

## **BOMBAY PROHIBITION ACT, 1949**

**25 of 1949**

**[ ]**

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### **BOMBAY PROHIBITION ACT, 1949**

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition and also the Abkari law in the 1[State] of Bombay. WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition; and whereas it is also necessary to amend and consolidate the Abkari law in the 1[State] of Bombay for the said purpose and provide for certain other purposes hereinafter appearing; It is hereby enacted as follows

CHAPTER 1  
Preliminary

**1. Short title, extent and commencement :-**

(1) This Act may be cited as the BOMBAY PROHIBITION ACT, 1949

**1**

(2) It extends to the whole of the <sup>3</sup> [State of Maharashtra.

(3) It shall come into force [in area comprising the pre-Reorganisation State of Bombay] on such date as the [State] Government may by notification in the Official Gazette [specify]. In those areas of the State to which it is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, (BomXII of 1959) it shall come into force on such other date that Government may, by like notification appoint: This indicates the date of commencement of Act, and Maharashtra Ordinance No. XV of 1981 was repealed by Mah. 70 of 1981, s.5.

Provided that having regard to the nature of the outstill area of the Chanda District, the general backwardness of the people residing therein, and the necessity of preparing an adequate background before the introduction of prohibition therein, the State Government may, if it thinks fit, fix a different date for bringing the Act into force in that area.

Explanation- In this sub-section the expression "outstill area of the Chanda District" means the areas of the Chanda District specified in Schedule 1-A.]

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

1. This sub-section was substituted for original by Mah. 70 of 1981, s.5(a).

\* Sub-section (3) shall stand unmodified vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

**2. Definitions :-**

In this Act unless there is anything repugnant in the subject or context, -

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

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

(3)<sup>1</sup>[\* \* \*]<sup>2</sup>

(4) "Collector" includes an officer appointed by the State Government to exercise all or of the powers and to perform all or any of the duties or functions of a Collector under this Act;

(5) "Commissioner" means an officer appointed as the Commissioner of Prohibition and

Excise under Section 3 of the Bombay Prohibition Act, 1949 and includes an officer on whom the State Government may confer all or any of the powers of the Commissioner under this Act;]

(6) "committee <sup>3</sup>[or board]" means a <sup>4</sup>[committee o board] appointed by the <sup>5</sup>[State] Government under Section 7 ;

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

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

## **6**

(9) "cultivation" means raising a plant from seed and includes the tending or protecting of a plant during its growth;] and Sub-section (4) shall stand unmodified vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

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

## **7**

(10a) "denatured spirituous preparation" means any preparation made which denatured spirit <sup>8</sup>[or denatured alcohol] and includes lacquers, French Polish and varnish prepared out of such spirit or alcohol;

**9**(11)[\* \* \* \*]

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

(13) "excisable article" means-

(a) any alcoholic liquor for human consumption,

(b) an intoxicating drug <sup>10</sup>[or hemp],

(c) opium.

**11**[(d) other narcotic drugs and narcotics which the State Government may, by notification in the Official Gazette, declare to be an excisable article;]

(14) "excise duty" and "countervailing duty" means such excise duty on countervailing duty, as the case may be, as is mentioned <sup>12</sup>[in entry 51 in List II in the Seventh Schedule to the Constitution;]

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

(16) "export" (except in Section 147 ) means to take out of the <sup>13</sup>[State] otherwise than across the customs frontier. <sup>14</sup>[\* \* \*]

(17) "foreign liquor" <sup>15</sup>[means al liquor produced or manufactured outside India:] Provided that, the <sup>13</sup>[State] Government may by notification in the Official Gazette declare, that any

specified description of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor;

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

(19) "hotel license" means a license granted under Section 35 ;

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

(20) "import" (except in section 147) means to bring into the <sup>13</sup>[State] otherwise than across the customs frontier. <sup>9</sup>[\* \* \*]

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

(22) "intoxicant" means any liquor, intoxicating drug, opium or any other substance, which the <sup>19</sup>[State] Government may, by notification in the Official Gazette declare to be an intoxicant;

(23) "intoxicating drugs" means-

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

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

(c) any mixture with to without neutral materials of any of the above forms of intoxicating drug or any drink prepared therefrom; <sup>20</sup>[\* \* \*]

