

Bihar Excise Act, 1915

2 of 1915

[19 January 1916]

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Bihar Excise Act, 1915

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PREAMBLE

An Act to amend and re-enact the Excise-Law in the Province of Bihar and Orissa.

Whereas it is expedient to amend and act the law in the Province of Bihar an Orissa relating to the import, export, transport, manufacture, possession, and sale of certain kinds of liquor and intoxicating drugs;

And whereas the previous sanction of the Governor-General has been obtained, under Section 5 of the Indian Councils Act, 1892 (55 and 56 Vict., c. 14), to the passing of this Act.

It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the ¹[Bihar Excise Act, 1915.]

1. Substituted by act 6 of 1985

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 liquor made from malt;

(2) "Board" means the Board of Revenue;

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

(4) ¹[* * * *]

(5)

(a) "denaturant" means any substance prescribed by rule made in this behalf under clause (3) of Section 90, for admixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally as a medicine, or any other way whatsoever;

(b) "to denature" means to mix spirit with one or more denaturants in such manner as may be prescribed by rule made in this behalf under clause (3) of Section 90, and "denatured spirit" means spirit so mixed;

(6) "excisable article" means-

(a) any alcoholic liquor for human consumption; or

(b) any intoxicating drug;

(6a) "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 Commissioner" means the officer appointed under Section 7, clause (a);

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

(9) "Excise-revenue" means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs;

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

²[(11) hemp plant means the plant *cannabis sativa*]

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

3[12a) intoxicant¹ means -

(i) any liquor, or

(ii) any substance from which liquor may be distilled and which is declared by the State Government by notification in the Official Gazette to be intoxicant for the purpose of this Act, or

(iii) intoxicating drug, or

(iv) medicinal preparation as defined under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

(13) "intoxicating drug" means -

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

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

(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, such substance not being opium, coca leaf, or a

manufactured drug, as defined in Section 2 of the Dangerous Drugs Act, 1930 (2 of 1930);

(14) "Liquor" includes all liquids consisting of or containing alcohol, such as spirits of wine, spirit, wine, fermented tari, pachwai and bear, and also unfermented tari, and also any other substance which the State Government may, by notification, declare to be liquor for the purposes of this Act;

(15) "manufacture" includes -

(i) every process, whether natural or artificial, by which any intoxicant is produced or prepared including the tapping of tari-producing trees and the drawing of tari from trees),

(ii) redistillation, and

(iii) every process for the rectification, flavouring, blending, or colouring of liquor, or for the reduction of liquor for sale;

(16) "pachwaf" means fermented rice, millet or other grain-whether mixed with any liquid or not, and any liquid obtained therefrom, whether diluted or undiluted; but does not include beer;

(17) "place" includes building, house, shop, boat, vessel, raft, vehicle or tent;

(18) expressions referring to "sale" include any transfer otherwise than by way of gift;

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

(20) "tari" means fermented or unfermented juice drawn from cocoanut, palmyra, date or other kind of palm tree; and

(21) "transport" means to remove from one place to another within the State of Bihar and Orissa.

1. Omitted by dangerous Drugs Act, 1930-S. 40 & Sch. II.
2. Inserted by Act 6 of 1985.
3. Substituted by *ibid*.

3. Section 3 :-

[Repealed by Act 2 of 1930]

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 purpose of this Act or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor", respectively.

5. Definition of retail and wholesale :-

(1) The Board may, by notification, declare, with respect either to the whole of the State or to any specified local area, and as regards purchasers either generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any intoxicant shall, for 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 be deemed to be a whole a sale.

6. Saving of certain Acts :-

Nothing contained in this Act shall affect the provisions of-

(a) the Seas Customs Act, 1878 (18 of 1878), or

(b) the Indian Tariff Act, 1894 (8 of 1894) (except Section 6 thereof), or

(c) the Cantonments Act, 1910, (15 of 1910).

CHAPTER 2 ESTABLISHMENTS, CONTROL, APPEAL AND REVISION

7. Establishments and delegation and withdrawal of powers

:-

(1) The administration of the Excise Department and the collection of the excise revenue within a district shall ordinarily be under the charge of the Collector.

(2) The State Government may by notification applicable to the whole of the State or to any specified local area,-

(a) appoint an officer who shall, subject to such control as the State Government may direct, have the control of the administration of the Excise Department and the collection of the excise-revenue;

(b) appoint any person 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, 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) of this

section shall be exercised and performed by any Government Officer or any other person;

(e) delegate to the Board, the Commissioner of a Division or the Excise Commissioner all or any of the powers conferred upon the State Government by or under this Act, except the power conferred by Section 89 to make rules;

(f) withdraw from any officer or person all or any of the powers or duties conferred or imposed upon him by or under this Act; and

(g) permit the delegation by the Board, the Commissioner of a Division, the Excise Commissioner or the Collector, to any person or classes of persons specified in such notification, of any powers conferred or duties imposed upon it or him by or under this Act.

8. Control, appeal and revision :-

(1) The Collector shall, in all proceedings under this Act, be subject to the control of the Excise Commissioner, and shall, in such matters as the State Government may direct, be subject also to the control of the Commissioner of the division.

(2) Orders passed under this Act or under any rule made hereunder shall be appealable in such cases, to such authorities and under such procedure as may be prescribed by rule under Section 89, clause (c).

(3) The Board may revise any order passed by a Collector, the Excise Commissioner or the Commissioner of a Division.

CHAPTER 3 IMPORT, EXPORT AND TRANSPORT

9. Restrictions on import :-

(1) No intoxicant shall be imported unless-

(a) the State Government has given permission, either general or special, for its import.

(b) such conditions (if any) as the State Government may impose have been satisfied; and

10. Restrictions on export or transport :-

No intoxicant shall be exported or transported unless- (a) the duty (if any) payable under Chapter V

* * * * *

has been paid or a bond has been executed for the payment thereof:

Provided that the Board may, subject to such conditions (if any) as it thinks fit to impose, exempt any intoxicant from the provisions of this section.

11. Power to prohibit, import, export or transport :-

The State Government may by notification-

(a) prohibit the import or export of any intoxicant into or from the State or any part thereof, or

(b) prohibit, the transport of any intoxicant.

12. Passes for import, export or transport :-

(1) No intoxicant exceeding such quantity as the State Government may prescribe by notification, either generally or for any specified local area, shall be imported, exported or transported, except under a pass:

Provided that, in the case of duty paid foreign liquor other than denatured spirit, such passes shall be dispensed with unless the State Government by notification, otherwise directs with respect to any local area.

(2) The passes required by sub-section (1) may be granted by the Collector.

(3) Such passes may be either general for definite periods and particular kinds of intoxicant, or special for specified occasion and particular consignments only.

CHAPTER 4 MANUFACTURE, POSSESSION AND SALE

13. Licence required for manufacture :-

(a) No intoxicant shall be manufactured.

(b) no hemp plant shall be cultivated,

(c) no portion of the hemp plant from which an intoxicating drug can be manufactured or produced shall be collected,

(d) no liquor shall be bottled for sale,

(e) no distillery or brewery shall be worked, and

(f) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the

purpose of manufacturing any intoxicant other than tari, except under the authority and subject to the terms and conditions of a licence granted in that behalf by Collector:

Provided that any tari producing tree may be tapped, and tari may be drawn from any tree without a licence under this section, by the person in possession of the tree,-

(i) for the purpose of being used in the manufacture of gur or molasses, or

(ii) for the purpose of being used solely for the preparation of food for domestic consumption and not-

(a) as an intoxicant, or

(b) for the preparation of any intoxicating article for sale, or

(c) for the preparation of any article for sale, or

(iii) up to a limit of four seers, for the domestic consumption of the said person.

14. Drawing of tari in notified areas :-

Notwithstanding anything contained in the proviso to Section 14,-

(a) no tari producing tree shall be tapped, and

(b) no tari shall be drawn from any tree,

in any local area specified in this behalf by the State Government

by a notification, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector:

Provided that, when any exclusive privilege of manufacturing tari has been granted under Section 22, the State Government may declare that the written permission given by the grantee to draw tari shall have the same force and effect as a licence granted by the Collector under sub-section (i) of this Section:

Provided also that, in any local area specified by notification under sub section (1), the State Government may, by notification declare that sub-section shall not apply to tree tapped or tari drawn under such special conditions as the Board may prescribe.

15. Establishment of distilleries, breweries or warehouses
:-

(1) The Excise Commissioner may-

(a) subject to any restrictions imposed by the State Government, establish, or authorize the establishment of, distilleries or breweries, in which liquor may be manufactured under a licence granted under Section 13;

(b) discontinue any such distillery or brewery;

(c) establish, or authorize the establishment of, warehouses, wherein any intoxicant may be deposited and kept without payment of duty; and

(d) discontinue any such warehouse.

