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## STATEMENT OF OBJECTS AND REASONS

### I

**Act 17 of 1962.-** After Re-organisation of the States on 01.11.1956, there were four different Prohibition Acts in force in the different areas in the New Mysore State, viz., in the Old Mysore Area, Bombay Karnataka Area, Madras Karnataka area and Coorg, respectively as noted below:-

(1) The Mysore Prohibition Act 1948 (Mysore Act XXVII of 1948).

(2) The Bombay Prohibition Act 1949 (Bombay Act XXV of 1949).

(3) The Madras Prohibition Act, 1938 (Madras Act X of 1938).

(4) The Coorg Prohibition Act, 1956 (Coorg Act 1 of 1956).

There was, however, no Prohibition Act in the Hyderabad Karnataka Area, as the entire area was wet. But, as Prohibition was introduced in Bidar District of Hyderabad Karnataka area

form 01.07.1959, the Mysore Prohibition Act, 1948, had to be extended to that area by an Ordinance in the first instance and then a regular Bill was got passed in the Legislature and thus the Mysore Prohibition Act is now in force in the Hyderabad Karnataka Area.

The existence of different sets of laws in different areas causes considerable administrative and procedural difficulties and also inconveniences in the proper implementation of Prohibition on a uniform analysis throughout the State. Therefore, with a view for having a uniform law for the entire new Mysore State, a uniform Prohibition Bill has been prepared and it replaces the various Prohibition Acts referred to above.

(Obtained from Legislative File No. LAW 48 LGN 59).

**II**

**Amending Act 10 of 1967.**—The Government of India, in the Ministry of Home Affairs, while communicating the assent of the President to the Mysore Prohibition Bill (which has now become the Mysore Prohibition Act, 1961) have conveyed observations of the Government of India relating to the administration of the Act for

consideration of State Government and have also suggested certain amendments to the Act.

In order to implement the decision taken by the Government in the light of public opinion to effect changes in the policy of prohibition, it is considered necessary to take power to exclude the operation of the Act in specified areas of the State and to extend the operation of the Mysore Excise Act, 1965, to such areas.

Hence this Bill.

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# [1][KARNATAKA ACT][1] No. 17 OF 1962

# THE [1][KARNATAKA][1] PROHIBITION ACT, 1961

*(Received the assent of the President on the Twelfth day of April, 1962.)*

(As amended by Karnataka Act 10 of 1967)

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying out the policy of prohibition in the [1][State of Karnataka][1].

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying out the policy of prohibition of consumption except for medicinal purposes of intoxicating drinks and drugs and to provide for certain other purposes hereinafter appearing;

BE it enacted by the [1][Karnataka State][1] Legislature in the Twelfth Year of the Republic of India as follows:—

1.Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the [1][Karnataka][1] Prohibition Act, 1961.

1.Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) It extends to the whole of the [1][State of Karnataka][1].

1.Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(3) It shall come into force at once in the areas in which any of the enactments mentioned in Schedule A is in force immediately prior to the commencement of this Act.

(4) (*a*) This section, section 2 and section 15 shall come into force at once in the whole of the [1][State of Karnataka][1].

1.Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(*b*) The other provisions of this Act shall come into force in such area of the [1][State of Karnataka][1] other than the areas in which this Act comes into force under sub-section (3), on such [2][date][2] as the State Government may, by notification, specify.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973
2. Notification bringing the Act into force in Other areas of the State is not available

[1][(5) Notwithstanding anything contained in sub-sections (3) and (4), the State Government may, by notification, declare that the provisions of this Act other than this section and sections 2 and 15 shall cease to be in force in any area on such date as may be specified in such notification, and thereupon the [2][Karnataka][2] Excise Act, 1965 [2][Karnataka][2] Act 21 of 1966) and the rules, orders and notifications made or issued or deemed to be made or issued thereunder shall extend to such area and shall come into force therein with effect on and from such date, and this Act other than this section and sections 2 and 15, shall stand repealed in such area and the provisions of section 6 of the [2][Karnataka][2] General Clauses Act, 1899, shall apply accordingly:

Provided that the issue of a notification under this sub-section shall not preclude the State Government from issuing a notification under clause (*b*) of sub-section (4) bringing the provisions of this Act into force in such local area.][1]

1. Inserted by Act 10 of 1967 w .e.f. 24.8.1967
2. Adapted by the Karnataka Adaptations of Laws Order 1973

**2. Definitions.**—In this Act, unless the context otherwise requires,—

[1][(1) 'alcohol' means ethyl alcohol of any strength and purity having the chemical composition $C_2H_5CH$:][1]

1.Inserted by Act 10 of 1967 w .e.f. 24.8.1967

[1][(1A)][1] "authorisation" means an authorisation granted under section 36 for use, or for manufacture for use, of liquor for sacramental purposes;

1.Re-numbered by Act 10 of 1967 w .e.f. 24.8.1967

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

(3) "Commissioner" means the Prohibition Commissioner appointed under section 3;

(4) "Committee" means any of the committees appointed by the State Government under section 8;

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

(6) "cultivation" includes the tending or protecting of a plant and does not necessarily imply raising it from seed;

(7) (*a*) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption;

(*b*) "denatured spirituous preparation" means any preparation made with denatured spirit or alcohol and includes liquors, French Polish, Thinners and varnish prepared out of such spirit or alcohol;

(8) "Deputy Commissioner" means the Deputy Commissioner of a District, or any person appointed under sub-section (3) of section 4 to exercise all or any of the powers or to perform all or any of the duties of a Deputy Commissioner under this Act;

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

(10) "excisable article" means,-

(*a*)any alcoholic liquor for human consumption;

(*b*)any intoxicating drug;

(*c*)opium;

(*d*) other narcotic drugs, narcotics and non-narcotic drugs, which the State Government may, by notification, declare to be an excisable article;

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

(12) "excise revenue" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a Court of law) or confiscation or forfeiture imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to intoxicants;

(13) "export" means to take out of the State otherwise than across a customs frontier;

(14) "foreign liquor" includes all liquors other than country liquor:

Provided that the State Government may, by notification declare that any specified description of country liquor shall, for the purpose of this Act, be deemed to be foreign liquor;

(15) "hemp" means any variety of the Indian hemp plant (*Cannabis Sativa or Indica*) from which intoxicating drugs can be produced;

(16) "import" means to bring into the State otherwise than across a customs frontier;

(17) "intoxicant" means any liquor or any intoxicating drug or any other substance which the State Government may, by notification, declare to be an intoxicant;

[1][(18) 'intoxicating drugs' means,-

(i)the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa or Indica*) including all forms known as bhang, siddi or ganja;

(ii)charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(iii)any other intoxicating or narcotic drug or substance, which the State Government may, by notification, declare to be an intoxicating drug, for the purposes of this Act, such drug or substance not being opium, cocoa leaf or manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930);

(iv)any mixture with or without neutral materials of any of the above forms of intoxicating drug or any drink prepared therefrom;][1]

1.Substituted by Act 10 of 1967 w .e.f. 24.8.1967

(19) "liquor" includes spirits of wine, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol, and any other intoxicating substance, which the State Government may, by notification, declare to be liquor for the purpose of this Act;

(20) "manufacture" includes,-

(*a*)every process, whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also re-distillation and every process for the rectification of liquor; but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption, and

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

(21) "mhowra flower" means the flower of *passialatifolla* (*Ippe*), but does not include the berry or seed of the mhowra tree;

(22) "molasses" means the heavy, dark-coloured residual syrup drained away in the final stage of the manufacture of jaggery or sugar containing in solution or suspension, sugars which can be fermented and includes any product formed by the addition to such syrup of any

ingredient which does not substantially alter the character of such syrup; but does not include any article which the State Government may, by notification, declare not to be molasses, for the purposes of this Act;

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

(25) "place" includes a house, shop, enclosure, building, shed, tent or vessel;

(26) "police station" includes any place which the State Government may, by notification, declare to be a police station for the purposes of this Act;

(27) "prescribed" means prescribed by the rules, orders and regulations made under this Act;

(28) "Prohibition Officer" means the Commissioner, a Deputy Commissioner, or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act;

(29) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

(30) "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;

(31) "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*) the word "buy", with its grammatical variations, shall be construed accordingly;

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

(33) "State" means the [1][State of Karnataka][1], including the space within the limits of its territorial waters appertaining to it;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(34)

"sweet toddy or neera" means unfermented juice drawn from a cocoanut palm, palmyra, date, bagani or any tree of the species of palm or palmyra, into receptacles treated in the prescribed manner, so as to prevent fermentation;

(35) "territorial waters" with reference to the State, means any part of the open sea within a distance of six nautical miles measured from the appropriate base line according to the President's proclamation published in this behalf in the Government of India, Ministry of External Affairs, Notification No. S.R.O. 669, dated 22nd March 1956, or such other distance as may be fixed from time to time by the President hereafter;

(36) "toddy" means fermented or unfermented juice drawn from a cocoanut palm, palmyra, date, bagani or any tree of the species of palm or palmyra, and includes sweet toddy or neera;

(37) "to tap" means to prepare any part of a tree or to use any means for the purpose of causing juice to exude from the tree;

(38) "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;

(39) "transport" means to move from one place to another within the State, whether any intervening area lies wholly within the State or not.