## **21**

(d) any other intoxicating or narcotic drug or substance together with every preparation or admixture of the same which the State Government may by notification in the Official Gazette declare to be intoxicating drug for the purposes of the Act, such drug, substance, preparations or admixture not being opium coca leaf or a manufactured drug as defined in S.2 of the Dangerous drugs Act, 1930;]

(24) "liquor" includes-

(a) <sup>22</sup>[spirits], <sup>23</sup>[denatured spirits], wine, beer, toddy and all liquids consisting of or containing alcohol; and

(b) any other intoxicating substance which the <sup>16</sup>[State] Government may by notification in the Official Gazette, declare to be liquor for the purposes of this Act;

(25) "manufacture" includes-

(a) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the <sup>25</sup>[rectification, flavoring, or coloring of liquor or intoxicating drug] but does include flavoring, blending or coloring of liquor or intoxicating drug lawfully possessed for private consumption; and

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

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

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

(28) "molasses" means the heavy, dark colored <sup>26</sup>[v]scous liquid produced] in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, <sup>27</sup>[and includes the solid form of such liquid and also any product formed

by the addition of such liquid or solid of any ingredient which does not substantially alter the character of such liquid or solid;] <sup>28</sup>[and shall also include substances containing sugars obtained from sugarcane known as black gar (jaggery), rotten gar (jaggery), rab or rotten rab, which contain, irrespective of their colour -]

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

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

(iii) total ash more than 6 per cent; or

(iv) ash insoluble in Hydrochloric acid (HCL) more than 0.5 percent; or

(v) more than 10 percent of moisture; or

(vi) Sulphur dioxide in concentration exceeding 70 parts per million; but does not include any article which the <sup>29</sup>[State] Government may, by notification in the Official Gazette declare not to be molasses, for the purposes of this Act;

(29) "Officer-in-charge of a Police Station" includes-

(a) in the Greater Bombay the officer in charge of a police station as provided under the provisions of the <sup>30</sup>Bombay Police Act, 1951; and ]

(b) elsewhere the officer in charge of a police station as defined in the \*Code of Criminal Procedure, 1898;

(30) "opium" means-

(a) the capsules of the poppy (Papaver Somniferum L) <sup>31</sup>[whether in their original form or cut or crushed or powdered, and whether or not the juice has been extracted therefrom;]

(b) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

(c) any mixture, with or without neutral materials, of any of the above forms of opium; but does not include preparation containing not more than 0.2 per cent of morphine , or a manufactured drug as defined in S.2 of the Dangerous Drugs Act, 1930.(11 of 1930)

(d)<sup>32</sup>[ \* \* \*]

(32) "permit" means a permit granted under <sup>33</sup>[the provisions of this Act] and the expression "permit holder" shall be construed accordingly;

(33) "police station" means in the Greater Bombay a police station as provided under the provisions of the <sup>26</sup>[Bombay Police Act, 1951] (Bom. XXII of 1951) and elsewhere any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1898; (V of 1898)

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

(35) "Prohibition Officer" includes the <sup>35</sup>[Commissioner], Collector or any officer to person appointed to exercise any powers or to perform any of the duties and functions under the provisions of this Act <sup>36</sup>[and also includes any officer or person invested with any such powers and on whom any such functions; or duties are imposed, and any member of a committee, board or medical board];

### **37**

(36) "State" means the <sup>38</sup>[State of Maharashtra] including the space within the limits of the territorial waters appertaining to it;]



[(37) "rectification" includes every process whereby liquor is purified or refined;]

#### 40

(38) "registered medical practitioner" means a person who is entitled to practice any system of medicine in the State under any law for the time being in force relating to medical practitioners, and includes registered dentists as defined in the Dentists Act, 1948 (Bom.XVI of 1948) and a veterinary practitioner registered under the <sup>32</sup>[Bombay Veterinary Practitioners Act, 1953 (Bom.LXVIII of 1953) or under any law corresponding thereto in any part of the State;

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

(40) "rules" means rules made under this Act;

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

(a) any transfer whether such transfer is for any consideration or not,

(b) any supply or distribution for mutual accommodation, and

(c) any supply by a club to its members on payment of price or of any fees or subscription, but does not include selling of opium for export across the customs frontier; <sup>42</sup>[\* \* \*] The word "buy" with its grammatical variations shall be construed accordingly; <sup>43</sup>[\* \* \*]

