THE MADHYA PRADESH EXCISE ACT, 1915 [Act No. II of 1915]

CONTENTS

Sections:

CHAPTER I

PRELIMINARY 1. Short title, extent and commencement 2. Definitions

3.

4. Power to declare what shall be deemed to be "country liquor" and "foreign liquor", respectively

5. Definition of retail and wholesale sale

6. Saving of enactment

CHAPTER II

ESTABLISHMENT AND CONTROL

7. Establishment and powers thereof

7-A. Establishment of flying squads

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

8. Power to prohibit import, export or transport

9. Restriction on import, export or transport

10. Requirement of pass for import, export or transport

11. Passes for import, export or transport

12. Passes issued by other authorities may be deemed passes granted under this Act

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

13. Licence required for manufacture, etc. of intoxicants

14. Establishment or licensing of distilleries and warehouses

15. Payment of duty on removal from distillery, brewery or place of storage

16. Possession of intoxicants generally

17. Licence required for sale of intoxicant

18. Power to grant lease of right to manufacture, etc

19. Lessee"s permission to draw tan

20. Manufacture and sale of liquor in Military Cantonments

21. Duties of licensees with regard to measurement and testing

22. Prohibition of employment of male persons under the age of twenty - one years and of women

23. Prohibition of sale of liquor intoxicating drug to persons under the age of twenty one years

23-A. Prohibition of Advertisements relating to liquor

24. Closing of shops for the sake of public peace

25. Duty on excisable articles

26. Ways of levying such duty

27. Payment for grant of leases

27-A. Savings for duties being levied at commencement of the Constitution

CHAPTER VI

LICENCES, PERMITS AND PASSES

28. Form and conditions of licence etc

28-A. Payment of supervision charges

29. Power to take security from licensee

30. Technical detects, irregularities and omissions

31. Power to cancel or suspend licence, etc

32. Power to withdraw licences

33. Surrender of licences

33-A

CHAPTER VII

OFFENCES AND PENALTIES

34. Penalty for unlawful manufacture, transport, possession, sale etc 35. Penalty for altering or attempting to alter any denatured spirit or denatured spirituous preparation
36, Penalty for illegal possession
36-A. Penalty for opening, keeping or using any place as a common drinking house or for having care, management or control of, or tor assisting in conducting, business of any such place
36-B, Penalty for being drunk or for purpose of drinking in a common drinking-house
36-C. Penalty for permitting a place to be used for the commission by other person of any offence punishable under Section 34, Section 35, Section 36 or Section 36-A
36-D. Execution of bond to abstain from commission of otfences punishable under Section 34 or Section 36
36-E. Magistrate to require a person to show-cause why he should not be ordered to execute a bond for good behaviour
37. Penalty for offence not otherwise provided for
38. Penalty for certain unlawful acts of licensed vendors
38-A. Penalty on licensed manufacturer or vendor of intoxicants for mixing or permitting to be mixed with such articles any noxious drug or any foreign ingredient or any diluting or colouring substance 39. Penalty for misconduct by licensees, etc
40. Penalty for allowing consumption in chemist‟s shop, etc
40-A. Punishment for obstruction to, assault on officer etc
41. Manufacture, sale or possession by one person on account of another 42. Attempts to commit, and abatement of offences
43. Presumption as to commission of offences in certain cases
44. Criminal liability of licensee for acts of servants
45. Enhanced punishment after previous conviction
46. Liability of certain things to confiscation
47. Order of confiscation
47-A. Confiscation of seized intoxicants, articles, implements, uten sils, materials, conveyance etc.
47-B. Appeal against the order of confiscation
47-C. Revision before the Court of sessions against the order of appellate authority
47-D. Bar of jurisdiction of the Court under certain circumstances 48. Power of compound offences and impose penalty
48-A. Special provision for the imposition of penalty by the Excise Commissioner or Collector
49. Penalty on officers making vexatious search, seizure, detention or arrest

CHAPTER VII-A

PENALTY FOR OFFENCES AGAINST LIFE

49-A. Penalty for import etc. of liquor unfit for human consumption or for altering or attempting to alter denatured spirituous preparation
49-B. Omitted

CHAPTER VIII

DETENTION, INVESTIGATION AND TRIAL OF OFFENCES 50. Land-holders, and others to give information
51. Power to enter and inspect places of manufacture and sale
52. Power to arrest without warrant to seize article liable to confiscation and to make searches
53. Power of Magistrate to issue a warrant
54. Power to search without

54-A. Arrest without warrant for obstruction or assault
55. Power of Excise Officers in matters of investigation
56. Report by investigating officer
57. Report by Excise Officer
57-A. Police to take charge of articles seized
58. Arrests, searches etc., how to be made
59. Security for appearance in case of arrests without warrant
59-A. Certain offence under the Act to be non-bailable
60. Omitted
61. Limitation of prosecutions
61-A. Tender of pardon to accused person turning approver

CHAPTER VII1-A

SPECIAL PROVISIONS FOR SCHEDULED AREAS

61-B. Definitions
61-C. Scope and extent
61 -D. Exemption of members of the Scheduled Tribes from certain provisions of the Act
61 -E Power of Gram Sabha to regulate and prohibit manufacture sale etc. of intoxicants
61 -F. Enforcement of the decisions of Gram Sabha

CHAPTER IX

MISCELLANEOUS

62. Power to make rules
63. Publication of rules and notifications
64. Recovery of Government dues
65. Government lien on property of defaulters
66. Power of State Government to exempt persons or intoxicants from the provisions of the Act
67. Protection to persons acting under this Act
68. Limitation of suits
69. Repeal of enactments

SCHEDULE

THE MADHYA PRADESH EXCISE ACT, 1915 [Act No. II of 1915]

AMENDING ACTS

(1) M.P. Act No. 23 of 1958; (3) M.P. Act No. 19 of 1964; (5) M.P. Act No. 11 of 1970; (7) MP. Act No. 23 of 1979;

(9) M.P. Act No. 5 of 1986; (11) M.P. Act No. 15 of 1983; (13) M.P. Act No. 6 of 1995; (15) M.P. Act No. 22 of 2000;

(2) MP. Act No. 4 of 1961; (4) MP. Act No. 27 of 1965; (6) MP. Act No. 23 of 1978; (8) M.P. Act No. 39 of 1982;

(10) M.P. Act No, 14 of 1987; (12) M.P. Act No. 13 of 1992; (14) M.P. Act No. 2 of 1998; (16) M.P. Act No. 24 of 2000;

(17) Chhattisgarh Act No. ii of 2002;

An Act to consolidate and amend the Excise Law in Madhya Pradesh.

Preamble.— Whereas it is expedient to consolidate and amend the law in Madhya Pradesh relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs, and whereas the previous sanction of the Governor-General, required under Section 5 of the Indian Councils Act, 1892 (55 and 56, Vict. C. 14), has been obtained to the passing of this Act;

It is hereby enacted as follows:

PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the **Madhya Pradesh Excise Act, 1915.**

(2) II extends to and shall be in force in whole of the Madhya Pradesh.

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

(1) "*beer"* includes ale, stout, porter and all other fermented liquors usually made from malt;

(2) "*bottle*" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, arid bottling includes re-bottling;

(3) "*Chief Revenue Authority*" means the authority declared by the State Government to be the Chief Revenue Authority for the purposes of this Act;

(4) "*common drinking-house*" means a place where drinking of liquor is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of s uch place, whether by way of charge for the use of the place, or for drinking facilities provided, or otherwise howsoever;

(5) "*denatured*" means rendered unfit for human consumption in such manner as may be prescribed by the Government in this behalf;

(6) *"excisable article"* means—

(a) any alcoholic liquor for human consumption; or

(b) any intoxicating drug; or

(c) opium as defined in clause (xv) and poppy straw as defined in clause (xviii) of Section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985);

(6-a) *"excise duty" and "countervailing duty"* means any such excise duty or countervailing duty, as the case may be, as is mentioned in Entry 51 of list II in the Seventh Schedule to the Constitution;

(7) "*Excise Officer"* means a Collector or any officer or other person appointed or invested with powers under Section 7;

(8) "*excise revenue"* means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a Court of Law) or confiscation imposed or ordered or agreed to under the provisions of this Act, or of any law for the time being in force relating to liquor or intoxicating drugs;

(9) "*export*" means to take out of the State otherwise than across a Customs frontier as defined by the Central Government;

(10) Omitted.