## CHAPTER II

### ESTABLISHMENT AND CONTROL

**3. Prohibition Commissioner.**—The State Government may, by notification, appoint an officer of Government as Prohibition Commissioner, who, subject to the control of the State Government, and subject to such general or special orders as the State Government may, from time to time, make,—

(*a*)shall exercise such powers and shall perform such duties and such functions as are conferred upon the Commissioner, by or under the provisions of this Act,

(*b*)may exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act, to a Deputy Commissioner, and

(*c*)shall superintend the administration and carry out generally the provisions of this Act.

**4. Deputy Commissioner.**—(1) The Deputy Commissioner of a district shall within the limits of his jurisdiction exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act to a Deputy Commissioner, subject to such control as the State Government may from time to time direct.

(2) For the purposes of this Act, all Deputy Commissioners shall be subordinate to the Prohibition Commissioner.

(3) The State Government may, by notification, appoint any person other than the Deputy Commissioner of a district to exercise in any district or place, all the powers and perform all the duties and functions as are assigned by or under this Act to a Deputy Commissioner, subject to the control of the Prohibition Commissioner and such other control as the State Government may from time to time direct.

**5. Subordinate officers.**—To aid the Commissioner and the Deputy Commissioners in carrying out the provisions of this Act, the State Government may appoint such subordinate officers with such designations and confer on them such powers, duties and functions under this Act, rules, regulations or orders made thereunder, as may be deemed necessary.

**6. Investing officers of other departments with powers and duties under this Act.**—The State Government may invest any officer in the Police Department or any officer of any other Department 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 officer shall thereupon exercise the said powers, discharge the said duties and perform the said functions, in addition to the powers, duties and functions incidental to his principal office.

**7. Board of Experts.**—(1) For the purpose of determining whether,-

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

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

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

-is or is not an article unfit 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 three in number, with such qualifications as may be

prescribed by rules. The members so appointed shall hold office during the pleasure of the State Government.

(3) Two members shall form a quorum for the disposal of the business

of the Board.

(4) Any vacancy of a member of the Board shall be filled 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 by rules.

(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), containing alcohol, is unfit for use as intoxicating liquor and on such other matters incidental to the said question as may be referred to it by the State Government. On obtaining such advice, the State Government shall determine whether any such article is fit or unfit for use as intoxicating liquor or not and such article shall be presumed accordingly to be fit or unfit for use as intoxicating liquor, until the contrary is proved.

**8. Committees.**—(1) The State Government may appoint committees to advise and assist officers in carrying out the provisions of this Act.

(2) Such committees shall perform such functions as are provided by or under the provisions of this Act.

(3) The constitution of such committees and the procedure regarding their work shall be such as may be prescribed by rules.

(4) The State Government may direct that the members of such committees shall be paid such fees and allowances as may be prescribed by rules.

**9. Medical Boards.**—(1) The State Government may constitute one or more medical boards for such areas and consisting of such members as it may deem fit.

(2) A medical board so constituted shall perform such functions as are provided by or under this Act.

(3) The procedure regarding the work of the medical board shall be such as may be prescribed by rules.

(4) The members of the medical board shall be entitled to such fees and allowances as may be prescribed by rules.

**10. Control of Commissioner over Prohibition Officers and other Officers.**—In the exercise of their powers and in the discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder, all Prohibition Officers and all officers including the officers of the Police and other Departments, shall, subject to the general or special orders of the State Government, be subordinate to and under the control of the Commissioner and shall be bound to follow such orders as the Commissioner may, from time to time, make.

**11. Delegation.**—(1) The State Government may, by notification, delegate any of the powers exercisable by it under section 5, section 6 or section 9 to the Commissioner or such other officer as it deems fit.

(2) Subject to the control and direction of the State Government, the powers conferred on the Commissioner or any other officer appointed or invested with powers under this Act may be delegated by him to any of his subordinates.

## CHAPTER III

### PROHIBITION

**12. Prohibition of the manufacture of, traffic in and consumption of liquors and intoxicating drugs.**—Save in the manner and to the extent provided by or under the provisions of this Act or in accordance with the terms and conditions of a licence, permit, pass or authorisation granted thereunder, no person shall,-

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

(*b*)manufacture liquor or any intoxicating drug; or

(*c*)cultivate or collect hemp or any portion of such plant from which any intoxicating drug can be manufactured; or

(*d*)tap any toddy-producing tree, or permit or suffer to be tapped any toddy-producing tree belonging to him or in his possession; or

(*e*)draw toddy from any tree, or permit or suffer toddy to be drawn from any tree belonging to him or in his possession; or

(*f*)construct or work any distillery or brewery; or

(*g*)use, keep or have in his possession any materials, still, utensil, implement, or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug or keep or have in his possession any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which any liquor or intoxicating drug has been manufactured; or

(*h*)bottle any liquor for sale; or

(*i*)sell or buy liquor or any intoxicating drug; or

(*j*)consume or use liquor or any intoxicating drug; or

(*k*)allow any of the acts aforesaid upon premises in his immediate possession.

**13. Alterations of denatured spirit or denatured spirituous preparations.**—No person shall,-

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

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

**14. Prohibition of soliciting use of intoxicant or hemp or doing any kind of action calculating to incite or encourage member of public to commit offence.**—No person shall,-

(*a*) solicit the use of or offer any intoxicant or hemp; or.

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

**15. Prohibition of publication of advertisements relating to intoxicants, etc.**—(1) No person shall print or publish in any newspaper, news-sheet, book,

leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter,-

(*a*) which 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 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 authorisation 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 Commissioner in this behalf;

(*b*) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet, or other publication, printed and published in accordance with law, outside the State, but normally circulating within the State;

(*c*) any advertisement or other matter contained in any newspaper printed and published in the State before such date as the State Government may, by notification, specify; and

(*d*) any other advertisement or matter which the State Government may, by notification, generally or specially exempt from the operation of this section.

(3) Notwithstanding anything contained in sub-section (2), the State Government may, by notification, prohibit within the State the circulation, distribution or sale of any newspaper, news-

sheet, book, leaflet, booklet or other publication printed and published outside the State, which contains any advertisement or matter of the nature described in clause (*a*) or (*b*) of sub-section (1).

**16. This Chapter not to apply to certain articles.**—Nothing in this Chapter shall be deemed to apply to,-

(1) any toilet, medicinal or antiseptic preparation or solution,

(2) any flavouring extract, essence or syrup, containing alcohol, which is unfit for use as intoxicating liquor:

Provided that such article corresponds with the description and limitations mentioned in section 49:

Provided further that the purchase, possession or use of any liquor or alchohol for the manufacture of any such article shall not be made or had, except under a licence granted under section 24.

## CHAPTER IV

### CONTROL, REGULATION AND EXEMPTION

**17. Power to notify exemptions.**—(1) The State Government may, by notification and subject to such conditions as it thinks fit, direct that,-

(*a*)any preparation containing alcohol not exceeding a specified percentage by volume, or

(*b*)any liquor or intoxicating drug or preparation containing such liquor or drug, and required for medicinal, scientific, industrial or such like purpose, [1][or]

[1][(*c*)members of the Armed Forces of the Union or of any other Armed Forces raised or maintained by the Union or attached to or operating with any of its Armed Forces:]

shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

1. Inserted by Act 10 of 1967 w .e.f. 24.8.1967

(2) When issuing a notification under sub-section (1), the State Government shall have power to provide that a breach of any of the conditions subject to which the exemption is notified, shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

**18. Establishment of distilleries and warehouses for intoxicants or licensing manufacture of intoxicants.**—The Commissioner 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 State Government deems fit to impose;

(*b*)discontinue any distillery established;

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

(*d*)establish or license a warehouse wherein any liquor, intoxicating drug, hemp, mhowra flowers or molasses may be deposited and kept without payment of duty; and

(*e*)discontinue any warehouse so established.

(*f*)license on such conditions as the State Government deems fit to impose the manufacture of liquor or any intoxicating drug by any person.

**19. Intoxicating drug or hemp not to be removed from warehouse.**—No liquor, intoxicating drug, 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.

**20. Passes for import, etc.**—(1) The Commissioner, or a Deputy Commissioner, or any other officer authorised by the State Government may grant passes for the import, export or transport of any liquor, intoxicating drug or hemp.

(2) Such passes may be either general for definite periods of time and definite kinds of liquor, intoxicating drug 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 liquor, intoxicating drug or hemp;

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

(*c*) the quantity and description of liquor, intoxicating drug or hemp for which it is granted; and

(*d*) the places from and to which liquor, intoxicating drug or hemp are to be imported, exported or transported, and in the case of places more than ten miles apart, the route by which they are to be conveyed.

**21. Passes for through consignments.**—The through transport of any consignment of any intoxicant, hemp, mhowra flowers or molasses by a railway

administration or by any steamer, ferry, road transport or air service shall be under such passes and subject to such conditions as may be prescribed by rules.

**22. Licences for possession of denatured spirit, rectified spirit and alcohol for industrial or medicinal purposes.**—The State Government, or, subject to its control, the Deputy Commissioner, may grant licences for the possession of denatured spirit, rectified spirit, and alcohol for industrial or medicinal purposes, if such spirit or alcohol is, in the opinion of the State Government or the Deputy Commissioner, as the case may be, necessary for scientific, industrial, medicinal or similar purposes:

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

**23. Licences for bona fide medicinal or other purposes.**—The State Government, or, subject to its control, the Deputy Commissioner, may grant licence to any person or in respect of any institution, whether under the management of Government or not, for the manufacture, export, import, transport, sale, possession, consumption or use of liquor, any intoxicating drug or hemp or any article containing liquor, intoxicating drug or hemp on the ground that such liquor, intoxicating drug, hemp or article is required by such person or in respect of such institution for a *bona fide* medicinal, scientific, industrial or such like purpose, or for sale, for any of the aforesaid purposes:

Provided that when any liquor, intoxicating drug, or hemp has been obtained by any person for a *bona fide* 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, consumption or use of the same.