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

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

#### 44

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

(46) "toddy" means fermented or unfermented juice drawn from a coconut, , barb, date or any kind of palm tree and includes sweet toddy or nira or neera;

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

#### 45

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

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

(48) "trade and import license" means a license granted under Section 33 ;

(49) "transport" means to move from one place to another within the <sup>46</sup>[State]

(50) "vendor's license" means a license granted under Section 34 ;

(51) "visitor's permit" means a permit granted under Section 46 ;<sup>47</sup>

(52) any reference to the Code of Criminal Procedure, 1898, (V of 1898) the 'Bombay

Village Panchayats Act, 1933, (Bom.VI of 1933) or the Bombay Police Act, 1951, (Bom.XXII of 1951) includes a reference to any law corresponding to those Acts, respectively, in force in any part of the State.]

1. Clause (3) was deleted by Bom. 22 of 1960, s.2(a).
2. Clauses (4) and (5) were substituted for the original by Bom 12 of 1959, s. 6 (a).
3. These words were inserted by Bom. 22 of 1960, s.2 (b).
4. These words were substituted for the words "any of the committees" by Bom. 22 of 1960, s.2 (b).
5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
6. This clause was substituted for the original by Bom. 22 of 1960, s.2 (c).
7. Clause (1 Oa) was inserted by Bom. 36 of 1954, s.2.
8. These words were substituted for the words "or alcohol" by Bom. 22 of 1960, s.2 (d).
9. Clause (11) was deleted by Bom. 22 of 1960, s.2 (e).
10. These words were added by Bom. 22 of 1960, s.2 (f).
11. This was substituted for clauses (b) and (e) by Bom. 22 of 1960, s.2 (f).
12. This portion was substituted for the portion "Item 40 in List II in the Seventh Schedule to the Government of India Act, 1935" by the Adaptation of Laws Order, 1950.
13. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.
14. The words "as defined by the Dominion Government" were deleted by Bom 26 of 1952, s.2.
15. These words were substituted for the words "includes all liquor brought into India by sea, air or land:" by Bom. 22 of 1960, s.2 (g).
19. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
20. The word "and" was deleted by Bom 26 of 1952, s.2 (2).
21. Clause (d) was substituted for the original clause with the proviso, by Bom 26 of 1952, s.2 (2).
22. This word was substituted for the words "spirits of wine" by Bom. 22 of 1960, s.2(i).
23. These words were substituted for the words "methyated spirits" by Bom 26 of 1952, s.2 (2).
25. These words were substituted for the words "rectification of liquor" by Bom. 22 of 1960, s. 2(j).
26. These words were substituted for the words "residual syrup drained away" by Bom. 22 of 1960, s. 2(k).
27. These words were substituted for the words beginning with the words "and includes" and ending with the words "alter the character of such syrup" by Bom. 22 of 1960, s. 2(k).
28. These words were inserted by Mah.Act.35 of 2000, s, 2
29. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
30. These words and figures were substituted for the words and figures "City of Bombay Police Act, 1902" by Bom 12 of 1959, s.6(b).
31. These words were added by Bom. 22 of 1960, 2(i).
32. Clause (31) was deleted by Bom. 22 of 1960, 2(m).
33. These words were substituted for the words and figures "sections 40, 41, 46 or 47" by Bom 26 of 1952, s.2 (4). See now the Code of Criminal Procedure, 1973 (2) of 1974.
35. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
36. These words were substituted for the words "and also includes any member of a committee or the Medical board "by Bom. 22 of 1960, 2(n).
37. This clause was substituted by Bom. 12 of 1969, s. 6 (c).
38. These words were substituted for the words "State of Bombay " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
39. This clause was substituted for the original by Bom. 22 of 1960, 2(o).
40. This clause was substituted for the original by Bom. 12 of 1969, s. 6 (b). See now the Maharashtra Veterinary Practitioners Act, 1971 (Mah. XLIV of 1971)
42. The words "as deemed by the Dominion Government" were deleted by Bom 26 of 1952, s.2 (1).
43. Clause (42) was deleted by Bom. 22 of 1960, 2(p).
44. This clause was substituted for the original by Bom. 12 of 1969, s. 6 (e).
45. Clauses (47A) and (47B) were inserted by Bom 20 of 1955, s.2.
46. Substituted for the words "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.
47. This clause was added by Bom. 12 of 1969, s, 6 (j). See now the Bombay Village

