THE PUDUCHERRY EXCISE ACT, 1970

(No. 12 of 1970)

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THE PUDUCHERRY EXCISE ACT, 1970

(Act No. 12 of 1970)

28th May, 1970.

AN ACT

to provide for a uniform law relating to the production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicating drugs and the levy of duties of excise thereon, in the Union territory of Puducherry, and for matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Excise Act, 1970.

(2) It extends to the whole uducherry.

Definitions

2. In this Act, unless the context otherwise requires, ---

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

(2) "to bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not and includes re-bottling;

(3) "cultivation" includes the tending or protection of a plant during growth and does not necessarily imply raising it from seed;

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

1. The Act came into force on the 10th day of June, 1970 vide Notification No. B-7289/69, dated 10 June 1970.

(5) "Deputy Commissioner" means any person appointed under section 4 to exercise the powers and to perform the duties of the Deputy Commissioner under this Act;

(6) "excisable article" means, --

(a) any liquor;

(b) any intoxicating drug;

(c) opium; or

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

(7) "Excise Commissioner" means the officer appointed as Excise Commissioner under section 3;

(8) "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 of the Seventh Schedule to the Constitution *[and includes additional excise duty and additional countervailing duty].

(9) "Excise Inspector" means an Officer appointed under section 5;

(10) "Excise Officer" means the Excise Commissioner, a Deputy Commissioner, or any officer or other person lawfully appointed or invested with powers under section 5;

(11) "Excise Revenue" means revenue derived or derivable from any duty, fee, tax, rent, fine or confiscation imposed or ordered under the provisions of this Act or any other law for the time being in force relating to liquor or intoxicating drugs;

(12) "Export" means to take out of the Union territory otherwise than from a Customs station as defined under section 2 of the Customs Act, 1962;

(13) "Foreign Liquor" includes all liquors other than Indian liquor;

(14) "Government" means the Administrator of the Union territory appointed by the President of India under article 239 of the Constitution of India;

(15) "Import", except in the phrase "import into India", means to bring into the Union territory otherwise than from a Customs station as defined under section 2 of the Customs Act, 1962;

(16) "Indian liquor" includes all liquor produced or manufactured in India;

* Insterted and deemed to have come into force on and from 23rd April 2007 vide the Puducherry Excise (Amendment) Act, 2011.

(17) "Intoxicant" means any liquor as defined in clause (19) or any intoxicating drug as defined in clause (18);

(18) "intoxicating drug" means, --

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

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

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

(d) any other intoxicating or narcotic substance which the Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf or manufactured drug as defined under section 2 of the Dangerous Drugs Act, 1930.

(19) "liquor" includes ---

(a) spirits of wine, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol; and

(b) any other intoxicating substance, which the Government may, by notification, declare to be liquor for the purposes of this Act;

(20) "manufacture" includes every process whether natural or artificial, by which any fermented, spirituous or intoxicating liquor or intoxicating drug is produced or prepared and also re-distillation and every process for the rectification of liquor;

1 [(20-A). "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of jaggery or sugar containing in solution or suspension, sugars which can be fermented and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup, but does not include any article which the Government may, by notification, declare not to be molasses, for the purposes of this Act;]

(21) "notification" means a notification published in the Official Gazette; (22) "place" includes a house, building, shop, booth, tent, vessel, raft and vehicle;

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

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

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

(26) "sale" or "selling" includes any transfer otherwise than by way of gift; (27) "spirit" means any liquor containing alcohol and obtained by distillation, whether it is denatured or not;

(28) "toddy" means fermented or unfermented juice drawn from a toddy tree;

(29) "toddy tree" includes the tree of coconut, palm, palmyra date, bagani or any tree of the species of palm or palmyra, the fermented or unfermented juice of which contains alcohol and from which toddy or liquor can be prepared;

(30) "transport" means to move from one place to another within the Union territory, whether the intervening area lies wholly within the Union territory or not; (31) "Union territory" means the Union territory of Puducherry.

CHAPTER II

ESTABLISHMENT AND CONTROL

Appointment of Excise Commissioner

3. (1) The Government may by notification, appoint an officer not below the rank of a Collector, as Excise Commissioner for the Union territory, who, subject to the general or special orders of the Government in this behalf, shall be the chief controlling authority in all matters connected with the administration of this Act.

(2) The Excise Commissioner shall, in respect of the administration of this Act, exercise all the powers of the Collector and shall have the control of the administration of the Excise Department.

Appointment of Deputy Commissioner

4. (1) The Government may, by notification, appoint one or more Deputy Commissioners, who shall, within the limits of his or their jurisdiction, exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act to a Deputy Commissioner subject to such control as the Government may, from time to time, direct.

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

Appointment of Excise Inspectors and other subordinate officers

5. (1) The Government may appoint Excise Inspectors to exercise the powers and to perform the duties in connection with detection, investigation and trial of offences under this Act.

(2) The Government may appoint subordinate officers of such classes and with such designations, powers and duties under this Act as it may think fit.

(3) The Government may, by notification, direct that all or any of the powers and duties assigned to an Excise Inspector or subordinate officer under sub-section (1) or sub-section (2), as the case may be, shall be exercised and performed by any officer of the Government.

Delegation

6. The Government may, by notification, delegate its powers under section 5 to the Excise Commissioner.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

Import of intoxicant

7. (1) No intoxicant shall be imported except under a permit granted by the Deputy Commissioner on payment of such countervailing duty and fees, as may be levied by or under this Act and on such other terms as may be prescribed:

Provided that the Deputy Commissioner may, subject to such restrictions and conditions as may be prescribed to ensure the collection of countervailing duty, permit the import of any intoxicant without the payment of the countervailing duty:

Provided further that no countervailing duty shall be payable on any intoxicant which being liable to the payment of duty under the Indian Tariff Act, 1934 or any other law, for the time being in force relating to the duties of customs on goods imported into India, it has been dealt with according to such law.

