend to one thousand rupees or the amount of such duty or fee, whichever is greater, or with both.]

Duty on tapping of toddy trees.

109. (1) For every toddy producing tree [4][which is tapped or licensed to be tapped or in respect of which a licence for drawing toddy therefrom is granted] there shall, if the [5][State] Government so directs, be levied for any period during which such tree is tapped or licenced to be tapped, such duty as the [5][State] Government may from time to time direct.

(2) Every licence [6][for the tapping of, and drawing toddy from, toddy producing trees] granted under this Act shall specify in addition to any other particulars prescribed under the provisions of this Act or rules or regulations—

(a) the number, description and situation of the trees to be tapped,

(b) the amount of duty to be levied in respect of each tree,

(c) the instalments, if any, which and the period at which the said duty shall be leviable.

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1. These words were added by Bom. 22 of 1960, s. 70.
2.
3. This word was inserted by Bom. 26 of 1952, s. 45 (1).

   This portion was substituted for the words beginning with the words "be liable to the same punishment and ending with the words "of this Act", ibid., s. 45, (2)

4. These words were substituted for the words "from which toddy is drawn" by Bom. 22 of 1960, s. 71 (*a*).

5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

6. These words were substituted for the words "for the drawing toddy" by Bom. 22 of 1960, s. 71 (b).

Duty by whom payable.

110. The duty on toddy producing trees shall be leviable primarily from the person holding the licence [1][to tap them and to draw toddy therefrom] and in default by him or if the trees are tapped without licence, from the owner of the trees.

Owener of trees entitled to assistance for duty paid.

111. When the duty on toddy producing trees is levied from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the licence under the provisions of the law for the time being in force relating to the recovery by superior holders of their dues from their tenants.

Privilege of drawing toddy from trees belonging to Government.

112. The privilege of drawing toddy from trees the right to which vests in the [2][State] Government may be disposed of [3][*] by auction or otherwise on such terms as the Collector deems fi t.

113. *[Rules for levy of duty on opium, etc]. Deleted by Bom, 22 of 1960. s. 74.*

Recovery of duties, etc.

[4][**114.** *(1)* All duties, taxes, fi nes (except fi nes imposed by a Court) and fees leviable under any of the provisions of this Act or in respect of any licence, permit, pass or authorization granted under it, and the cost of the supervising staff appointed under section 58A, may be recovered from any person liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

(2) When any person, in compliance with any rule, regulation or order made under this Act, gives a bond (other than a bond under section 91 or 93) for the performance of an act, or for his abstention from any act, such performance or abstention shall be deemed to be a public duty within the meaning of section 74 of the Indian Contract Act, 1872; and upon breach of the conditions of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (if any) as if it were an arrear of land revenue].

XI of 1872.

CHAPTER IX.

POWERSAND DUTIESOF OFFICERSAND PROCEDURE.

Magistrate's power to impose enhanced penalties.

[5][**115.** [6][(1)] Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawfully for [7]*** any magistrate of the First Class to pass any sentences authorized by this Act [8][except any sentence under section 65A]in excess of his powers under section 32 of the said Code, provided that the fi ne shall not exceed three thousand rupees.]

V of 1898.

[9][(2)] The provisions of the Code of Criminal Procedure,1973 shall apply for trials of the offences under section 65A.]

Venue of trial of offence of consumption of intoxicant or hemp.

[10][**115A**. Notwithstanding anything contained in Code of Criminal Procedure, of 1898, an offence of consumption of any intoxicant or hemp specifi ed in clause (b) of sub-section (*1*) of section 66, may be tried by a Magistrate having jurisdication either at the place in which the offence was actually committed or at any place in the State in which the offender may be found.]

V of 1898.

1. These words were substituted for the words "to draw toddy" by Bom. 22 of 1960, s. 72.
2. This word was substituted for the word "Provincial" by the adaptation of laws orders, 1958.
3. The word "annually" was deleted, by Bom. 22 of 1960, s. 73
4. This section was substituted for the original ibid., s. 75.
5. This section was substituted for the original ibid., s. 76.
6. Section 115 was renumbered as sub-setcion (1) by Guj. 29 of 2011, s 7 (1).
7. The words "any Presidency Magistrate or" were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960./
8. These words, fi gures and letter were inserted by Guj. 29 of 2011, s. 7 (1).
9. Sub-section (2) was inserted by Guj 29 of 2011, s. 7 (2).
10. This section was inserted by Guj. 16 of 1964, s. 3.

Procedure to

V of 1898.

116. In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of

summary cases in which an appeal lies.

be followed by Magis-trates

Tender of pardon of

[1][**116A.** (1) Whenever two or more persons are prosecuted for an offence under this Act, [2]* * * any Magistrate of the First Class may, at any stage of the investigation or inquiry into or the trial of offence, with a view to obtaining the evidence supposed to have been directly or indirectly concerned in, or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of all facts within his knowledge relative to the offence.

(2) Every Magistrate, who tenders a pardon under sub-section (1), shall record his reasons for so doing.

(3) Every person, accepting tender under this section shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence, and in the subsequent trial, if any.

V of 1898.

(4) The provisions of sections 339 and 339-A of the Code of Criminal Procedure, 1898, shall apply to the trial of a person to whom pardon has been tendered under this section as they apply to a person to whom pardon has been tendered under section 337 or section 338 of that Code.

Explanation.—For the purposes of sub-section (4), the reference to the Public Prosecutor in section 339 of the said code shall include a reference to any offi cer conduct-ing a prosecution under this Act.]

No analysis required for known brand of liquor.

[3][**116B.** Where in any trial for any offence of unlawful possession of liquor under this Act, it is proved that the accused person was in the possession of any sealed bottle bearing the original label indicating the name of any known brand of spirits, such as whisky, brandy, rum, gin, club cup, liqueurs, milk punch, or of wines such as champagne, moselle, burgundy, chianti, white wines, clarets, hocks, riesling, meceira, ginger-wine, port type, port vermouth, sherry wincarnis, vibrona, manola, buckfast, tonic-wine or of fermented liquors such as ale, beer, milk-stout (porter), cidar, and the name of its manufac-turer it shall be presumed that the accused person was in possession of liquor.]

Duty to send sample to laboratory.

[4][**116C**. It shall be the duty of the Prohibition Offi cer or the Police Offi cer who has seized any liquor to forward immediately without any loss of time the sample of the same to the Forensic Science Laboratory of the State for detailed analysis report].

V of 1898.

Investiga-tions, arrests searches, etc., how to be made.

117. Save as otherwise expressly provided in this Act, all investigations, arrests, detentions in custody and searches shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 :

Provided that [5][*****] no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place searched is situated.

Mainte-nance of List of Panchas.

[6][**117A.** (1) If the Commissioner of Police or the District Superintendent of Police, as the case may be, considers that in any gram, nagar, municipal borough or city, or in any locality thereof it is necessary to have a list of local persons liable to serve as pancha witnesses for searches made and for such other purposes connected with the investigation of offences under this Act, the Commissioner of Police or the District Superintendent of Police, as the case may be, may request the gram panchayat, the nagar panchayat, the municipality, or the municipal corporation, of such gram, nagar, municipal borough or city respectively to prepare and maintain such list for such gram, nagar, municipal borough, city or any locality thereof, and thereupon it shall be the duty of such panchayat, munici-pality or municipal corporation to prepare and maintain such list.