CHAPTER 2

Establishment

**3. Commissioner of Prohibition and Excise :-**

<sup>1</sup>The <sup>2</sup>[State] Government may, by notification in the Official Gazette, appoint an officer to be called the <sup>3</sup>[Commissioner of Prohibition and Excise], who subject to the control of the <sup>4</sup>[State] Government and subject to such general or special orders as the <sup>2</sup>[State] Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall Superintend the administration and carry out generally the provisions of this Act: <sup>1</sup> [Provided that, the person holding the office of Director of Prohibition and Excise immediately before the commencement of the Maharashtra Director of Prohibition and Excise (Change in Designation) Act, 1973 shall be the Commissioner of Prohibition and Excise for the State and shall hold the Office until the State Government otherwise directs.]

1. Sub-section (1) was substituted for the original by Bom. 36 of 1954, s3(i).
2. The words "working in an honorary capacity or otherwise" was deleted by Bom. 22 of 1960, 3(a).
3. Section 6A was inserted by Bom. 26 of 1952, s.3.
4. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

**4. Collectors :-**

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

(2) For the purposes of this Act all Collectors including the Collector of Bombay "shall be subordinate to the <sup>2</sup>[Commissioner],

(3) The <sup>3</sup>[State] Government may, by notification in the Official Gazette appoint any person other than the Collector <sup>4</sup>[\* \* \*] to exercise in any district or place <sup>5</sup>[all or any of the powers and perform all or any of the duties all the duties] and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the Commissioner and of the <sup>6</sup> [State] Government as the State Government may from time to time direct.

1. These words were substituted for the words "for the purpose of determining" by Bom. 22 of 1960, 4(a).
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. The words "working in an honorary capacity or otherwise" was deleted by Bom. 22 of 1960, 3(a).
4. These words were substituted for the words "is or is not an article unfit for use as an intoxicating liquor, the State Government shall constitute a Board of Experts" by Bom. 22 of 1960, 4(a).
5. These words were substituted for the words "three in numbers" by Bom. 22 of 1960, 4(b).
- % These words were inserted by Bom. 22 of 1960, 3(b).
6. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

**5. Subordinate officers :-**

To aid the <sup>1</sup>[Commissioner] and the Collectors in carrying out the provisions of this Act, the <sup>2</sup> [State] Government may appoint such subordinate officers with such designations, and assign to them such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary.

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

## **6. Investing officers of Police and other departments with powers and duties under this Act :-**

(1) The <sup>1</sup>[State] Government may invest any officer of the Police department or any officer of any other department either personally or in right of his office with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such officers shall, thereupon, exercise the addition to the powers, duties and functions incidental to his principal office.

(2) The <sup>1</sup>[State] Government may also invest any person <sup>3</sup>[\* \* \*] with such power, impose on him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designation as the <sup>1</sup>[State] Government may deem fit.

### **5**

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

3. The words "working in an honorary capacity or otherwise" was deleted by Bom. 22 of 1960, 3(a).

5. Section 6A was inserted by Bom. 26 of 1952, s.3.

## **6A. Board of Experts :-**

### **1**

(1) <sup>2</sup>[For the purpose of enabling the State Government to determine] whether-

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

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

(c) any flavoring extract, essence or syrup containing alcohol, [Is an article fit for use as intoxicating liquor the State Government shall constitute a Board of Experts.]

(2) The Board of Experts constituted under sub-section (1) shall consist of such members, not less than <sup>3</sup>[five in number], with such qualification as may be prescribed. The members so appointed shall hold office during the pleasure of the State Government.

(3) <sup>4</sup>[Three members] shall form a quorum for the disposal of the business of the Board.

(4) Any vacancy of the member of the Board shall be filled in as early as practicable: Provided that, during any such vacancy the continuing members may act, as if no vacancy had occurred.