(2) A permit granted under sub-section (1), may be cancelled by the Deputy Commissioner for breach of any of the terms subject to which it was granted or for any other reason to be recorded in writing:

Provided that no permit shall be cancelled under this sub-section except after giving a reasonable opportunity to the holder of the permit for making any representation against such cancellation and after considering the representation, if any, received.

Export of intoxicant

8. (1) No intoxicant shall be exported except under a permit granted by the Deputy Commissioner on payment of such fee as may be levied under this Act and on such terms as may be prescribed:

Provided that no intoxicant produced or manufactured in India shall, save as provided in section 65, be permitted to be exported unless the exercise duty or countervailing duty to which such intoxicant is liable, has been paid.

(2) A permit granted under sub-section (1) may be cancelled by the Deputy Commissioner for breach of any terms subject to which it was granted or for any other reason to be recorded in writing:

Provided that no permit shall be cancelled under this sub-section except after giving a reasonable opportunity to the holder of the permit for making any representation against such cancellation and after considering the representation, if any, received.

*[Provided further that nothing contained in this section shall apply to any intoxicant taken out of the Union Territory in the course of export from a customs station as defined in section 2 of the Customs Act, 1962 (Central Act 52 of 1962).

(3) Notwithstanding anything contained in sub-sections (1) and (2), nothing in this Act shall prevent the Deputy Commissioner from issuing a no objection certificate in respect of the articles so exported, a duplicate copy of which shall be produced by the exporter or his authorized agent along with the excisable articles before the Customs Collector, Border Examiner or any officer of Customs or Land Customs duly appointed by the competent authority].

Control and regulation of molasses

1 [8-A. (1) Except as otherwise provided in sub-sections (2) and (3) and subject to such rules as may be prescribed in this behalf, no person shall import, export, transport, sell or have in his possession any quantity of molasses.

(2) The Government may, by general or special order, authorise any officer to grant licences for the import, or sale of molasses.

(3) The Government may also authorise any officer to grant permits for the transport or possession of molasses.]

Prohibiting of transport of intoxicant

9. The Government may, by notification, prohibit the transport of intoxicants or any kind of intoxicants from any local area into any other local area.

Transport of intoxicant

10. No intoxicant exceeding such quantity as may be prescribed either generally or for any local area, shall be transported, except under a permit issued under section 11.

Permits for transport

11. (1) The Deputy Commissioner or any other person duly empowered by the Government in that behalf may issue a permit for the transport of intoxicants.

(2) A permit under sub-section (1) may be either a general permit for definite periods and kinds of particular intoxicants or a special permit for specified occasions and particular consignments only:

1. Inserted by Act 7 of 1972.

* Inserted and deemed to have come into force on and from 23rd April, 2007 vide the Puducherry Excise (Amendment) Act, 2011.

Provided that a general permit shall be granted only to person licensed under this Act and may cover any quantity of liquor transported at any one time not exceeding the quantity specified in the permit.

(3) Every permit under this section shall specify ---

(a) the name of the person authorised to transport intoxicants;

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

(c) the quantity and description of intoxicants for which it is granted; and

(d) any other particulars which may be prescribed.

(4) A permit granted under this section shall extend to and include servants and other persons employed by the grantee and acting on his behalf.

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

Manufacture etc., of excisable article prohibited except under a licence

12. (1) No person shall, ---

(a) manufacture or collect an intoxicant; or

(b)cultivate hemp plant;

(c) tap a toddy producing tree or draw toddy from any tree; or

(d)construct or work in a distillery or brewery; or

(e) bottle liquor for sale; or

(f) use, keep, or have in possession, any materials, still, utensil, implement or apparatus, whatsoever for the purpose of manufacturing any intoxicant other than toddy,

except under the authority and subject to the terms and conditions of a licence granted by the Excise Commissioner in that behalf or under the provisions of section 17.

(2) A licence granted under this section shall extend to and include servants and other persons employed by the licensee and acting on his behalf.

Possession of excisable articles in excess of the quantity prescribed

13. (1) The 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 intoxicant 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 article, or

(b) a permit granted by the Deputy Commissioner in that behalf.

Sale of excisable articles without licence prohibited

14. (1) No intoxicant shall be sold except under the authority and subject to the terms and conditions of a licence granted in that behalf:

Provided that, subject to such restrictions and conditions as the Excise Commissioner may by general or special order specify: ---

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

(b) a cultivator or owner of any plant from which an intoxicating drug is produced 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 sell, manufacture or export the intoxicating drug or to any officer, whom the Excise Commissioner may generally or specially authorise.

(2) A licence for sale under sub-section (1), shall be granted ---

(a) by the Deputy Commissioner, if the sale is in an area within his jurisdiction, or

(b) by the Excise commissioner, if the sale is in an area within the jurisdiction, of more than one Deputy Commissioner:

Provided that subject to such conditions as may be determined by the Excise Commissioner, a licence for sale granted under the Excise law in force in any other part of India may be deemed to be a licence granted under this Act.

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

(4) Notwithstanding anything contained in sub-section (1) and (2), no club shall supply liquor to its members on payment of a price or of any fee or subscription except under the authority of and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner and on payment of such fees according to a scale of fees to be fixed by the Government in this behalf.

Establishment of distilleries and warehouses

15. (1) The Excise Commissioner may, with the previous sanction of the Government ---

(a) establish a distillery, in which spirit may be manufactured under licence granted under section 12 on such conditions as the Government may impose;

(b) discontinue any distillery so established;

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

(d) license a private bonded warehouse;

(e) establish or licence a warehouse wherein intoxicants may be deposited and kept without payment of duty; and

(f) discontinue any warehouse so established.

(2) A warehouse established under sub-section (1), shall be for general accommodation to warehouse intoxicant subject to duty pending removal for local consumption or for export.

(3) Without the sanction of the Government, no intoxicant shall be removed from any distillery, brewery, warehouse or other place or storage established or licensed under this Act, unless the duty, if any, imposed under this Act has been paid or a bond has been executed for the payment thereof.

Power to grant lease of right to manufacture, etc.