(2) No distillery, brewery or warehouse as aforesaid shall be established except by or under the authority of, the Excise

Commissioner.

16. Licence required for depositing or keeping intoxicant in warehouse or other place of storage :-

No person shall, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector, deposit or keep any intoxicant in any warehouse or other place of storage established, authorized or continued under this Act.

17. Payment of duty on removal from distillery, brewery, warehouse or other place of storage :-

No intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage licensed, established, authorised or continued under this Act, unless the duty (if any) payable under Chapter V has been paid or a bond has been executed for the payment thereof.

18. Possession of intoxicants not obtained from a licensed vendor :-

(1) No person shall have in his possession any intoxicant which has not been obtained from a licensed vendor of the same.(2) Sub-section (1) shall not apply to-

(a) any intoxicant lawfully deposited or kept in a distillery, brewery, warehouse or other place of storage licensed, established, authorised or continued under this Act,

(b) any intoxicant lawfully in the possession of a licensed vendor of the same, or

(c) any intoxicant in the possession of a person who has lawfully

imported it, or who is authorised by the Collector to possess it, or

(d) any foreign liquor in the possession of any common carrier or warehouseman as such, or purchased at sale authorised by clause (a) of proviso (4) to Section 20, or

(e) tari intended to be used in the manufacture of gur or molasses, or

(f) tari intended to be used solely for the preparation of food for domestic consumption and not-

(i) as an intoxicant, or

(ii) for the preparation of any intoxicating article, or

(iii) for the preparation of any article for sale, or

(g) tari intended to be used in the manufacture of bread by a person holding a permit to use tari for that purpose, or

(h) tari, up to limit of four seers, when in the possession of the person possessing the tree from which it was drawn and intended to be used for his domestic consumption, or

(i) intoxicating drugs in the possession of any person licensed to cultivate or collect the plants from which such drugs were produced, when such possession is in accordance with the conditions of his licence.

19. Possession and consumption of intoxicants generally :-

1[Possession and consumption of intoxicants generally.]

(1) No person not being licensed to manufacture, cultivate, collect or sell any intoxicant shall have in his possession any quantity of any intoxicant in excess of such quantity as the Board has, under Section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf.

(2) sub-section (1) shall not apply to-

(a) any foreign liquor (other than denatured spirit) which is in the possession of any common carrier or warehouseman as such or

(b) any foreign liquor which has been purchased by any person for his bona fide private consumption and not for sale or for use in the manufacture of any article for sale, or

(c) tari intended to be used in the manufacture of gur or molasses,

(d) tari intended to be used solely for the preparation of food for domestic consumption and not-

(i) as an intoxicant, or

(ii) for the preparation of any intoxicating article, or

(iii) for the preparation of any article for sale.

(3) A licensed vendor shall not have in his possession at any place other than that authorised by his licence any quantity of any intoxicant in excess of such quantity as the Board has, under Section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf.

1 (4) Notwithstanding anything contained in this Act and

[...] notwithstanding anything contained in the Act and Dangerous Drugs Act 1930 (Act II of 1930), the State Government may by notification, prohibit the possession, consumption or both by any person or class of persons or subject to such exceptions, if any, as may be specified in the notification, by all persons in the State of Bihar or in any specified local area, of any intoxicant either absolutely or subject to such conditions as it may prescribe.]

1. Substituted by Act 6 of 1985.

20. Licence required for sale :-

No intoxicant and no portion of the hemp plant from which an intoxicating drug can be manufactured or produced shall be sold except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector: Provided as follows:-

(1) a licence for sale in more than one district shall be granted only by the Excise Commissioner or by a Collector specially authorised in that behalf by the Excise Commissioner.

(2) a licence for sale granted under the Excise law in force in any other State may, on such conditions as may be determined by the Excise Commissioner, be deemed to be a licence granted under this Act.

(3) a cultivator or owner of any hemp plant may sell, without a licence, those portions of the plant from which an intoxicating drug can be manufactured or produced to any person licenced under this Act to deal in the same or to any officer whom the Excise Commissioner may authorise to purchase or receive the same.

(4) No licence shall be required for any of the following sales namely:-

(a) the sale of foreign liquor lawfully procured by any person for his private use-when such sale is made by such person himself or on

his behalf upon his quitting a station, or on behalf of his representative in interest after his decease;

(b) the sale of tari lawfully possessed by a person in possession of the tree from which it was drawn, to a person licensed under this Act to manufacture or sell tari

(c) the sale of tari lawfully possessed and intended to be used in the manufacture of gur or molasses; or

(d) the sale of tari lawfully possessed and intended to be used solely for the preparation of food for domestic consumption, and not -

(i) as an intoxicant, or

(ii) for the preparation of any intoxicating article, or

(iii) for the preparation of any article for sale; or

(e) the sale of tari lawfully possessed, intended to be used in the manufacture of bread, to a person holding a permit to use tari for the purpose of making bread.

21. Manufacture and sale of liquor in or near cantonments

:-

Within the limits of any military cantonments, and within such distance from those limits as the Central Government may in any case prescribe, no licence for the manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

22. Grant of exclusive privilege of manufacture and sale of

country liquor or intoxicating drugs or denatured spirit or any other intoxicant :-

1[(1)The State Government may grant to any person, on such conditions and for such period as it may think fit, the exclusive privilege-

(a) (i) of manufacturing or supplying wholesale, or

(ii) of manufacturing and supplying wholesale, or

(iii) of selling wholesale or retail or

(iv) of manufacturing or supplying wholesale and selling retail, or

(v) of manufacturing and supplying wholesale and selling retail; any country liquor or intoxicating drug with any specified local, or

(b) of manufacturing, storing, using, possessing, exporting, importing including wholesale or retail sale of liquor which after manufacture is denatured to render it unfit for human consumption and is thereby termed as denatured spirit, and any other intoxicant:

Provided that public notice shall be given of the intention to grant any such exclusive privilege, and that any objection made by any person residing within the area affected shall be considered before an exclusive privilege is granted.

(2) No grantee of any privilege under sub-section (i) shall exercise the same unless or until he has received a licence in that behalf from the Collector or the Excise Commissioner.]

1. Substituted by Act 17 of 1982.

22A. The fixation of cost price of country liquor, by the State Government :-

1[(1) The State Government while granting exclusive privilege of manufacturing, supplying wholesale or of selling wholesale or retail of country liquor may fix the cost price which includes the price of the spirit, the transportation charges, warehouse maintenance charges, taxes, if any, and other charges, such as bottling, packing etc. dividend.

(2) Any person to whom the State Government has granted exclusive privilege of manufacturing, supplying wholesale or selling wholesale or retail country liquor during the year 1990 wherein the cost price of the country liquor was fixed by the State Government taking different components into account including ware house maintenance charges at the rate of 70 paise per L.P. Litre shall be deemed to have been fixed under this Section.]

1. Inserted by Act 9 of 1995

22C. Overriding effect of the Act :-

Notwithstanding anything to the contrary contained in any judgment, decree or order passed by any court and in any other law for the time being in force, the provisions of this Act shall have the effect."]

22D. Grant of exclusive/special privilege for bottling/sacheting and wholesale supply of country liquor :-

1[(1) The State Government may grant to any person/persons on such conditions and for such terms and conditions and for such period as it may think fit, the exclusive/special privilege for supplying country liquor, on wholesale basis, after sacheting/bottling it. There may be more than one Grantee in a zone of supply.

(2) No Grantee of any privilege under sub-section (1) shall exercise the same unless he has received a licence in that behalf from the Board of Revenue/Excise Commissioner/Collector.

(3) A licence fee shall be paid in advance in one lump sum by each licensee of the zone determined by the Member, Board of Revenue/Excise Commissioner at the rate of Rupee 1 per L.P. litre calculated on the basis of the annual M.G.Q. Additional licence fee shall be paid by each licensee of the zone if the total wholesale supply of the country liquor in the zone exceeds the annual M.G.Q. which would also be calculated at the rate of Rupee 1 per L.P. litre on the excess quantity.

(4) The condition regarding payment of advance licence fee and additional licence fee as per sub-section (3) could be deemed to be included in the tender notice dated 3rd June 1995 issued by the Excise and Prohibition Department for wholesale supply of country liquor during the period 1st July 1995 to 31st March 1999 and would also be deemed to be included in all the licences issued in pursuance thereof and any expression, term or conditions to the contrary contained in the tender notice and licences would be deemed to be deleted and substituted accordingly.