1. This section was inserted by Bom. 22 of 1960, s. 77.

2. The words “a Presidency Magistrate or” were omitted by the Gujarat Adaptation of aws (State and Concurrent Subjects) Order, 1960.

3. Section 116-B was inserted by Guj. 9 of 1978, s. 13.

4. Section 116 C was inserted by Guj. 29 of 2011, s. 8.

5. The words beginning with the words “in any local area and ending with the words “ State Government” were deleted by Born. 26 of 1952, s. 46.

6. Section 117 A was inserted by Guj. 9 of 1978, s. 14.

(2) The State Government shall, by rules, prescribe the age and qualifi cations of persons who may be considered suitable for being included in any such list, the procedure for preparing, publishing and maintaining such list and the period for preparing, publishing and maintaining such list and the period for which such list shall remain in force.

(3) Every person whose name is included in such list shall, when so required by a prohibition offi cer or a police offi cer, be bound to serve as a pancha witness.]

Procedure of Code of Criminal Procedure relating to cognizable offi ences to apply.

[1][**118.** In the absence of any provision to the contrary in this Act the provisions of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to offences under this Act. V of 1898.

Certain offi ences to benon-bailable.

119. Offences under [2][sections 65, 65A, 67, 67-1A and 68] shall be non-bailable.]

Power of entry and inspection.

[3][**120.** The Director, Collector, or any Prohibition Offi er duly empowered in this behalf by the State Government, or any Police Offi cer may—

(a) enter at any time by day or by night, any warehouse, godown, shop, premises, house, building, vessel, vehicle or enclosed place in which he has reason to believe that any intoxicant, hemp, mhowra fl owers, molasses, material or article liable to confi scation under this Act is manufactured, kept or concealed or that any still, utensil, implement or apparatus is used, kept, or concealed for the purpose of manufacturing any intoxicant contrary to the provisions of this Act;

(b) in case of resistance, break, open any door and remove any other, obstacle to his entry into any such warehouse, godown, shop, premises, house, building, vessel, vehicle or enclosed place ;

(c) seize any intoxicant, hemp, mhowra fl owers or molasses and any material used in the manufacture of any intoxicant and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confi scation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence under this Act ; [4][*]

[5][**(cc)**destory any earthen pot or other receptacle found hanging on a toddy producing tree, if he is satisfi ed that the person by whom or on whose behalf the pot or receptacle is so hung is not known or cannot be found and he has reason to believe that an offence specifi ed in clause *(c)* or *(d)* of sub-section *(1)* of section 66 is committed ; and]

(d) detain and search and if he thinks proper arrest any person whom he has reason to believe to be guilty of any offence under this Act.]

Power to open packages, etc.

121.*(1)* Any Prohibition Offi cer duly empowered in this behalf by the [6][State] Government or any Police Offi cer may open any package and examin any goods and may [7][stop and search] for any intoxicant, hemp, mhowra fl owers, or molasses any vessel, vehicle or other means of conveyance [8][and may seize any intoxicant, hemp, mhowra fl owers, molasses or any other thing liable to confi scation or forfeiture under this Act or any other law for the time being in force relating to excise revenue found while making such search.]

1. These sections were substituted by Bom. 22 of 1960, s. 78.

2. These words, fi gures and letters were substituted for the words, fi gures and letter “sections 65, 67, 67-1A and 68’ by Guj. 29 of 2011, s. 9.

3. This section was substituted by Bom. 22 of 1960 s. 79.

4. The word “and” was omitted by Guj. 16 of 1964, s. 4 (1).

5. This clause was inserted, ibid., s. 4 (2).

6. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
7. These words were substituted for the words "stop or search" by Bom. 22 of 1960, s. 80(a).
8. These words were added by Bom. 26 of 1952, s. 47.

(2) The unloading and carrying of goods, the bringing of them to the place appointed under sub-section (3) for examination, the opening and repacking of them, where such operations [1][are necessary for searches made] under this section and the removing of goods to and placing of them in the place appointed under sub-section (3) [2][for examination or deposit], shall be performed by or at the expense of the owner of such goods.

(3) The owner of goods or the persons in charge of the goods shall, if so required by any offi cer conducting the search, take the goods [3][to a place appointed [4][in any area for which a Commissioner of Police has been appointed] and else-where, by the District Magistrate] for the purpose of examination or deposit.

[5][(4) The expenses incurred by the State Government for any of the purposes mentioned in sub-section (2) may be recovered from the owner, or as the case may be, the person in-charge, of the goods as arrears of land revenue.]

Power to require production of licences.

[6]**[122** (1) The director or Collector or any prohibition offi cer duly empowered in this behalf by the state government or any police offi cer may—

(a) require a licensed manufacturer or vendor or tapper or drawer of toddy or a person in the employ of such manufacturer or vendor or tapper or drawer of toddy or acting with this express or implied permission on his behalf to produce the licence, permit, pass or authorisation issued under this Act under which he carries on the manufacture, storage or sale of any intoxicant, hemp, mhowra fl owers or molasses or taps toddy producing trees or draws toddy therefrom ;

(b) enter and inspect, at any time by day or by night, any land on which toddy producing trees are growing, whether such trees are licensed for tapping or not, and any warehouse, godown, shop or premises in which any licensed manufac-turer or vendor manufactures, stores or sells any intoxicant, hemp, mhowra fl owers or molasses and examine, test, measure or weight any stock of any such articles or cause any such stock to be examined, tested, measured or weighed.

(2) If any offi cer mentioned in sub-section (*1*) fi nds that the holder of a licence, permit, pass or authorisation issued under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf wilfully does or omits to do anything, which is an offence under this Act, such officer may seize any intoxicant, hemp, mhowra fl owers or molasses or any mate-rial or article in respect of which the offence is committed and any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act and send a report to his offi cial superior for such action as he deems fi t.]

Arrest of offend-ers and seizure of contraband articles.

123. (*1*) Any Prohibition Offi cer authorized by the [1][State] Government in this behalf or any Police Offi cer may—

(a) arrest without warrant any person whom he has reason to believe to be guilty of an offence under this Act ;

(b) seize and detain any intoxicant, hemp, mhowra fl owers or molasses or other articles which he has reason to believe to be liable to confi scation or forfeiture under this Act [8][and seize any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act].

1. These words were substituted for the words '' are necessary to be made" by Bom. 22 of 1960. s. 80 (b) *(i).* 2. These words were substituted for the words "for deposit", ibid., s. 80 (b) (ii).
3. These words were substituted for the words "to a place appointed by the District Magistrate, or the Com-missioner of Police, Bombay" ibid., s. 80 (c).

4. These words were substituted for the words.'in Greater Bombay by the Commissioner of Police, Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
5. This sub-section was substituted by Bom. 22 of 1969, s. 80 (d).
6. This section was substituted ibid., s 8.
7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
8. These words were added by Bom. 22 of 1960, s. 82.

(2) Any Prohibition Offi cer authorised by the 1[State] Government under this section who arrests any person under sub-clause (a), or siezes and detains any article under sub-clause (b), of sub-section (1) shall forward such person or article, as the case may be, without unnecessary delay to the offi cer in-charge of the nearest Police Station.