16. (1) The Government may lease to any person, on such conditions and for such period as it may think fit, the exclusive or other right ---

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

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

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

any Indian liquor or intoxicating drug 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 licence to any sub-lessee approved by such authority.

Lessees permission to draw toddy

17. Where a right to manufacture toddy has been leased under section 16, the Government may declare that the written permission of the lessee to draw toddy shall have the same force and effect as a licence under section 12 from the Excise Commissioner for that purpose.

Duties of licensees with regard to measurement and testing

18. Every person, who manufactures or sells any intoxicant under a licence granted under this Act, shall be bound ---

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

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

Prohibition of employment of children and of women

19. (1) No person, who is licensed to sell any intoxicant for consumption on his premises shall, during the hours in which such premises are kept open for persons, employ or permit to be employed either with or without remuneration, any children under such age as the Government may prescribe in this behalf, in any part of such premises in which such excisable article is consumed by the public.

(2) No person who is licensed to sell any intoxicant for consumption at his premises shall, without the previous permission in writing of the Excise Commissioner or the Deputy Commissioner, during the hours in which such premises are kept open for persons, employ or permit to be employed either with or without remuneration, any woman in any part of such premises in which such excisable article is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the licence and may be modified and withdrawn.

Closing of shops for the preservation of public peace

20. (1) The District Magistrate (Independent) may, by notice in writing to the licensee, require that any shops in which any intoxicant is sold shall be closed at such times and for such period as he may think necessary for the preservation of the public peace.

(2) If any riot or any unlawful assembly is apprehended or occurs in the vicinity of any such shop, any Magistrate or any Police Officer not below the rank of a Sub-Inspector, who is present, may require such shop to be kept closed for such period as he may think necessary:

Provided that where a riot or unlawful assembly so occurs, the licensee shall, in the absence of such Magistrate or Officer, close the shop without any order and keep it closed during the continuance of such riot or unlawful assembly:

Provided further that the licensee shall not be entitled to any compensation for the closure of the shops ordered under this section.

CHAPTER V

EXCISE DUTY AND COUNTERVAILING DUTY

Excise duty or countervailing duty on excisable articles

21. (1) The Government may, by notification, levy an excise duty on any excisable article manufactured or produced in the Union territory under any licence or permit granted under this Act at such rate, not exceeding the rates mentioned in Schedule I as may be specified in the notification.

(2) The Government may by notification, levy a countervailing duty on any excisable article manufactured or produced elsewhere in India and imported into the Union territory under a licence or permit granted under this Act at such rates as may be specified in the notification, which may not exceed the rates of excise duty on similar excisable articles levied under sub-section (1).

(3) Different rates may be specified under sub-sections (1) and (2) for different kinds of excisable articles and for different modes of levying duties under section 22.

Modes of levying duties

22. Subject to such rules regulating the time, place and manner, as may be prescribed, the excise duty and countervailing duty under section 21 shall be levied in one or more of the following modes as may be prescribed, namely: -

(a) rateably on the quantity of any excisable article produced or manufactured in or issued from a distillery, brewery, manufactory or warehouse or imported into the Union territory;

(b) in the case of spirits or other liquors produced in any distillery established or any distillery, brewery or manufactory licensed under this Act, in accordance with its quality or

strength, or in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or work, as the case may be;

(c) in the case of toddy, in the form of a tax on each variety of tree from which toddy is drawn;

(d) by fees on licences in respect of the manufacture or sale of any excisable article.

Excise duty in respect of grant lease

23. Notwithstanding anything contained in sections 21 and 22, the sum accepted in consideration of the grant of any lease relating to any excisable article under section 16, shall be the excise duty or countervailing duty payable in respect of such excisable article in addition to any duty payable under sections 21 and 22.

Tax for tapping trees from whom leviable

24. When duty is levied by way of tax on toddy trees under section 21, and toddy trees are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him, from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied from the person, if any, who owns or is in possession of the tree, unless he proves that the trees were tapped without his consent.

CHAPTER VI

LICENCES AND PERMITS

Form and conditions of licence, etc.

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

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

Power to take security and counterpart agreement

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

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

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

Technical defects, irregularities and omissions

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

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

Powers to cancel or suspend licence, etc.

28. (1) Subject to such restrictions as the Government may prescribe, the authority granting any licence or permit under this Act may cancel or suspend it, ---

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

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

(c) if the holder thereof or any of his servants or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act; or

(d) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930 (Central Act 2 of 1930) or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (Central Act 16 of 1955) or under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) or under section 481, 482, 483, 484, 485, 486, 487, 488 or 489 of the Indian Penal Code (Central Act 45 of 1860) or of any offence punishable under section 112 or 144 of the Customs Act, 1962 (Central Act 52 of 1962); or

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

(2) Where a licence or permit held by any person is cancelled under clause (a), clause (b), clause (c) or clause (d) of sub-section (a), the authority aforesaid may cancel any other licence or permit granted to such person under this Act or under the Opium Act, 1878(Central Act 1 of 1878).

(3) The holder 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.

Power to withdraw licence

29. (1) 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 28, it may withdraw the licence on the expiration of not less than thirty days' notice in writing of its intention to do so.

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

Surrender of licence

30. (1) Any holder of a licence granted under this Act to sell an excisable article may surrender his licence on the expiration of one month's notice in writing given by him to the Excise Commissioner 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 but for such surrender:

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

(2) Sub-section (1) shall not apply in the case of any licence granted under section 16.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty for illegal import, etc.

*[31. Whoever in contravention of this Act, or of any rule, notification or order made, issued or passed thereunder, or of any licence or permit granted under his Act, ---

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

(b) save in the cases provided for in section 36, sells any intoxicant; or

(c) cultivates or fails to take the measures prescribed for checking the spontaneous growth or for the extirpation of the hemp plant; or

(d) taps or draws toddy from any toddy producing tree; or

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

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

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

(h) bottles any liquor.

shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall also be liable to fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees].

Penalty for rendering denatured spirit fit for human consumption 32. Whoever, ---

(a) renders fit for human consumption any spirit, which has been denatured; or

* Amended by Act 3 of 1989 section 2, w.e.f 25.4.89.