(11) "*import*" (except in the phrase "import into india") means to bring in the State otherwise than across a customs frontier as defined by the Central Government;

(11-a) „*intoxicant"* means any lic1uor or intoxicating drug;

(12) *"intoxicating drug"* means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (Cannabis sative), including all forms known as "bhang," "sindhi" or "ganja";

(ii) [x x x]

(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug not being narcotic drug as defined in the Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985);

(13) *"liquor"* means intoxicating liquor, and includes spirits of wine, spirit, wine, tan, beer, all liquid consisting of or containing alcohol, and any substance which the State Government may, by notification, declare to be liquor for the purposes of this Act;

(14) "*manufacture*" includes every process, whether natural or artificial, by which any intoxicant is produced or prepared and also redistillation and every process for the rectification, flavoring, blending or colouring of liquor;

(15) *"place"* includes house, building, shop, booth, tent, enclosure, space, vessel, raft and vehicle;

(16) expressions referring to "*sale*" includes any transfer otherwise than by way of gift;

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

(18) *"tari"* means fermented or unfermented juice drawn from any kind of palm tree; and

(19) "*transport*" means to move from one place to another within the State.

3. [Omitted]

4. Power to declare what shall be deemed to be "country liquor" and "foreign liquor", respectively.— The State Government may by notification, declare what, for the purposes of this Act, or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor", respectively.

5. Definition of retail and wholesale sale.— (1) The State Government may, by notification, declare with respect either to the whole 4[State] or to any specified local area, and as regards purchasers generally or arty specified class of purchasers, and either generally or for any specified occasion, what quantity of any intoxicant shall, for the purposes of this Act be the limit of a retail sale.

(2) The sale of any intoxicant in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall he deemed to be a sale by wholesale.

6. Saving of enactment.— Nothing contained in this Act shall affect the provisions of the Sea Customs Act, 1878 (VIII of 1878) or the Indian Tariff Act, 1894 (VIII of 1894), (except Section 6 thereof) or the Cantonment Act, 1910 (XV of 1910), or any rule or order made thereunder.

CHAPTER II
ESTABLISHMENT AND CONTROL

7. Establishment and powers thereof—The State Government may, by notification, for the whole or for any specified part of the State—

(a) appoint an officer, hereinafter referred to as the Excise Commissioner who, subject to such control (if any) as the State Government may direct, shall superintend the administration of Excise Department and the collection of the excise revenue;

(b) appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or in exclusion of, the Collector subject to such control as the State Government may direct;

(c) appoint officers of the Excise Department of such classes and with such designations, powers and duties as the State Government may think fit;

(d) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (c) shall be exercised and performed by any servant of the Government, or any other person;

(e) delegate to the Chief Revenue Authority or the Excise Commissioner all or any of its powers under this Act except the power conferred by Section 62 to make rules;

(f) withdraw from any officer or person all or any of his powers under this Act, and

(g) permit the delegation by the Chief Revenue Authority, the Excise Commissioner or the Collector to any person or class of persons specified in such notification, of any powers conferred or duties imposed upon it or him by or tinder this Act, or exercised or discharged by it or him in respect of the excise-revenue under any other Act for the time being in force.

7-A. Establishment of flying squads.— (1) The State Government may, by notification, establish flying squads for investigating into any case of alleged or suspected evasion of excise revenue or any case of alleged or suspected contravention of any of the provisions of this Act or the rules made

thereunder and shall specify therein the area over which the flying squad shall exercise jurisdiction.

(2) A flying squad established under sub-section (1) shall consist of excise officers and other persons as the State Government may, from time to time, appoint thereto.

(3) The Excise Officers or other person appointed to the flying squad shall exercise the powers and perform the duties as may be conferred or imposed under Section 7.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

8. Power to prohibit import, export or transport.— The State Government may, by notification—

(a) prohibit throughout the State or in any specified area thereof, the import or export of any intoxicant;

(b) prohibit the transport of any intoxicant;

(c) make suitable provisions for the effective control of Mahua (Bassia Latifiolia and Bassia Longifolia) or any other base which is or which can be utilised for the manufacture of liquor.

9. Restriction on import, export or transport.— Without the sanction of the State Government no intoxicant shall be imported, exported or transported, except—

(a) after payment of any duty to which it may be liable under this Act, or execution of a bond for such payment; and

(b) on compliance with such conditions as the State Government may impose.

10. Requirement of pass for import, export or transport— No intoxicant exceeding such quantity as the State Government may, by notification, prescribe, either generally or for any specified area, shall be

imported, exported or transported except under a pass issued, or deemed to he issued, under the provisions of this Act.

11. Passes for import, export or transport.— (l) Passes for the import, export or transport of intoxicants may be granted by the Collector :

Provided that passes for the import and export of such intoxicants as the Excise Commissioner may, from time to time determine, shall be granted only by the Excise Commissioner.

(2) Such passes may be either general for definite periods and kinds of intoxicants, or special or for specified occasions and particular consignments only.

12. Passes issued by other authorities may be deemed pass es granted under this Act.— The Excise Commissioner may, by general or special order, direct subject to such conditions (if any) as he may impose, that a pass granted by any authority in India shall be deemed to be a pass for any purpose under this Act.

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

13. Licence required for manufacture, etc. of intoxicants.— (a) No intoxicant shall he manufactured or collected;

(b) no hemp plant, shall be cultivated;

(c) no tan-producing tree shall be tapped and no Tan shall be drawn from any tree;

(d) no liquor shall he bottled for sale;

(e) no distillery or brewery shall be constructed for worked; and

(f) no person shall use, keep or have in his possession any materials,

still, utensil, implement or apparatus whosoever for the purpose of manufacturing any intoxicant other than tan; except under the authority and subject of the terms and conditions of a licence granted in that behalf :

Provided that the State Government may, by notification, declare that the provisions of this section shall not apply in any area specified in this behalf, to

the tapping of tan-producing trees, or to the drawing of tan subject to such conditions as it may prescribe:

Provided further that the State Government may, by notification, declare that the provisions of this section shall, not apply in such areas as may be specified in this behalf to the manufacture of liquor for home consumption, subject to such condition as it may prescribe.

14. Establishment or licensing of distilleries and warehouses.—The Excise Commissioner may—

(a) establish a distillery in which spirit may be manufactured under a licence granted under Section 13 on such conditions as the State Government may impose;

(b) discontinue any such distillery;

(c) licence, on such conditions as the State Government may impose, the construction and working of a distillery or brewery;

(d) establish or licence a warehouse, wherein any intoxicant may be deposited and kept without payment of duty, but subject to payment of such fee as the State Government may direct; and

(e) discontinue any such warehouse.

15. Payment of duty on removal from distillery, brewery or place of storage— Without the sanction of the State Government no intoxicant shall be removed from any distillery, brewery, warehouse, or other place of storage established or licensed under this Act unless the duty (it any) payable under Chapter V, has been paid or a bond has been executed for the payment thereof.

16. Possession of intoxicants generally— (1) The State Government may, by notification, prescribe a limit of quantity for the possession of any intoxicant:

Provided that different limits may be prescribed for different qualities of the same article.

(2) No person shall have in his possession any quantity of any i ntoxicant in excess of the limit prescribed under sub-section (1), except under the authority and in accordance with the terms and conditions of—

(a) a licence for the manufacture, cultivation, collection, sale, or supply of such intoxicant; or

(b) a pass for the import, export or transport of such intoxicant; or

(c) a permit granted under this Act,

(3) Sub-section (2) shall not apply to any foreign liquor—

(a) which is in the possession of any common carrier or warehouseman as such

(b) [x x xl

(4) Notwithstanding anything contained in the foregoing sub -sections, the State Government may, by notification, prohibit the possession by any‟ person or class of persons, either in the State or in any specified area, of my intoxicant, either absolutely, or subject to such conditions as it may prescribe.

17. Licence required for sale of intoxicant.— (1) No intoxicant shall be sold except under the authority and subject to the terms and conditions of licence granted in that behalf:

Provided that—

(a) a person having the right to the tan drawn from any tree may sell such tan without a licence to a person licensed to manufacture or sell tan under this Act.

(b) a person under Section 13 to cultivate the hemp plant may sell without a licence those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to deal in the same, or to any officer whom the Excise Commissioner may prescribe; and

(c) nothing in this section shall apply to the sale of any fore ign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives interest upon his quitting a station or after his decease.

(2) On such conditions as the Excise Commissioner may determine, a licence for sale under the Excise Law for the time being in force in other States or Union territories may be deemed to be licence granted in that behalf under this Act.

18. Power to grant lease of right to manufacture, etc.— (1) The State Government may lease to any person, on such conditions and for such period as it may think fit, the right—

(a) of manufacturing, or of supplying by wholesale or of both; or

(b) of selling by wholesale or by retail; or

(c) of manufacturing or of supplying by wholesale, or of both, and selling by retail;

and liquor or intoxicating within any specified area.