Power to obtain information

124. (1) The 2[Director], or Collector or any Prohibition Offi cer specially empowered in this behalf by the 1[State] Government or a Police Offi cer may, by order require any person to furnish to any specifi ed authority or person any such information in his possession concerning any intoxicant, hemp, mhowra fl owers or molasses as may be specifi ed in the order.

(2) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fi ne which may extend to fi ve hundred rupees or with both.

Power to seize intoxicants, etc.

125. The 2[Director], Collector or any Prohibition Offi cer duly empowered in this behalf or any Police Offi cer may—

(a) seize in any open place, or in transit any intoxicant, hemp, mhowra fl owers or molasses or any other thing which he has reason to believe to be liable to 3[confi scation or forfeiture] under this Act or any other law for the time being in force relating to excise revenue 4[and any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act;]

(b) detain and search any person whom he has reason to believe to be guilty of any offence against this Act or any other law for the time being in force relating to excise revenue, and if such person has any intoxicant, hemp mhowra fl owers, molasses or 5[other thing] in his possession, arrest him.

Arrest without warrant.

126. The 2[Director], Collector, or any Prohibition Offi cer duly empowered in this behalf by the 5[State] Government or any Police Offi cer may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duties under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Arrest of offenders failing to give names.

127. (1) When any person who in the presence of the 2[Director], Collector or any Prohibition Offi cer not below such rank as the 5 [State] Government may determine, as committed or has been accused of committing an offence under this Act, refuses on demand of such offi cer to give his name and residence or gives a name and residence which such offi cer has reason to believe to be false, he may be arrested by such offi cer, in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before 6[a Magistrate having jurisdiction] when so required :

Provided that if such person is not resident in 7[India], the bond shall be secured by a surety or sureties residing in 7[India].

(3) If the true name and residence of such person is not ascetrained within twenty four hours from the time of the arrest, or if he fails to execute the bond, or if so required, to furnish suffi cient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Seh.
3. These words were substituted for the word "confi scation" by Bom. 22 of 1960, s.83 (*a*).
4. These words were added, *ibid*.,
5. These words were substituted for the words "any other thing ", *ibid*., s. 83(*b*).

6. These wotds were substituted for the words ‘‘a magistrate” by Bom. 21 of 1954, s. 3, Second Schedule.

7. This woids was substituted for the words “the Dominion of India” by the Adaptation of Laws Order, 1950.

Issue of warrants.

128. (1) The [1][Director], Collector or any Prohibition Offi cer duly empowered in this behalf [2][* * * * *] or a Magistrate or a District Superintendent of Police or an Assistant or Deputy Superintendent of Police specially empowered by the [3][State] Government in this behalf may issue a warrant—

(a) for the arrest of any person whom he has reason to believe to have com-mitted an offence under this Act or any other law relating to the excise revenue for the time being in force;

(b) for the search, whether by day or by night, of any building vehicle or place in which he has reason to believe that any intoxicant, hemp, [4][*] mhowra fl owers or molasses are manufactured or sold or stored or that any toddy is drawn, contrary to the provisions of this Act or that any intoxicant, hemp [5][mhowra fl ow-ers, molasses] or other thing liable to confi scation or forfeiture under this Act or any other law for the time being in force relating to the excise revenue is kept or concealed [6][and for the seizure of such intoxicant, hemp, [4][**], mhowra fl owers, molasses or such other thing found in such building, vehicle or place].

V of 1898. Police

(2) All warrants issued under sub-section (*1*) shall be executed in accord-ance with the provisions of the Cods of Criminal Procedure, 1898, by a Offi cer or a Prohibition Offi cer duly empowered in this behalf or if the offi cer issuing the warrant deems fi t, by any other person.

Certain provisions to apply to denatured spirituous prepartio ns.

[7][**128-A**. The provisions of sections 80, 98, 99, 103(1), 104, 120, 121, 122, 123, 124, 125 128, 135 and 139 shall apply to [8][denatured spirituous preparations, rotten gur or am-monium chloride] as they apply to any intoxicant under this Act.]

Prohibition Offi cers may be em-powered to investigation offences.

129. (1) The [3][State] Government may empower any Prohibition Offi cer to investigate offences under this Act.

V of 1898.

(2) An offi cer empowered under sub-section (*1*) shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an offi cer-in-charge of a Police Station for the investigation of cognizable offences.

(3) Any Prohibition Offi cer to whom such offi cer is subordinate may, during the course of the investigation, take over the investigation himself or direct any other Prohibition Offi cer duly empowered to conduct the same. The offi cer in conducting the investigation shall have the same power under sub-sections (*1*) and (*2*), as if he were the Porhibition Offi cer appointed for the area or for the purpose of investigating the said offence.

(4) If the Prohibition Offi cer conducting the investigation is of opinion that there is not suffi cient evidence or reasonable ground of suspicion to justify the for-warding of the accused to a Magistrate, or that the person arrested may be discharged with a warning, such offi cer shall release him on his excepting a bond with or with-out sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence, and shall make a full report of the case to his offi cial superior and be guided by the order which he shall receive on such report.

1. This word was substituted for the word “Commissioner” by Bom. 28 of 1950, Sch.

2. The words “or in Greater Bombay, Deputy Commissioner of Police or a Superintendent of Police in charge of a Division” which were inserted by Bom. 26 of 1952, s. 48(1) were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3. This word was substituted for the word “Provincial” by the Adaptation of Laws Order, 1950.

4. The word “opium” was deleted by Bom. 22 of 1960, s. 84.

5. These words were substituted for the words “or opium” *ibid*., s. 84.

6. These words were inserted by Bom. 26 of 1952, s. 48 (*2*).

7. Section 128-A was substituted by Bom. 22 of 1960, s. 85.

8. These words were substituted for the words “denatured spirituous preparations” by Guj. 9 of 1978, s. 15.

(5) The powers of any offi cer empowered under this section shall be subject to such other modifi cations or restrictions as the [1][State] Government may deem fi t.

Power to require persons to submit to medical examination, etc.

[2][**129 A**. (1) Where in the investigation of any offence under this Act, any Prohibition Offi cer duly empowered in this behalf by the State Government or, any Police Offi cer, has reasonable ground for believing that a person has consumed an intoxicant and that for the purpose of establishing that he has consumed an intoxicant or for the procuring of evidence thereof it is necessary that his body be medically examined, or that his blood be collected for being tested for determining the percentage of alcohol or Police Offi cer may produce such person before a registered medical practitioner (authorised by general or special order by the State Government in this behalf) for the purpose of such medical examination or collection of, blood and request such registered medical practitioner or furnish a certifi cate on his fi nding whether such person as consumed any intoxicant, and to forward the blood collected by him for test to the Chemical Examiner or Assistant Chemical Examiner to Government, or to such other offi cer as the State Govern-ment may appoint in this behalf.

(2) The registered medical practitioner before whom such parson has been produced shall examine such person and collect and forward in the manner pre-scribed the blood of such person, and furnish to the offi cer by whom such person has been produced, a certifi cate in the prescribed

form containing the result of his ex-amination. The Chemical Examiner or Assistant Chemical Examiner to Government, or other offi cer appointed under sub-section (1), shall certify the result of the test of the blood forwarded to him, stating therein, in the prescribed form, the percentage of alcohol, and such other particulars as may be necessary or relevant.