**24. Licence for purchase, etc., of liquor for manufacture of articles mentioned in section 16.**—The State Government, or, subject to its control, the Deputy Commissioner, may grant licences for the purchase, possession or use of any liquor or alcohol for the manufacture of any article mentioned in section 16 on s

**25. Licence for tapping for neera.**—Subject to the control of the State Government, the Deputy Commissioner or any officer empowered by him, may grant,-

(*a*) licences for tapping of, or drawing juice from, any palm tree for the purpose of sale or consumption as sweet toddy or neera or for the manufacture of jaggery or any other article which is not an intoxicant; or

(*b*) permits for the possession, transport or sale of such sweet toddy or neera.

**26. Licences for tapping toddy in specified areas.**—(1) The State Government, or, subject to its control, the Deputy Commissioner, may issue licences to any person for tapping of trees for toddy in any area specified in such licence and for the possession, manufacture, transport and export of such toddy.

(2) The provisions of the Mysore Excise Act, 1901, or any corresponding law in force in any area of the State, and the rules made thereunder, shall, notwithstanding anything contained in this Act, apply to the tapping of trees for toddy and the possession, manufacture, transport and export of toddy licensed under sub-section (1).

**27. Trade and import licences.**—The State Government, or, subject to its control, the Deputy Commissioner, may grant trade and import licences to persons intending to import and to sell by wholesale any liquor, intoxicant drug or hemp.

**28. Vendors' licences.**—The State Government, or, subject to its control, the Deputy Commissioner, may grant a vendor's licence subject to the following conditions:—

(i) the stock of foreign liquor with the licensee (except what is permitted for disposal in the shop) shall be kept by him at a warehouse approved by Government;

(ii) the licensee shall be allowed to select his own warehouse and fix its rent with the owner:

Provided that on failure to select such warehouse, the warehouse shall be selected by the licensing authority;

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

(iv) the licensee may sell any part of the stock of foreign liquor to licensees in the State or to any persons outside the State, subject to such conditions as the Commissioner may prescribe;

(v) the licensee may sell only to holders of permits or authorisations;

(vi) the licensee shall be entitled to keep in his shop such quantities of liquor as may be permitted by the licensing authority from time to time for retail sale;

(vii) the licensee shall keep account and shall dispose of the goods according to such instructions as may be given by the Commissioner or any officer authorised in this behalf by the Commissioner.

**29. Licences to ship companies and to masters of ships.**—The State Government, or, subject to its control, the Deputy Commissioner or any other officer authorised by rules or an order in writing by the State Government, may grant licences to any shipping company for each ship or to the master of any ship to sell foreign liquor and permit the use and consumption of foreign liquor on such ship on such conditions as may be prescribed.

**30. Permission to use or consume foreign liquor on war ships, troop ships and in messes and canteens of Armed Forces.**—The State Government may, on such conditions as may be specified by a general or special order, permit,-

(i)the sale of foreign liquor to, or

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

(*a*)the members of the Armed Forces in messes and canteens,

(*b*) the crew of war ships or troop ships and the members of the Armed Forces thereon.

**31. Permits to foreigners residing temporarily in India.**—(1) The State Government, or, subject to its control, the Commissioner, the Deputy Commissioner or a Committee appointed for the purpose, may grant permits to persons for the use or consumption of foreign liquors for such quantities as may be prescribed subject to the following conditions:—

(*a*) that such person is not a minor, and

(*b*) that such person was either born and brought up or domiciled in any country outside India, where such liquor is being used or consumed or such person is on the Register of Foreigners, maintained under the Registration of Foreigners' Act, 1939, and is not domiciled in India:

Provided that, in the case of any person falling under clause (*b*), such person has been residing and intends to reside in India temporarily and that such person has

a fixed and settled purpose of making his sole and permanent home in any country outside India and that such person has been ordinarily using or consuming such liquor.

(2) If any question arises whether the conditions imposed by clause (*a*) or (*b*) of sub-section (1) are satisfied or not, in any case, the State Government shall decide the question and its decision shall be final.

**32. Health permits.**—(1) The State Government, or, subject to its control, the Deputy Commissioner, may grant a health permit for the use or consumption of liquor to any person who requires such liquor for the preservation or maintenance of his health:

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

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

**33. Emergency permits.**—(1) The State Government, or, subject to its control, the Deputy Commissioner, may grant emergency permits for the use or consumption of brandy, rum or champagne, or any other kind of liquor to any head of a household for the use of his household for medicinal use on emergent occasions:

Provided that the person to whom a permit is granted under this section may allow the use or consumption of liquor in respect of which the permit has been granted by any other person, who requires the use thereof for medicinal purposes on emergent occasions:

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

(2) When a person to whom an emergency permit is granted allows the use or consumption of liquor held by him under the said permit by any other person on the occasion referred to in the first proviso to sub-section (1), the person holding the emergency permit shall intimate the said fact, in such manner and at such time as may be prescribed, to the authority granting the permit or to an officer appointed by the State Government in this behalf.

(3) Such a permit shall be granted for such quantities and shall be subject to such further conditions as may be prescribed.

***Explanation.***—For the purposes of this section, a household shall mean a group of persons residing and messing jointly as members of one domestic unit.

**34. Special permits to foreign sovereigns, etc.**—The State Government may grant special permits for the use or consumption of foreign liquor to any person, who is,-

(*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 specified in clause (*a*) or (*b*), provided that such member is a national of a foreign State; and

(*d*)the Consort of any person specified in clause (*a*), clause (*b*) or clause (*c*) or any relation of such person dependent upon him.

**35. Permits to be non-transferable.**—Permits granted under section 31, section 32, section 33 or section 34 shall be non-transferable.

**36. Authorisation for sacramental purposes.**—(1) The State Government, or subject to its control, the Deputy Commissioner, may grant any authorisation to

any person for the use of liquor for sacramental purposes or for the manufacture of liquor for use for sacramental purposes:

Provided that the State Government or the Deputy Commissioner is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

(2) An authorisation under this section shall be granted on the recommendation of the person, who consistently with the religious tenets of the community to which the person applying for such authorisation belongs, exercises control over sacramental matters relating to such community and has been approved by the State Government in that behalf.

(3) If in any community there is no person who exercises control over sacramental matters relating to such community, and if, in the opinion of the State Government, it is so desirable, the authorisation under this section may be granted on the recommendation of such member of the community, as may be approved by the State Government in this behalf.

(4) If any dispute arises whether use of liquor is required by any person for sacramental purposes, the person requiring such use may apply to the Commissioner and the Commissioner, after holding a summary enquiry in the prescribed manner, shall decide whether or not the liquor is required by the person for sacramental purposes.

(5) The decision of the Commissioner under sub-section (4) shall be final.

**37. Tourists' Permits.**—(1) The State Government, or subject to its control, the Deputy Commissioner may grant tourists' permits to consume, use or buy foreign liquor to a person who is a tourist.

(2) A tourist's permit may be granted for the period of the tourist's intended stay in the State, but shall in no case be granted for a period exceeding three months.

(3) Such permits shall be available at such places as may be notified by the Commissioner in this behalf.

**38. Interim Permits.**—(1) Notwithstanding anything contained in section 31, section 32 and section 34, the State Government or, subject to its control, the Deputy Commissioner may grant interim permits to persons applying for permits under any of the said provisions.

(2) Such interim permits shall not be granted for any period exceeding one month.

**39. Regulation of use or consumption of foreign liquor by certain Permit-holders.**—(1) No holder of a permit granted under any of the provisions of this Act, other than section 33, shall drink in a public place, in any vehicle parked in a public place or in any room in a hotel or any institution provided the public have access to such room.

(2) No holder of a permit granted under section 32 shall allow the use or consumption of any part of the quantity of liquor held by him by any other person.

(3) No holder of a permit granted under section 31, section 34, section 37 or section 38, shall allow the use or consumption of any part of the quantity of liquor held by him under the permit by any other person who is not the holder of any such permit.

**40. Licence for consumption or use of intoxicating drugs.**—The State Government, or subject to its control the Deputy Commissioner, may grant licences, on the certificate of the Medical Board, for the consumption or use of intoxicating drugs in such quantities as may be prescribed.

**41. Regulation of sale, etc., of ware housed intoxicants or hemp.**—The State Government may by rules made in this behalf, regulate the sale, custody or removal of ware-housed intoxicants or hemp.

**42. Regulation of import, export, etc., of mhowra flowers.**—(1) No person shall export, or import, mhowra flowers, except under a pass granted by the Deputy Commissioner or an officer authorised in this behalf.

(2) No person or head of a 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 flowers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted by the Deputy Commissioner or an officer 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 "vocation period") as the State Government may, by notification, notify, of any quantity of mhowra flowers, which shall be the produce of that year and of that area:

Provided further that unless the State Government by a notification, otherwise directs, no licence, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has no vocation period or the vocation period for which has expired at the time when the transport takes place, provided that,-

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

(ii) there is a vocation period at the place from which and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

***Explanation***.—For the purposes of this sub-section, a household shall mean a group of persons residing and messing jointly as members of one domestic unit.