(b) has in his possession any spirit in respect of which he knows, or has reason to believe that any such offence has been committed or that an attempt to commit such an offence has been made;

shall on conviction, be punished *[with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees].

Explanation : -- For the purpose of this section, it shall be presumed, unless the contrary is proved, that any spirit which is proved on chemical analysis to contain any quantity or any of the prescribed denaturants, is, or contains, or has been derived from denatured spirit.

Penalty for illegal possession

33. Whoever, without lawful authority has in his possession any quantity of an intoxicant knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall, on conviction, be punished **[with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees]

Penalty for offence not otherwise provided for

34. Whoever does any act in contravention of any of the provisions of this Act, or of any rule, notification or order, made, issued or passed thereunder, and not otherwise provided for in this Act, shall, on conviction, be punished with fine ***[which shall not be less than two thousand rupees but which may extend to twenty thousand rupees].

Penalty for misconduct of licensee, etc.,

35. (1) Whoever, being the holder of a licence or permit granted under this Act, or being in the employ of such holder and acting on his behalf ---

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

* Amended by Act 3 of 1989 section 3, w.e.f 25.4.89.

** Amended by Act 3 of 1989, section 4, w.e.f 25.4.89.

*** Amended by Act 3 of 1989, section 5, w.e.f 25.4.89.

(b) wilfully does or omits to do, anything in breach of any of the conditions of his licence, or permit, not otherwise provided for in this Act; or

(c) save in a case provided for by section 31 wilfully contravenes any rule made under section 70; or

(d) permits drunkenness, disorderly conduct or gaming in any place wherein any intoxicant is sold or manufactured; or

(e) permits or suffers persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes or habitual offenders, to resort to, or assemble or remain in or on the premises where any excisable article is sold or manufactured; or

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

(g) sells or gives any intoxicant to any child apparently under eighteen years of age or permits or suffers such child to remain in or on the premises where any excisable article is sold, or manufactured; or

(h) in contravention of section 19 employs or permits to be employed on any part of his licensed premises referred to in that section any child or woman;

shall, on conviction, be punished *[with rigorous imprisonment for a term which shall not be less than one month but which may extend to one year and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees].

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

* Amended by Act 3 of 1989 w.e.f 25.4.89.

Penalty for adulteration, etc., by licensed vendor or manufacturer

36. (1) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder mixes or permits to be mixed with the intoxicant sold or manufactured by him, any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under this Act, when such admixture does not amount to an offence of adulteration under section 272 of the Indian Penal Code, 1860 (Central Act 45 of 1860) shall, on conviction, be punished *[with rigorous imprisonment for a term which shall not be less than one month but which may extend to one year and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees]

(2) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder, ---

(a) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be Indian liquor; or

(b) marks any bottle or the cork of any bottle, case, package, or other receptacle containing Indian liquor, or uses any bottle, case, package or other receptacle containing Indian liquor, with any mark thereon or on the cork thereof, with the intention of causing it to be believed that such bottle, case, package or other receptacle contain foreign liquor, when such act shall not amount to the offence of using a false trade mark with intention to deceive or injure any person under section 482 of the Indian Penal Code (Central Act 45 of 1860); or

(c) sells or keeps or exposes for sale any Indian liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with counterfeit trade mark under section 486 of the Indian Penal Code (Central Act 45 of 1860);

shall, on conviction, be punished *[with rigorous imprisonment for a term which shall not be less than one month but which may extend to one year and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees].

* Amended by Act 3 of 1989 w.e.f 25.4.89.

Penalty for consumption in Chemist's shop, etc.

37. (1) 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 shall, on conviction, be punished *[with rigorous imprisonment for a

term which shall not be less than one month but which may extend to one year and with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees].

(2) Any person not employed as aforesaid, who consumes any such intoxicant on such premises shall on conviction, be punished with fine *[which shall not be less than two thousand rupees but which may extend to twenty thousand rupees].

Penalty for allowing premises, etc., to be used for the purpose of committing an offence under this Act

1 [37-A. Whoever, being the owner or occupier or having the use or care or management or control of any place, room, enclosure, space, vessel, vehicle knowingly permits it to be used for the purpose of commission by any other person of an offence punishable under section 31, 32, 33, 35 or 36 shall, on conviction, be punished as if he has committed the offence punishable under the appropriate section.]

Manufacture, sale or possession by one person on account of another

38. (1) Where any intoxicant has been manufactured or sold or is possessed by any person on account of any other person and such other person known or has reason to believe that such manufacture or sale was or that such possession is, on his account, the article 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 any intoxicant on account of another person from liability to any punishment under this Act for unlawful manufacture, sale or possession of such article.

* Amended by Act 3 of 1989 w.e.f 25.4.89.

1. Inserted by Act 7 of 1972.

Presumption as to commission of offence in certain cases

39. In prosecutions under section 31 or section 33, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of ---

(a) any intoxicant; or

(b) any still, utensil, implement or apparatus whatsoever in the manufacture of any intoxicant other than toddy; 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 satisfactorily.

Criminal liability of licensee for acts of servants

40. Where any offence under section 31, section 32, section 33, section 35 or section 36 is committed by any person in the employ and acting on behalf of the holder of a licence or permit granted under this Act, such holder shall also be punishable as if he had committed himself the said offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punishable under this section with imprisonment, except in default of payment of fine.

Enhanced punishment after previous conviction

41. If any person, after having been previously convicted of an offence punishable under section 31, section 32, section 33, section 36 or section 37 or under the corresponding provisions of any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under any of these sections, he shall be 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 XXII of the Code of Criminal Procedure, 1898 from being so tried.

Liability of certain things to confiscation

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

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

(b) any intoxicant lawfully imported, transported, or manufactured, and held in possession or sold alongwith, or in addition to, any intoxicant liable to confiscation under clause (a); and

(c) any receptacle, package, or covering in which anything liable to confiscation under clause (a) or clause (b), is found, and the other contents, if any, of such receptacle, package or covering and any animal, vehicle , vessel, raft or other conveyance used for carrying the same;

Provided that, if anything specified in clause (c) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed.