(3) If any person offers resistance to his production before a registered medi-cal practitioner under sub-section (1) or on his production before such practitioner to the examination of his body or to the collection of his blood, it shall be lawful to use all means reasonably necessary to secure the production of such person or the examination of his body or the collection of blood necessary for the test.

(4) If the person produced is a female, such examination shall be carried out by, and the blood shall be collected by or under the supervision of a female registered medical practitioner authorised by general or special order, by the State Government in this behalf, and any examination of the body, or collection of blood of such female shall be carried out or made with strict regard to decency.

(5) Resistance to production before a registered medical practitioner as aforesaid, or to the examination of the body under this section, or to the collection of blood as aforesaid, shall be deemed to be an offence under section186 of the Indian Penal Code. XLV of 1860.

(6) Any expenditure incurred for the purpose of enforcing the provisions of this section including any fees payable to a registered medical practitioner or the Offi cer appointed under sub-section (1) shall be defrayed out of moneys provided by the State Legislature.

(7) If any Prohibition Offi cer or Police Offi cer vexatiously and unreason-ably proceeds under sub-section (1), he shall, on conviction, be punished with fi ne which may extend to fi ve hundred rupees.

(8) Nothing in this section shall preclude the fact that the person accused of an offence has consumed an intoxicant from being proved otherwise than in accordance with the provisions of this section.

Documents or reports of registered medical parctitioner etc. as evidence.

129 B. Any document purporting to be :—

(a) a certifi cate under the hand of a registered medical practitioner, or the Chem-ical Examiner or Assistant Chemical Examiner to Government, under section 129 A or of an offi cer appointed under sub-section (1) of that section, or

1. This word was substituted for the word “Provincial” by the Adaptation of Laws Order, 1950.

2. Sections 129 A and 129 B were inserted by Boru. 12 of 1959, s. 16.

(b) a report under the hand of any registered medical practitioner in any hospital or dispensary maintained by the State Government or a local authority, or any other registered medical practitioner authorised by the State Government in this behalf, in respect of any person examined by him or upon any matter or thing duly submitted to him for examination or analysis and report,

may be used as evidence of the facts stated in such certifi cate, or as the case may be, report, in any proceedings under this Act; but the court may if it thinks fi t, and shall, on the application of the prosecution or the accused person, summon and examine any such person as to the subject matter of his certifi cate or, as the case may be, re-port.]

Arrested persons and things seized to be sent to offi cer-in-charge of Police

130. Every person arrested and thing seized by a Prohibition Offi cer under this Act shall be sent to the offi cer-in-charge of the nearest Police Station [1][or to any other offi cer duly empowered under section 129 if the Director in any particular case has directed such offi cer to conduct the investigation of the offence.]

Sta-
tion.

Bail by Prohibition Offi cer.

131. *(1)* Any Prohibition Offi cer empowered to investigate an offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence under this Act.

V of 1898.

(2) When any person has been arrested under section 126, a Prohibition fi cer empowered to investigate offence under this Act shall have power to grant in accordance with the provisions of the Code of Criminal Procedure, 1898.

Of-V of 1898.
bail

Article seized.

132. [2][When anything has been seized, under the provisions of this Act by a Prohibition Offi cer exercising powers under section 129 or by an Offi cer in-charge of a Police Station], or has been sent to him in accordance with the provisions of this Act, such offi cer, after such inquiry as may be deemed necessary,—

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

(b) if it appears that such thing is liable to confi scation but is not required as evidence as aforesaid, shall send it with a full report of the particulars of seizure to the Collector,

(c) if no offence appears to have been committed shall return it to the person from whose possession it was taken.

Duty of [5][offi cer of Govern-ment] and local authoritie s to assist.

133. Every offi cer of the [3][Government] and every offi cer or servant of a local authority, shall be [4][legally bound to assist any Prohibition Offi cer or] police offi cer or person authorised in this behalf in carrying out the provisions of this Act.

Bom. III of 1959.

Offi ences to be reported.

[6]**[134**. Every village offi cer or servant useful to Government, every offi cer of the state Government, and (with the consent of the Central Government) every offi cer of the Customs and Central Excise Departments, and every offi cer or servant of a local authority, and the *Sarpanch* of a village *panchayat* constituted under the Bombay Village Panchayats Act. 1958, shall be bound —

1. This portion was added by Bom. 22 of 1960, s. 86.

2. These words were substituted for the words ‘’When anything has been seized by a Prohibition Offi cer other than the Collector or Director under the provisions of this Act” ibid., s. 87.

3. This word was substituted for the word “Crown” by the Adaptation of Laws Order, 1950.

4. These words were substituted for the words “legally bound to assist any” by Bom. 22 of 1960, s. 88 (a).

5. These words were substituted for the words “offi cials of all departments” ibid., s . 88 (b).

6. Sections 134 and 135 were substituted ibid s. 89.

(a) to give immediate information at the nearest Police Station or to any offi cer or person authorised in this behalf of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to their knowledge ;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about or likely to be committed.

Landlords and others to give infor-mation.

135. Every person who owns or occupies any land or building, or who is a landlord of an estate residing in the village, and the agent of such owner, occupier or landlord of the land, building, or estate, as the case may be, on or in which there has been any ful tapping of toddy producing trees or unlawful manufacture of any liquor or intoxicating drug or unlawful cultivation or collection of hemp, and every owner of a vessel or vehicle in which liquor or intoxicating drug is manufactured contrary to the provisions of this Act, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Offi cer or to a Police Offi cer immediately the same shall have come to his knowledge].

136.[Power to arrest and make orders detaining or restricting movements or actions of persons.] *Deleted by Bom. 26 of 1952, s. 50.*

CHAPTER X.

APPEALSAND REVISION.

Appeals.

137.*(1)* All orders passed by any Prohibition Offi cer other than the Collector or [1][Director] under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

(2) All orders passed by the Collector and [1][Director] shall be appealable to the [1][Director] and the [2][State] Government respectively at any time within ninety days from the date of the order complained of :

Provided that no appeal shall lie against an order passed by the [1][Director] on appeal.

(3) Subject to the foregoing provisions, the rules which the [2][State] Government may make in this behalf shall apply to appeals under this section.

Revision.

[3][**138.** The State Government may call for and examine the record of any proceeding before any Prohibition Offi cer, including that relating to the grant or refusal of a licence, permit, pass or authorization under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, any such proceeding and may, when calling for such record, direct that the order be not given effect to pending the examination of the record. On examining the record, it may either annul, reverse, modify or confi rm such order, or pass such other order as it may deem fi t.]

CHAPTER XI.

MISCELLANEOUS.

General poweres of 2[State] Government in respect of licences, etc.

139.[4][(1)] Notwithstanding anything contained in this Act or the rules made thereunder, the [2][State] Government may, by general or special order,—

(a) prohibit the grant of any kind of licences, permits, passes or authorizations throughout the [5][State] or in any area ;

1. This word was substituted for the word ''Commissioner" by Bom. 28 of 1950, Sch.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Orders, 1950.
3. This Section was substituted by Bom. 22 of 1960, s. 90.
4. Section 139 was renumbered as sub-section (1), ibid., s. 91 (1).
5. This word was substiuted for the words "Pre-reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s.3 .