**43. Control and export, etc., of molasses.—**(1) Except as otherwise provided in sub-section (2), no person shall export, import, transport, sell or have in his possession any quantity of molasses:

Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is the by product of the process and is not in excess of such quantity as may be prescribed.

(2) The State Government or, subject to its control, the Deputy Commissioner may grant,-

(*a*) licences for the export, import, sale or possession of molasses, or

(*b*) permits for the transport of molasses.

**44. General conditions regarding licences, etc.**—[1][(1)][1] All licences, permits, passes or authorisations granted under this Act shall be in such form and shall, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee:

1.Re-numbered by Act 10 of 1967 w .e.f. 24.8.1967

[1][(2) The conditions prescribed under sub-section (1) may include provisions of accommodation by the licensee to Prohibition Officers at the licensed premises or the payment of rent or other charges for such accommodation at or near the licensed premises, and the payment of the costs, charges and expenses (including the salaries and allowances of the Prohibition Officers) which the State Government may incur in connection with supervision to ensure compliance with the provisions of the licence and the provisions of this Act, the rules, regulations and orders made thereunder.][1]

1. Inserted by Act 10 of 1967 w .e.f. 24.8.1967

Provided that every licence, permit, pass or authorisation shall be granted only on the condition that the holder thereof undertakes, and in the opinion of the officer authorised to grant the licence, permit, pass or authorisation, is likely to abide by all the conditions of the licence, permit, pass or authorisation and the provisions of this Act.

**45. Power to cancel or suspend licences and permits.**—(1) The Commissioner or any officer authorised in this behalf, may cancel or suspend any licence, permit, pass or authorisation granted under this Act,-

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

(*b*) if the purposes for which the licence, permit, pass or authorisation was granted ceases to exist;

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

authorisation or of any licence, permit, pass or authorisation 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, pass, permit or authorisation is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930 (Central Act II of 1930), or under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958), or any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, or any offence punishable under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878 (Central Act VIII of 1878).

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

**46. Holder of licence, etc., not entitled to compensation or refund of fee, for cancellation or suspension.**—No holder of a licence, permit, pass or authorisation shall be entitled to any compensation for the cancellation or suspension of the licence, permit, pass or authorisation under section 45, nor to refund of any fee or deposit made in respect thereof.

**47. Cancellation for other reasons.**—(1) Whenever the authority granting the licence considers that it should be cancelled for any cause other than those specified in section 45, he may cancel the licence either,—

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

(*b*) forthwith without notice after recording his reasons in writing for doing so.

(2) When a licence is cancelled under sub-section (1), a part of the licence fee proportionate to the unexpired portion of the term of such licence and the deposit made by the licensee in respect of such licence shall be refunded to him after deducting the amount due from him to the State Government.

**48. Right to title or interest under licence not liable to be sold or attached in execution.**—Notwithstanding anything contained in any law for the time being in force, no 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.

**49. Control and regulation of articles mentioned in section 16 to prevent their use as intoxicating liquor.**—(1) No manufacturer of any of the articles mentioned in section 16 shall sell, use or dispose of any liquor produced or processed for the purpose of such manufacture under the provisions of this Act, otherwise than as an ingredient of the articles authorised to be manufactured therefrom. No more alcohol shall be used in the manufacture of any of the articles mentioned in section 16 other 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 16 in which the alcohol is generated by a process of fermentation, the amount of such alcohol shall not exceed twelve per cent.

(2) No person shall,-

(*a*) knowingly sell any article mentioned in section 16 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 purposes.

**50. Analysis of articles mentioned in section 16.**—(1) Whenever the Commissioner has reason to believe that any of the articles mentioned in section 16 does not correspond with the description and limitations provided in section 49, he shall cause an analysis of the said article to

be made and if upon such analysis, the Commissioner shall find that the said article does not so correspond, he shall give not less than fifteen days' notice, in writing, to the person who is the manufacturer thereof or is known or believed to have imported such article, to show cause why the said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered post, as the Commissioner may determine, and shall specify the time when, the place where, and the name of the officer before whom, such person is required to appear.

(2) Whenever the Commissioner causes an analysis of an article mentioned in section 16 to be made under sub-section (1), he may require the person who is the manufacturer thereof or who is known or believed to have imported such article not to sell, distribute, or otherwise deal with such article or to remove it from any place without the previous permission of the Commissioner for any period not exceeding three months from the date of such requisition or till the result of the analysis is known and communicated to him, whichever is earlier; and thereupon such manufacturer or person shall comply with such request during the said period.

## CHAPTER V

### EXCISE DUTY

**51. Excise duties.**—An excise duty or countervailing duty, as the case may be, at such rate or rates as the State Government shall by rules direct, may be imposed either generally or for any specified area, on any excisable article, when imported, exported, transported, possessed, manufactured or sold, in or from the State, as the case may be:

Provided that no duty shall be so imposed on any article which has been imported into the territory of India and so liable on such importation to duty under the Indian Tariff Act, 1934 (Central Act XXXII of 1934), or [1][the Customs Act, 1962 (Central Act 52 of 1962)][1].

1. Substituted by Act 10 of 1967 w .e.f. 24.8.1967

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

**52. Manner of levying excise duties.**—Subject to such rules regulating the time, place and manner of payment as may be made by the State Government in this behalf, the duties referred to in section 51 may be levied in one or more of the following ways:—

(*a*) in the case of an excisable article imported,-

(i) by payment either in the State at the time of its import or in the 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 State at the time of its export, or in the State or territory of import;

(*c*) in the case of an excisable article 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 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 State Government may prescribe;

(*e*)in the case of intoxicating drugs manufactured in the State, by payment upon quantities 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 duty enforced on 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 Deputy Commissioner deems fit.

**53. Power to exempt, remit or refund excise duty.**—Subject to such rules as shall be made by the State Government in this behalf, the Commissioner may remit or refund wholly or partially any fee in respect of any privilege, licence, permit, pass or authorisation granted under this Act, or duty on toddy-producing trees or excise duty or fee leviable under this Act on any intoxicants, hemp, mhowra flowers or molasses from any person, or institution or class of persons or institutions or exempt such person or institution from the payment of such duty or fee.

**54. Declaration of stock of articles mentioned in section 16.**—Every person, who imports or manufactures any of the articles mentioned in section 16 shall,-

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

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

**55. Power to obtain information and to search and seize excisable articles.**—The Deputy Commissioner or any officer empowered by the State Government in this behalf, may subject to such conditions as may be prescribed,-

(*a*) require, by order, 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*) enter, for reasons to be recorded in writing, 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 94, 95 or 96 or for prosecuting for an offence under section 68.

[1][**56.** x x x][1]

1. Omitted by Act 10 of 1967 w .e.f. 24.8.1967

**57. Recovery of duties, etc.**—All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the foregoing provisions of this Act or of any licence, permit, pass or authorisation granted under it, 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.

## CHAPTER VI

### PENALTIES AND OFFENCES

**58. Penalty for illegal import, etc., of intoxicants or hemp.**—Whoever, in contravention of the provisions of this Act or of any rule or order made or of any licence, pass, permit or authorisation granted thereunder,-

(*a*)imports or exports any intoxicant or hemp;

(*b*)manufactures any intoxicant;

(*c*)constructs or works any distillery or brewery;

(*d*)bottles liquor;

(*e*)sells or buys any liquor or intoxicant or hemp;

(*f*)uses, keeps or has in his possession any materials, still, utensil, implement or apparatus for the purpose of manufacturing any intoxicant other than today; (*g*)keeps or has in his possession any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which any liquor or intoxicating drug has been manufactured,

-shall, on conviction, be punished,-

(i)for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of any 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 fine shall not be less than five hundred rupees;

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fine 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 fine 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 fine 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 one year and fine shall not be less than one thousand rupees.

**59. Penalty for illegal cultivation and collection of hemp and other matters.**—Whoever, in contravention of the provisions of this Act, or of any rule or order made, or of any licence, permit, pass or authorisation issued thereunder,- (*a*)cultivates or collects hemp or collects any portion of hemp plant from which any intoxicating drug can be manufactured;

(*b*)consumes, uses, possesses or transports any intoxicant or hemp;

(*c*)taps or permits or suffers to be tapped, any toddy-producing tree;

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

-shall, on conviction, be punished,-

(i) for a first offence with imprisonment for a term which may extend to six months or with fine 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 fine shall not be less than five hundred rupees

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fine 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 fine 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 fine 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 fine shall not be less than one thousand rupees.

**60. Penalty for alteration or attempt to alter denatured spirit or denatured spirituous preparation.**—Whoever, in contravention of section 13, alters or attempts to alter any denatured

spirit or any denatured spirituous preparation or has in his possession any such spirit or preparation in respect of which he knows or has reason to believe that any such alteration or attempt at alteration has been made, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine 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 fine shall not be less than five hundred rupees.

**61. Penalty for manufacture of articles mentioned in section 16 in contravention of provisions of section 49.**—(1) Whoever, in contravention of the provisions of section 49,—

*(a)* sells, uses or disposes of any liquor otherwise than as an ingredient of any article mentioned in section 16, or

*(b)* uses more alcohol in the manufacture of such article which may be used as intoxicating liquor than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of such article, or

*(c)* knowingly sells 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 conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) No person, who has been convicted for any offence under this section or has paid any sum of money for compounding such offence shall be entitled to manufacture, import, or to sell any article mentioned in section 16 for a period of one year from the date of such conviction or payment, and any person who imports, manufactures or sells any such article in contravention of this sub-section, shall be liable to the same punishment as is provided for an offence punishable under section 58.