Order of confiscation

43. (1) Where in any case tried by him, the Magistrate decides that anything is liable to confiscation under section 42, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay in lieu of confiscation such fine as the Magistrate thinks fit.

(2) When an offence under this Act has been committed, but the offender not known or cannot be found, or when anything liable to confiscation under this Act, and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Excise Commissioner or by any other officer authorised by the Government in that behalf, who may order such confiscation:

Provided that no such order shall be made until the expiration of one month from the date of seizing the goods intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and the evidence, if any, which they produce, in support of their claims:

Provided further that if the thing in question is liable to speedy and natural decay, or if the Excise Commissioner or by any other officer authorised by the Government in this behalf is of opinion that the sale would be for the benefit of its owner, he may, at any time, direct it to be sold and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

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+[(3) Notwithstanding anything contained in sub-sections (1) and (2) or any other law for the time being in force, where any property liable for confiscation under section 42 is seized or detained, the Excise Commissioner or any other officer authorised by the Government in that behalf is satisfied that an offence has been committed against this Act and whether or not a prosecution is instituted for such offence, he may, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of any property or animal, vessel, cart or other vehicle used in the commission of such offence:

Provided that, before passing an order of confiscation, the owner or the person from whom such property, animal, vessel, cart or other vehicle is seized, shall be given—

(i) a notice in writing informing him of the grounds on which it is proposed to confiscate;

(ii) an opportunity of making a representation in writing within a reasonable time, not exceeding 14 days as may be specified in the notice, against the grounds of confiscation; and

(iii) a reasonable opportunity of being heard in the matter:

Provided further that the owner or the person from whom such property, animal, vessel, or cart or other vehicle is seized shall be given an option to pay, in lieu of its confiscation, an amount not exceeding the market price of such property.

(4) While making an order of confiscation under sub-section (3), the Excise Commissioner or any other officer authorised by the Government may also order that such of the properties to which the order of confiscation relates, which, in his opinion, cannot be preserved or are not fit for human consumption, be destroyed.

(5) Where the Excise Commissioner or any other officer authorised by the Government after passing an order of confiscation under sub-section (3) is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction or dispose it of otherwise and the proceeds remitted into the excise revenue account under this Act.

(6) Where the confiscation is ordered by an officer authorised by the Government in this behalf, such officer shall submit a report of all particulars of confiscation to the Excise Commissioner within one month of such confiscation.

(7) Any person aggrieved by an order of confiscation under sub-section (3) may, within one month from the date of the receipt of such order, appeal to the court of session having jurisdiction**]**.

+[Order of confiscation and destruction not to interfere with other punishment

43-A.(1) The order of any confiscation under sub-section (3) of section 43 shall not prevent imposition of any other punishment to which the person affected thereby is liable under this Act.

(2) Notwithstanding anything contained in any other law for the time being in force, the non-production of confiscated property before the trial court due to disposal of such property, shall not affect the conviction for an offence under this Act.

Provided that the samples of liquor and the photographs of the confiscated property may be preserved to meet the evidentiary requirements**]**.

+Inserted vide Act No.7 of 2013 w.e.f.03.08.2013.

Compounding of offences

44. (1) The Excise Commissioner, *[and subject to such conditions as may be prescribed] the Deputy Commissioner, or any other Excise Officer specially empowered in that behalf may accept from any person whose licence or permit is liable to be cancelled or suspended under clause (a) or clause (b) of sub-section (1) of section 28 or who is reasonably suspected of having committed an offence under *[clauses (b) to (h) of section 31], section 32, section 33, section 34, section 35 or sub-section (2) of section 36, a sum of money not exceeding *[one lakh rupees] and subject to such minima as may be prescribed, in lieu of such cancellation or suspension or by way of compensation for the offence which may have been committed, as the case may be; and in all cases in which any property has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such person of such sum of money or such value or both, as the case may be, such person, if in custody, shall be set at liberty and all the property seized may be released and no proceedings shall be instituted against such person in any Criminal Court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same act.

Penalty on Excise Officer making vexatious search, seizure, detention or arrest

45. Any Excise Officer or other person who vexatiously and without reasonable ground for suspicion ---

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

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

(c) searches, detains or arrests any person, or

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

* Amended by Act 3 of 1989 w.e.f 25.4.89.

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

Penalty for Excise Officer refusing to do duty

46. Any Excise Officer, who, without lawful excuse shall cease or refuse to perform or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his official superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction, be punished with imprisonment, which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for vexatious delay

47. Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to the nearest Excise Officer or to the officer in charge of the nearest police station as required by sub-section (2) of section 58 any person arrested, shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for abetment of escape of persons arrested, etc.

48. Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act or abets the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or contravened or the excise revenue may be defrauded and any officer of any other Department referred to in section 49 who abets the commission of any offence, against this Act in any place, shall, on conviction, for every such offence, be punished *[with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees].

* Amended by Act 3 of 1989 w.e.f 25.4.89.

CHAPTER VIII

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES

Landholders, officers and others to give information

49. (1) Whenever any intoxicant is manufactured or collected, or any hemp plant is cultivated, in or on any land or building, in contravention of this Act -

(a) all owners and occupiers of such land or building or their agent, and

(b) (i) Village Karnams or the peons working under them,

(ii) all officers (other than Excise Officers), employed in the collection of revenue or rent of land on behalf of the Government, or a local authority in the locality in which such land or building is situated, shall, in the absence of reasonable excuse, be bound to give notice of the fact to a magistrate or to an officer of the Excise or Police or Revenue Department as soon as the fact comes to their knowledge.

(2) Every Excise Officer shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act, which may come to his knowledge under sub-section (1) or otherwise.

(3) All such officers, or servants as are referred to in sub-section (1) shall be bound ---

(a) to take all reasonable measures in their power to prevent the commission of such breaches which they may know, or have reason to believe are about or likely to be committed; and

(b) to assist the Excise Commissioner in carrying out the provisions of this Act.