(b) regulate the import, export, transport, possession, sale, purchase, consumption or use of any intoxicant, hemp, mhowra fl owers, molasses or any article which is likely to be used for the manufacture of an intoxicant with or without licence, permit, pass or authorization throughout the [1][State] or within the limits of any local area subject to such conditions [2][as it may impose];

[3][*(c)* exempt any person or institution or any class of persons or institutions from all or any of the provisions of this Act or from all or any of the rules, regulations or orders made thereunder or from all or any of the conditions of any licence, permit, pass or authorization granted thereunder, subject to such conditions as it may impose;

(d) exempt any intoxicant or class of intoxicants, denatured spirituous preparation, hemp, mhowra fl owers or molasses from all or any of the provisions of this Act or from all or any of the rules, regulations or orders made thereunder, subject to such conditions as it may impose ;

(d1) remit or refund wholly or partially any fee in respect of any privilege, licence, permit, pass or authorization granted under this Act or any duty on toddy producing trees or any excise or countervailing duty or fee leviable under this Act on any intoxicant, hemp, mhowra fl owers or molasses from any person or

institution or from a class of persons or institutions or exempt any person or institution or class of persons or institutions from the payment of such duty or fee, subject to such condi-tions as it may impose;]

(e) prescribe the maximum number of licences, permits, passes or authoriza-tions of any kind which may be granted in any area or to any class of persons ;

(f) prescribe the number of places at which any intoxicant specifi ed in such order, [4][denatured spirituous preparation], hemp, mhowra fl owers or molasses may be sold in any area, the location of such places in any area, the days and hours during which such places may or may not be kept open, the number of such places in respect of which licences for sale may be granted and the number of such places which may be [5][managed by the State Government departmentally;]

(g) direct that no licence, permit, pass or authorization of the kind specifi ed in such order shall be granted without the previous approval of the [6][State] Govern-ment or also direct any additions or alterations to be made to or in the conditions subjects to which under any other provisions of this Act, such licence, permit, pass or athorization can be granted;

(h) prescribe the maximum quantity of any intoxicant, [7][denatured spiritu-ous preparation], hemp, mhowra fl owers or molasses which may be sold in any area or at any place ;

[8][(i) prescribe in respect of any place or area, the maximum number of toddy producing trees for tapping which or for drawing toddy from which licence or licences may be granted;]

[9][(j) prescribe the procedure for the disposal of any shop or shops authorised to sell any intoxicant, denatured spirituous preparation, hemp, mhowra fl owers or molasses under this Act and the procedure to be followed before granting any licence or licences;]

1. This word was substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred ter-ritories" by Bom. 12 of 1959, s.3 .

2. These words were substituted for the words "and for such periods as it deems fi t" by Bom. 22 of 1960, s. 91 (1) (a).

3. Clauses (c), (d) and (dl) were substituted clauses (c) and (d), ibid., s. 91 (l) (b).

4. These words were inserted, ibid., s. 91(1) (c) (*i*)

5. These words were substituted for the words "managed by the Excise Department" ibid, s. 91 (l) (c) (*ii*).

6. This word was substituted for the word "Provincial" by the Adaptation of laws Order, 1950.

7. These words were inserted by Bom. 22 of 1960, s. 91(1) (d).

8. Clause (i) was substituted ibid., s. 91 (1) (e).

9. This clause was substituted ibid., ibid, s. 91 (1) (f).

(k) direct that before granting licences, auctions may be held, tenders called for or offers received and that licences shall be granted [1][subject to such conditions as may be prescribed] to persons whose bids, tenders or offers are accepted by the Collector;

(l) specify the persons or class of persons [2][to whom licences may or may not be granted] and in cases in which auctions are held, the person or classes of per-sons who may or may not be peimitted to offer bids at such auctions;

(rn) direct that licences of the kind specifi ed in such order shall be granted to persons specifi ed in such order ; and

(n) issue such other instructions in any matter pertaining to the grant or otherwise of licences, permits passes or authorizations under this Act, as the [3][State] Government may deem proper.

[4][(2) An order made under sub-section (1) shall, if it is of a general nature or affecting a class of persons, be notifi ed in the *Offi cial Gazette.*]

Power of [3][State] Government to prohibit, regulate, or control consumption or use or intoxicants, etc., in public place.

140. The [3][State] Government may, by general or special order, prohibit, regulate, or control, subject to such conditions as may be specifi ed in the order, the consumption or use of any intoxicant or hemp, in any public place.

Employment of additional Police.

141. (1) If the [3][State] Government is satisfi ed that the inhabitants of any area concerned in the commition or abetment of any of the offences punishable under sections [5][65, 66, 66A, 67, 67-1A, 67 C, 68. 69 and 70] the [3][State] Government may, by notifi cation in the *Offi cial Gazette*, direct the employment of additional police [6][in that area] period as it thinks fi t.

(2) The cost of such additional police shall, if the [1][State] Government so directs, be either in whole or in part defrayed by a tax imposed on the persons herein below mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate so imposed and assessed, and charged—

(a) either generally on all persons who are inhabitants of the local area to which such notifi cation applies ; or

(b) specially on any particular section or sections or class or classes of such persons, and the [3][State] Government may direct the proportions in which such tax or rate shall be charged.

Explanation. — For the purposes of this section "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not actually reside there in.

(3) It shall be lawful for the [1][State] Government to extend, for a term not exceeding in any case fi ve years, the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.

[7][(4) The provisions of sub-sections (4) to (7) of section 50 of the Bombay Police Act, 1951, shall apply *mutatis mutandis* to the recovery of such tax or rate.] Bom. XXII of 1951.

1. These words were inserted by Bom. 22 of 1960, s. 91 (1) (g).
2. These words were substituted for the words "to whom licences may not be granted ibid., s. 91 (1) (h). 3. This word was substituted for the word "Provincial" by the Adaption of Laws Order, 1950.
4. This sub-section was added by Bom. 22 of 1960 s. 91 (2).
5. These fi gures, letters and word were substituted for the fi gures and word "65 to 69", ibid., s. 92 (a). 6. These words were inserted ibid., s. 92 (b).
7. This sub-section was substituted for sub-sections (4) and (5) by Bom. 64 of 1954, s.3.

Power of Collector to close places where intoxicant or hemp is sold cases.

[1]**[142.(/)** If the Collector is of opinion that it is in the interest of public peace to close any place in which any intoxicant or hemp is sold, it shall be lawful for the Collector by an order in writing to the person holding a licence for the sale of such intoxicant or hemp to require him to close such place at such time or for such period as may be specifi ed in the order.

(2) If a riot or unlawful assembly is imminent, or takes place, it shall be lawful for any Executive Magistrate or Police Offi cer who is present to direct that such place shall be closed and kept closed for such period as he thinks fi t, and in the absence of any Executive Magistrate or Police Offi cei the person referred to in sub-section (1) shall himself close such place.

(3) Any order given under this section shall be fi nal.]

[3][State] Government to make rules.

143. (1) The [2][State] Government may make rules for the purpose of carrying' out the provisions of this Act or any other law for the time being in force relating to excise revenues.