**62. Penalty for failure to satisfy the Commissioner under sub-section (1) or to comply with a requisition under sub-section (2) of section 50.**—(1) If the manufacturer of any of the articles mentioned in section 16 fails to show, to the satisfaction of the Commissioner, that the article corresponds to the description and limitations provided in section 49, his licence for the purchase, use or possession of liquor or alcohol for the manufacture of such article shall be revoked.

(2) Any person, who fails to comply with any requisition made by the Commissioner under sub-section (2) of section 50 shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

**63. Penalty for illegal import, etc., of mhowra flowers.**—Whoever in contravention of the provisions of section 42 or of any rule or order made or licence, permit or pass granted under this Act, imports, exports, collects, transports, sells, buys or has in his possession mhowra flowers shall, on conviction, be punished,-

(i)for a first offence, with imprisonment for a term which may extend to six months and with fine 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 fine shall not be less than five hundred rupees;

(ii)for a second offence, with imprisonment for a term which may extend to two years and with fine 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 fine shall not be less than one thousand rupees;

(iii)for a third and subsequent offences, with imprisonment which may extend to two years and with fine 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 fine shall not be less than one thousand rupees:

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

**64. Penalty for illegal import, etc., of molasses.**—Whoever, in contravention of the provisions of section 43 or of any rule or order made or of any licence or permit granted under this Act, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is a by-product of the process and is not in excess of such quantity as may be prescribed.

**65. Penalty for printing or publishing advertisement relating to intoxicants or circulating newspapers, etc., containing such advertisements.**—Whoever, in contravention of the provisions of section 15 or of any rule or order made under this Act,—

(1)prints or publishes in any newspaper, news-sheet, book, leaflet, booklet or any single or periodical publication or otherwise displays or distributes any advertisement or other matter,

(2)circulates, distributes or sells any newspaper, news-sheet, book, leaflet, booklet, or other publication printed and published outside the State, which contains any advertisement or matter,—

*(a)* which 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 an offence under this Act or to commit a breach of or to evade the provisions of any rule or order made, or of the conditions of a licence, permit, pass or authorisation granted thereunder,

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

**66. Penalty for inciting or encouraging certain acts.**—Whoever in contravention of the provisions of section 14 or of any rule or order made under this Act,—

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

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

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

**67. Penalty for non-compliance with order made under section 55.**—Whoever,—

*(a)*fails to furnish any information or produce any accounts or other documents in compliance with an order made under clause *(a)* of section 55, or

*(b)*obstructs any officer making inspection, entry, search or seizure under clause *(b)* or clause *(c)* of section 55,

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

**68. Penalty for import, etc., of intoxicant without payment of duty.**—Whoever, imports, exports, transports, possesses, sells or manufactures any intoxicant or hemp without payment of duty or fee provided for under this Act, shall, on conviction, 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 fine which may extend to one thousand rupees, or the amount of such duty or fee, whichever is greater, or with both.

**69. Penalty for misconduct of licensee, etc.,**—Whoever, being the holder of a licence, permit, pass or authorisation 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 produce the licence, permit, pass or authorisation on demand by a Prohibition Officer or any other officer duly empowered, or

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

*(c)* wilfully does or omits to do anything in breach of any of the conditions of such licence, permit, pass or authorisation, not otherwise provided for under this Act,

-shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both.

**70. Penalty for misconduct by licensed vendor or manufacturer.**—Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or person in the employ of such holder or acting with the 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

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

*(c)* marks the cork of any bottle or any bottle, case, package, 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 or 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

*(d)* sells or exposes for sale any country liquor in any bottle, case, or package or other receptacle with any mark thereon or on the cork thereof with 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 the offence of selling goods marked with counterfeit trade mark under section 486 of the Indian Penal Code, or

*(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 offence with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees.

**71. Liability of licensee for acts of servants.**—The holder of a licence, permit, pass or authorisation granted under this Act, shall be responsible, as well as the actual offender, for any offence committed by any person 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 fine.

**72. Import, export, etc., of intoxicant by any person on account of another.**—(1) Whenever any intoxicant, hemp, mhowra flowers or molasses are manufactured, imported, exported, transported, sold or possessed by any person on account of another 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 flowers 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 in the 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, export, import, transport, sale or possession of such article.

**73. Penalty for attempt or abetment.**—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.

**74. Breach of licence, permit, etc., to be an offence.**—(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 fine, which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

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

**75. Penalty for conspiracy.**—When two or more persons agree,-

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

*(b)*to commit a breach of the conditions of a licence, permit, pass or authorisation,

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

**76. Penalty for being drunk and for disorderly behaviour.**—Whoever,-

(1)in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access—

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

*(b)* behaves in a disorderly manner under the influence of drink, or

(2)not being the holder of a permit granted under the provisions of this Act or is not eligible to hold a permit under section 31, section 34 or section 37 is found drunk in any place,

-shall, on conviction, be punished,-

*(a)*for a first offence, with imprisonment for a term which may extend to one month, and with fine which may extend to two hundred 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 seven days and fine shall not be less than twenty-five rupees;

*(b)* for a second and subsequent offences, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred 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 one month and fine shall not be less than one hundred rupees.

In a prosecution for an offence under clause (1), it shall be presumed, unless the contrary is proved that the person accused of the said offence has drunk liquor or consumed any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose.

**77. Penalty for allowing any premises to be used for the purpose of committing an offence under this Act.**—(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 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 fine 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 judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

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

**78. Penalty for chemist, druggist, etc., for allowing his premises to be used for the purpose of consumption of liquor.**—A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor which has not been *bona fide* medicated for medicinal purposes according to the prescription of a registered medical practitioner or any intoxicating 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 fine which may extend to one thousand rupees, or with both.

**79. Penalty for issuing false prescriptions.**—If a 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 or intoxicating drug in contravention of the provisions of this Act, or rule or order made thereunder or any licence, permit, pass or authorisation granted under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

**80. Penalty for maliciously giving false information.**—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 fine which may extend to one thousand rupees, or with both.

**81. Punishment for vexatious search, seizure or arrest.**—Any officer 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 pretence of seizing or searching for anything liable to confiscation under this Act; or

*(c)*vexatiously and unnecessarily detains, searches or arrests any 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 fine which may extend to one thousand rupees, or with both.

**82. Punishment for vexatious delay.**—Any officer or person, who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest Police Station any person arrested or article seized under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

**83. Punishment for abetment of escape of persons arrested.**—Any officer exercising powers 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 of any offence against this Act, and any other officer of the State 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 fine which may extend to one thousand rupees, or with both.

**84. Penalty for offences not otherwise provided for.**—Whoever is guilty of any wilful act or intentional omission in contravention of any provision of this Act, or any rule, regulation or order thereunder or of any licence, permit, pass or authorisation 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 imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

## CHAPTER VII

### SPECIAL RULES OF EVIDENCE AND PROCEDURE REGARDING TRIAIL OF OFFENCES

**85. Presumption as to commission of offence in certain cases.**—(1) In prosecutions under any of the provisions of this Act, it shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant as are ordinarily used for the manufacture of such intoxicant or any materials, which have undergone any process towards the manufacture of any intoxicant or from which an intoxicant has been manufactured for the possession of which he is unable to account for satisfactorily.

(2) In prosecutions under section 60, it shall be presumed without further evidence until the contrary is proved that the accused person has committed an offence under that section in respect of any denatured spirit or denatured spiritous

preparation which has been or attempted to be altered in contravention of the provisions of section 13.

(3) Subject to the provisions of sub-section (4), where in any trial of an offence under clause *(b)* of section 59 for the consumption of an intoxicant, 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 not less than 0.05 per cent, then the burden of proving that the liquor consumed was a medicinal or 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 this Act or any rules or orders made thereunder, shall be upon the accused person, and the Court shall in the absence of such proof, presume the contrary.

(4) The provisions of sub-section (3) shall not apply to the consumption of any liquor,-

*(a)* by indoor-patients during the period they are being treated in any hospital, convalascent home, messing home, or dispensary, maintained or supported by Government or a local authority, or by charity, or

*(b)* by such other person, in such other institutions or in such circumstances as may be prescribed.

**86. Documents or reports of registered medical practitioners, etc., as evidence.**—Any document purporting to be,-

*(a)*a certificate under the hand of a Registered Medical Practitioner or the Chemical Examiner or Assistant Chemical Examiner to Government under section 109 or of an officer appointed under sub-section (1) of that section, or,

*(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 certificate, or as the case may be, report, in any proceedings, under this Act; but the Court may, if it thinks fit, 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 certificate or as the case may be, report.

**87. Procedure to be followed by Magistrates.**—(1) 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:

Provided that if in respect of any case, the Magistrate, for reasons to be recorded in writing, decides that it is not desirable to follow such procedure, he shall follow the procedure prescribed in Chapter XX or Chapter XXI of the said Code, according as the case is, a summons case or a warrant case.

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

Provided that no search shall be deemed to be illegal by reason only of the fact that witnesses for the search warrant are not inhabitants of the locality in which the place searched is situated.