1. Inserted By Act 6 of 1998

22E. Validating of Licence Fee :-

(1) Notwithstanding anything contrary contained in a judgment/decreed or order of any Court, Tribunal or Authority, advance licence fee in the lump sum on each licence for wholesale supply of country liquor after sacheting/bottling granted pursuant to tender notice dated 3rd June 1995 issued by the Bihar Excise and Prohibition Department shall be deemed to have been imposed on every licence at the rate of Rupee 1 per L.P. liter calculated on the annual M.G.Q. and an additional licence fee at the same rate on excess supply shall also be deemed to have been imposed on every licence of the zone where the total wholesale supply in the zone exceeds the annual M.G.Q.

(2) The amount of licence fee collected from the various licensees at the above rate shall be deemed to have been validly collected, irrespective of any term or condition contained in the tender notice dated 3rd June 1995 and the licence issued in pursuance thereof and the licence fee so collected shall not be refundable and no Court, Tribunal or Authority shall order for refund of such licence fee:

Provided that if any licensee has not paid licence fee as specified in sub section (3) of Section, 22-D under the order of any Court, Tribunal or Authority the State Government shall realise the same as arrears of revenue.

22F. Overriding effect of the Ordinance :-

Notwithstanding anything to the contrary contained in any judgement, decree or order passed by any court and in any law for the time being in force, the provision of this Ordinance shall prevail and have effect".]

22G. Grant of exclusive/special privilege of manufacture and/or wholesale supply of spiced country liquor :-

1[(1) The State Government may grant to any person/persons, on such conditions and for such period as it may think fit, the exclusive/special privilege of manufacturing and/or supplying wholesale and spiced country liquor within any specified local area. There may be more than one Grantee in an area of supply.

(2) No Grantee of any exclusive/special privilege under sub-section (1) shall exercise the same unless or until he has received a licence in that behalf from the Collector or Excise Commissioner.

(3) The fee for licences for the manufacture and/or wholesale supply of spiced country liquor shall be respectively at such rates as may be prescribed by the Board from time to time.]

1. Section "22G" Inserted by Act 3 of 1999.

23. Transfer of exclusive privilege :-

(1) A Grantee of an exclusive privilege under Section 22 shall not let or assign the same or any portion thereof unless he is expressly authorized, by a condition made under that section, to do so.

(2) Such letting or assignment shall be made only to a person approved by the Collector or (if the letting or assignment extends to more than one district) the Excise Commissioner.

(3) The lessee or assignee shall not exercise any rights as such unless and until the Collector has, upon his application, granted him a licence to do so.

24. Maintenance and use of measures, weights and Instruments by licensed manufacturers and vendors :-

Every person who manufactures or sells any intoxicant under a licence granted under this Act-

(a) shall supply himself with such measures, weights and Instruments as the Excise Commissioner may prescribe, and shall keep the same in good condition; and

(b) when such measures, weights and Instruments have been so prescribed, shall, on the requisition of any Excise Officer duly empowered by the Collector in this behalf, measure, weight or test any intoxicant in his possession, at such time and in such manner as such Officer may require.

25. Employment of persons under the age of 1[twentyone] years or women by licensed vendors :-

(1) No person who is licensed to sell foreign liquor for consumption on his premises shall during the hours in which such premises are kept open for business employ or permit to be employed, either with or without remuneration, any person under the age of 1[twentyone] years in any part of such premises in which such liquor is consumed by the public.

(1a) No person who is licensed to sell country spirit or any intoxicating drug shall employ or permit to be employed, either with or without remuneration, any person under the age of ¹[twentyone] years, in any part of the premises in which such spirit or drug is sold, during the hours in which such premises are kept open for business.

(2) No person who is licensed to sell foreign liquor for consumption on his premises shall, without the previous written permission of the Board, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman, in any part of such premises in which such liquor is consumed by the public.

(3) The State Government may, by notification, declare that sub-section (2) shall apply also, in any specified area, to persons licensed to sell country spirit for consumption on their premises.

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

1. Substituted for eighteen by Act 6 of 1985.

26. Power to close shops temporarily :-

(1) The District Magistrate or a Sub divisional Magistrate may, by notice in writing to the licensee require that any shop 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 any riot or unlawful assembly is apprehended or occurs in the vicinity of any shop in which any intoxicant is sold, any Magistrate, or any Police Officer above the rank of constable, who is present, may require such shop to be kept closed for such period as he may think necessary.

(3) When a direction is made by a Magistrate under sub-section (1) or sub section (2), or by a Police Officer under sub-section (2) such Magistrate or Police Officer shall forthwith inform the Collector of his action and of his reasons there for.

CHAPTER 5 DUTY

27. Power to impose duty on import, export, transport and manufacture :-

(1) An excise duty or a countervailing duty, as the case may be, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area on-

(a) any excisable article imported, or

(b) any excisable article exported, or

(c) any excisable article transported, or

(d) any excisable article (other than tan) manufactured under any licence granted in respect of clause (a) of Section 13, or

(e) any hemp plant cultivated, or any portion of such plant collected, under any licence granted in respect of clause (b) or clause (c) of Section 13, or

(f) any excisable article manufactured in any distillery or brewery licensed, established, authorised or continued under this Act.

Explanation.- Duty may be imposed on any article under this sub-section at different rates according to the places to which such article is to be removed for consumption, or according to the varying strength and quality of such article.

(2) A duty, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area, on any tari drawn under any licence granted under Section 14, sub-section (1).

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

(i) duty shall not be imposed thereunder on any article which has been imported into India and was liable, on such importation, to duty under the Indian Tariff Act, 1894 (8 of 1894), or the Sea Customs Act, 1878 (8 of 1878) if-

(a) the duty as aforesaid has been already paid, or

(b) a bond has been executed for the payment of such duty.

(ii) [Omitted by A.L.O.]

28. Ways of levying such duty :-

Subject to any rules made under Section 60, clause (12) any duty imposed under Section 27 may be levied in any of the following ways:-

(a) on an excisable article imported-

(i) by payment (upon or before importation) in the State or territory from which the article is brought, or

(ii) by payment upon issue for sale from a warehouse established, authorised or continued under this Act,

(b) on an excisable article exported-

by payment in the State or territory to which the article is sent;

(c) on an excisable article transported -

(i) by payment in the district from which the article is sent, or

(ii) by payment upon issue for sale from a warehouse established, authorised or continued under this Act.

(d) on intoxicating drugs manufactured, cultivated or collected -

(i) by a rate charged upon the quantity manufactured under a licence granted in respect of the provisions of Section 13, clause (a), or issued for sale from a warehouse established, authorised or continued under this Act, or

(ii) by a rate assessed on the area covered by, or on the quantity or out turn of, the crop cultivated or collected under a licence granted in respect of the provision of Section 13, clause (b) or clause (c);

(e) on spirit or beer manufactured in any distillery or brewery licensed, established, authorised or continued under this Act.-

(i) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued for sale from a Warehouse established, authorised or continued under this Act, or

(ii) in accordance with such scale of equivalents, calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the State Government may prescribe; and

(f) on tari drawn under a licence granted under Section 14, sub-section

(1) - by a tax on each tree from which the drawing of tari is permitted:

Provided that, 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 such warehouse:

1[Provided further that in case of excisable articles imported or transported on payment of duty according to the provisions of sub-clause(i) of clause (a) or clause(c) of this section, the difference of duty resulting from any provision in the rates of duty subsequent to such import shall be realised from, or credited to the account of the importing or transporting licence according to the revised rate of duty which may be higher or lower than the previous rate and the calculation thereof shall be made on the balance stock of excisable article on the date the revised rate of duty comes into effect:

Provided also that no tax shall be levied in respect of any tree from which tari is drawn only for the manufacture of gur or molasses and under such special conditions as the Board may prescribe.

1.Inserted by Bihar Act 4, 1973.

29. Payment for grant of exclusive privilege :-

Instead of or in addition to any duty leviable under this Act, the

State Government may accept payment of a sum in consideration of the grant of any exclusive privilege under Section 22.

29A. Saving for duties being levied at commencement of the Constitution :-

(1) Until provision to the contrary is made by the Parliament the State Government may continue to levy any duty to 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;

(c) any duty on medicinal or toilet preparations of the alcohol.

(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 6 LICENCES, PERMITS AND PASSES

30. Preparation of list of places for which it is proposed to grant licences for the retail sale of spirit :-

Before the expiration of every period for which existing licence for the retail sale of spirit or tari are in force, the Collector shall prepare a list, in a form prescribed by the Board, showing that licences it is proposed to grant for the retail sale of spirit or tari for consumption on the vendors premises for the next period of settlement.