(2) In particular and without prejudice to the generality of the foregoing pro-visions, the [2][State] Government may make rules,—

(a) regulating the delegation of any powers by the [3][Director], by the Collec-tor, or by any other Prohibition Offi cer ;

(b) regulating the import, export, transport, [4][collection], sale, purchase, [5][bottling], consumption, use or possession of any intoxicant, [6][denatured spirituous preparation] or hemp, mhowra fl owers or molasses ;

[7][(bb) regulating the possession, manufacture, use and consumption of rotten gur and the possession, manufacture and use of ammonium chloride;]

(c) regulating the manufacture of any intoxicant [8][or denatura spiritu-ous preparation];

(d) regulating the cultivation and collection of hemp ;

(e) regulating the tapping of toddy producing trees and drawing of toddy therefrom;

(f) regulating the grant, suspension or cancellation of licences, permits, passes or authorizations for the import, export, transport, [9][collection, sale, purchase], possession, manufacture, [10][bottling,] consumption, use or cultivation of any of the above articles mentioned in [11][[12][clauses (b) and (bb)] and for the matters specifi ed in clause (e)];

(g) regulating the periods and localities for which the licences may be grant-ed for the wholesale or retail vend of any of the above articles mentioned in [13][clauses (b) and (bb)] ;

1. This section was substituted by Bom. 22 of 1960, s. 93.
2. This word was substituted for the word '' Provincial' by the adaptution of laws order, 1950.
3. This word was substituted for the word "Commissioner"by Bom. 28 of 1950 sch.
4. This word was inserted by Born. 26 of 1952, s. 51 (1)
5. This word was inserted by Bom. 22 of 1960, s. 94 (1) (a).
6. These words were inserted, ibid.
7. Clause (bb) was inserted by Guj. 9 of 1978, s. 16 (1).
8. These words were added by Bom. 22 of 1960, s. 94 (1) (b).
9. These words were inserted by Bom. 26 of 1952, s. 51 (2) (a).
10.
11. These words, brackets and letters were substituted for the words brackets & letters, "clauses (b) and (c)," ibid., s. 51 (2) (b).
12. These words, brackets and letters were substituted for the word, brackets & letter, "clause (b)" by Guj. 9 of 1978, s. 16 (2).
13. These words, brackets and letters were substituted for the word, brackets and letter, "clause (b)" ibid, s. 16 (3).

(h) providing for the consulting of public opinion and prescribing the pro-cedure to be followed and the matters to be ascertained before any licence, permit, pass or authorization for the vend, consumption or use of any of the above articles mentioned in [1][clauses (b) and (bb)] is granted to any person or in any locality ;

[2][(*h1*) prescribing the restrictions under which and the conditions on which any licence, permit, pass or authorization may be granted including—

(*i*) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable ;

(*ii*) the fi xing of the strength, price or quantity in excess of or below which any intoxicant or mhowra fl owers shall not be sold or supplied, and the quantity in excess of which denatured spirit, denatured spirituous preparation or molasses shall not be possessed or sold and the prescription of a standard or quality for any intoxicant, denatured spirituous preparation, mhowra fl owers or molasses ;

(*iii*) the prohibition of sale of any intoxicant, [3][denatured spirituous prepara-tion, hemp, rottern gur or ammonium chloride] except for cash;

(*iv*) the prescription of the days and hours during which any licensed prem-ises may or may not be kept open and provisions for the closure of such premises on special occasions;

(*v*) the prescription of the nature of the premises on which any [4][intoxi-cant, rotten gur or ammonium chloride] may be sold and the notices to be exposed at such premises;

(*vi*) the prescription of the accounts to be maintained and the returns to be submitted by licence holders or permit holders;

(*vii*) the regulation or prohibition of the transfer of licences;

(*viii*) the writing of the names and addresses and the taking of signatures of purchasers in the register of sale of any intoxicant, hemp, [5][mhowra fl owers, molasses, rotten gur or ammonium chloride] or any article the sale or purchase of which is regulated by clause (b) of sub-section (1) of section 139;

(*h2*) (*i*) declaring the processes by which spirits shall be denatured in particular areas, or for particular purposes;

(*ii*) for causing such spirits to be denatured through the agency or under the supervision of the Government Offi cers and for the payment of charges for such supervision;

(*iii*) for ascertaining whether such spirits have been denatured.]

(*i*) prohibiting and regulating the employment by the licence hoder of any person or classes of persons to assist him in his business in any capacity whatsoever.

1. These words, brackets and letters were substituted for the word, brackets and letter "clause (b)" ibid, s. 16 (4). 2. Clauses (*hl*) and (*h2*) were inserted by Bom. 22 of 1960, s. 94 (*1*) (*d*).

3. Th ese words were substituted for the words "denatured spirituous preparation or hemp" by Guj. 9 of 1978, s. 16 (*5*) (*a*).

4. Th ese words were substituted for the word "intoxicant", ibid., s. 16 (*5*) (*b*).

5. These words were substituted for the words "Mhowra fl owers or molasses" *idbi.,* s. 16 (5)(c).

(j) prescribing the manner in which the juice from a coconut, brab, date or any kind of palm trees is to be treated for the purposes of preventing of formenta-tion ;

[1][(k) prescribing the persons or classes of persons to whom any intoxicant, denatured spirituous preparation, hemp, [2][mhowra fl owers, molasses, rotten gur or ammonium chloride] may or may not be sold or who may or may not be allowed to sell, purchase or use any of these articles;]

(l) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting and remaining of persons of bad charac-ter on such premises;

[3][(L-1) prescribing the occasions on which special orders may be granted for the sale by retail of larger quantities of liquor or intoxicating drugs, of opium than those which are prescribed in any notifi cation issued under this Act and the condi-tions on which such sales may be made;

(L-2) prescribing the amount of security to be deposited by the holder of any licence, permit, pass or authorization for the performance of the conditions for the same;

(L-3) providing for the maintenance by the holders of licences, permits, passes or authorizations of the registers of sales, purchases, possession, consumption or use and the particulars to be entered in the register;]

[4][m) regulating the grant of rewards or expenses to offi cers, informants or persons giving information or assistance in the detection or investigation of offences under this Act, and of compensation to persons charged with offences punishable under this Act and acquitted;]

(n) regulating the printing, publishing or otherwise displaying or distrib-uting any advertisement or other matter [5]*soliciting the use of, or offering any [6][intoxicant, hemp, rotten gur or ammonium chloride] or calculated to encourage or incite any individual or class of individuals or the public generally to commit an

offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder or the conditions of any licence, permit, pass or authorization issued thereunder ;

(o) regulating within the State the circulation distribution or sale of newspa-per, news-sheet, book, leafl et, booklet or other publication [8][printed and published outside the State containing any advertisement or matter which [9][* * * *] solicites the use of, or offers any [10][intoxicant, hemp, rotten gur or ammonium chloride], [11] * * * ;

[12][(p) imposing restrictions and conditions on buyers of intoxicant, dena-tured spirituous preparation, hemp, [13][mhowra fl owers, molasses, rotten gur or

1. This clause was substituted Bom. 22 of 1960, s. 94 (/) (e).

2. These words were substituted for the words "mhowra fl owers or molasses" by Guj. 9 of 1978, s. 16 (6).

3. Clauses (L-1) (L-2) and (L-3) were inserted by Bom. 22 of I960, s. 94 (1)

(/), 4. This clause was substituted ibid., s. 94 (1) (g).

5. The word "commending" was deleted by Bom. 26 of 1952, s. 51 (3) (a).

6. These words were substituted for the words "intoxicant or hemp "by Guj. 9 of 1978, s. 16 (7).

7. This word was substituted for the words "Pre-reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.

8. These words were substituted for the words, "whether printed or published" by Bom. 26 of 1952, s. 51 (4)

(a). 9. The words "is prescribed or which commends" were deleted, ibid,, s. 51(4)(b).