**88. Offences to be cognizable and non-bailable.**—(1) In the absence of any provisions to the contrary in this Act, all offences under this Act shall be cognizable and the provisions of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to offences under this Act.

(2) Offences under section 58, section 59 or section 60 shall be non-bailable.

**89. Compounding of offences.**—(1) The 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 63, section 64, section 68, section 69 or section 74, of a sum of money in lieu of such cancellation or suspension or by way of compensation 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 flowers or molasses has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by the State Government or such officer as the State Government may authorise in this behalf:

Provided that where a person, who is reasonably suspected of having committed an offence under section 63, or section 68 is not the holder of a licence, permit, pass or authorisation 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 accepted from such person by way of compensation, shall not exceed five hundred rupees.

(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 acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

**90. The Probation of Offenders Act, 1958, and section 562 of the Code of Criminal Procedure, 1898, not to apply to persons convicted under this Act.**—Nothing in the Probation of Offenders Act, 1958 (Central Act 20 of 1958), or section 562 of the Code of Criminal Procedure, 1898, shall apply to any person convicted of any offence under this Act.

**91. Demand for security for abstaining from commission of certain offences.**—(1) Whenever any person is convicted of an offence punishable under this Act, the Court convicting such person, may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties to abstain 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 peace, ordered to be executed under section 106 of the said Code.

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

**92. Demand for security for good behaviour.**—(1) Whenever a District Magistrate, or a Magistrate of the First Class specially empowered by the State

Government in this behalf, 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.

(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 (1) as if the bond referred to thereunder were a bond required to be executed under section 110 of the said Code.

**93. Execution of bonds in respect of minors.**—If any person in respect of whom a bond is ordered to be executed under section 91 or section 92 is a minor, a bond shall be executed by his guardian.

**94. Things liable to confiscation.**—(1) Whenever any offence punishable under this Act has been committed,-

(*a*) any intoxicant, hemp, mhowra flowers, 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 flowers 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 flowers or molasses;

(*c*) where, in the case of an offence of illegal import, export or transport the offender has in his lawful possession any intoxicant, hemp, mhowra flowers 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 flowers or molasses;

(*d*) 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 flowers or molasses, in contravention of the provisions of this Act, rule or order made thereunder or in breach of any condition of a licence, permit, pass or authorisation, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses, which he has attempted to import, export or transport;

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

-shall be confiscated by the order of the Court.

(2) Any receptacle, package, or covering in which any of the articles liable to confiscation under sub-section (1) is found and the other contents of such receptacle, package or covering and the animals, vehicles, vessels or other conveyance used in carrying any such article shall likewise be liable to confiscation by the order of the Court.

**95. Return to bona fide owners.**—When, during the trial of a case for an offence under this Act, the Court decides that anything is liable to confiscation under section 94, 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

confiscation or in the case of any article other than an intoxicant, hemp, mhowra flowers or molasses, give the owner the option to pay fine as the Court deems fit in lieu of confiscation:

Provided that no animal, vessel, vehicle or other conveyance shall be confiscated, if the owner thereto satisfies the Court that he had exercised due care in preventing the commission of the offence.

**96. Procedure in confiscation.**—When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act is found or seized, the Commissioner, the Deputy Commissioner, or any other Officer authorised by the State Government in this behalf, may make an enquiry and if after enquiry is satisfied that an offence has been committed, may order the thing found to be confiscated:

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

**97. Power to order sale or destruction.**—If the thing in question is liable to speedy and natural decay or if the Commissioner, Deputy Commissioner, Court or other officer authorised by the State Government in this behalf is of opinion that the sale would be for the benefits of the owner, the Commissioner, the Deputy Commissioner, Court or the officer may at any time direct it to be sold and the provisions of section 95 or section 96 shall be applied so far as may be to the net proceeds of the sale:

Provided that in the case of any thing liable to speedy and natural decay, the officer concerned may order it to be destroyed, if in his opinion such order is expedient in the circumstances of the case.

**98. Forfeiture of publication containing prohibited advertisements.**—(1) Where any newspaper, news-sheet, book, leaflet, booklet or other publication, wherever printed or published, appears to the State Government to contain any advertisement or matter soliciting the use of or offering any intoxicant or hemp, the State Government may, by notification, declare every copy of such newspaper, news-sheet, book, leaflet, booklet or other publication whether printed or published in the State or outside to be forfeited to the State Government and thereupon any Police Officer may seize the same wherever found in the State. Any Magistrate may by warrant authorise any Police Officer not below the rank of a Sub-Inspector to enter upon and search for the same in any premises, where any copy of such issue or any such newspaper, news-sheet, book, leaflet, booklet or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner prescribed for the execution of search warrants under the Code of Criminal Procedure, 1898.

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

## CHAPTER VIII

### POWERS AND DUTIES OF OFFICERS IN THE MATTER OF DETECTION AND INVESTIGATION OF OFFENCES

**99. Powers of entry and inspection.**—The Commissioner, the Deputy Commissioner, or any Prohibition Officer duly empowered in this behalf by the State Government or any Police Officer not below the rank of an officer in charge of a Police Station may,—

(*a*)enter at anytime by day or by night any house, building, or enclosed space in which he has reason to believe that any intoxicant, hemp, mhowra flowers or molasses, liable to confiscation under this Act, are manufactured, kept or concealed or that any still, utensil, implement or apparatus is kept, used, or concealed for the purpose of manufacturing any such article;

(*b*)in case of resistance, break open any door and remove any other obstacle to his entry into any such house, building or enclosed space;

(*c*)seize any intoxicant, hemp, mhowra flowers or molasses and any materials 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 confiscation under this Act; 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.

**100. Power to open packages, etc.**—(1) Any Prohibition Officer duly empowered in this behalf by the State Government, or any Police Officer may open any package and examine any goods and may stop or search for any intoxicant, hemp, mhowra flowers, any vessel, vehicle or other means of conveyance and may seize any intoxicant, hemp, mhowra flowers, molasses or any other thing liable to confiscation or forfeiture under this Act found while making such search.

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

(3) The owner of the goods or the person in charge of the goods shall, if so required by any officer conducting the search take the goods to a place appointed by the District Magistrate for the purpose of examination or deposit.

(4) The expenses incurred under sub-section (2) for the purpose of removing the goods to and placing of them in the place appointed under sub-section (3) may be recovered as an arrear of land revenue.

**101. Power to require production of licence, etc.**—(1) The Commissioner or the Deputy Commissioner or any Prohibition Officer duly empowered in this behalf or any Police Officer may,-

(*a*)require a licensed manufacturer, or vendor or any person acting with his 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 flowers 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 licensed for tapping are growing or toddy is drawn from such trees, or any warehouse, shop or premises in which the licensed manufacturer or vendor manufactures, stores or sells any intoxicant, hemp, mhowra flowers or molasses or examines, tests, measures and weighs any stock of any such articles.

(2) If such officer finds 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 flowers or molasses or any materials in respect of which the offence is committed and send a report to his official superior for such action under this Act as he deems fit.

**102. Power to obtain information.**—(1) The Deputy Commissioner, or any Prohibition Officer specially empowered in this behalf by the State Government or any Police Officer may, by order, require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp, mhowra flowers or molasses as may be specified in the order.

(2) If any person fails to furnish any information in compliance with an 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 fine which may extend to five hundred rupees or with both.

**103. Power to seize intoxicant, etc.**—The Commissioner, the Deputy Commissioner, or any Prohibition Officer duly empowered in this behalf or any Police Officer may,-

(*a*)seize in any open place or in transit any intoxicant, hemp, mhowra flowers or molasses or any other thing which he has reason to believe to be liable to confiscation under this Act;

(*b*)detain and search any person whom he has reason to believe to be guilty of any offence under this Act, and if such person has any intoxicant, hemp, mhowra flowers or molasses or any other thing in his possession, arrest him.

**104. Arrest of offender and seizure of contraband article.**—(1) Any Prohibition Officer authorised by the State Government in this behalf or any Police Officer 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 flowers or molasses or other articles which he has reason to believe to be liable to confiscation or forfeiture under this Act.

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

**105. Arrest without warrant.**—The Commissioner or the Deputy Commissioner, or any Prohibition Officer duly empowered in this behalf by the State Government or any Police Officer may arrest without any order from a Magistrate and without warrant, any person who obstructs him in the execution of his duties under this Act or has escaped or attempts to escape from custody in which he has been, or is lawfully detained under this Act.

**106. Arrest of offenders failing to give names.**—(1) When any person, who in the presence of the Commissioner, Deputy Commissioner or any Prohibition Officer not below such rank as the State Government may determine, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and 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 the Magistrate if and when he is so required:

Provided that if such person is not a resident of India, the bond shall be secured by a surety or sureties residing in India.

(3) If the true name and residence of such person is not ascertained within twenty-four hours from the time of arrest or if he fails to execute a bond or if so required to furnish sufficient sureties, he shall, be forthwith forwarded to the nearest Magistrate having jurisdiction.

**107. Issue of warrant.**—(1) The Commissioner, the Deputy Commissioner, or any Prohibition Officer duly empowered in this behalf, or Magistrate or a Police Officer not below the rank of an Assistant or Deputy Superintendent of Police specially empowered by the State Government in this behalf, may issue a warrant,-

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence under this Act;

(*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, mhowra flowers 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 or other thing liable to confiscation or forfeiture under this Act is kept or concealed and for the seizure of such intoxicant, hemp, mhowra flowers or molasses or such other things found in such building, vehicle or place.