31. Publication of such list :-

(1)The Collector shall-

(a) cause to be conspicuously affixed upon the site of each shop referred to in the said list a notice to the effect that it is proposed to grant a licence for the retail sale of spirit or tari thereat, or in the vicinity, for the next period of settlement;

(b) if any site referred to in the said list is not at the time used for the retail sale of spirit or tari, cause a notice to the effect that it is proposed to grant a licence for the retail sale of spirit or tari thereat, or in the vicinity for the next period of settlement, to be proclaimed in the locality by beat of drum;

(c) send a copy of the said list to the Chairman of the District Board;

(d) send to the Chairman of each municipality ¹[and Mayor of a Corporation] an extract reproducing so much of the said list as relates to shops in the municipality ¹[and municipal corporation];

(e) cause the said list, or any portion thereof, to be published in such other methods (if any) as may be prescribed by rule made under Section 89, clause (j).

(2) When a copy of the said list is sent to the Chairman of the

District Board, he shall send to each member of the District Board a copy thereof and to the Chairman of each local board an extract reproducing so much of the said list as relates to shops within the jurisdiction of the local board.

(3) When an extract is sent to the Chairman of any municipality under clause (d) of sub-section (1) he shall-

(i) cause a copy of the extract to be conspicuously affixed at the central office of the municipality; and

(ii) send to each Municipal Commissioner a copy of the extract.

1. Inserted by Act 6 of 1985.

32. Time for preparation and publication of such list :-

The list mentioned in Section 30 shall be prepared, and shall be published under Section 31, at such time as may be prescribed by rule made in this behalf under Section 89, clause (j).

33. Submission of objections and opinions to Collector :-

(1) Objections to any proposal contained in any list prepared under Section 30 may be received, at any time prior to the date prescribed by rule made in this behalf under Section 89, clause (j), from-

(a) persons paying municipal rates and residing in any municipality 1[or Corporation] to which such proposal relates, or (if any such municipality 1[or Corporation] is divided into wards) in the ward to which such proposal relates or in any ward adjoining such ward; or

(b) in the case of shops not situated in any municipality 1[or Corporation] persons owning or occupying land, or residing, in the vicinity of the shop to which such proposal relates; or

(c) the District Board; or

(d) the District Magistrate.

(2) Such objection must be submitted to the Collector, or in any municipality ¹[or Corporation] either to the Chairman of the municipality ¹[or Mayor of the Corporation] or to the Collector.

(3) Every Chairman of a district board or municipality ¹[or Mayor of a Corporation] to whom a copy or an extract has been sent under Section 31, clause(c) or clause (d), as the case may be, shall send to the Collector, by date prescribed by rule made in this behalf under Section 89, clause (j),-

(i) in a case of a municipality [or Mayor as the case may be], all objections (if any) to proposals contained in the extract which may be received by the Chairman, from persons paying municipal rates, before that date; and

(ii) in the case of a district board, all objections (if any) to proposals contained in the list which may be received by the Chairman from members of the district board, the Chairman of any local board; and

(iii) any opinion which the Chairman or the member of the district board or the Municipal Commissioner ¹[or Councillor of a Corporation], as the case may be, may wish to record on the said proposals.

1. Inserted by Act 6 of 1985.

34. Grant of licences by Collector and submission of list, objections and opinions to Excise Commissioner :-

(1) After the date prescribed for the receipt of objections and opinions submitted under Section 33, the Collector shall consider the same, and shall, if necessary, revise the said list, and shall decide for what place licence for the retail sale of spirit shall be granted, and may, in his direction, grant licences accordingly,

(2) The Collector shall then forthwith submit the said list, as so revised and the said objections and opinions, and his own opinion to the Excise Commissioner.

35. Finality of decision of Excise Commissioner xxx :-

Finality of decision of Excise Commissioner ¹[xxx]

The Excise Commissioner shall consider the list, objections and opinions so set to him and may modify or annul any order passed or licence granted by the Collector and, notwithstanding anything contained in Section 8, his orders shall be final.

1."Or Board" omitted by Act 6 of 1985.

36. Applications of Sections 30 to 35 to licences for retail sale of intoxicants other than spirit :-

The provisions of Sections 30 to 35 as to licences for the retail sale of spirits shall apply also in respect of licences for the retail sale, in any local area specified in any order made in this behalf on any other intoxicant specified in such order.

37. Exemption of certain licences from Sections 30 to 36 :-

Sections 30 to 36 shall not apply in the case of any licence which it is proposed to grant-

(a) to any person, for the retail sale of any intoxicant during any period not exceeding six months; or

(b) to any person, for the retail sale of any denatured spirit; or

(c) to any person, for the retail of any intoxicant, in substitution for a licence which has been cancelled or surrendered before the expiration of the period for which it was granted; or

(d) to any medical practitioner chemist, druggist, apothecary or keeper of a dispensary for the retail sale of any intoxicant for medical purposes.

38. Fees for terms, conditions, and form of, and duration of, licences, permits and passes :-

(1) Every licence, permit or pass granted under this Act-

(a) shall be granted-

(i) on payment of such fees (if any), and

(ii) subject to such restrictions and on such conditions, and

(b) shall be in such form and contain such particulars, as the Board may direct.

(2) Every licence, permit or pass under this Act shall be granted for such period (if any) as may be prescribed by rule made by the State Government under Section 89, clause (e)39. Power of Board to reduce fees-

The Board may, if it thinks fit, at any time during the period for which any licence has been granted, order a reduction of the amount of fees payable in respect thereof during the unexpired portion of the grant.

39. xxx xxx xxx :-

xxx xxx xxx

40. Counterpart agreement by licensee and security or deposit :-

Any authority granting a licence under this Act may require the grantee to execute a counterpart agreement in conformity with the tenure of his licence, and to give such security for the performance of such agreement, or to make such deposit in lieu of security, as such authority may think fit.

41. Technical defects, irregularities and omissions :-

(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 proceeding 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.

42. Power to cancel or suspend licence, permit or pass, or impose penalty :-

1[(1)- **2**["Subject to restrictions as the State Government may prescribe the authority who granted any licence, permit or pass under this Act may cancel, suspend it or impose penalty."]

(a) if it is transferred or sublet by the holder thereof without the permission of the said authority; or

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

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

(d) if the holder thereof is convicted of any offence punishable to revenue under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence punishable under the Dangerous Drugs Act, 1930 (2 of 1930) or under the Merchandise Marks Act, 1889 (4 of 1889), or under other section which has been introduced into the Indian Penal Code by Section 3 of that Act; or

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

(f) where a licence, permit or pass has been granted on the application of the holder of an exclusive privilege granted under Section 22- on the requisition in writing of such holder; or

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

3["(h)

(i) for breach of such conditions of licence, which caused loss of revenue to the State (including Excise duty, other admissible fee, Sales Tax etc.) in addition to the total amount of loss on equal amount shall be imposed as penalty.

(ii) Penalty of two hundred per cent of loss of revenue shall be imposed for subsequent economic offence committed under clause (h) (i) of the said sub-section (i).]

(2) When a licence, permit or pass held by any persons is cancelled

under clause (a), clause (b), clause (c), clause (d) or clause (e) of sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person by, or by the authority of the State Government under this Act, or under any other law for time being in force relating to Excise, or under the Opium Act, 1878 (1 of 1878).

4[(3) When a licence, permit or pass is liable to be cancelled, it may, at the discretion of the authority who granted the same, be suspended for a period of ninety days at a time, provided the authority concerned may extend the period of suspension beyond ninety days under exceptional circumstances, after recording reasons for the same.]

(4) The holder of a licence, permit or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof.

1. "Heading of Section 42" Substituted by Bihar Act 2, 2007.
2. Substituted by *ibid*
3. Clause (h) Inserted by Bihar Act 2, 2007
4. Inserted by Act 6 of 1985 and existing sub-section (3) was made sub-section (4) thereof

43. Power to withdraw licences :-

(1) Whenever the authority who granted any licence under this Act considers that the licence should be withdrawn for any cause other than those specified in Section 42, it shall remit a sum equal, 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 to do so, or

(b) forthwith, without notice.

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

(3) If any licence be withdrawn under clause (a) of sub-section (1), the Excise Commissioner may, in special circumstances, direct the payment of such compensation as he may consider fit in addition to the remission of the fee as aforesaid.

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

(5) For the purpose of calculating the amount due to the State Government mentioned in sub-section (4), the amount of fee payable on account of the licence for the period during which it was in force shall be taken to be the sum bearing the same proportion to the total fee for the whole period for which the licence was settled as the period during which the licence was actually in force bears to the full period for which the licence was settled.

44. Surrender of licence :-

(1) Any holder of a licence granted under this Act to sell an intoxicant may, unless his licence is liable to cancellation or suspension under Section 42, surrender the same-

(a) on the expiration of one months notice in writing given by him to the Collector of his intention to surrender it, and

(b) on payment of the fees payable for the licence for the whole 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 the surrender of a licence, he may remit to the holder thereof the sum so payable on surrender, and any fees paid in advance or any portion of such sum or fees.