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

<sup>5</sup>(6) It shall be the duty of the Board to advise the State Government on the question whether any article mentioned in sub-section (1) is fit for use as intoxicating liquor and also on any matters incidental to the question, referred to it by the State Government, on obtaining such advice, the State Government shall determine whether any such article is fit for use as intoxicating liquor and upon determination of the State Government that it is so fit, such article shall, until the contrary is proved, be presumed to be fit for use as intoxicating liquor.]

(7) Until <sup>6</sup> the State Government has determined as aforesaid any article mentioned in sub-section (1) to be fit for the use as intoxicating liquor, every such article shall be deemed to be unfit for such use.]

1. Sub-section (1) was substituted for the original by Bom. 36 of 1954, s3(i).

2. These words were substituted for the words "for the purpose of determining" by Bom. 22 of 1960, 4(a).

3. These words were substituted for the words "three in numbers" by Bom. 22 of 1960,4(b).

% These words were inserted by Bom. 22 of 1960, 3(b).

4. These words were substituted for the words "Two members" by Bom. 22 of 1960, 4(c).

5. Sub-section (6) was substituted for the original by Bom. 22 of 1960, 4(d).

6. Sub-section (7) was added by Bom. 22 of 1960, 4(e).

## **7. Other boards and committees :-**

**1:-**

(1) The <sup>2</sup>[State] Government may appoint <sup>1</sup>[other boards and committees] to advise and assist officers in carrying out the provisions of this Act.

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

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

(4) The <sup>3</sup>[State] Government may direct that the members of such <sup>8</sup> [other boards and committees] shall be paid such fees and allowances as may be prescribed.

1. These words were substituted for the word "committees" by Bom. 22 of 1960, 5(a).

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

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

5. These words were substituted for the words "as are provided by or under the provisions of this Act" by Bom. 22 of 1960, 5(d).

8. These words were substituted for the word "committees" by Bom. 22 of 1960, 5(a).

## **8. Medical Boards :-**

(1) The <sup>1</sup>[State] Government may constitute one or more medical boards <sup>2</sup>[or panels thereof] for such areas and consisting of such members as it may deem fit.

(2) A medical board <sup>3</sup>[or panel thereof] so constituted shall perform such functions <sup>4</sup>[as are prescribed],

(3) The procedure regarding the work of the medical board <sup>5</sup>[or panel thereof] shall be as may be prescribed.

(4) The members of the medical board <sup>5</sup> [or panel thereof] shall be entitled to such fees and allowances as may be prescribed.

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

2. These words were inserted by Bom. 22 of 1960, 6(a).

3. These were substituted by Bom. 22 of 1960, 6(d) and (c).

4. These words were substituted for the words "as are provided by or under the provisions of this Act" by Bom. 22 of 1960, 6(d) and (c).

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

## **9. Control of Commissioner over Prohibition Officers and other Officers :-**

**1:-** In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder all Prohibition Officers and all officers including the officers of the Police and other departments shall, subject to the general or special orders of. the <sup>2</sup>[State] Government be subordinate to and under the control of the <sup>3</sup>[Commissioner] and shall be bound to follow such orders as the <sup>4</sup> [Commissioner] may, from time to time make.

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sen

2. Sub-section (7) was added by Bom. 22 of 1960, 4(e).

3. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sen.

4. These words were substituted for the word "committees" by Bom. 22 of 1960, 5(a).

## **10. Delegation :-**

(1) The <sup>1</sup>[State] Government may delegate any of the powers exercisable by it under this Act to the <sup>2</sup>[Commissioner] or such other officers as it deems fit.

(2) Subject to the control and direction of the <sup>1</sup> [State] Government the powers conferred on the Commissioner or any other officer appointed or invested with powers under this Act may be delegated by him to any of his subordinates.

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

2. These words were substituted for the word "committees" by Bom. 22 of 1960, 5(a).

### **CHAPTER 3**

#### **Prohibitions**

## **11. Manufacture etc., of intoxicant to be permitted in accordance with provisions of Act, rules etc :-**

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

1. This word was inserted by Bom. 22 of 1960, 7.

2. These words were inserted by Bom. 26 of 1952, s.4 (1).

3. This word was inserted by Bom. 26 of 1952, s.4 (2).

## **11A. Power of Gram Sabha to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant :-**

<sup>1</sup> :- Notwithstanding anything contained in Section 11 or any other provisions of this Act, in respect of any Scheduled Area falling within the jurisdiction of a Gram Sabha and a Panchayat or a Panchayat Samiti or a Zilla Parishad, as the case may be, it shall be competent for such Gram Sabha or a Panchayat and the or the Panchayat Samiti or the Zilla Parishad to enforce prohibition or to regulate or restrict the sale and consumption of intoxicant in Scheduled areas within its jurisdiction:

Provided that, the decision taken by the majority of the Gram Sabhas concerned by passing a resolution in the above matter shall be binding on the concerned Panchayat Samiti or the Zilla Parishad as the case may be.