(2) All warrants issued under sub-section (1) shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or a Prohibition Officer duly empowered in this behalf or if the officer issuing the warrant deems fit, by any other person.

**108. Prohibition officers may be empowered to investigate offences.**—(1) The State Government may empower any Prohibition Officer to investigate offences under this Act.

(2) An officer 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 officer in charge of a Police Station.

(3) Any Prohibition Officer to whom such officer is subordinate may, during the course of the investigation, take over the investigation himself or direct any other Prohibition Officer duly empowered, to conduct the same. The officer in conducting the investigation shall have the same powers under sub-sections (1) and (2) as if he was the Prohibition Officer appointed for the area or for the purpose of investigating the said offence.

(4) If the Prohibition Officer conducting the investigation is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond with or without sureties to appear, if and when so required, before the Magistrate empowered to take cognizance of the offence and shall make full report of the case to his official superior and be guided by the order which he shall receive on such report.

(5) The powers of an officer empowered under this section shall be subject to such other modifications or instructions as the State Government may deem fit.

**109. Power to require person to submit to medical examination, etc.**—(1) Where in the investigation of an offence under this Act, any Prohibition Officer duly empowered in this behalf by the State Government or any Police Officer, not below the rank of a Head Constable 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 therein, such Prohibition Officer or Police Officer 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 to furnish a certificate on his finding whether such person has 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 officer as the State Government may appoint in this behalf.

(2) The registered medical practitioner before whom such person has been produced shall examine such person and collect and forward in the manner prescribed the blood of such person, and furnish to the officer by whom such person has been produced, a certificate in the prescribed

form containing the result of his examination. The Chemical Examiner or the Assistant Chemical Examiner to Government, or other officer 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 medical 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 lady 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 section 186 of the Indian Penal Code.

(6) In trials under this Act, it may be presumed unless and until the contrary is proved, that the accused has committed an offence under clause (*b*) of section 59, if he, having been produced before a registered medical Practitioner, under this section, had resisted or had refused to allow himself to be examined by such registered medical practitioner.

(7) Any expenditure incurred for the purpose of enforcing the provisions of this section including any fees payable to a registered medical practitioner or the officer appointed under sub-section (1) shall be defrayed out of moneys provided by the State Legislature.

(8) If any Prohibition Officer or Police Officer vexatiously and unreasonably proceeds under sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(9) 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.

**110. Arrested person or thing seized to be sent to nearest Police Station.**—Every person arrested and thing seized by a Prohibition Officer under this Act shall be sent to the officer in charge of the nearest Police Station.

**111. Bail by a Prohibition Officer.**—(1) Any Prohibition Officer 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.

(2) When any person has been arrested under section 105, a Prohibition Officer 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.

**112. Articles seized.**—When anything has been seized by a Prohibition Officer other than the Commissioner or the Deputy Commissioner under the provisions of this Act or has been sent to him in accordance with the provisions of this Act, such officer, 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 confiscation but is not required as evidence as aforesaid shall send it with a full report of the particulars of seizure to the Deputy Commissioner;

(*c*)if no offence appears to have been committed, shall return it to the person from whose possession it was taken.

**113. Landlords and others to give information.**—(1) Whenever there has been any tapping for toddy or manufacture of any liquor or intoxicating drug not authorised by a permit or a licence issued under this Act,-

(*a*) every person who occupies any land or building or a landlord residing in the village on or in which such unauthorised tapping or manufacture takes place, and

(b)every owner of a vessel or vehicle in which such unauthorised manufacture takes place,

-shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to a Police Officer as soon as such tapping or manufacture shall come to his knowledge.

**114. Offence to be reported.**—(1) Every village officer or servant and every officer of any other Department of the State Government and any officer or servant of a local authority, shall be bound to give immediate information at the nearest police station or to any officer or person authorised in this behalf, of any breach of any of the provisions of this Act, which may come to his knowledge; and all such officers and servants shall be bound to take all reasonable measures in their power to

prevent the commission of any such breach about which they may have knowledge or which they may have reason to believe is about or likely to be committed.

(2) Every officer of the State Government and every officer or servant of a local authority, shall be legally bound to assist any Police Officer or person authorised in this behalf, in carrying out the provisions of this Act.

## CHAPTER IX

### APPEALS AND REVISIONS

**115. Appeals and Revisions.**—(1) Any person aggrieved by an order passed by a Prohibition Officer other than the Commissioner, or the Deputy Commissioner under this Act, may within sixty days from the date of communication of such order appeal to the Deputy Commissioner.

(2) Any person aggrieved by an order passed by the Deputy Commissioner under this Act, other than an order under sub-section (1), may within ninety days from the date of the communication of the order, appeal to the Commissioner.

(3) Any person aggrieved by an order passed by the Commissioner under this Act, other than an order under sub-section (2), may within ninety days from the date of communication of the order appeal to the State Government.

(4) Subject to the foregoing provisions, appeals under this section shall be subject to the rules which the State Government may make in this behalf.

**116. Revision.—**The State Government may call for and examine records of any proceedings before any Prohibition Officer including those relating to the grant or refusal of a licence, permit, pass or authorisation granted or applied for 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 such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit:

Provided that no order shall be annulled, reversed, or modified, except after giving a reasonable opportunity of being heard to the person aggrieved thereby.

## CHAPTER X

### MISCELLANEOUS

**117. Officers and persons acting under this Act to be public servants.**—All officers 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, and the Prevention of Corruption Act, 1947 (Central Act II of 1947).

**118. Bar of proceedings.**—No suit or proceeding shall lie against the Government or against any Prohibition, Police or other officers or against any person empowered to exercise powers or to perform the functions under this Act for anything in good faith done or purporting to be done under this Act.

**119. Prohibition Officer deemed Police Officer for purposes of section 125 of Evidence Act.**—A Prohibition Officer shall be deemed to be a Police Officer within the meaning of this Act for the purposes of section 125 of the Indian Evidence Act, 1872.

**120. Proceeding in case of default of person admitted on bail to appear before Prohibition Officer.**—When, by reason of default at appearance of a person bailed to appear before a Police or Prohibition Officer, such officer is of opinion that proceedings should be taken to compel payment of the penalty or penalties

mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of penalties in the like case of the default of appearance by a person bailed to appear before his own court.

**121. Employment of additional Police.**—(1) If the State Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under sections 58 to 63, the State Government may, by notification, direct the employment of additional police for such period as it thinks fit.

(2) The cost of such additional police shall, if the 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 notification applied; or

(*b*) specially on any particular section or sections, or class or classes of such persons and the 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 land-holders who by themselves or by their agents or servants collect rents or revenue direct from ryots or occupiers in such area, notwithstanding that they do not actually reside therein.

(3) The cost of the additional police and the tax to be imposed or the rate to be assessed shall be determined in the manner prescribed, by the State Government or such authority or officer that may be empowered in this behalf.

(4) It shall be lawful for the State Government to extend for a term not exceeding in any case, five years, the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.

(5) Every tax imposed or rate assessed shall be recovered by the Deputy Commissioner of the district as if it were a land revenue due by the person liable therefor.

(6) It shall be lawful for the State Government by order to exempt any class of persons from liability to bear any portion of the cost of such additional police.

**122. Closing of shops.**—(1) It shall be lawful for the Deputy Commissioner, by notice in writing to the licensee, to require that any place in which any intoxicant or hemp is sold by retail shall be closed at such time or for such period as he may deem necessary, if, in the opinion of the Deputy Commissioner, such closing is necessary in the interest of public peace.

(2) If a riot or unlawful assembly is imminent or occurring, it shall be lawful for any Magistrate or Police Officer, who is present, to direct that such place shall be closed and kept closed for such period as he thinks fit.

(3) Any order given under this section shall be final.

**123. General powers of State Government in respect of licences, etc.**—Notwithstanding anything contained in this Act, or the rules made thereunder, the State Government may, by general or special order,-

(*a*)prohibit the grant of any kind of licences, permits, passes or authorisations throughout the State, or in any area;

(*b*)regulate the import, export, transport, possession, sale, purchase, consumption or use of any intoxicant, hemp, mhowra flowers, molasses or any article which is likely to be used for the manufacture of an intoxicant with or without licence, permit, pass or authorisation throughout the State, or within the limits of any local area, subject to such conditions and for such periods as it deems fit;

(*c*)exempt any person or institution or any class of persons or institutions from the observance of all or any of the provisions of this Act, or any rule or regulation or order made thereunder;

(*d*)exempt any intoxicant or class of intoxicants from all or any of the provisions of this Act;

(*e*) direct that no licence, permit, pass or authorisation of the kind specified in such order, shall be granted without the previous approval of the State Government;

(*f*)direct any conditions or alterations to be made to or in the conditions subject to which under any other provisions of this Act, such licence, permit, pass or authorisation can be granted;

(*g*)specify the persons or class of persons to whom licences may not be granted;

(*h*)direct that licences of the kind specified in such order shall be granted to persons specified in such order;

(*i*)prohibit, regulate or control, subject to such conditions as may be specified in the order, the consumption or use of any intoxicant or hemp, in any public place; and

(*j*)issue such other instruction in any matter pertaining to the grant or otherwise of licences, permits, passes or authorisations under this Act, as the State Government may deem proper.