(2) The licensing authority may grant to a lessee under sub -section (1) a licence in the terms of his lease; and when there is no condition in the lease which prohibits sub-letting, may, on the application of the lessee, grant a licence to any sub-lessee approved by such authority.

19. Lessee's permission to draw tari.— Where a right of manufacturing tan has been leased under Section 18, the State Government may declare that the written permission of the lessee to draw tan shall have the same force and effect as a licence from the Collector for that purpose.

20. Manufacture and sale of liquor in Military Cantonments. —Within the limits of any Military Cantonment, and within such distance from those limits as the Central Government in any case may prescribe, on licence for the retail sale of liquor shall be granted except with the knowledge and consent of the Commanding Officer.

21. Duties of licensees with regard to measurement and testing—Every person who manufactures or sells any intoxicant under a licence granted under this Act shall be bound—

(a) to supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition on the licensed premises; and

(b) on the requisition of any Excise Officer duly empowered in that behalf at any time to measure, weight or test any intoxicants in his possession in such manner as the said Excise Officer may require.

22. Prohibition of employment of male persons under the age of twenty one years and of women— No person who is licensed to sell intoxicants for consumption on his premises shall, during the hours in which such premises are kept open for business, empty, or permit to be employed either with or without remuneration, any male person under the age of twenty one years of any woman in any part of such premises in which such intoxican t is consumed by the public.

23. Prohibition of sale of liquor intoxicating drug to persons under the age of twenty one years— No person who is licensed to sell intoxicants shall sell or deliver any liquor or intoxicating drug to any person apparently under the age of twenty one years whether of consumption by such person or by another person or whether for consumption on or off the premises of such vendor.

23-A. Prohibition of Advertisements relating to liquor— (1) In this section, "advertisement" includes—

(a) any notice, circular, label, wrapper or other documents;

(b) any announcement made orally or by any means of producing or transmitting light, sound or smoke;

(c) any exhibition by means of slide or film exhibited on the screen in a cinema licensed under the Madhya Pradesh Cinemas (Regulation) Act, 1952 (No. 17 of 1952) or at any other place of entertainment.

(2) Whoever prints or publishes or causes to be printed or published in any newspaper, book, leaflet, booklet, or any other single or periodical publication or otherwise displays or distributes or causes or permits to be displayed or distributed any advertisement or other matter commending soliciting the use of, or offering or purporting to commending, soliciting the use of, or commending any liquor shall be punished for every such offence 1%"ith imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) Except as otherwise provided in sub-section (4), nothing in sub-section (2) shall apply to—

(a) catalogues or price-lists to be displayed on liquor vends in Madhya Pradesh in accordance with the provisions of this Act or the rules made thereunder;

(b) any advertisement or other matter contained in any newspaper, book, leaf-let booklet or other publication printed and published outside Madhya Pradesh;

(c) any advertisements or other matter contained in any newspaper printed and published in Madhya Pradesh before such date as the State Government may, be 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.

(4) Notwithstanding anything contained in sub-section (3), the State Government may, by notification, prohibit within the State the circulation, distribution or sale of any newspaper, book, leaflet, booklet or other publication printed and published outside the State which contains any advertisement or matter commending soliciting the use of, or offering or purporting to commending, soliciting the use of or offering any liquor and whoever circulates, distributes or sells such newspaper, book, leaflet, booklet or other publication, in contravention of such notification, shall be punished for every offence with imprisonment which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(5) When any newspaper, book, leaflet, booklet or other publication wherever printed or published appears to the State Government to contain any advertisement or matter commending, soliciting the use of, or offering any liquor, the State Government may, by notification, declare every copy of the issue of the newspaper and every copy of such book, leaflet, booklet or other publication to be forfeited to Government, and thereupon any Excise Officer, any officer of the police or revenue department and any other person authorised in that behalf by the State Government may seize the same wherever found in Madhya Pradesh and any Collector or Judicial Magistrate of the first class or second class or other officer authorised by the State Government may by warrant authorise any police officer not below the rank of sub -inspector to enter upon and search for the same in any premises where any copy of such issue or any such book, leaflet, booklet or other publication may be or may be reasonably suspected to be.

24. Closing of shops for the sake of public peace.— (l) The District Magistrate, by notice in writing to the licensee, may require, that any shops in which any intoxicant is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

(2) If a riot of unlawful assembly is apprehended or occurs in the vicinity of any shop, a Magistrate of any class, who is present, may require such shop to be kept closed for such period as the may think necessary:

Provided that, when any such riot or unlawful assembly occurs, a licensee shall, in the absence of the Magistrate, close his shop without any order.

(3) When any Magistrate issues an order under sub-section (2), the shall forthwith inform the Collector of his action and his reasons thereof.

CHAPTER V
DUTIES AND FEES

25. Duty on excisable articles.— An excise duty or a countervailing duty, a the case may be, shall, if the State Government so directs, be levied on all excisable articles other than medicinal and toilet preparations specified for the time being in the Schedule to the Medical and Toilet Preparation (Excise Duties) Act, 1955 (No. 16 of 1955):-

(a) imported; or

(b) exported; or

(c) transported; or

(d) manufactured, cultivated or collected under any licence granted under Section 13; or

(e) manufactured any distillery established, or any distillery or brewery licensed, under this Act

Provided that it shall be lawful for the State Government to exempt any excisable article from any duty to which the same may be liable under this Act.

(2) Duty may be imposed under sub-section (1) at different rates according to—

(i) the place to which any excisable article is to be removed; or

(ii) the strength and quality of excisable article; or

(iii) the use of excisable article for different purposes; or

(iv) The value of excisable articles based on principles as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1),—

(i) duty shall not he imposed thereunder on any article which has been imported into India and was liable, on such importation, to duty under the Sea Customs Act, 1878 (VIII of 1878). or the Indian Tariff Act 1894 (VIII of 1894) ;

(ii) [Omitted]

(4) Nothing contained in this section shall be construed to preclude the State Government from enhancing or reducing the rates of duty during the course of a financial year and the power to enhance or reduce the rate of duty shall include power to give retrospective effect to such enhancement or reduction from a date not earlier than the commencement of the financial year

26. Ways of levying such duty.— Subject to such rules regulating the time, place and manner as the State Government may prescribe, such duty shall he levied ratably on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse:

Provided that—

(1) duty may be levied—

(a) on intoxication drugs by an acreage rate levied on the cultivation of the hemp plant or by a rate charged on the quantity collected;

(b) on spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(i) in accordance with such scale or 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, or;

(ii) by a rate charged directly on the materials used;

(c) on tan, by a tax on each tree from which the tan is drawn.

(2) Where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from the warehouse,

(3) Where the rate of duty is enhanced or reduced after payment o f duty on issue of excisable article from warehouse and the excisable article is in stock with a holder of a licence, the excisable article in stock shall be subject to the levy of duty at the rate so enhanced or reduced and the difference in duty shall be payable or refundable, as the case may he, by or to the holder of a licence, with whom such duty paint excisable article is in stock at the material time.

27. Payment for grant of leases.— (1) Instead of or in addition to any duty leviable under this Chapter, the State Government may accept payment of a sum in consideration of the grant of any lease under Section 18.

(2) Nothing contained in sub-section (1) shall be construed to preclude the State Government from enhancing or reducing the sum received in consideration of a grant of any lease under Section 18 during the course of a financial year or during the currency of a licence and the power to enhance or reduce the sum shall include power to give retrospective effect to such enhancement or reduction from a date not earlier than the commencement of the financial year.

27-A. Savings for duties being levied at commencement of the Constitution— (1) Until provision to the contrary is made by Parliament, the State Government may continue to levy any duty of which this section applies which it was lawfully levying immediately before the commencement of the Constitution under this Chapter as then in force.

(2) The duties to which this section applies are—

(a) any duty on intoxicants which are not excisable articles within the meaning of this Act;

(b) any duty on an excisable article produced outside India and imported into the State whether across a customs frontier as defined by the Central Government or not;

Omitted

(3) Nothing in this section shall authorise the levy by the State Government of any duty which, as between goods manufactured or produced in the State, and similar goods not so manufactured or produced discriminates in favour of the former, or which, in the case of goods manufactured or produced outside the State, discriminates between goods manufactured or produced in one locality and similar goods manufactured or produced in another locality.

CHAPTER VI

LICENCES, PERMITS AND PASSES

28. Form and conditions of licence etc.— (i) Every permit or pass issued or licence granted under this Act shall be issued or granted on payment of such fees, for such period, subject to such restrictions and conditions and shall be in such form and contain such particulars as may be prescribed.

(2) The conditions prescribed under sub-section (1) may require, inter alia, the licensee to lift for sale, the minimum quantity of country spirit or Indian-made liquor, fixed for his shop and to pay the penalty at the prescribed rate on the quantity of liquor short lifted.