Explanation:- For the purpose of this Section, -

(i) the expression "Gram Sabha," "Panchayat" and "Scheduled Areas" shall have the meanings, respectively assigned to them in the Bombay Village Panchayats Act, 1958 Bom.III of 1959);

(ii) the expression "Panchayat Samitis" and "zilla Parishads" shall have the meanings respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayats Samitis Act, 1961 (Mah. V of 1962).

1. This Section was inserted by Mah.Act 46 of 1997, s. 13

## **12. Prohibition of manufacture of liquor and construction and working of distillery or brewery :-**

No person shall-

(a) manufacture liquor;

(b) construct or work any distillery or brewery;

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

(d) sell or buy liquor.

**13. Prohibition of sale etc., of liquor :-**

No person shall-

(a) bottle any liquor for sale;

(b) consume or use liquor; or

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

**14. Prohibition of export, import, transport, sale, manufacture, etc, of intoxicating drugs :-**

No person shall-

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

(b) cultivate or collect the hemp <sup>1</sup> [\* \* \*]

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

(d) sell or buy any intoxicating drug;

(e) consume or use intoxicating drug; or

(f) manufacture any intoxicating drug;

1. The words "or extract any portion of such plant from which many intoxicating drugs can be manufactured" were deleted by Bom. 22 of 1960, s 8.

**15. Prohibition of import, export, transport, sale, etc., of sweet toddy :-**

No person shall-

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

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

(c) sell or buy sweet toddy or nira.

**16. Prohibition of tapping of toddy producing trees and drawing of toddy :-**

No person shall-

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

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

**17. Prohibition of possession, etc, of opium :-**

No person shall-

(a) possess opium;

(b) transport opium;

(c) import or export opium;

(d) sell or buy opium; or

(e) consume or use opium.

**18. Prohibition of sale to minors :-**

<sup>1</sup>No licensed vendor and no person in the employ of such licensed vendor or acting with the

express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoxicant <sup>2</sup> [to any person who is a minor] whether for consumption by such person or by other person and whether for consumption on or off the premises of such licensed vendor.

1. This word was substituted for the word "children" by Bom. 22 of 1960, s 9(b).

2. These words were substituted for the words "to any person apparently under the age of twenty one years" by Bom. 22 of 1960, s.9 (a).

**19. Prohibition of sale of today :-**

<sup>1</sup> Deleted by Bom. 22 of 1960, s .10.

1. Section 19 was deleted by Bom. 22 of 1960, s 10.

**20. Prohibition of production, etc, of charas :-**

No person shall-

(a) produce,

(b) manufacture,

(c) possess,

(d) export,

(e) import

,

(f) transport,

(g) buy,

(h) sell

,

(i) consume, or

(j) use charas.

**21. Alteration of denatured spirit :-**

No person shall-

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

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

**22. A.Alteration of denatured spirituous preparation :-**

<sup>1</sup> :- No person shall-

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

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

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

**22A. Prohibition of allowing any premises to be used as common drinking house :-**

No person shall-

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



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

**22B. Prohibition of issuing prescriptions for intoxicating liquor except by registered medical practitioners :-**

**1**

(1) No person other than a registered, medical practitioner, shall issue any prescription for any intoxicating liquor.