**124. Power of State Government to make rules.**—(1) The State Government may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules—

(*a*) regulating the application of any powers by the Commissioner, by a Deputy Commissioner or by any other Prohibition Officer;

(*b*) regulating the import, export, transport, collection, sale, purchase, consumption, use or possession of any intoxicant or hemp, mhowra flowers or molasses;

(*c*) regulating the manufacture of any intoxicant;

(*d)* regulating the cultivation and collection of hemp;

(*e*) regulating the tapping of toddy producing in trees, and drawing of toddy therefrom;

(*f*) regulating the grant, suspension or cancellation of licences, permits, passes or authorisations for the import, export, transport, collection, sale, purchase, possession, manufacture, consumption, use or

cultivation of any of the articles mentioned in clause (*b*) and for the matters specified in clause (*e*);

(*g*) regulating the purposes and localities for which licences may be granted for the wholesale or retail vend of any of the articles mentioned in clause (*b*);

(*h*) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any licence, permit, pass or authorisation for the vend, consumption, or use of any of the articles mentioned in clause (*b*) is granted to any person or in any locality;

(*i*) prohibiting and regulating the employment by a licence holder of any person or class of persons to assist him in his business in any capacity whatsoever;

(*j*) prescribing the manner in which the juice from a cocoanut, date or any kind of palm tree is to be treated for the purpose of preventing fermentation;

(*k*) prescribing the persons or classes of persons to whom any intoxicant or hemp may not be sold or who may be allowed to sell, purchase or use;

(*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 character on such premises;

(*m*) regulating the grant of expenses to persons called to give information in the investigations in respect of offences under this Act;

(*n*) regulating the printing, publishing or otherwise displaying or distributing any advertisement or other matter soliciting the use of or offering any intoxicant or hemp, 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 authorisation issued thereunder;

(*o*) regulating within the State the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication, printed and published outside the State containing any advertisement or matter which solicits the use of or offers any intoxicant or hemp;

(*p*) imposing restrictions or conditions on buyers of intoxicant including provisions for compelling them to sign entries pertaining to the purchase of intoxicant by them;

(*q*) prescribing the specifications and test in respect of the purity of molasses;

(*r*) regulating the taking of samples of molasses;

(*s*)prescribing the powers, functions and duties of Prohibition Officers, Committees and Medical Boards and the fees and allowances payable to the members of the Committees and Medical Boards;

(*t*) prescribing the procedure regarding the work of the Board of Experts;

(*u*) prescribing the fees payable in respect of any privileges, licence, permit, pass or authorisation granted or issued under this Act;

form in which a declaration under section 54 shall be submitted, and the form in which accounts shall be maintained;

(*w*) prescribing the maximum number of licences, permits, passes, or authorisations of any kind which may be granted in any area or to any class of persons;

(*x*) prescribing the number of places at which any intoxicant, hemp, mhowra flowers 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 places in respect of which licences for sale may be granted and the number of such places, which may be managed by the State Government;

(*y*) prescribing the maximum quantity of any intoxicant, hemp, mhowra flowers or molasses, which may be sold in any area or at any place;

(*z*) prescribing the procedure to be followed before granting any licence;

(*aa*) prescribing the manner of collecting and forwarding blood and prescribing the form of certificate and other particulars required to be stated therein under sub-section (2) of section 109.

(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 State Government considers that they should be brought into force at once.

**125. Rules, regulations, etc., to be laid before State Legislature.**—Every rule or regulation made under this Act, every order made under section 123 and every notification issued under section 17 or section 130, shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, regulation, order or notification or both Houses agree that the rule, regulation, order or notification should not be made, the rule, regulation, order or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, order or notification.

**126. Commissioner's powers to make regulations.**—(1) The Commissioner may, with the approval of the State Government, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder,—

(*a*)regulating, as the case may be, the manufacture, supply or storage of any intoxicant or hemp, mhowra flowers or molasses, including,-

(i) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such articles, and the fittings, implements and apparatus to be maintained therein;

(ii) the cultivation of hemp and the collection of the spontaneous growth of such plant and the preparation of any intoxicating drug from such growth and the storage and supply of such hemp or intoxicating drug;

(iii) the bottling of liquor;

(*b*)regulating the deposit of any intoxicant, hemp, mhowra flowers or molasses in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery;

(*c*)prescribing in the case of an intoxicant or opium, the way in which the duty on such article shall be levied;

(*d*)prescribing the scale of fees or the manner of fixing the fees payable in respect of any storage of any intoxicant, hemp, opium, mhowra flowers or molasses;

(*e*)regulating the time, place and manner of payment of any duty or fees;

(*f*)prescribing the restrictions under which and the conditions on which any licence, permit, pass or authorisation may be granted, including,-

(i) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable;

(ii) the fixing of the strength, price or quality in excess of or below which any intoxicant or mhowra flowers shall not be sold or supplied and the quantity in excess of which denatured spirit or molasses shall not be possessed or sold and the prescription of a standard of quality for any intoxicant, mhowra flowers or molasses;

(iii) the prohibition of sale of any intoxicant or hemp except for cash;

(iv) the prescription of the days and hours during which any licensed premises may or may not be kept open and the provisions for the closure of such premises on special occasions;

(v) the prescription of the nature of the premises on which any intoxicant may be sold and the notices to be exposed at such premises;

(vi) the writing of the names and addresses and the taking of signatures of purchasers in the register of sale of any intoxicant, hemp, opium or mhowra flowers;

(*g*)(i) declaring the process 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 Government officers;

(iii) for ascertaining whether such spirits have been denatured;

(*h*)providing for the destruction or other disposal of any intoxicant declared to be unfit for use;

(*i*)regulating the disposal of confiscated or forfeited articles;

(*j*)prescribing the occasions on which special orders may be granted for the sale by retail of quantities of liquor or intoxicating drugs, or opium other than those which are prescribed in any notification issued under this Act and the conditions on which such sales may be made;

(*k*)prescribing the amount of security to be deposited by the holder of a licence, permit, pass or authorisation for the performance of the conditions for the same;

(*l*)providing for the maintenance by the holders of licences, passes or authorisations of the registers of sales, purchases, possession, consumption or use and the particulars to be entered in the register;

(*m*)regarding any other matter, which the State Government may, by notification, direct him to prescribe for the purposes of carrying out the provisions of this Act.

**127. This Act not applicable to import or export across customs frontier.**—For removal of doubts, it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other articles in respect of its import, or export across the customs frontiers.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

***Explanation***.—For the purposes of this section,—

(*a*)"company" means any body corporate and includes a firm or other association of individuals, and

(*b*)"director", in relation to a firm, means a partner in the firm.

**129. Repeal and savings.**—(1) The enactments mentioned in. Schedule A are hereby repealed:

Provided that section 6 of the [1][Karnataka][1] General Clauses Act, 1899 [1][Karnataka][1] Act III of 1899), shall, subject to sub-section (2), be applicable in respect of such repeal and section 8 and section 24 of the said Act shall be applicable as if the said enactments were enactments within the meaning of section 6, section 8 and section 24 of the said Act and had been repealed and re-enacted by this Act:

1.Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

Provided further, but subject to the preceding proviso, any permit, pass, licence or authorisation made or issued under any of the repealed enactments shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the corresponding provisions of this Act, and shall continue to be in force accordingly, unless and until it expires or is superseded by anything done or any action taken under this Act.

(2) On the repeal of the Bombay Prohibition Act, 1949, in the [1][Belgaum area][1] of the [1][State of Karnataka][1] under sub-section (1), the Indian Opium Act, [2][1878][2] (Central Act I of 1878), as it was in force in the [1][Belgaum area][1] before the commencement of the Bombay Prohibition Act, 1949, shall revive and be in force in such area.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(3) From the date this Act comes into force in the other areas of the [1][State of Karnataka][1] under sub-section (4) of section 1, the enactments specified in Schedule B shall, to the extent they are in force in such areas, stand repealed:

Provided that such repeal shall not affect—

(*a*) the previous operation of any such enactment or anything duly done or suffered thereunder;

(*b*) any right, privilege, obligation or liability acquired, accrued, or incurred under such enactment;

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against such enactment;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

(*e*) the levy of any duty or fee and the recovery of any duty or fee leviable under any such enactment; and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forfeiture, or punishment may be imposed, and any such duty or fee may be levied or recovered, as if such enactment had not been repealed:

Provided further, but subject to the preceding proviso, any appointment, notification, notice, order, rule or

form made or issued under any such enactment shall continue to be in force and deemed to have been made or issued under this Act, unless and until it is superseded by anything done or any action taken under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorised in the enactment repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name.

**130. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by notification in the official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (other than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may, by notification, make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

## SCHEDULE A.

**[*See Sections* 1 (3) *and* 129 (1)]** 1. The Mysore Prohibition Act, 1948 (Mysore Act XXVII of 1948). 2. The Bombay Prohibition Act, 1949 (Bombay Act XXV of 1949). 3. The Madras Prohibition Act, [1][1937][1] (Madras Act X of [1][1937][1]. 4. The Coorg Prohibition Act, 1956 (Coorg Act I of 1956).

1. Substituted by Act 10 of 1967 w.e.f 24.8.1967

## SCHEDULE B.

**[*See Section* 129 (3)]** 1. The Mysore Excise Act, 1901 (Mysore Act V of 1901).

2. The Abkari Act, 1316-F (Hyderabad Act No. I of 1316-F).

3. The Intoxicating Drugs Act, 1333-F (Hyderabad Act IV of 1333-F). 4. The Madras Abkari Act, 1886 (Act I of 1886).

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