10. These words were substituted for the words "intoxicant, or hemp" by Guj. 9 of 1978,s. 16 (8).

11. The words "to be forfeited to the State Government" were deleted by Bom. 26 of 1952, s. 51 (4)

(e) 12. This clause was substituted for the original by Bom. 22 of 1960, s. 94 (1) (h).

13. These words were substituted for the words, "Mhowra Flowers " by Guj. 9 of 1978, s. 16 (9).

ammonium chloride] or any article the purchase of which is regulated by clause (b) of sub-section (1) of section 139 including provision for compelling them to sign entries pertaining to the purchase by them of any of these articles ;]

1 [* * * * * *]

(r) regulating the taking of [2][samples of molasses, rotten gur or ammonium chloride] ;

[3][r1] prescribing the constitution of committees, Boards and Medical Boards or pan-els thereof and the procedure regarding their work;]

(s) prescribing the powers, functions and duties of Prohibition Offi cers, [4][Boards, Committees] and [5][Medical Boards or Panels thereof] and the fees and allowances payable to the members of the [4][Boards, Committees] and [5][Medical Boards or panels thereof;]

[6][(t) prescribing the procedure regarding the work of Board of Experts ;

[7][(t1) prescribing conditions of through transport under section 29;]

(u) prescribing the fees payable in respect of any privilege, licence, permit, pass or authorization granted or issued under this Act;

[8][(uu) prescribing the other persons, other institutions or the circumstances under clause (b) of sub-section (3) of section 66 ;]

[9][uuu) prescribing the form of the bond, nature of the community service, and the terms and conditions subject to which such service shall be rendered and medical treatment to which person shall be subject under sub-section (1) of section 92].

form in which a declaration under section 107A shall be submitted, and the form in which account shall be maintained ;]

[10][(w) prescribing the manner of collecting and forwarding blood and prescribing the form of certifi cates, and the other particulars required to be stated therein under sub-section (2) of section 129A.]

(3) The power to make rules under this section shall be subject to the condition of previous publication :

Provided that any such rules may be made without previous publication if the [11][State] Government considers that they should be brought into force at once.

[12][(*4*) All rules made under this Act shall be laid for not less than thirty days before 13 [* *] the State Legislature as soon as may be after they are made, and shall be subject to such modifi cations as the State Legislature may make during the session in which they are so laid or the session immediately following.]

1. Clause (q) was deleted by Bom. 22 of 1960, s. 94 (l)(i).
2. These words were substituted for the words "sample of molasses" by Guj. 9 of 1978, s. 16 (10).
3. This clause was inserted by Bom. 22 of 1960, s. 94 (1) (j).
4. These words were substituted for the word "Committees", ibid., s. 94 (1) (k) 5.
These words were substituted for the word "Medical Boards" ibid.
6. Clauses (t) to (v) were substituted for clause (t) by Bom. 26 of 1952, s. 51(5).
7. This clause was inserted by Bom. 22 of 1960, s. 94 (1) (1).
8. This clause was inserted by Bom. 12 of 1959, s. 17 (a).
9. Clause (uuu) was inserted by Guj. 21 of 2003, s.3.
10. This clause was added byBom. 12 of 1959, s. 17 (b).
11. This word was substituted" for the word "Provincial" by the Adaptation of Laws Order, 1950.
12. This sub-section was inserted by Bom. 22 of 1960, s. 94 (2).
13. The words "each house of" were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[1][Director]s power to make regulations.

144. (*1*) The [1][Director] may make regulations, not inconsistent with the provisions of this Act, or rules.—

(*a*) regulating, as the case may be, the *2** supply or storage of any intoxicant, [3][denatured spirituous preparation] or hemp, [4][mhowra fl owers, molasses, rotten gur or ammonium chloride] including—

(*i*) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article, and the fi ttings, implements and apparatus to be maintained therein;

[5] [* * * * *]

(*b*) regulating the deposit of any intoxicant, hemp, [6] [*] [7] [mhowra fl owers, molasses, rotten gur or ammonium chloride] in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery ;

[8] [* * * *]

(*d*) prescribing the scale of fees or the manner of fi xing the fees payable in respect [9][* *] of any storage of any intoxicant, hemp, [6] * [10] [mhowra fl owers, molasses, rotten gur or ammonium chloride] ;

(*e*) regulating the time, place and manner of payment of any duty or fees ;

[8] [* * * *]

(*h*) providing for the destruction or other disposal of any intoxicant declared to be unfi t for use

(*i*) regulating the disposal of confi scated or forfeited articles ;

[8] [* * * *]

(*m*) regarding any other matter which the [12] [State] Government may, by ing out the provisions of this Act.

(*2*) The regulations made under this section shall be published in the

Offi cers and pesons acting under this Act to be public servants.

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145. All offi cers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Bar of Proceeding

146. No suit or proceeding shall be lie against the [13][Government] or against any prohibition, Police, or other offi cers or against any person empowered to exercise powers or to perform functions under this Act, for anything in good faith done or purporting to be done under this Act.

Limitation of prosecutions or suits against offi cers.

[14][**146 A**.(*1*) All prosecutions of any Prohibition, Police or other offi cers, or of any persons empowered to exercise powers or to perform functions under this Act, and all actions which may be lawfully brought against the Government or any of the aforesaid offi cers or persons, in respect of anything done or alleged to have been done in 'pursuance of this Act, shall be instituted within four months from the date of the act and not afterwards ; and any such action shall be dismissed.—

1. This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
2. The word "manufacture" was deleted by Bom. 22 of 1960, s. 95 (a) (*i*).
3. These words were inserted, *ibid*., s. 95 (*a*) (*ii*).
4. These words were substituted for the words "mhowra fl owers or molasses" by Guj. 9 of 1978, s. 17 (1).
5. Sub-clauses (*ii*) to (*v*) were deleted by Bom. 22 of I960, s. 95 (*a*) (*iii*).
6. The word , 'opium", was deleted, *ibid*., s. 95 (b).
7. These words were substituted for the words "mhowra fl owers or molasses" by Guj 9 of 1978, s. 17(2).
8. Clauses (*c*), (*f*), (*g*), (*j*), (*k*) and (*l*) were deleted, *ibid*., s, 95 (c).
9. The words beginning with the words "of any privilege" and ending with the words "authorisation or " were deleted by Bom. 26 of 1952, s. 52 (**1**).
10. These words were substituted for the words "mhowra fl owers or molasses" by Guj. 9 of 1978, s. 17 (3).
11. This word was substituted for the word " Provincial" by the Adaptation of Laws Order 1950.
12. This word was substituted for the word "Crown", *ibid*.
13. Sections 146A and 146B were inserted by Bom. 22 of 1960, s. 96.

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present ; or

(*b*) in the case of an action for damages, if tender of suffi cient amends shall have been made before the action was brought, or if after the institution of the action a suffi cient sum of money is paid into Court with costs, by or on behalf of the defendant.

V of 1898.

(*2*) Subject to the provisions of section 197 of the Code of Criminal Procedure, 1898, no Court shall take cognizance of an offence committed or alleged to have been committed by any Prohibition, Police or other offi cer or any person empowered to exercise powers or to perform functions under this Act, in regard to anything done under this Act, until the sanction of the Collector having jurisdiction has been obtained.

provisions of Act not to apply to Government.