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

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

1. Section 22A was inserted by Bom. 22 of 1960, s 11. @ Subs.byBom. 26 of 1952,s.5(I).

**23. Prohibition of soliciting use of intoxicant or hemp or doing any act, calculated to incite or encourage members of public to commit offence :-**

No person shall-

(a)<sup>1</sup>\* solicit the use of, <sup>2</sup>[or] offer any intoxicant or hemp; or <sup>3</sup> [\* \* \* \*]

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

1. The word "commend" was deleted by Bom 26 of 1952, s 5(1).

2. This word was inserted by Bom 26 of 1952, s 5(1).

3. Clause (b) was deleted by Bom 26 of 1952, s 5(2).

**24. Prohibition of publication of advertisements relating to intoxicant, etc :-**

(1) No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodic publication or otherwise display, or distribute any advertisement or other matter, -

(a) which ' \* solicits the use of or offers any intoxicant or hemp;

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

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

(a) catalogue or price lists which may be generally or specially approved by the <sup>1</sup>[Commissioner] in this behalf;

(b) any advertisement or other matter contained in any newspaper , news-sheet, book, leaflet, booklet or other publication printed and published outside the <sup>2</sup>[State];

(c) any advertisement or other matter contained in any newspaper, printed and published in the <sup>2</sup>[State] before such date as the <sup>2</sup>[State] Government may by notification in the Official Gazette, specify; and

(d) any other advertisement or matter which the <sup>2</sup>[State] Government may by notification in the Official Gazette, generally or specially exempt for the operation of this section.

(3) Notwithstanding anything contained in sub-section (2), the <sup>2</sup>[State] Government may by notification in the Official Gazette, prohibit within the <sup>2</sup>[State] the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication published and printed outside the <sup>2</sup> [State] which contains any advertisement or matter,-

(a) which solicits the use of or offers any intoxicant or hemp; or

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

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

2. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.

#### **24A. This Chapter not to apply "fto certain articles :-**

<sup>1</sup>[Nothing in this Chapter shall be deemed to apply to-

(1) any toilet preparation containing alcohol which is unfit for use as intoxicating liquor;

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

**2**

(3) any antiseptic preparation or solution containing alcohol which is unfit for use as intoxicating liquor;

(4) any flavoring extract, essence or syrup containing alcohol which is unfit for use as intoxicating liquor:]

Provided that [such article] corresponds with the description and limitations mentioned in Section 59A :

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

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

1. Section 24A was inserted by Bom. 26 of 1952, s 7.

2. Clauses (3) and (4) were inserted by Bom. 36 of 1954, s.5(i).

#### **CHAPTER 4**

Control, Regulation and Exemptions

#### **25. Exemption of preparations :-**

The <sup>1</sup> [State] Government may by notification in the Official Gazette, direct that any preparation containing alcohol not exceeding a specified percentage by volume shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

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

#### **26. Distilleries and warehouses for intoxicants :-**

The <sup>1</sup>[State Government] may-

(a) establish a distillery in which spirit may be manufactured in accordance with a license

issued under this Act on such conditions as the <sup>2</sup>[State] Government deems fit to impose;

(b) discontinue any distillery established;

(c) license, on such conditions as the <sup>2</sup>[State] Government deem fit to impose the construction and working of a distillery or brewery;

(d) establish or license a warehouse wherein any <sup>4</sup> [intoxicant], hemp, mhowra flowers or molasses may be deposited and kept without payment of duty; and

(e) discontinue any warehouse so established.

1. These words were substituted for the word "Director" by Bom. 22 of 1960, s. 13(2).

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

4. This word was substituted for the words "liquor, intoxicating drug" by Bom. 22 of 1960, s. 13(2). and This word was substituted for the words "Intoxicating drug" by Bom. 22 of 1960, s. 13(3).

## **27. Intoxicant or hemp not to be removed from warehouse, etc :-**

No <sup>1</sup> [intoxicant], hemp, mhowra flowers or molasses shall be removed from any distillery, warehouse or other place of storage established or licensed under this Act, except under a pass and unless the duty, if any, imposed under the provisions of this Act, has been paid or a bond has been executed for the payment thereof.

1. This word was substituted for the words "liquor, intoxicating drug" by Bom. 22 of 1960, s. 13(2). and This word was substituted for the words "Intoxicating drug" by Bom. 22 of 1960, s. 13(3).

## **28. Passes for import, etc :-**

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

(2) Such passes may be either general or definite periods of time and definite kind of <sup>2</sup>[intoxicant] or hemp or special or specified occasions and particular consignments only.