Power to enter and inspect places of manufacture and sale

50. The Excise Commissioner or a Deputy Commissioner or any other Excise Officer not below such rank as may be prescribed, 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, manufacturers or stores any intoxicant, and

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

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

Power to arrest without warrant, to seize articles liable for confiscation and to make searches

51. (1) Any officer of the Government employed in the Excise, Police or Revenue Department of the Union territory, subject to such restrictions as may be prescribed, and any other person duly empowered, may --

(a) arrest without warrant any person found committing an offence punishable under section 31, section 32, section 33 section 35 or section 36;

(b) seize and detain any excisable or other article 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 excise revenue; and

(c) detain and search any person upon whom, and any vessel, raft, 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 is reasonably suspected of committing an offence under this Act, other than an offence under section 31, section 32, section 33, section 35 or section 36 and on demand of any such officer as aforesaid, refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer, in order that his name and residence may be ascertained.

Power of magistrate to issue a warrant

52. If a magistrate, upon information and after such enquiry (if any) as he thinks necessary, has reason to believe that an offence under section 31, section 32, section 33, section 35 or section 36 has been, is being, or is likely to be, 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.

Power to search without warrant

53. Whenever the Excise Commissioner or a Deputy Commissioner or any police officer not below the rank of an officer in-charge of a police station *[duly empowered in that behalf] or any Excise Officer not below the rank of Excise Sub-Inspector, has reason to believe that an offence under section 31, section 32, section 36 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 by night enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and

(b) detain and search, 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.

* Amended by Act 3 of 1989 w.e.f 25.4.89.

Power of Excise Officers in matters of investigation

54. (1) Any Excise Inspector or any Excise Officer not below such rank and within such specified area as the Government may, by notification, prescribe, may, as regards offences under section 31, section 32, section 33, section 35 or section 36, exercise powers conferred on an officer in charge of a police station by the provisions of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898):

Provided that any such power shall be subject to such restrictions and modifications, if any, as the Government may prescribe.

(2) For the purposes of section 156 of the said Code, the area in regard to which an Excise Inspector 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 of such station.

Report by Investigating Officer

55. If, on any investigation by an Excise Inspector or an Excise Officer empowered under sub-section (1) of section 54, it appears that there is sufficient evidence to justify the prosecution of the accused, the Investigating Officer, shall submit a report which shall, for the purposes of section 190 of the Code of Criminal Procedure 1898 (Central Act 5 of 1898), be deemed to be a police report, to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports.

Report by Excise Officer

56. Where any Excise Officer below the rank of an Excise Inspector makes any arrest, seizure or search under this Act, he shall, within twenty four hours thereafter ---

(a) make a full report of all the particulars of the arrest, seizure search to his immediate official superior, and

(b) unless bail be accepted under section 58, take or send the person arrested or the thing seized, with all convenient despatch, to a Magistrate for trail or adjudication.

Arrest, search, etc., how to be made

57. Any person arrested under this Act shall be informed, as soon as may be, of the grounds for such arrest and save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) relating to arrests, detention in custody, searches, summonses, warrants of arrests, search warrants, the production of persons arrested and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Act.

Security for appearance in case of arrest without warrant

58. (1) The Government may, by notification, empower any Excise Officer to release on bail, persons arrested under this Act, otherwise than on a warrant.

(2) When a person is arrested under this Act, otherwise than on a warrant, by a person or officer who is not authorised 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 the police station, whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise 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 on bail or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of sections 490 to 502, section 513, section 514 and section 515 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), shall apply, so far as may be, in every case, in which bail is accepted or, bond taken under this section.

Procedure for prosecution

59. No Magistrate shall take cognizance of an offence punishable ---

(a) under section 34 or section 37 except on the complaint or report of the Deputy Commissioner or of an Excise Officer authorised by the Government in this behalf, or

(b) under any other section of this Act other than section 45 of section 47, except on his own knowledge or suspicion or on the complaint or report of *[an excise officer or a police officer duly authorised in that behalf].

CHAPTER IX

APPEALS AND REVISION

Appeals

60. (1) Any person aggrieved by an order passed by any officer other than the Excise Commissioner or Deputy Commissioner under this Act, may, within sixty days from the date of communication of such order, appeal to the Deputy Commissioner.

(2) Any person aggrieved by an order passed by the Deputy Commissioner under this Act, may, within ninety days from the date of communication of such order, appeal to the Excise Commissioner.

(3) Any person aggrieved by an order passed by the Excise Commissioner whether on appeal under sub-section (2) or otherwise, may, within ninety days from the date of communication of such order, appeal to the Government.

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

Revision

61. The Government may call for and examine the records of any proceedings before any officer including those relating to the grant or refusal of a licence, or permit, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit:

* Amended by Act 3 of 1989 w.e.f 25.4.89.

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

CHAPTER X

MISCELLANEOUS

Recovery of Government dues

62. (1) The following moneys, namely: -

(a) all excise revenue,

(b) any loss that may accrue when, in consequence of default, a lease under section 16 has been taken under management by the Deputy Commissioner, or has been re-sold by him, and

(c) of amounts due to the Government by any person on account of any contract relating to the excise revenue,

may be recovered from the person primarily liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

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

Government lien on property of defaulters

63. In the event of default by any person licensed or holding lease under this Act, all his distillery, brewery or warehouse or shop or premises, fittings or apparatus, and all stocks of intoxicants or materials for the manufacture of the same held in or upon any distillery, brewery, warehouse or shop or 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.

Recovery of dues by lessee under section 16

64. Any person to whom a lease has been granted in accordance with the provisions of section 16, may, in a case where sub-letting is not forbidden by the terms of the lease, proceed against any person holding under him for the recovery of any money due in respect of such sub-lease as if it were an arrear of rent recoverable under the law for the time being in force with regard to landlord and tenant:

Provided that nothing in this section shall affect the right of any such grantee to recover any such money by a civil suit.