(3) Penalty at the prescribed rate on infraction or infringement of any conditions laid down in sub-section (1) of specifically enumerated in sub-section (2) shall be leviable on and recoverable from the licensee.

28-A. Payment of supervision charges.— The State Government may by general or special order in writing direct the manufacture, import, export, transport, storage, sale, purchase, use, collection or cultivation of any intoxicant, denatured spirituous preparations or hemp shall be under the supervision of such Excise staff as the Excise Commissioner may deem proper to appoint in this behalf and that the person manufacturing, importing, exporting, transporting, storing, selling, purchasing, using, collecting or cultivating the intoxicant or denatured spirituous

preparations shall pay to the State Government towards supervision charges as levy as may be imposed by the State Government in this behalf:

Provided that the State Government may exempt any class of person or any institution from paying the whole or any part of such levy.

29. Power to take security from licensee.— Any authority granting a licence under this ct may require the licensee to execute a counterpart agreement in conformity with the tenure of his licence and to give such securi ty for the performance of such agreement, or to make such deposit or to provide both as such authority may think fit.

30. Technical defects, irregularities and omissions— (1) No licence granted under this Act shall be deemed to be invalid by reasons merely on any technical defect, irregularity or omission in the licence or in any proceedings taken prior to the grant1 thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

31. Power to canncel or suspend licence, etc.— (l) Subject to such restrictions as the State Government may prescribe, the authority granting any licence, permit or pass under this Act may canncel or suspend it —

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

(b) in the event of any breach by the holder thereof or by an‟ of his servants, or by any one action on his behalf with his express or implied permission, of any of the terms or conditions thereof; or

(c) if the holder thereof, or any of his servants, or any one action on his behalf with his express or implied permission, is convicted of any offence under this Act or any other law for the time being in force relating to revenue, or of any offence (under the Dangerous Drugs Act, 1930 (11 of 1930, or under the Indian Merchandise Marks Act, 1889 (1V of 1889), or under any section which has been introduced into the Indian Penal Code (XLV of 1860), Section 3 of that Act; or

(d) if the holder thereof is convicted of any cognizable and non -bailable offence; or

(e) if the holder thereof is punished fur any‟ offence referred to in clause (8) of Section 167 of the Sea Customs Act, 1878 (Viii of 1878); or

(f) where a licence, permit or pass been granted on the application of the holder of any lease granted under Section 18, on the requisition in writing of such lessee; or

(g) if the conditions of the licence, permit or pass provide for such cancellation or suspension at will.

(1-A) Before making an order cancelling or suspending a licence permit or pass under sub-section (1), the authority aforesaid shall record in writing the reasons for the proposed action, furnish to the holder thereof a brief statement of the same and afford him a reasonable opportunity of being heard.

(2) Where a licence, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c) or clause (e) of sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person under this Act or under any other law for the time being in force relating to excise revenue, or under the Opium Act, 1878 (1 of 1878).

(3) The holder of a licence, permit or pass shall not be entitled to any compensation for its cancellation or suspension nor to the refund of any fee paid or deposit made in respect thereof.

(4) Where a licence is cancelled or suspended under clause (a), clause (b), clause (c) or clause (e) of sub-section (1),—

(a) the fee payable for the balance of the period for which such licence would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise-revenue;

(b) the Collector may take the grant under management or resell it at the risk and loss of the ex-licensee, but an‟ nagement or resale which is not is

excess of the amount recovered under clause (a) for such period shall be paid to the ex -licensee.

32. Power to withdraw licences.— Whenever the authority which granted any licence under this Act considers that such licence should be withdrawn for any cause other than those specified in Section 31, if shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the licence either—

(a) on the expiration of fifteen days‟ notice in writing of its intention so to do; or

(b) forthwith without notice.

(2) If any licence be withdrawn under clause (h) of sub-section (1), the aforesaid, authority shall, in addition to remitting such sum as a aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

(3) When a licence is withdrawn under sub-section (1), any fee paid in advance to deposit made by the licensee in respect thereof shall be refunded to him, after deducting the amount (if any) due to the Government.

33. Surrender of licences.— (i) Any holder of a licence granted under this Act to sell an intoxicant may surrender his licence on the expiration of one month‟s notice in writing given by him to the Collector of his intention to surrender the same, and on payment of the fee payable for the licence for the remainder of the period for which it would have been current put for such surrender:

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(2) Sub-section (1) shall not apply in the case of any licence granted under Section 18.

Explanation.— The words “holders of licence”, as used in this section include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence.

33-A. Omitted.

CHAPTER VII
OFFENCES AND PENALTY

34 Penalty for unlawful manufacture, transport, possession, sale etc.— (i) Whoever, in contravention of any provision of this Act, or of any rule, notification or order made or issued thereunder, or of any condition of a licence, permit or pass granted under this Act,—

(a) manufactures, transports, imports, exports. collects of possesses any intoxicant;

(b) save in the cases provided for in Section 38, sell any intoxicant; of

(c) cultivates bhang; or

(d) taps any toddy production tree/or draws toddy therefrom; or

(e) constructs, or works any distillery brewery or vintnery; or

(f) uses, keeps or has in his possession any material, still utensil,

implement or apparatus, whatsoever for the purpose of manufacturing any intoxicant other than toddy; or

(g) removes any intoxicant from any distillery, brewery, vintnery or warehouse licensed, established or contained, under this Act;

(h) Bottles any liquor;

shall subject to the provisions of sub-section (2), be punishable for every such offence with imprisonment for a term which may extend to one year and fine which shall not be less than five hundred rupees but which may extend to five thousand rupees:

Provided that when any person is convicted under this Section of any offence for a second or subsequent time he shall be punishable for every such offence with imprisonment for a term which shall not be less than two months

but which may extend to twenty four months and fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees.

(2) Notwithstanding anything contained in sub-section (1), if a person is convicted for an offence covered by clause (a) or clause (b) of sub -section (1) and the quantit1 of the intoxicant being liquor found at the time or in the course of detection of the offence exceeds fifty bulk liter, he shall be punishable with imprisonment for a term which shall not be less than one year hut which may extend to three years and with fine which shall not be less than twenty five thousand rupees but may extend to one lac rupees:

Provided that when any person is convicted under this section for an offence for second or subsequent time, he shall be punishable for every such offence with imprisonment for a term which shall not be less than two years but which may extend to five years and with fine which shall not be less than fifty thousand rupees but may extend to two lac rupees.

(3) When an offence covered by clause (a) or clause (b) of sub -section (1) if committed and the quantity of liquor found at the time or in the course of detection of such offence exceeds fifty bulk litres, all intoxicants, articles implements, utensils, materials, conveyance etc. in respect of or by means of which the offence is committed, shall he liable to be seized and confiscated. If such an offence is committed by or on behalf of a person who holds a l icence under the Act for manufacturing or stocking or storing liquor for sale on which duty at the prescribed rate has not been paid then notwithstanding anything contained in Section 31 the licence granted to thin shall be cancelled in case he is convicted for the offence as aforesaid.

(4) The seizure or confiscation of the intoxicants, articles, implements, utensils, materials and conveyance and the cancellation of licence as provided under sub-section (2) above shall be in addition and without prejudice to any other action that may be taken under any provisions of the Act or rules made thereunder.

35 Penalty for altering or attempting to alter any 2[denatured spirit or denatured spirituous preparation.—Whoever—

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

(b) has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made with the intention specified in clause (a), shall be punishable with

imprisonment for a term which shall not be less than one month but which may extend to two years and also with fine which shall not be less than one thousand rupees hut which may extend to four thousand rupees; or

(c) mixes denatured spirit or such altered denatured spirit or denatured spirituous preparation with potable spirit; shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to two years and also with fine which shall not be less than one thousand rupees but which may extend to four thousand rupees:

Provided that when any person is convicted under this section for a second offence or subsequent offence he shall be punishable for such offence with imprisonment for a term which shall not be less than six months hut which may extend to six years and with fine which shall not be less than one thousand five hundred rupees but which may extend to six thousand rupees.

Explanation.— In this section “denatured spirituous preparation” means any preparation made with denatured spirit and includes liquors, french polish, varnish and thinners prepared out of such spirituous preparation.

36. Penalty for illegal possession.— Whoever, without lawful authority, has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

36A. Penalty for opening, keeping or using any place as a common drinking house or for having care, management or control of, or for assisting in conducting, business of any such place. —Whoever in contravention of this Act, or of any rule, notification or order made, iss ued or given thereunder, or of any licence permit or pass granted under this Act. —

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

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

shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than two hundred rupees but which may extend to two thousand rupees, or with both.