(2) Sub-section (1) shall not apply in the case of a licence for the sale of any country liquor or intoxicating drug in the exercise of an exclusive privilege granted under Section 22.

Explanation.- The words "holder of a 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.

45. Bar of right to renewal and to compensation :-

No person to whom any licence has been granted under this Act shall have any claim to the renewal of such licence or, save as provided in Section 43, any claim to compensation on the determination thereof.

CHAPTER 7 DEPARTMENTAL MANAGEMENT OR TRANSFER

46. Power of Collector to take grants under management or to transfer them :-

(1) If any holder of a licence granted under this Act or any person to whom an exclusive privilege has been granted under Section 22, contravenes any provision of this Act or any rule made hereunder, or makes default in complying with any condition imposed upon him such licence or privilege, the Collector may (in the case of a licence, after the cancellation thereof, and in the case of any exclusive privilege, at any time)-

(a) take the grant under management, at the risk and loss of the person to whom it was made; or (b) transfer the unexpired portion of the grant, at the risk and loss of the said person, to any other

person.

(2) If a licence granted to any person under this Act is withdrawn under Section 43, or surrendered under Section 44, the Collector may after the withdrawal or surrender thereof, take the grant under management, or transfer the unexpired portion of the grant to any other person.

CHAPTER 8 OFFENCES AND PENALTIES

47. Penalty for unlawful import, export, transport, manufacture, possession, consumption, sale etc :-

1[If any person, in contravention of this Act, or of any rule, notification, or order made, issued or given or licence, permit or pass granted under this Act-

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

(b) cultivates any hemp-plant; or

(c) collects or sells any portion of the hemp-plant from which an intoxicating drug can be manufactured or produced; or

(d) bottles any liquor for purposes of sale; or

(e) works any distillery or brewery; 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 far/; or

(g) establishes any distillery, brewery or warehouse; or

(h) removes any intoxicant from any distillery, brewery, warehouses, other place of storage licensed, established, authorised or continued under this Act.

He shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine which may extend to five thousand rupees and in default of payment of fine, he shall be punished with a further imprisonment for a term which may extend to one year:

Provided that this punishment shall be-

(1) for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees and in default of payment of fine, a further imprisonment for a term of fifteen days;

(2) for the second and subsequent offences he shall be liable for imprisonment for a term which shall not be less than six months and a fine of not less than one thousand rupees, and in default of payment of fine a further imprisonment for a term of one month.]

1. Substituted by act 6 of 1985.

47A. Penalty for offences committed by any Company :-

1[Where any offence punishable under this Act is committed by a Company, and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary, Agent, Officer or person concerned in the management of the Company, such Director, Manager, Secretary, Agent, Officer or person concerned, shall be liable to be proceeded against and punished accordingly.

For the purposes of this section-

(a) Company means a body corporate and includes a firm or other association of individuals; and

(b) Director in relation to a firm means a partner of the firm.]

1. Inserted by act 6 of 1985.

48. Presumption as to offence where possession is not satisfactorily accounted for :-

In prosecution under Section 47 it may be, presumed, unless and 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 any intoxicant other than tari, 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 fails to account satisfactorily.

49. Penalty for altering or attempting to alter any denatured spirit :-

1[If any person alters or attempts to alter any denatured spirit, whether manufactured in India or not, 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 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, and shall also be liable to fine which may extend to five thousand rupees and in default of

payment of fine, shall be punishable with a further imprisonment for a term which may extend to one year:

Provided that this punishment shall be-

(1) for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees, and in default of payment of fine, a further imprisonment for a term of fifteen days;

(2) for the second and subsequent offences, he shall be liable for imprisonment for a term which shall not be less than six months and a fine of not less than one thousand rupees, and in default of payment of fine, further imprisonment for a term of one month.]

1. Substituted by act 6 of 1985.

50. Presumption as to offence under Section 49 in certain cases :-

In prosecution under Section 49, when the accused person is proved to have been in possession of any spirit which is, or contains, or has been derived from, denatured spirit, and in respect of which any such alteration or attempt as is referred to in Section 49 has been made, it may, from the mere fact of such possession, be presumed, unless and until the contrary is proved, that such person-

(i) has himself made such alteration or attempt, or

(ii) knows or has reason to believe that such alteration or attempt has been made.

51. Presumption as to any spirit being, or containing or having been derived from denatured spirit :-

In any prosecution under this Act it may be presumed, unless and until the contrary is proved that any spirit which is proved to contain any quantity of any denaturant is, or contains, or has been derived from denatured spirit.

52. Penalty for adulteration by licensed manufacturer or vendor, or his servant :-

If any 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 article prohibited by rule made under Section 90, clause (9), sub-clause (i), and such mixing does not amount to an offence punishable under Section 272 of the Indian Penal Code (45 of 1860), or has in his possession any intoxicant in respect of which such admixture has been made, he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

53. Penalty for fraud by licensed manufacturer or vendor or his servant :-

If any licensed manufacturer or licensed vendor, or any person in his employ and acting on his behalf,-

(a) sells, or keeps or exposes for sale, as foreign liquor, any liquor which he knows or has reason to believe to be country liquor, and such sale does not amount to an offence punishable under Section 417 or Section 418 of the Indian Penal Code (45 of 1860), or

(b) marks any bottle, case, package or other receptacle containing country liquor, or the cork of any such bottle, or deals with any bottle, case, package or other receptacle containing country liquor, with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, and such marking or dealing does not amount to an offence punishable under

Section 482 of the said Indian Penal Code (45 of 1860), he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or both.

54. Penalty for certain unlawful acts of licensed vendors or their servants :-

(1) If any licensed vendor, or any person in his employ and acting on his behalf,-

(a) in contravention of Section 25, employs or permits to be employed, in any part of his licensed premises referred to in that section, any person under the age of 1[twenty one] years or any woman; or

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

(c) sells or delivers any spirit or intoxicating drug to any person apparently under the age of 1[twenty one] years, whether for consumption by such person or by any other person, and whether for consumption on or off the premises of such vendor; or

(d) permits drunkenness, intoxication, disorderly conduct or gaming on the premises of such vendor; or

(e) permits any person whom he knows, or has reason to believe, to have been convicted of any non-bailable offence, or who are reputed prostitutes, to meet, or any such person to remain, on the premises of such vendor, whether for the purpose of crime or prostitution or not, he shall be liable to fine which may extend to five hundred rupees.

(2) When any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness or intoxication on the premises of such vendor, and it is proved that

any person was drunk or intoxicated on such premises, it shall lie on the person charged to prove that the vendor and the person employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises.

1. Substituted for "Eighteen" by Act 6 of 1985

55. Penalty for possession of intoxicant in respect of which an offence has been committed :-

1[If any person, without lawful authority, has in his possession, any intoxicant, knowing or having reason to believe the same to have been unlawfully imported, transported, manufactured, or knowing or having reason to believe that the prescribed duty has not been paid thereon, he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees and in default of payment of fine, shall be punished with a further imprisonment for a term which may extend to one year:

Provided that, except for such small quantities of intoxicant as may be specified in this behalf, the punishment for the offence shall be-

(1) for the first offence, he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees, and in default of payment of fine a further imprisonment for a term of fifteen days;

(2) for the second and subsequent offences, imprisonment for a term which shall not be less than six months, and fine of not less than one thousand rupees and in default of payment of fine, a further imprisonment for a term of one month.]

1.Substituted by act 6 of 1985.

56. Penalty for consumption in chemists shop, etc :-

(1) If any chemist, druggist, apothecary, or keeper of a dispensary 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, he shall be liable to imprisonment for a term which may extend to three months or to fine which may extend to one thousand rupees, or to both.

(2) If any person not employed as aforesaid consumes any such intoxicant on such premises, he shall be liable to fine which may extend to two hundred rupees.

57. Penalty for certain acts by licensee or his servant :-

If any holder of a licence, permit or pass granted under this Act, or any person in his employ and acting on his behalf,-

(a) fails to produce such licence, permit or pass on the demand of any officer empowered by the State Government by notification to make such demand, or

(b) in any case not provided for in Section 47, wilfully contravenes any rule made under Section 89 or Section 90, or

(c) wilfully does any act, in breach of the conditions of the licence, permit or pass, for which a penalty is not prescribed elsewhere in this Act, he shall be liable in case (a), to fine which may extend to two hundred rupees and in case (b) or in case (c), to fine which may extend to five hundred rupees.