Refund in cases of exported liquor

65. Where excise duty has been levied in respect of the manufacture or production of any liquor in the Union territory and such liquor is subsequently exported to any other state in India and is subjected to excise or countervailing duty in that state, the Excise Commissioner may on production of proof of such payment of duty, grant refund of duty already paid to such extent as the Government may prescribe:

Provided that where the Government so directs, the Excise Commissioner may, permit during such period or periods as may be specified in such direction, the export of any liquor on which excise duty is payable, on the furnishing of adequate security for payment of the excise duty due thereon; and, on production of proof of payment of countervailing duty on such liquor in any other State give rebate to the extent prescribed under this section and collect the balance of the excise duty.

Power of Government to exempt, etc.

66. The Government may, by notification, and subject to such restrictions and conditions, as may be specified in such notification, ---

(a) exempt, reduce or remit either in whole or in part *[prospectively or retrospectively] the excise duty levied under section 21 on any liquor sold,

(i) for use or consumption by the members of the Armed Forces of the Union; or

(ii) for use for *bona fide* medicinal, scientific, industrial or such like purpose;

(b) exempt any intoxicant from any of the provisions of this Act, other than those of chapter V, in any specified area or for any specified period or occasion.

* Amended and deemed to have come into force on and from 23rd April, 2007 vide the Puducherry Excise (Amendment) Act, 2011.

Protection of action taken under this Act

67. No suit or other legal proceedings shall lie against the Government or any Excise Officer or any other person empowered to exercise powers or to perform the functions under this Act for anything in good faith done or inten ct.

Limitation of suits

68. No suit shall lie against the Government or against any Excise Officer, other than a suit by the Government, in respect of anything done or alleged to have done in pursuance of this Act, unless the suit is instituted within six months from the date of the act complained of.

Offences by companies, etc.

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

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

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

Explanation: - For the purposes of this section, --

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

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

Power to make rules

70. (1) The Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the Government may make rules ---

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

(b) prescribing the time and manner of presenting appeals and the procedure for dealing with appeals;

(c) regulating the import, export, transport, manufacture, cultivation, collection, possession, supply or storage of any intoxicant and may, by such rules, among other matters --

(i) regulate the tapping of toddy producing trees, the drawing of toddy from such trees, the marking of same, and the maintenance of such marks,

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

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

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

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

(f) regulating the time, place and manner of payment of any duty or fee and the taking of security for the due payment of any duty or fee;

form in which and the terms and conditions on and subject to which any licence or permit shall be granted, and may, by such rules, among other matters, ---

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

(ii) prescribe the scale of fees, or the manner of fixing the fees payable in respect of any lease, licence or permit, or the storing of any excisable article;

(iii) prescribe the amount of security to be deposited by the holders of any licence or permit 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;

(v) prohibit or regulate the transfer of licences; and

(vi) prescribe the ages under which it shall be unlawful to employ children and to sell or give to children excisable articles;

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

(i) regulating disposal of confiscated articles;

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

(k) regulating the power of Excise Officers to summon witnesses;

(l) prescribing the rent payable to the Government in respect of toddy trees from which toddy is drawn;

1 [(11) regulating the import, export, transport, sale or possession of molasses;]

(m) any other matter that may be prescribed under this Act.

*[2-A. All rules made under this Act and published in the official gazette shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.

2-B. All notification issued under this Act and published in the official gazette shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.]

(3) Every rule made under this Act shall, as soon as may be after it is made, be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of fourteen days which may be comprised in one session or into two or more successive sessions, and if before the expiry of the session in which it is so laid, or the sessions immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. Inserted by Act 7 of 1972.

* Inserted vide the Puducherry Excise (Amendment) Act, 2011.

Power to amend the schedule

*[70A. (1) The Government may by notification, alter, add to or cancel the Schedule I.

(2) Where a notification has been issued under sub-section (1), there shall, unless, the notification is in the meantime rescinded, be introduced in the Legislative Assembly as soon as may be, but in any case during the next session of the Legislative Assembly following the date of the issue of the notification, a Bill on behalf of the Government to give effect to the alternation, addition or cancellation, as the case may be, of the Schedule I and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything r:

Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly during that session:

Provided further that where for any reasons a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

(3) All references made in this Act to the Schedule I shall be construed as relating to the said Schedule as for the time being amended in exercise of the powers conferred by this section].

Repeal and savings

71. (1) As from the commencement of this Act, any law in force in the Union territory including the Deliberations, Arrete and the Act specified in Schedule II, in so far as it makes provisions for matters covered by his Act, shall stand repealed.

(2) Nothing in sub-section (1) shall affect –

(a)the previous operation of the corresponding law so repealed or anything duly done or suffered thereunder; or

(b)any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law so repealed; or

* Amended by Act 3 of 1989 w.e.f 25.4.89.

(c)any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law so repealed; or

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

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

(3) Subject to the provisions of sub-section (2), anything done or any action taken (including any appointment or delegation made, notification, instruction or direction issued, any rule or form framed, certificate obtained, patent, permit or licence granted, or registration effected) under the corresponding law shall be deemed to have been done or taken under this Act.

SCHEDULE – I

(*See* section 21)

Sl. No. (1)	Description of excisable articles (2)	Mode of levying duty (3)	Maximum rate of duty (4)	++[Maximum rate of Additional Duty (5)
1.	Spirituous liquors, liquors whether Indian made or foreign manufactured or imported in the Union territory, rectified or semi-rectified spirit and	On the quantity issued.	+[Rs.150 per proof litre of alcohol]	Rs.750 per bulk litre of IMFL
2.	'Wine' cider and Perrys.	On the quantity issued.	Rs.24 per bulk hecto-litre	Rs.750 per bulk litre of Wine
3.	Beer.	On the quantity issued.	Rs.*[500] per bulk hecto-litre.	Rs.50 per bulk litre of Beer]
4.	Denatured spirit, methylated spirit	On the quantity issued.	Rs.50 per bulk hecto-litre	
5.	Toddy.	On each variety of the following trees per year. 1. Cocoanut tree 2. sago palm 3. Palm 4. Date	 Rs. 18 per tree. Rs. 36 per tree. Rs. 6 per tree. Rs. 6 per tree.	
6.	Bottled toddy.	On the quantity issued.	Rs. 60 per bulk hecto litre.	