36-B. Penalty for being drunk or for purpose of drinking in a common drinking-house—Whoever, in contravention of this Act or rule or notification or any order made, issued or given thereunder, or of any licence, permit or pass granted under this Act, is found drunk or drinking is a common drinking house or is found there present for the purpose of drinking shall he punishable with fine which may extend to one thousand rupees and any person found in a common drinking-house during any drinking therein shall be presumed until the contrary is proved, to have been there for the purpose of drinking.

36-C. Penalty for permitting a place to be used for the commission by other person of any offence punishable under Section 34, Section 35, Section 36 or Section 36-A—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 commission by any other person of any offence punishable under Section 34, Section 35, Section 36 or Section 36 -A shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not he less than two hundred rupees but which may extend to two thousand rupees or with both.

36-D. Execution of bond to abstain from commission of offences punishable under Section 34 or Section 36.— (1) Whenever any person is convicted of an offence punishable under Section 34 or Section 36, and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond to abstain from the commission of offences punishable under those sections; the Magistrate 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 such offences during such period, not exceeding three years, as he may direct.

Form of bond and applications of the provisions of the Code of Criminal Procedure to all matters connected with such bond.— (2) The bond shall be in the

form contained in the Second Schedule and the provisions of the Code of Criminal Procedure 1898 (V of 1898) shall in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the place ordered to be executed under Section 106 of that Code.

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

Power of Appellate Court or the High Court to make order.— (4) An order under this section may also be made by an Appellate Court, or by the High Court when exercising its powers of revision.

36-E. Magistrate to require a person to show cause why he should not be ordered to execute a bond for good behaviour.— (1) Whenever a Magistrate of the first class specially empowered in this behalf by the State Government 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 Section 34 or Section 36, 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.

Application of provision of the Code of Criminal Procedure to proceeding under sub-section (1).— (2) The provisions of the Code of Criminal Procedure, 1898 (V of 1898), shall, in so far so they are applicable, apply to any proceedings under sub-section (1) as if the bond referred to therein were a bond required to he executed under Section 110 of that Code.

37. Penalty for offence not otherwise provided for— Whoever, is guilty of any act or intentional omission in contravention of any of the provisions of this Act or of any rule, notification or order made, issued or given thereunder and not otherwise provided for in this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

38. Penalty for certain unlawful acts of licensed vendors.— (1) A licensed vendor or any person in his employ and acting on his behalf who -.—

(a) sells any intoxicant to a person who is drunk or intoxicated; or

(b) sells or gives any intoxicant to any person in contravention of Section 23; or

(c) in contravention of Section 22 employs or permits to be employed on any part of his licensed premises referred to in that section any male person or woman; or

(d) permits drunkenness, intoxication, disorderly conduct, dancing, singing, playing of music or gaming on the licensed pre mises of such vendor; or

(e) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are prostitutes, to resort to or assemble on the licensed premises of such vendor whether for the purposes of crime or prostitution or not;

shall be punishable with fine which shall not be less than one hundred rupees but which may extend to two thousand rupees.

(2) Where any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor and it is proved that any person was drunk on such premises, the burden shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

38-A. Penalty on licensed manufacturer or vendor of intoxicants for mixing or permitting to be mixed with such articles any noxious drug or any foreign ingredient or any diluting or colouring substance.— If a licensed manufacturer or licensed vendor or any person in his employ and acting on his behalf, mixes or permits to be mixed, with any intoxicant manufactured, sold or kept or exposed for sale by him, any noxious drug, or any foreign ingredient in the licence, or has in possession any intoxicant in respect of which such admixture has been made, he shall be punishable with imprisonment which shall not be less than one month but which

may extend to one year or with fine which shall not be less than three hundred rupees but which may extend to two thousand rupees or with both.

39. Penalty for misconduct by licensees, etc.— A holder of a licence, permit or pass granted under this Act or any person in the employ of such holder and acting on his behalf, who intentionally—

(a) fails to produce such licence, permit or pass on the demand of any Excise officer or of any other officer duly empowered to make such demand; or

(b) save in a case provided for by Section 34, contravenes any rule made under Section 62; or

(c) does any act in breach of any of the conditions of the licence, permit or pass not otherwise provided for in this Act,

shall be punishable in case (a) with fine which may extend to four hundred rupees, and in case (b) or (c) with fine which may extend to ten thousand rupees.

40. Penalty for allowing consumption in chemist's shop, etc. — (i) A chemist, druggist, apothecary or keeper of a dispensary who allows any intoxicant, which has not been bona fide medicated for medicinal purposes, to be consumed on his business premises by any person not employed in his business shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than five hundred rupees but which may extend to four thousand rupees, or with both.

(2) Any person not employed as aforesaid who consumes any such intoxicant on such premises shall be punishable with fine which may ex tend to five hundred rupees.

40-A. Punishment for obstruction to, assault on officer etc.—Whoever assaults or obstructs—

(a) any excise officer or person exercising powers under this Act, or

(b) any informant or other person helping any such officer or person while exercising powers under this Act,

shall be punished with imprisonment which may extend to two years or with fine which may extend to two thousand rupees or with both.

41. Manufacture, sale or possession by one person on account of another.— (1) Where any intoxicant has been manufactured or sold or is possessed by any person on account of any other person1 and such other person knows or has reason to believe that such manufacture or sale was, or that such possession is, on his account the intoxicant, shall, for the purposes of this Act, be deemed to have been manufactured or sold by or to be in the possession of, such other person.

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

42. Attempts to commit, and abatement of offences.— Whoever attempts to commit or abets any offence punishable under this Act, shall be liable to the punishment provided for such offence.

43. Presumption as to commission of offences in certain cases.— In prosecutions under Section 34, Section 35 and Section 36 it shall be presumed, until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of—

(a) any intoxicant, or

(b) any still, utensil, implement or apparatus whatsoever for the manufacture of ay intoxicant other than tan, or

(c) any materials which have undergone any process towards the manufacture of an intoxicant, or from which an intoxicant has been manufactured,

for the possession of which he is unable to account for satisfactorily.

44. Criminal liability of licensee for acts of servants.— Where any offence under Section 34, Section 35, Section 36, Section 36-A, Section 38, Section 38-A or Section 39 is committed by any person in the employ and acting on behalf of the holder of a licence, permit or pass granted under this Act such holder shall also be punishable as if he had himself committed the same, unless he establishes that all due and reasonable precaution were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punishable with imprisonment except in default of payment of fine:

45. Enhanced punishment after previous conviction.— lf any person after having been previously convicted of an offence punishable under Section 34, Section 35, Section 36, Section 36-A, Section 36-B, Section 36-C or Section 40 or under the corresponding provisions in any" enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under any of those sections he shall he liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXI of the Code of Criminal Procedure, 1973 (No. 2 of 1974), from being so tried.

46. Liability of certain things to confiscation.— (1) Whenever an offence has been committed which is punishable under this Act, the intoxicant, materials, still, utensils, implements or apparatus in respect of or by means of which such offence has been committed, and the receptacles, packages and coverings in which any such intoxicant materials, still, utensils, implements or apparatus is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts vessels, rafts or other conveyance used in carrying the same shall be liable to confiscation.1

(2) Any intoxicant lawfully imported, transported, manufactured, held in possession or sold alongwith, or in addition to any intoxicant liable to confiscation under sub-section (1), and the receptacles, packages and coverings in which any such intoxicant, materials, still, utensil, implements or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, ves sels, rafts or other conveyance used in carrying the same, shall likewise be liable to confiscation.

47. Order of confiscation.— (1) Where in any case tried by him the Magistrate, decides that anything is liable to confiscation under Section 46, he shall order confiscation of the same:

Provided that where any intimation under clause (a) of sub -section (3) of Section 47-A has beer received by the Magistrate, he shall not pass any order in regard to confiscation as aforesaid until the proceedings pending bef ore the Collector under Section 47-A in respect of thing as aforesaid have been disposed of, and if the Collector has ordered confiscation of the same under sub-section (2) of Section 47-A, the Magistrate shall not pass any order in this regard.

(2) When an offence under this Act has been committed, but the offender is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall he made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto, and the evidence (if any) which he may produce in support of his claim:

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale would be for the benefit of its owner, the Collector may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

47-A. Confiscation of seized intoxicants, articles, implements, utensils, materials, conveyance etc.— (1) Whenever any offence covered by clause (a) of (b) of sub-section (1) of Section 34 is committed and the quantity of liquor found at the time or in the course of detection of offence exceeds fifty bulk litres, e der Section 52, while seizing any

intoxicants, articles, implements, utensils, materials, conveyance etc. under sub-section (2) of Section 34 or Section 52 of the Act, shall place on the property seized a mark indicating that the same has been so seized and shall without undue delay either produce the seized property before the officer not below the rank of District Excise Officer authorised by the State Government by a notification in this behalf (hereinafter referred to as the Authorised Officer), or where having regard to its quantity or bulk or any other genuine difficulty it is not ex-pedient to do so, make a report containing all the details about the seizure to him.