58. Import, export, transport, manufacture, sale or possession by one person on account of another :-

(1) When any intoxicant has been imported, exported, transported, manufactured or sold or is possessed by any person on account of any other person, and such person knows or has reason to believe that such import, export, transport, 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 imported, exported, transported, 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 imports, exports, transports, manufactures, sells or has possession of an intoxicant on account of another person from liability to any punishment under this Act for the unlawful import, export, transport, manufacture, sale or possession of such article.

59. Criminal liability of licensee for acts of servant :-

When an offence punishable under Section 47, Section 52, Section 53, Section 54, Section 55 or Section 56, 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 offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

60. Imprisonment under Section 58 or Section 59 :-

No person on whose account an intoxicant, has been illegally imported, exported, transported, manufactured, sold or held in possession within the meaning of Section 58, and no holder of a licence, permit or pass who may be punishable under Section 59, shall on conviction, be punished with imprisonment, except in default of payment of fine.

61. Penalty on Excise Officer making vexatious search, seizure, detention, or arrest, or refusing duty or being guilty of cowardice :-

If any Excise Officer-

(a) without reasonable grounds of suspicion, searches or causes to be searched, any place, under colour of exercising any power conferred by this Act. or

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

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

(d) without lawful excuse ceases, or refuses to perform, or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector or unless he has given to his immediate superior two months notice in writing of his intention to do so, or

(e) is guilty of cowardice, he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees or to both.

62. Penalty for offence not otherwise punishable :-

If any person is convicted of any act in contravention of any of the provision of this Act, or of any rule, notification, or order made, issued or given under this Act, for which a penalty is not prescribed elsewhere in this Act, he shall be liable to fine which may extend to two hundred rupees.

63. Penalty for contempt of Court :-

Every proceeding under this Act before a Collector or before any Officer, of such rank as the State Government may, by notification prescribe, who is exercising powers of a Collector, shall be deemed to be a "judicial proceeding" within the meaning of Section 228 of the Indian Penal Code (45 of 1860).

64. Punishment for attempt to commit or abet the commission of the offence :-

1[Whosoever attempts to commit or abets the commission of an offence punishable under the Act, shall be liable to the punishment provided for such offences.]

1. Substituted by act 6 of 1985.

65. Enhanced punishment after previous conviction :-

If any person, after having previously been convicted of an offence punishable under Section 47, Section 49, Section 55, or Section 56, or under similar provisions in the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), or in any previous enactment repealed thereby, subsequently commits and is convicted of an offence punishable under any of those 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 **1**[XXI] of the Code of Criminal Procedure, 1973 (2 of 1974) from being so tried.

1. Substituted by act 6 of 1985.

66. What things are liable to confiscation :-

(1) Whenever an offence has been committed which is punishable under this Act, the intoxicant, materials, still, utensil, implement and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

(2) Any intoxicant lawfully imported, transported, manufactured, in possession or sold along with, or in addition to, any intoxicant

which is liable to confiscation under sub-section (1), and the receptacles and covering in which any such intoxicant as first aforesaid, or any such materials, still, utensil, implement or apparatus as aforesaid, is found, and the other contents, if any, of such receptacles or packages, and the animals, carts, vessels, rafts or other conveyances used in carrying the same, shall likewise be liable to confiscation:

Provided that no animal, cart, vessel raft or other conveyance as aforesaid shall be liable to confiscation unless the owner thereof is proved to have been implicated in the commission of the offence.

67. Confiscation by Magistrate or Collector :-

(1) When, in any case tried by him, the Magistrate decides that anything is liable to confiscation under Section 66, he may either order confiscation or give the owner of such thing an option to pay in lieu of confiscation, such fine as the Magistrate thinks fit.

(2) Whenever anything is liable to confiscation under Section 66 and the offender or the person entitled to possession 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 be 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 produces 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 its 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 the sale.

68. Power to compound offences and to release property

liable to confiscation :-

(1) The Collector or any Excise Officer specially empowered by the State Government in this behalf, not below the rank of Deputy Collector or Superintendent of Excise-

1[(a) may subject to any restriction imposed by any rules made under clause (k) of Section 89 accept from any person whose licence, permit or pass is liable to be cancelled, suspended or imposed penalty on economic offence under clause (a), clause (b), clause (d), clause (e), clause (f), clause (g), and clause (h) of Section 42 or who is reasonably suspected of having committed an offence punishable under any section of this Act other than Section 61, payment of a sum of money minimum rupees one thousand and maximum Rupees one lac, depending on quantum of evasion or repetition of breach in lieu of such cancellation, suspension or by way of compensation for such offence, as the case may be.]

(b) in any case in which any property has been seized as being liable to confiscation under Section 66, may, at any time before the magistrate has passed an order under Section 67, sub-section (1) release the property on payment of any sum not exceeding the value thereof as estimated by the Collector or such Excise Officer.

(2) When the payments referred to in sub-section (1) have been duly made, the accused person, if in custody, shall be discharged, and the property seized (if any) shall be released, and no further proceedings shall be taken against such person or property.

1. Substituted for Bihar Act 2 of 2007.

CHAPTER 9 DETECTION, INVESTIGATION AND TRIAL OF OFFENCES, AND PROCEDURE

69. Power to enter and Inspect, and power to test and seize measures, etc :-

Any of the following officers, namely:-

(a) the Excise Commissioner, or

(b) a Collector, or

(c) any Excise Officer not below such rank as the State Government may, by notification, prescribe, may subject to any restrictions prescribed by the State Government by rule made under Section 89,-

(i) enter and Inspect at any time by day or night, any place in which any licensed manufacturer carries on the manufacture of or stores any intoxicant; and

(ii) enter and Inspect, at any time during which the same may be open, any place in which any intoxicant is kept for sale by any licensed person; and

(iii) examine the accounts and registers maintained in any such place as aforesaid; and

(iv) examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or intoxicant found in any such place as aforesaid; and

(v) examine or test and seize any measures, weights or testing Instruments, found in any such place as aforesaid, which he has reason to believe to be false.

70. Power to arrest without warrant, to seize articles liable to confiscation, and to make searches :-

Any of following persons, namely:-

(a) any officer of the Excise, Police, Salt, Customs or Land-revenue Department, or

(b) any person empowered by the State Government in this behalf, by notification, may, subject to any restrictions prescribed by the State Government by rule made under Section 89-

(i) arrest without warrant any person found committing an offence punishable under Section 47, Section 49, Section 55, or Section 56,

(ii) seize and detain any 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 the excise-revenue ; and

(iii) 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.

71. Power of Collector to issue warrant of arrest :-

The Collector or any Magistrate empowered to try offences punishable under this Act, may issue a warrant for the arrest of any person whom he has reason to believe to have committed or abetted any offence punishable under Section 47, Section 49, Section 55, or Section 56.

72. Power to issue search warrant :-

If any Collector or any Magistrate empowered to try offences punishable under this Act, upon information received, and after such inquiry (if any) as he thinks necessary, has reason to believe that any offence punishable under Section 47, Section 49, Section 55, or Section 56 has been, or, is likely to be, committed or abetted,

he may issue a warrant to search for any intoxicant, material, still, utensil, implement or apparatus in respect of which the alleged offence has been, or is likely, to be, committed or abetted, or any document which throws or is likely to throw any light on the alleged offence.

73. Power of Collector or Magistrate to arrest or search without issue of warrant :-

The Collector or any Sub-Divisional Magistrate or Magistrate of the first class may, at any time,-

(a) arrest, or direct the arrest in his presence of, any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under Section 71, or

(b) search, or direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant under Section 72.

74. 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 punishable under Section 47, Section 49, Section 55 or Section 56 has been, is being or is likely to be committed or abetted, and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may, after recording the grounds of his belief, at any time, by day or night, enter and search any place, and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search, and, if he thinks proper, arrest, any person found in such place whom he has reason to believe to have committed or abetted any such offence as aforesaid.

75. Information and aid to Excise Officers :-

(1) Every officer of the Police, Salt, Customs and Land Revenue Departments, shall be bound subject to any rules made under Section 89, clause (1), to give immediate information to an Excise Officer of all breaches of any of the provisions of this Act which may come to his knowledge.

(2) Every officer referred to in sub-section (1), and every village chaukidar and dafadar, shall be bound, subject to any rules made under Section 89, clause (1) , to give reasonable aid to any Excise Officer in carrying out the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, upon request made by such officer.

76. Duty of owners and occupiers of land and other persons to give notice of unlicensed manufacture :-

Whenever any intoxicant is manufacture don any land or premises, or any hemp plant is cultivated, or any portion of the hemp plant from which an intoxicating drug can be manufactured or produced is collected, on any land in contravention of this Act, all owners and occupiers of such land or premises, and their agents and all panchayats, village-headmen, patwaris, sarbarakar, chaukidars and dafadars of the village, shall, in the absence of reasonable excuse, be bound to give notice of the fact to a Magistrate or an Officer of the Excise, Police or Land-Revenue Department, as soon as the fact comes to their knowledge.