+ + Inserted vide Amendment Act 8 of 2007 w.e.f 23.04.07.

+ Amended vide Act 5 of 2000 w.e.f 10.3.2000.

* Amended vide Act 8 of 1999 w.e.f 31.3.1999.

SCHEDULE – II

(Section 71)

Sl. No.	Deliberations	Arrete and Act.		
1.	Deliberations dated	14. 1.1906	Promulgated by Arrete dated	28. 3.1907
2.	"	24.12.1908	"	2. 2.1910
3.	"	23.12.1911	"	22. 9.1912
4.	"	30.12.1911	"	2.10.1912
5.	"	1.10.1913	"	22.11.1916
6.	"	13.12.1917	"	26.10.1918
7.	"	22.11.1918	"	11.11.1919
8.	"	25.11.1919	"	3.11.1920
9.	"	20.12.1922	"	9. 6.1923
10.	"	10.12.1923	"	28. 6.1924
11.	"	30.11.1925	"	20. 5.1926
12.	"	1.10.1952	"	9.12.1952
13.	"	…	Arrete dated	26. 7.1962
14.	Puducherry Alcoholic Liquors Consumption Duty (Amendment) Act, 1966 (Act No. 5 of 1966).			

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 12 OF 1970

There is no comprehensive Excise law in force in this Union territory at present. A set of French deliberations deal with toddy, while another set deals with arrack, and so on. Inspite of their large number, the existing deliberations are not able to cope with present day needs. For instance, except doubling of consumption duty in 1965, no revision of fees under the deliberation has been effected since de jure transfer. Besides, under the present set-up, no export duty can be levied on the excisable articles and similarly no duty can be levied on the import of denatured spirit. Thus the Administration is losing a sizable revenue under these items. The upward revision and levy of fees under these items have become imperative now in the context of raising the additional resources for the implementation of the Fourth Five Year Plan.

The deliberations now in force do not provide for on the spot arrest of the accused by the Excise Officers. So, in many cases, it so happens that the accused give false names and escape the clutches of law. Further, the deliberations do not provide for a deterrent punishment, as imprisonment can be given only in default of payment of fines. This has been commented upon by the Committee on Estimates also.

It has therefore become necessary to undertake a comprehensive legislation relating to production, manufacture, possession, import, export, transport, purchase and sale of liquors and the levy of duties of excise due thereon.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 7 OF 1972

The Molasses Control Order, 1961 was extended to this Union territory on 7.6.1965. It was decided to frame rules after obtaining legislative authority under the Excise Act. When the question of framing of rules on the subject was taken up, it was felt that this could be done only after making suitable amendments to the Excise Act. It is therefore been decided to insert a new definition 2 (20-A) and a new section 8-A for the purpose. Besides, it has been considered necessary to insert a new section 37-A for providing for penalty for allowing one's premises, vehicles, etc. to be uses for the purpose of committing an offence under the Act. Schedule-I is also amended with a view to empower the Government to levy excise duty on the bottled toddy produced locally.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 3 OF 1989

The Puducherry Excise Act, 1970 (No.12 of 1970) in Chapter VII provides for offences and penalties. The penalties provided for various offences are not adequate. Even where the offences are compoundable, the maximum compounding fee, which can be levied has been fixed at Rs.1,000 only. These inadequate penalties have no deterrent effect against the commission of offences, violating the provisions of the above said Act. The liquor trade being a spurious one having bearing on the health of the people, it is felt necessary to make the penalties under the Excise Act stringent to have the deterrent effect on the offenders. It is therefore proposed to amend the penal provisions of the Puducherry Excise Act with a view to enhance the terms of imprisonment and the amount of fine leviable for different offences and also prescribe in appropriate cases mandatory minimum punishment of imprisonment and fine. It is also felt necessary to provide for empowering the police officers to conduct searches without warrant under section 53 and to file complaint for prosecution under section 59 (b). It is further proposed to enhance the maximum limit of excise duty provided for against item No.1 of the Schedule I from Rs.2,700 to Rs.6,000. For timely revision of excise duties, it is proposed to take power to amend the Schedule by a notification subject to passing of legislation subsequently to carry out the amendment made by the notification in the Schedule I.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 8 OF 2007

It was announced in the budget speech for the year 2007-2008 by the Chief Minister that Additional Excise Duty/Additional Countervailing Duty on IMFL, Wine and beer will be introduced in lieu of sales tax. Pursuant to the announcement, Government have issued a notification under section 70A of the Puducherry Excise Act, 1970 (12 of 1970) making an amendment to Schedule-I to the said Act providing the maximum rate of Additional Duty upto Rs.750 per bulk litre on IMFL and Wine and maximum rate of Additional Duty upto Rs.50 per bulk litre on Beer, to accommodate the subsequent increase of rates in future, if any. As required under the first proviso to sub-section (2) of section 70-A of the said Act, a bill to give effect to the above amendment to Schedule-I, is introduced in the Legislative Assembly.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR EXCISE (AMENDMENT) ACT 2011

In order to provide a uniform law relating to the production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicants and the levy of duties of excise thereon in the Union territory of Puducherry, the Puducherry Excise Act, 1970 was enacted on 3rd June 1970. Entry 51 of list II of Seventh Schedule to the Constitution empowers the States to collect duties of excise on the goods of alcoholic liquor for human consumption manufactured or produced elsewhere in India. It was announced in the Budget Speech for the year 2007-2008 that Sales Tax on IMFL and Beer is abolished and in lieu thereof, additional excise duty was imposed for mobilising additional revenue to the exchequer. In order to have better implementation of the rules certain modifications and amendments are required to be carried out in the relevant sections of the Puducherry Excise Act, 1970.

The Bill seeks to achieve the above objects.