(2) When the Collector, upon production before him of intoxicants, articles, implements, utensils, materials, conveyance etc. or on receipt of a report about such seizure as the case may be, is satisfied that an of fence

covered by clause (a) or clause (b) of sub-section (1) of Section 34 has been committed and where the quantity of liquor found at the time or in the course of detection of such offence exceeds fifty bulk litres he may, on the ground to be recorded in writing, order the confiscation of the intoxicants, articles, implements, utensils, materials, conveyance etc. so seized. He may, during the pendency of the proceedings for such confiscation also pass an order of interim nature for the custody, disposal etc. of the confiscated intoxicants, articles, implements, utensils, materials, conveyance etc. as may appear to him to be necessary in the circumstances of the case.

(3) No order under sub-section (2) shall be made unless the Collector has—

(a) sent an intimation in a form prescribed by the Excise Commissioner about initiation of proceedings for confiscation of seized intoxicants, articles, implements, utensils, materials, conveyance, etc. to the Court having jurisdiction to try the offence on account of which the seizure has been made;

(b) issued a notice in writing to the person from whom such intoxicants, articles, implements, utensils, materials, conveyance, etc. have been seized and to any person staking claim to and to any other person who may appear before the Collector to have an interest in it;

(c) afforded an opportunity to the persons referred to in clause (b) above of making a representation against proposed confiscation;

(d) given to the officer effecting the seizure under sub-section (1) and to the person or persons who have been noticed under clause (b) a hearing.

47-B. Appeal against the order of confiscation.— (l) Any person aggrieved by an order of confiscation passed under sub-section (2) of Section 47-A may, within thirty days of such order prefer an appeal to the Collector concerned or to any other officer authorised by the State Government by notification (hereinafter referred to as the Appellate Authority). Such appeal memorandum shall be accompanied by a certified copy of the order appealed against.

(2) The Appellate. Authority on presentation of such memorandum of appeal, issue a notice to the appellant and to any other person who is likely to be adversely affected by the order that may be passed in appeal.

(3) The Appellate Authority after hearing the parties to the appeal, shall pass an order confirming, reversing or modifying the order of confiscation appealed against:

Provided that he may pass such order of interim nature for custody, disposal etc. or the confiscated articles during the pendency of appeal, as may appear to him just or proper in the circumstances of the case but he shall have no power to stay the order of confiscation appealed against during the pendency of appeal.

47-C Revision before the Court of sessions against the order of Appellate Authority.— (1) Any party to appeal aggrieved by the final order by the Appellate Authority under sub-section (3) of Section 47-B may, within 30 days of such order submit a petition or revision solely on the ground of illegality of such order to the Court of sessions within the sessions division.

(2) The Court of sessions may, if it finds any illegality in the order of the Appellate Authority, confirm, reverse or modif ppellate Authority:

Provided that the Court of session shall have no powers to stay the order of confiscation of the order passed by the Appellate Authority during pendency of the petition for revisions before it.

47-D. Bar of jurisdiction of the Court under certain circumstances. —Notwithstanding anything to the contrary contained in the Act, or any other law for the time being in force, the Court having jurisdiction to try offences covered by clause (a) or (b) of sub-section (1) of Section 34 on account of which such seizure has been made, shall not make any order about the disposal, custody etc. of the intoxicants, articles, implements, utensils, materials, conveyance etc. seized after it has received from the Collector an intimation under clause (a) of sub-section (3) Section 47-A about the initiation of the proceedings for confiscation of seized property.

48. Power of compound offences and impose penalty.— (1) The Excise Commissioner or the Collector may :-

(a) accept from any person whose licence, permit or pass is liable to be cancelled or suspended under clauses (a) or (b) of Section 3L or who is reasonably believed to have committed an offence under Section 37, Section 38, Section 38-A (Except cases involving admixture of an intoxicant with any noxious drugs) or Section 39, a sum of money not exceeding ten thousand rupees in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be, or may impose as a penalty a sum not exceeding ten thousand rupees, and may in either case, order the confiscation of articles which are seized; and

(b) in any case in which any property has been seized as liable to confiscation under this Act, may at any time before an order of confiscation has been passed by a judicial Magistrate, release the same, on payment of the value thereof as estimated by the Excise Commissioner or the Collector.

(2) On the payment of such sum of money, or such value or both, as the case may be, to the „[Excise Commissioner or Collector, the accused person, if in custody shall be discharged, the property seized (if any) shall be released, and no further proceeding shall be taken against such person or property.

48-A. Special provision for the imposition of penalty by the Excise Commissioner or Collector.— Notwithstanding the limit of penalty of Rupees ten thousand prescribed under sub-section (1) of Section 48, the Excise Commissioner or Collector in the event of any breach of contravention of the rules or conditions of licence, may impose penalty to the extent provided in such rules or conditions of licence under the provisions of this Act.

49. Penalty on officers making vexatious search, seizure, detention or arrest.— Any Excise Officer or Officer of the Police, Land Revenue Department or any other person duly empowered under Section 52, who vexatiously and unnecessarily—

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

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

(c) detains, searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII-A

PENALTY FOR OFFENCES AGAINST LIFE

49-A. Penalty for import etc. of liquor unfit for human consumption or for altering or attempting to alter denatured spirituous preparation. —(1) Whoever—

(a) import, exports, transports, manufactures, collects, possesses, bottles or sells any liquor; or

(b) alters or attempts to alter any denatured spirit or denatured spirituous preparation with the intention that such ous preparation may be used for

human consumption, whether as a beverage or internally as a medicine, or in any other form or by any method whatsoever; or

(c) has in his possession any spirit or denatured spirituous preparation, in respect of which he intentionally or knowingly allows or knowingly suffers any person to alter or attempt to alter, in either case with the intention specified in clause (b); any spirit into denatured spirit or into a denatured spirituous preparation; or

(d) mixes denatured spirit or such altered denatured spirit or denatured spirituous preparation with potable spirit, and such liquor, denatured spirit, denatured spirituous preparation, spirit or altered denatured spirit as the case any be, is found unfit for human consumption or causes injury to or death of human being,—

shall be punishable—

where such liquor, denatured spirit, denatured spirituous preparation, spirit, or altered denatured spirit, as the case may be —

(i)	if found unfit for human consumption-	to imprisonment which shall not be less than two months, but may extend to two years and shall also be liable to fine;
(ii)	causes injury to human being-	to imprisonment which shall not be less than four months but may extend to four years and shall also be liable to fine.
(iii)	causes death of a human being-	to imprisonment which shall not be less than two years but may extend to ten years and shall also be liable to fine.

(2) When any person is convicted under this section for a second or subsequent offence, he shall be punished in relation to circumstances —

(a)	Under clause (i) of sub-section (2)	with imprisonment which shall not be less than six months but which may extend to four years and shall also be liable to fine;
(ii)	Under clause (ii) of sub-section (2)	with imprisonment which shall not be less than one year but may extend to six years, and shall also be liable to fine;
(iii)	Under clause (iii) of sub-section (1)	to imprisonment for life or imprisonment which shall not be less than five years but extend to ten years, and shall also be liable to fine.

49-B. Omitted

CHAPTER VIII

DETENTION, INVESTIGATION AND TRIAL OF OFFENCES

50. Land-holders and others to give information—Whenever any intoxicant is manufactured or collected, or any hemp plant is cultivated on any land in contravention of this Act—

(a) any owner or occupier of such land and any agent of an y such owner or occupier; and

(b) all village-headmen, village-accountants, village-watchmen, and all officers employed in the collection of revenue or rent of land on the part of the Government or the Court of Wards in the villages,

shall, in the absence of reasonable excuse, be hound to give notice of the fact to a Magistrate or to an officer of the Excise, Police of Land Revenue Department, as soon as the fact comes to their knowledge.

51. Power to enter and inspect places of manufacture and sale.—The Excise Commissioner, or a Collector or any Excise Officer not below the rank as the State Government may by notification prescribe, or any police officer duly empowered in that behalf, may,—

(a) enter and inspect at any time by day or by night, any place in which any licensed manufacturer manufactures or stores any intoxicant; and

(b) enter and inspect, at any time within the house during which sale is permitted and at any other time during which the same be open, any place in which any intoxicant is kept for side by any person holding a licence under this Act; and.