146B. Save in so far as may be expressly provided in any rule, regulation or order made under this Act, nothing in this Act shall apply in respect of any intoxicant, denatured spirituous preparations, hemp. [1][mhowra fl owers, molasses, rotten gur or ammonium chloride] which are the property and in the possession of the Government.]

Provisions of the Act not to apply to import

147. For removal of doubts it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other article in respect of its import or export across the customs frontiers. [2]* * * *

or export across customs frontier.

Repeal and amendments

148. (1) The enactments specifi ed in Schedule I are hereby repealed tothe extent specifi ed in the fourth column thereof and those specifi ed in Schedule II are hereby amended to the extent specifi ed in the fourth column thereof.

(2) But nothing in this Act, or any repeal or amendment made thereby shall affect or be deemed to affect —

(i) any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act ;

(ii) any legal proceeding or remedy in respect of any right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act and any such proceeding shall be continued and disposed of, as if this Act was not passed ;

(iii) the levy of any duties under section 29A of the Bombay Abkari Act, 1878, and the recovery of any duties or fees leviable under any other provisions of the Acts hereby repealed, and all such duties or fees shall be levied or recovered, as the case may be, as if this Act was not passed. Bom. V of 1878.

(3) Any appointment, notifi cation, notice, order, rule or form made or issued under any of the enactments repealed by this Act shall continue to be in force and deemed to have been made, granted or issued under the provisions of this. Act, in so far as such appointment, notifi cation, notice, order, rule or form is not inconsistent with the provisions of this Act,

1. These words were substituted for the words "mhowra fl owers or molasses" by Guj. 9 of 1978, s.18.

2. The words "as defi ned by the Dominion Government" were deleted by Bom. 26 of 1952, s. 53.

unless and until it is superseded by any appointment, notifi cation, notice, order, rule or form made or issued undar this Act, notwithstanding the fact that the authority competent to make or issue such notifi cation, notice, order, rule or form is different from that authorized in the enactments repealed and notwithstanding also that such notifi cation, notice, order, rule or form was made or issued in a different form or name.

(4) Any licence, permit, pass, authorization or permission granted or issued under any of the enactments repealed by this Act shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act.

Further repeals and savings consequent on commencement of Bom. XXV of 1949 in other areas of State.

[1][**149.**[2][*] On the commencement of this Act in any area of the State to which it is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, the Acts mentioned in Schedule III and in force in that area, shall, to the extent specifi ed in the fourth column thereof, stand repealed : Bom. XII of 1959

Provided that such repeal shall not affect—

(a) the previous operation of any Acts so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accured or under any Acts so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Acts so repealed,

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

And such investigation, legal proceeding or remedy may be instituted, contin-ued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if those Acts had not been repealed :

Provided further that,

(a) any licence, permit, pass, authorisation or permission granted or issued under any of the Acts so repealed shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act ; and

(b) notwithstanding the repeal of any of the Acts aforesaid, for all pur-poses in connection with the liability for, and the levy assessment and collection or refund of, any tax, duty or fee (including any penalty) leviable,—

(i) under the provisions of section 27A of the Central Provinces and Berar Excise Act, 1915, or C. P. and Berar II of 1915.

(ii) under section 112A of the Bombay Prohibition Act, 1949 as in force in the Saurashtra area, or Bom. XXV of 1949

(iii) before the commencement of this Act in any area under any provisions of any of the Acts repealed by this section,

the relevant Acts repealed (including all rules, regulations, notifi cations and orders made or issued thereunder) shall nevertheless continue in force for all such purposes ; and all such taxes, duties and fees shall be levied, assessed collected refunded and penalty imposed and paid, as the case may be, as if those relevant Acts had not been repealed.]

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1. This section was inserted by Bom. 12 of 1959, s. 18.
2. The brackets and fi gure "(1)" were deleted by Bom. 22 of 1960, s. 97.

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1 * * *

SCHEDULE I

(*See section 148.*)

Year	No.	Short title	Extent of repeal
1	2	3	4
	2[*	*	* * *]
1878	V	The Bombay Abkari Act, 1878.	All the provisions except section 29-A
1947	XXX	The Bombay Molasses Act, 1947.	The whole.

SCHEDULE II

(*See section 148.*)

Year	No.	Short title	Extent of Amendments
1	2	3	4
1890	IV	The Bombay District Police Act, 1890.	1. Section 46 — (a) in sub-section (4), for clauses (ii) and (iii), the following clause shall be substituted, namely :— " (*ii*) section 65 or 68 of the Bombay Prohibition Act, 1949"; Bom. XXV of 1949. (b) in sub-section (6) for the words and fi gures "under the Bombay Abkari Act, 1878, or the Opium Act, 1878" the words and fi gures " under the Bombay Prohibition Act, 1949" shall be substituted. Bom. XXV of 1949. 2. Section 61 AA shall be deleted.

1. Schedule I-A which was inserted by Bom. 12 of 1959 s. 19(1) was omitted by the Gujarat Adaptation of Laws (State and Concurrmt Subjects) Order, 1960.

2. This item was deleted by Bom. 12 of 1959, s. 19 (*2*).

SCHEDULE II—*(contd.)*

Year	No.	Short title	Extent of Amendments
1	2	3	4
1902	IV	The City of Bombay Police Act, 1902.	1. In section 27—
Bom, XXV of 1949			(a) in sub-section (2), for the words and fi gures "under the Bombay Abkari Act, 1878, or the Opium Act, 1878" the words and fi gures " under the Bombay Prohibition Act, 1949" shall be substituted ;
Bom, XXV of 1949.			(b) in sub-section (2-A), for clauses (*ii*) and (*iii*), the following clause shall be substituted, namely :— " (*ii*) section 65 or 68 of the Bombay Prohibition Act, 1949".
			2. Section 122A shall be deleted.
[1][1951	XXII	The Bombay Police Act, 1951.	In section 57,—
			(a) in clause (b), in sub-clause (ii), the portion beginning with the words and fi gures "or under section 65 or 68 of that Act" and ending with the fi gures "1938" shall be deleted.,
Bom, XXV of 1949.			(b) in clause (c), for the words "aforesaid Prohibition Acts", the words and fi gures " Bombay Prohibition Act, 1949" shall be substituted.]

1. This entry was added by Bom. 22 of 1960, s. 98.

[1][SCHEDULE III

(See section 149)

Year	No.	Short title	Extent of repeal
1	2	3	4
1878 …	I	The Opium Act, 1878 in its application to the State of Bombay.	The whole.
1915 …	II	The Central Provinces and Berar Excise Act, 1915.	All the provisions except section 27 A.
1938 …	VII	The Central Provinces and Berar	The whole.

Prohibition Act, 1938.

1316F …	I	The Abkari Act.	The whole.
1338F …	IV	The Hyderabad Intoxicating Drugs Act.	The whole.
1949 …	XXV	The Bombay Prohibition Act, 1949, as in force in the Saurashtra area of the State of Bombay.	All the provisions except section 112A.
1949 …	XXV	The Bombay Prohibition Act, 1949, as in force in the Kutch area of the State of Bombay.	The whole.]

1. Schedule III was added by Bom. 12 of 1959, s. 19 (3)

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