77. What Excise offences Officers may investigate :-

(1) A Collector may, without the order of a Magistrate, investigate offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collectors jurisdiction would have powers to inquire into or try under the provisions of ¹[Chapter XIII of the Code of Criminal Procedure, 1973 (Act 2 of 1974)] relating to the place of inquiry or trial.

(2) Any other Excise Officer specially empowered in this behalf by the State Government in respect of all or any specified class of offences punishable under this Act may, without the order of a Magistrate, investigate any such offence which a Court having jurisdiction over the local area to which such officer is appointed would have power to inquire into or try under the aforesaid provisions.

1. Substituted by Act 6 of 1985

78. Powers and duties of Excise Officer investigating offences :-

(1) Any Collector, or any Excise Officer empowered under Section 77, sub-section (2) may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise-

(a) any of the powers conferred upon a Police Officer making an investigation, or upon an officer-in-charge of a police-station, by Sections 160 to 171 of the 1[Code of Criminal Procedure, 1973 (Act 2 of 1974)] and

(b) as regards offences punishable under Section 47, Section 49, Section 55, or Section 56 of this Act- any of the powers conferred upon Police Officers in respect of cognizable offences by clause first of sub-section (1) of Section 1[41] and by Section 1[55] of the said Code, and the said portions of the said Code shall apply accordingly, subject to any restrictions or modifications prescribed by the State Government by the rule made under Section 89, Clause (o).

(2) Subject to any restrictions prescribed by the State Government a Collector or an Excise Officer empowered under Section 77, sub-section (2), 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 offence which he or any Excise Officer subordinate to him has investigated.

(3) For the purposes of Section 156 of the ¹[Code of Criminal Procedure, 1973 (2 of 1974)], the area to which an Excise Officer empowered under Section 77 sub-section (2), is appointed shall be deemed to be a Police-Station, and such officer shall be deemed to be the Officer-In-Charge of such station.

(4) As soon as investigation by a Collector or by an Excise Officer empowered under Section 77, sub-section (2), has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a magistrate, the investigating officer, unless he proceeds under sub-section (2) of this section or under Section 68 of this Act, shall submit a report which shall, for the purposes of Section 190 of the ¹[Code of Criminal Procedure, 1973 (2 of 1974)] 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.

1. Substituted by Act 6 of 1985

79. Security and bail :-

(1) Wherever a Collector or Magistrate issues a warrant under this Act for the arrest of any person, he shall direct, by endorsement on the warrant, that, if such person executes a bond with sufficient sureties for his attendance before the Collector or before an Excise Officer empowered under Section 77, sub-section (2) to investigate the case, at a specified time and thereafter until otherwise directed by the Collector or an Excise Officer empowered as aforesaid, the officer to whom the warrant is directed shall take such security, and shall release such person from custody.

(2) The endorsement shall state-

(a) the number of sureties,

(b) the amount in which they, and the person for whose arrest the

warrant is issued, are respectively to be bound, and

(c) the time at which such person is to attend as aforesaid.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Collector or an Excise Officer empowered as aforesaid.

1[(4) Whenever any person is arrested for any offence punishable under any section of this Act other than Section 47, Section 49, Section 55 or Section 56 of the Act otherwise than under a warrant, and is prepared to give bail he shall be released on bail, or, at the discretion of the officer releasing him on his own bond. The offences punishable under Section 47, Section 49, Section 55 and Section 56 shall be non-bailable and the provisions of the Code of Criminal Procedure, 1973 (Act 2 of 1974) in this regard shall apply to such offences.]

(5) Any Excise Officer not below such rank as the State Government may, by notification, prescribe, may release persons on bail or on their own bonds.

(6) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before the Collector or an Excise Officer empowered under Section 77, sub-section (2), to investigate the case.

1[(7) The provision of Sections 440 to 444, 445, 446, 449 of the Code of Criminal Procedure, 1973 (Act 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.]

1. Substituted by Act 6 of 1985

80. Production of articles seized and persons arrested :-

(1) Articles seized under the warrant of the Collector and, unless security for their appearance before the Collector be taken, persons arrested under such a warrant shall be produced before the Collector.

(2) Articles seized under Section 69, Section 70 or Section 72 and persons arrested under this Act, by persons or officers not having authority to release arrested persons on bail or on their own bond, shall be produced before or forwarded to-

(a) the Collector or an Excise Officer empowered under Section 77, sub section (2), to investigate the case, or

(b) the nearest Excise Officer who has authority to release arrested persons on bail or on their own bond, or

(c) the Officer-In-Charge of the nearest police-station, whoever is nearer.

(3) When a person arrested is produced before an Excise Officer who has authority to release arrested persons on bail or on their own bond, or before an Officer-In-Charge of a police-station, such officer shall forward such person to, or take security for his appearance before, the Collector or the Excise Officer empowered under Section 77, sub-section (3), to investigate the case.

(4) When any articles seized cannot conveniently be conveyed before an officer referred to in sub-section (1) or sub-section (2), as the case may be, the person making the seizure shall dispose of them in some place of safety and forthwith report the seizure to such an officer.

81. Custody by police of articles seized :-

(1) All Officer-In-Charge of police-stations shall take charge of and keep in safe custody pending the orders of a Magistrate, or of the

Collector, or of an Excise Officer empowered under Section 77, sub-section (2), to investigate the case, all articles seized under this Act which may be delivered to them and shall allow any Excise Officer who may accompany with articles to the police-station or who may be deputed for the purpose by an official superior, to affix his seal to such articles and to take samples of and from them.

(2) All samples so taken shall be sealed with the seal of the Officer-In-Charge of the police-station.

82. Reports of arrests, seizures and searches :-

When any Excise Officer below the rank of Collector, or any Officer-In-Charge of a police-station, makes, or receives information of any arrest, seizure or search under this Act, he shall, within twenty four hours thereafter, make a full report of all the particulars of the arrest, seizure, or search or of the information received to the Collector, and to the Excise Officer (if any) empowered under Section 77, sub-section (2), within the local limits of whose jurisdiction the arrest, seizure, or search was made.

83. Execution of Collectors warrant :-

Any warrant issued by a Collector may be executed by any officer selected by the Collector for the purpose.

84. Maximum period of detention :-

(1) Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for, such arrest and shall be produced before nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journeys from the place of arrest to the court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

(2) A Magistrate to whom an accused person is forwarded under ¹[Section 167 of the Code of Criminal Procedure 1973 (Act 2 of 1974) by a Collector or an Excise Officer empowered under Section 77, sub-section (2), may exercise the power conferred upon a Magistrate by the said Section 167.

1. Substituted by Act 6 of 1985

85. Application of certain provisions of the Code of Criminal Procedure, 1973 :-

Application of certain provisions of the Code of Criminal Procedure, ¹[1973]

(1) Save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, ¹[1973 (Act 2 of 1974)] relating to arrests, detentions in custody, searches, summonses, warrants of arrest, search warrants and the production of persons arrested shall apply so far as may be, to arrests, detentions and searches made, summonses and warrants issued, and the production of persons arrested under this Act.

(2) For the purposes of the said provisions of the said Code, a Collector shall be deemed to be a Court.

(3) Officers to whom a Collectors warrant is directed or endorsed and Officers (other than Collectors) making arrests, searches or seizures under this Act, shall, for purposes of the said provisions of the said Code, be deemed to be Police Officers.

1. Substituted by Act 6 of 1985

86. Magistrate having jurisdiction to try offences :-

No Magistrate other than-

(a) a Magistrate whose powers are not less than those of a

Magistrate of the second class, or

(b) a Magistrate of the third class specially empowered by the District Magistrate in this behalf, shall try any offence punishable under this Act.

86A. Scales of punishment from the date of publication of this Act :-

1[Any person found guilty of any offence against the provisions of Bihar and Orissa Excise Act from the date of publication of this Act, shall be punished according to the existing scales of punishment as provided under the Act.]

1. Substituted by Act 6 of 1985

87. Initiation of certain prosecution :-

No Magistrate shall take cognizance of an offence referred to-

(a) in Section 47, Section 49, Section 55, or Section 56, except on his own knowledge or suspicion or on the complaint or report of an Excise Officer or an officer empowered in this behalf by the State Government; or

(b) in Section 57, Section 61, Clause (d) or Clause (e), or Section 62, except on the complaint or report of the Collector or an Excise Officer authorised by the Collector in this behalf.

88. Bar to transfer of trial on application of accused :-

The provisions of Section 191 of the Code of Criminal Procedure, **1**[1973 (Act 2 of 1974)] shall not apply in any case in which a magistrate (not being the Collector) takes cognizance of an offence under this Act on the report of any officer referred to in Clause (a)

or Clause (b) of Section 87.