(c) examine accounts and registers, and examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or i ntoxicant found in such place.

52. Power to arrest without warrant to seize article liable to confiscation and to make searches.— (l) Any Excise Officer, or any Police Officer not below such rank as the State Government may, by notification, prescribe, or single officer or class of officers of the Revenue Department duly empowered in this behalf by notification of the State Government subject to such restrictions as the State Government may prescribe, and any other person duly empowered by notification by the State Government in this behalf,—

(a) may arrest without warrant any person found committing an offence punishable under Section 23-A, 34, 35, 36, 36-A, 36-B, 36-C, 37, 38-A, 40 or 49-A; and

(b) shall seize and detain airy intoxicant or other articles which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to exercise revenue; and

(c) may detain and search any person upon whom, any vessel, craft, vehicle, animal, package, receptacle, or covering in or upon which he may have reasonable cause to suspect any such article to be.

(2) When any person is accused or reasonably suspected of committing an offence tinder this Act, and on demand of such officer refuses 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.

53. Power of Magistrate to issue a warrant.— If a Magistrate, upon information and after such inquiry (if any) as he thinks necessary, has reason to believe that an offence under Section 34, Section 35, Section 36, Section 36 -A, Section 36-B, Section 36-C, Section 37, Section 38, Section 38-A, Section 39, or Section 40 has been, is being or is likely to he, committed, he may issue a warrant—

(a) for the search of any place in which he has reason to believe that any intoxicant still, utensil, implement, apparatus or materials which are used for the commission of such offence or in respect of which such offence has been, is being or is likely to be, committed, are kept or concealed; and

(b) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be engaged in the commission of any such offence.

54. Power to search without a warrant.—Whenever any Excise Officer not below such rank as the State Government may, by notification, prescribe, has reason to believe that an offence under Section 34, Section 35, Section 36, Section 36-A, Section 36-B, Section 36-C, Section 37, Section 38, Section 38-A, Section 39, or Section 40 has been, is being or is likely to be committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence he may after recording the grounds of his belief.—

(a) at any time, by day or night enter and search any place and seize anything found thereine which he has reason to believe to be liable to confiscation under this Act; and

(b) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

54-A. Arrest without warrant for obstruction or assault.— Any Excise Officer, not below such rank as the State Government may by notification specify, may arrest without warrant any person who obstructs or assaults him in the execution of his duty under this Act:

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be tendered for his appearance before a Magistrate or before a Police or Excise Officer as the case may be.

55. Power of Excise Officers in matters of investigation.— (l) Any Excise Officer not below such rank and within such specified area, as the State Government may, by notification, prescribe, may, as regards offence under Section 34, Section 35, Section 36, Section 36-A, Section 38-A, Section 39, Section 40 and Section 40-A exercise the power conferred on an officer-in-charge of a police station by the provision of Chapter XII of the Code of Criminal Procedure, 1973 (No. 2 of 1974):

Provided that any such powers shall be subject to such restrictions and modifications (if any) as the State Government may by rule prescribe.

(2) For the purposes of Section 156 of the said Code the area in regard to which an Excise Officer is empowered under sub-section (1) shall be deemed to be a police station, and such officer shall be deemed to be the officer in charge to the station.

(3) Any such officer, specially empowered in that behalf by the State Government, may without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any office against this Act, which he has investigated or which may have been reported to him.

56. Report by investigating officer.— If on an investigation by an Excise Officer empowered under sub-section (1) of Section 55, it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he proceeds under sub-section (3) of Section 55, of shall submit a report which shall of the purposes of Section 190 of the Code of Criminal Procedure, 1973 (No. 2 of 1974), be deemed to be a police report to a

Judicial Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports.

57. Report by Excise Officer.— Where any Excise Officer below the rank or Collector makes any arrest, seizure or search under this Act, he shall, within twenty four hours thereafter, make a hill report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under Section 59, take or send the person arrested, or the thing seized, with all convenient dispatch, to a Judicial Magistrate for trial or adjudication.

57-A. Police to take charge of articles seized.— An officer in charge of a police station shall take charge of and keep in safe custody pending the orders of a Magistrate or an Excise Officer, all articles seized under this Act which may be delivered to him, and shall allow any Excise Officer who may accompany such articles to the police station, or who may he deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

58. Arrests, searches etc., how to be made.— Save as in this Act otherwise expressly provided the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) relating to arrest, detentions in custody, searches, summons, warrants of arrests, search warrants, the production of pe rsons arrested, and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Act.

59. Security for appearance in case of arrests without warrant.— (1) All offences except those specified in Section 59-A punishable under this Act shall be bailable within the meaning of the Code of Criminal Procedure, 1973 (No. 2 of 1974).

(2) When a person is arrested under this Act otherwise than on warrant by a person or officer who has no authority to release arrested persons on bail, he shall be produced before or forwarded to—

(a) the nearest Excise Officer who has authority to release arrested persons on bail, or

(b) the nearest officer-in-charge of a police station,

whoever is nearer.

(3) Whenever any person arrested under this Act, other wise than on a warrant, is prepared to give bail, and is arrested by, or produced in accordance with sub-section (2), before an officer who has authority to release arrested

persons on bail, he shall be released upon bail, or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of Sections 441 of 444 and 446 and 449 of the Code of Criminal Procedure, 1973 (No. 2 of 1974), shall apply so far as may be, in every case in which bail is accepted or a bond taken under this section.

59-A. Certain offence under the Act to be non-bailable.— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974) or Section 59 of the Act,—

(i) no application for an anticipatory bail shall he entertained by any Court in respect of a person accused of an offence punishable under Section 49-A or in respect of a person not being a person holding a licence under the Act or rules made thereunder who is accused of an offence covered by clause (a) or clause (b) of sub-section (1) of Section 34 with quantity of liquor found at the time or in the course of detection of such offence exceeding fifty hulk litres.

(ii) a person, accused of an offence punishable under Section 49-A or a person not being a person holding a licence under the Act or rules made thereunder who is accused of an offence covered by clause (a) or clause (b) of sub-section (1) of Section 34 with quantity of liquor found at the time or in the course of detection of such offence exceeding fifty bulk litres shall not be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity to oppose the application for such release and in case such an application is opposed by the Public Prosecutor, unless the Cou rt is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that no Court shall order for detention of such person in custody during the course of investigation for total period exceeding 60 days where it relates to an offence covered by clause (a) or clause (b) of sub-section (1) of Section 34 with quantity of liquor found at the time or in the course of detection of the offence under Section 49-A and on the expiry of such of 60 days or 120 days, as the case may be, and in the event of the report of complaint not being filed the accused shall be released on furnishing bail.

(iii) the limitations for grant of bail specified in clause (ii) are in addition to limitations prescribed under the Code of Criminal Procedure, 1973 (No. 2 of 1974) or any other law for the time being in force regarding grant of bail.

60. Omitted

61. Limitation of prosecutions.— (1) No Court shall take cognizance of an offence punishable—

(a) under Section 37, Section 38, Section 38-A, Section 39, except on a complaint or report of the Collector or an Excise Officer not below the rank of District Excise officer as may be authorised by the Collector in this behalf;

(b) under any other section of this Act other than Section 49 except on the complaint or report of an Excise Officer or Police Officer.

(2) Except with the special sanction of the State Government no Judicial Magistrate shall take cognizance of any offence punishable under this Act, or any rule or order thereunder, unless

the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

61-A. Tender of pardon to accused person turning approver.—Whenever two or more persons are prosecuted for an offence under this Act, the Chief Judicial Magistrate or any Magistrate of the first class inquiring into or trying the offence may, for the reasons to be recorded in writing by him, tender to any accused person a pardon on condition of his making a full and true disclosure of all facts connected with the offence.

CHAPTER VIII-A

SPECIAL PROVISIONS FOR SCHEDULED AREAS

61-B. Definitions.— In this Chapter, unless the context, otherwise requires,—

(a) „*Scheduled Areas"* means the Scheduled Areas, as referred to in clause (1) of Article 244 of the Constitution of India;

(b) "*Gram Panchayat and „Gram Sabha"* shall have the same meaning as assigned to them in the Madhya Pradesh Panchayat Raj Adhini yam, 993 (No. 1 of 1994);

(c) "*Scheduled Tribes"* means any tribe or tribal community or part of, or group within such tribe or tribal community specified as Scheduled Tribes with respect to the State of Madhya Pradesh under Article 342 of the Constitution of India.

61-C. Scope and extent.— The provisions of this chapter shall apply to the Scheduled Areas, and if there is anything repugnant in this Act, the provisions of this chapter shall prevail.

61-D. Exemption of members of the Scheduled Tribes from certain provisions of the Act.— (1) The provisions of this Act in respect of manufacture of country spirit by distillation, its possession and consumption shall not apply to the members of the Scheduled Tribes in the Scheduled Areas.

(2) The members of the Scheduled Tribes in the Scheduled Areas may manufacture country spirit by distillation subject to the following conditions, namely:—

(i) manufacture of country spirit shall be for the purpose of domestic consumption and for consumption at social and religious functions only by the members of the Scheduled Tribes in the Scheduled Areas;

(ii) country spirit so manufactured shall not be sold;

(iii) the maximum limit for possession of country spirit so manufactured shall be 4.5 liters per individual and 15 liters per household and in special circumstances 45 liters per household on the occasion of a social and religious function:

Provided that the Gram Sabha may reduce the limit of possession of country spirit.

Explanation.— A household shall mean a group of persons residing and messing jointly as members of one domestic unit.

61-E. Power of Gram Sabha to regulate and prohibit manufacture sale etc. of intoxicants.— (1) The Gram Sabha shall have the power to regulate and prohibit manufacture, possession, transport, sale and consumption of intoxicants within its territorial jurisdiction:

Provided that an order of prohibition passed by the Gram Sabha shall not apply to a manufactory engaged in the manufacture of any intoxicant arid established prior to coming into force of the provisions of this chapter.

(2) No new manufactory for manufacturer of any intoxicant shall be established and no new outlets for sale of intoxicants in any area comprised within the territorial jurisdiction of the Gram Sabha shall be opened by State Government without the consent or permission of the Gram Sabha.

(3) If a Gram Sabha prohibits manufacture, possession, sale and consumption of any intoxicants in its area. the following consequences shall follow:—

(a) No new manufactory of intoxicants shall be established within the jurisdiction of the Gram Sabha.

(b) No new outlets for sale of any intoxicants shall be opened, and the existing outlets, if any, shall be closed with effect from the first day of the next financial year immediately following the issue of order of prohibition.

(c) No person shall manufacture, possess, transport, sell or consume any intoxicant within the Gram Sabha Area.

61-F. Enforcement of the decisions of Gram Sabha.— The decisions taken and orders passed by a Gram Sabha under the provisions of this chapter shall be given effect to by the Gram Panchayat of its area. Where assistance of an enforcement agency of the State Government is considered necessary, the Gram Panchayat shall proceed to approach the Sub-Divisional Magistrate of the area or an Officer authorised by him who shall take necessary action to r ender the assistance required.

CHAPTER IX

MISCELLANEOUS

62. Power to make rules.— (1) The State Government may 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 provision, the State Government may make rules—

(a) prescribing the powers and duties of Excise Officers;

(b) regulating the delegation of any powers or duties by the Chief Revenue Authority, the Excise Commissioner or Collectors under Section 7, clause (g);

(c) declaring in what cases or classes of cases and to what authorities appeal shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting, and the procedure for dealing with appeals and revisions;

(d) regulating the import, export, transport, manufacture, collect ion, possession, supply or storage of any intoxicant, or the cultivation of the hemp plant and may, by such rules among other matters—

(i) regulate the tapping of tari-producing trees, the drawing of tan from such trees. the marking of the same and the maintenance of such marks;

(ii) declare the process by which spirit shall be denatured and the denaturisation of spirit ascertained; and

(iii) cause spirit to be denatured through the agency or under the supervision of its own officers;

(d-l) regulating the import, export, transport, collection, possession, supply, storage or sale of Mahua flowers prescribing licences and permit therefor, throughout the State or in any specified areas or for any specified period;

(e) regulating the periods and localities for which, and the persons or classes of persons to whom, licences for the wholesale or retail vend of any intoxicant may be granted, and regulating the number of such licences which may be granted in any local area;

(f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such vend is granted for any locality;

(g) regulation the amount, time, place and manner of payment of any duty or fee or tax or penalty;

form in which, and terms and conditions on and subject to which any licence, permit or pass shall he granted, any by such rules, among other matters,—

(i) fix the period for which any licence, permit or pass shall continue in force;

(ii) prescribe the scale of fees or the manner of fixing the fees payable in respect of any such licence, permit or pass;

(iii) prescribe the amount of security to be deposited by holders of any licence, permit or pass for the performance of the conditions of the same;

(iv) prescribe the accounts to be maintained and the returns to be submitted by licence-holders; and

(v) prohibit or regulate the partnership in, or the transfer of, licenses;

(i) prescribing the measures for ascertaining local public opinion and prescribing the powers of District Planning Committee constituted under sub-section (1) of Section 3 of the Madhya Pradesh Zila Yojana Samiti Adhiniyam, 1995 (No. 19 of 1995) in respect of advising about opening, closing or shifting of any retail intoxicant shop;

(j) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;

(k) regulating the disposal of confiscated articles;

(l) regulating the grant of expenses to witnesses and of compensation to persons charged with offences under this Act and subsequently released, discharged or acquitted; and

(m) regulating the power of Excise Officers to summon witnesses from a distance;

(n) regulating the payment of rewards to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.

(3) The power conferred by this section of making rules is subject to the condition that the rules made under sub-section (2) (a), (b), (c), (e), (f), (i), (1) and (m) shall he made after 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 one.

63. Publication of rules and notifications.— All rules made and notifications issued under this Act shall he published in the Official Gazette, and shall have effect from the date of such publication or from such other date as may be specified in that behalf.

64. Recovery of Government dues.—(1) The following moneys, namely,—

(a) all excise-revenue,

(b) any loss that may accrue when, in consequence of default, a grant has been taken under management by the Collector, or has been resold by him, and

(c) notwithstanding anything contained in Section 74 of the Contract Act, 1872 (No. 9 of 1872) all amounts due to the Government by any person on account of any contract relating to the Excise revenue in accordance with any provision of this Act or rules made thereunder, and all amount to be paid on breach of conditions of a bond or instrument by which a person binds himself to perform any duty or act or undertakes that he and his servants and agents will abstain from any act.

may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his movable property, or by any other process for the recovery of land revenue due from land-holders or from farmers of land or their sureties.

(2) When a grant has been taken under management by the Collector, or has been re-sold by him, the Collector may recover, in any manner authorised by sub-section (1), any money due to the defaulter by any lessee or assignee.

65. Government lien on property of defaulters.— In the event of default by any person licensed or holding a lease under this Act, all his

distillery, brewery or warehouse or shop, buildings, fittings or apparatus and all stocks of intoxicants or materials for manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises shall be liable to be attached in satisfaction of any claim for excise-revenue or in respect of any losses incurred by the Government through such default and to be sold to satisfy such claim, which shall be a first charge upon the sale proceeds.

66. Power of State Government to exempt persons or intoxicants from the provisions of the Act.— The State Government may by notification, either wholly or partly and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons or any intoxicant, wholly or partly from all or any of the provisions of this Act or of all or any of the rules made under this Act, either throughout the State or in any specified area comprised therein, or any specified period or occasion.

67. Protection to persons acting under this Act.— No suit, prosecution or other legal proceeding shall Lie against any person for anything which is in good faith done or intended to be done under this Act.

68. Limitation of suits.— No suit shall lie against the Government or against any Excise, Police, or Land Revenue Officer in respect of anything done, or alleged to have been done, in pursuance of this Act, unless the suit is instituted within six months from the date of the Act complained of.

69. Repeal of enactments.— The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE

[See Section 69]

ENACTMENTS REPEALED

Year	No.	Short title	Extent of repeal
(1)	(2)	(3)	(4)
1863	XVI	The Excise (Spirits) Act, 1963	So much as has not been repealed.
1894	VIII	The Indian Tariff Act, 1894	Section 6
1896	XII	The Excise Act, 1896	So much as has not been repealed.
1906	VII	The Excise (Amendment) Act. 1906.	The whole.

THE SECOND SCHEDULE

[See Section 36-D]

Bonds to abstain from the commission of offences under Secs. 34 and 36 of the Central Provinces and Berar Excise Act, 1915.

Whereas…… (name), inhabitant of place…… has been called upon to enter into a bond to abstain from the commission of offences under Section 34 and Section 36 of the Central Provinces and Berar Excise Act, 1915, for the term of……

I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to the State Government, the sum of Rupees……

Dated, this…….. day of…….. 20……..

Signature

Where a bond with sureties is to be executed, add-

We (1) (name)…….. inhabitant of (place)……. and (2)…….

(name)……. inhabitant of (place)……. declare ourselves sureties for the above named…….. (Name of the person executing the bond) that he will abstain from the commission of offence under Section 34 and Section 36 of the Central Provinces and Berar Excise Act, 1915, during the said term; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the State Government the sum of rupees……

Signature

Dated, this……. day of……. 20……..

****