1. Substituted by Act 6 of 1985

CHAPTER 10 MISCELLANEOUS

89. Power of State Government to make Rules :-

(1) The State Government may make Rules to carry out the objects of this Act or any other law for the time being in force relating to the excise revenue.

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

(a) for prescribing the powers and duties of officers of the Excise Department;

(b) for regulating the delegation of any powers by the Board, the Commissioner of a Division, the Excise Commissioner or Collectors under Section 7, Clause (g);

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

(d) for regulating the import, export or transport of any intoxicant;

(e) for regulating the periods for which licenses for the wholesale or retail vend of any intoxicant may be granted and the number of such licences which may be granted for any local area;

(f) for prohibiting the grant of licences for the retail sale of any intoxicant at any place or within any local area described in the

rules, or for defining the places in the vicinity of which shops for the retail sale of any intoxicant shall not ordinarily be licensed;

(g) for prohibiting the grant to specified classes of persons of licences for the retail sale of any intoxicant;

(h) for declaring, either generally, or in respect of areas described in the rules, the persons or classes of persons to whom any intoxicant may or may not be sold;

(i) for regulating the procedure to be followed and prescribing the matters to be ascertained before any licence for the wholesale or retail vend of any intoxicant is granted for any locality;

(j) for restricting the exercise of any of the powers conferred by clause(a) of sub-section (1) of Section 68 and by Section 69 and 70;

(k) for declaring the Excise Officers to whom, and the manner in which information or aid should be given under Section 75;

(l) for the grant of expenses to witnesses:

(m) for the grant of compensation for loss of time to persons released by any Excise Officer under this Act on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences punishable under this Act and subsequently acquitted; and

(n) for prescribing restrictions or modifications in the application to Excise Officers of the provisions of the Code of Criminal Procedure ¹[1973 (Act 2 of 1974)] relating to powers of Police Officers which are referred to in Section 78, sub-section (1) of this Act.

(3) The powers conferred by this section for making rules are

subject to the condition that rules be 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 once.

1 Substituted by Act 6 of 1985

90. Power of Board to make Rules :-

The board may make Rules-

(1) for regulating the manufacture, supply, or storage of any intoxicant and in particular, and without prejudice to the generality of this provision, may make Rules for regulating-

(a) the establishment, Inspection, supervision, management and control of any place for the manufacture, supply or storage of any intoxicant, and the provision and maintenance of fittings, implements and apparatus therein;

(b) the bottling of liquor for purposes of sale;

(c) the cultivation of the hemp plant;

(d) the collection of portions of the hemp plant from which intoxicating drugs can be manufactured or produced and the manufacture or production of intoxicating drugs therefrom;

(e) the tapping of tari-producing trees and the drawing of tari from trees;

(f) the marking of tari-producing trees in areas notified under

Section 14, sub-section (1), and the maintenance of such marks;

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

(3) for declaring how spirit manufactured in India shall be denatured;

(4) for causing spirit so manufactured to be denatured through the agency or under supervision of servants of the Government;

(5) for ascertaining whether any spirit so manufactured has been denatured;

(6) for regulating the deposit of any intoxicant in a warehouse established, authorised or continued under this Act and the removal of any intoxicant from any such warehouse or from any distillery or brewery;

(7) for prescribing the scale of fees or the manner of fixing the fees payable in respect of any exclusive privilege granted under Section 22 or any licence, permit or pass granted under this Act, or in respect of the storing of any intoxicant;

(8) for regulating the time, place and manner of payment of such fees;

(9) for prescribing the restrictions under which or the conditions on which any licence, permit or pass may be granted, and in particular, and without prejudice to the generality of this provision, may make rules for-

(i) prohibiting the admixture with any intoxicant or any article

deemed to be noxious or objectionable,

(ii) regulating or prohibiting the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength,

(iii) prescribing the nature and regulating the arrangement of the premises in which any intoxicant may be sold, and prescribing the notices to be exposed at such premises,

(iv) prohibiting or regulating the employment by the licensee of any person or class of persons to assist him in his business,

(v) prohibiting the sale of any intoxicant except for cash,

(vi) prescribing the days and hours during which any licensed premises may or may not be kept open, and providing for the closing of such premises on special occasions,

(vii) prescribing the accounts to be maintained and the returns to be submitted by licensees, and

(viii) regulating the transfer of licences;(10) for prescribing the particulars to be contained in licences, permits or passes granted under this Act;

(11) for the payment of compensation to licensees whose premises are closed under Section 26 or under any rule made under sub-clause (vi) of clause (9) of this Section;

(12) for prescribing the time, place and manner of levying duty on intoxicants;

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

(14) for regulating the disposal of things confiscated under this Act.

Explanation.- Fees may be prescribed under clause (7) of this section at different rates for different classes of exclusive privileges, licences, permits, passes or storage, and for different areas.

91. Powers of Board exercisable from time to time :-

Any powers conferred by this Act on the Board may be exercised from time to time as occasion requires.

92. Publication and effect of rules and notifications :-

All rules made, and notifications issued under this Act shall be published in the Official Gazette, and, on such publication shall have effect as if enacted in this Act.

93. Recovery of dues :-

(1) The following money, namely,-

(a) all excise-revenue,

(b) any loss that may accrue when a grant has been taken under management by the Collector or transferred by him under Section 46; and

(c) all money due to the State 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), by distress and sale of his movable property, or by the process prescribed for the recovery of arrears of revenue.

(2) When a grant has been taken under management by the Collector, or has been transferred by him, under Section 46, the Collector may recover, in any manner authorized by sub-section (1), any money due to the grantee by any lessee or assignee.

(3) When any money is due, in respect of an exclusive privilege to a grantee referred to in Section 23, from any person holding under him, such grantee may apply to the Collector, and the Collector may recover such money on his behalf on either of the ways provided by sub-section (1):

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

94. Power of State Government to exempt intoxicants from provisions of Act :-

The State Government may, by notification, either wholly or partially, and subject to such conditions (if any) as it may think fit to prescribe, exempt any intoxicant from all or any of the provisions of this Act, either throughout the State of Bihar and Orissa or in any specified local area, or for any specified period or occasion, or as regards any specified class of persons.

95. Bar of certain suits :-

No suit shall lie in any Civil Court against the Government or any Excise Officer for damages for any act in good faith done or ordered to be done in pursuance of this Act or of any other law for the time being in force relating to the excise-revenue.

96. Limitation of suits and prosecutions :-

No Civil Court shall try any suit against the Government in respect of anything done, or alleged to have been done, in pursuance of this Act,

and, except with the previous sanction of the State Government, no Magistrate shall take cognizance of any charge made against any Excise Officer under this Act or any other law relating to the excise-revenue or made against any other person under this Act.

Unless the suit or prosecution is Instituted within six months after the date of the act complained of.

97. Bar to application of Section 261 of the Bengal Municipal Act, 1884 :-

Section 261 of the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884) shall not apply to-

(a) any distillery, brewery, warehouse, or other place of storage licensed, established, authorised, or continued under this Act, or

(b) the premises used for the manufacture or sale of any intoxicant by the holder of a licence granted under this Act for such manufacture or sale.

98. Bengal Act 5 of 1909 to cease to be in force but orders, rules, etc. made and licences, etc. granted thereunder to continue :-

(1) On and from the commencement of his Act, the Bengal Excise Act, 1909 (Ben. Act 5 of 1909) shall cease to be in force in the State of Bihar and Orissa and, for the purposes of Section 25 of the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899) shall be deemed to have been repealed in the said State to be re-enacted by this Act.

(2) Every licence, permit or pass which was granted under any section of the Bengal Excise Act, 1909 (Ben. Act 5 of 1909) and is in force at the commencement of this Act, shall be deemed to have

been granted under the corresponding section of this Act, and shall (unless previously cancelled, withdrawn, or surrendered under Chapter VI of this Act) remain in force for the period for which it was granted.

APPENDIX 1

Annexure A

ANNEXURE A
Extracts of Amending Acts Bihar Excise (Amendment) Act, 1973 (Extracts)
[Bihar Act 4 of 1973]1
An Act to amend the Bihar & Orissa Excise Act, 1915.
Be it enacted by the Legislature of the State of Bihar in the twenty fourth year of the Republic of India, as follows:-
1. Short title.- This Act may be called the Bihar Excise (Amendment) Act, 1973.
2. Amendment of Section 28.- (Incorporated in the text of the Act).
3. Repeal and saving.- (1) Bihar Excise (Third Amendment) Ordinance, 1972 (Bihar Ordinance No. 121 of 1972) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of power conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

1. Published in Bihar Gazette (ex.ord) dated 8.4.1973.