(3) Every such pass shall specify

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

(b) the period for <sup>5</sup>[intoxicant] or hemp which the pass is to be in force;

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

d) the places from and to which <sup>6</sup>[intoxicant] or hemp are to be imported, exported or transported and in case of places more than ten miles apart, the route by which they are to be conveyed.<sup>7</sup>

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

2. This word was substituted for the words "liquor, intoxicating drug" by Bom. 22 of 1960, s. 13(2). and This word was substituted for the words "Intoxicating drug" by Bom. 22 of 1960, s. 13(3).

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

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

7. This section was substituted for the original by Bom. 22 of 1960, s.14.

## **29. Through transport :-**

The through transport-

(a) of any consignment of any intoxicant, hemp, denatured spirituous preparation, mhowra

flowers or molasses by a railway administration or by any steamer, ferry, road transport or air service, or

(b) of any intoxicant, hemp, denatured spirituous preparation, mhowra flowers or molasses, otherwise than by way of consignment, shall be subject to such conditions as may be prescribed.]

### **30. License for possession of denatured or rectified spirit and alcohol for industrial or medical purposes :-**

Deleted by Bom. 22 of 1960, s.15.

### **31. Licenses for bona fide medicinal or other purposes :-**

<sup>1</sup> The State Government may by Rules or by an order in writing, authorise an officer to grant licenses to any person, or institution whether under the management of Government or not, for the manufacture, sale, purchase, possession, consumption, or use of intoxicant or hemp or any article containing an intoxicant, hemp for a bona fide medicinal, scientific, industrial or educational purposes: Provided that where any intoxicant or hemp article containing an intoxicant, hemp has been obtained by any person for a bona fide medicinal purpose, from any person or institution licensed to sell the same under this section, it shall not be necessary for such person to obtain a license for the possession, purchase, consumption, or use thereof: Provided further that, no license shall be necessary for the possession of denatured spirit to the extent of such quantity as may be prescribed.

1. This section was substituted for the original by Bom. 22 of 1960, s. 16.

### **31A. Licenses for purchase :-**

<sup>1</sup> etc., of liquor for manufacture of articles mentioned in section The State Government may by rules or by an order in writing, authorise an officer to grant licenses for the purchase, possession, or use of any liquor or alcohol for the manufacture of any article mentioned in Section 24A on such conditions as may be prescribed.]

1. Section 31A was inserted by Bom. 26 of 1952, s.9.

### **32. Licenses for tapping for neera :-**

<sup>1</sup>The [State] Government may authorise an officer by rules or by an order in writing, to grant licenses for the tapping of, <sup>2</sup>[and drawing juice from], any palm trees for the purpose of sale and consumption of neera or <sup>3</sup>[\* \* \*] manufacture of gur or any other article which is not an intoxicant <sup>4</sup> [and on a license being granted the person to whom the trees belong, or who is in possession of such trees, may permit them to be tapped or permit toddy to be drawn therefrom.]

1. This word was substituted for the word "toddy" by Bom. 26 of 1959, s. 10(2).

2. These words were substituted for the words "the tapping of palmyra or date palm trees for juice intended to be used " by Bom. 26 of 1952, s.10(1).

3. These words were substituted for the words "or drawing juice from" by Bom. 22 of 1960, s. 17(a).

4. The words "for the" were deleted by Bom, 22 of 1960, s. 17(d).

### **33. Trade and import licenses :-**

The <sup>1</sup>[State] Government may by rules or by an order in writing, authorise an officer to grant trade and import licenses to persons intending to import and to sell by wholesale any <sup>2</sup> [foreign liquor].

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

2. These words were substituted for the words "liquor, intoxicating drug or hemp" by Bom. 22 of 1960, s.18.

### **34. Vendors License :-**

(1) the <sup>1</sup>[State] Government may by rules or by an order in writing, authorise an officer to

grant a vendor's licenses <sup>2</sup>[or the sale of foreign liquor.]

(2) A vendor's license shall be granted on the following conditions: -

(i) the stock of foreign with the licensee (except what is permitted for the disposal in the shop) shall be kept by him at <sup>3</sup>[godown] approved by Government;

(ii)<sup>4</sup>[\* \* \* \*]

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

## **5**

{iv} the licensee may sell any part of the stock of foreign liquor to foreign liquor licensees or to chemists, canteens, messes and clubs, to such conditions as the <sup>6</sup>[Commissioner] may impose;

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

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

(vii) the licensee shall keep accounts and shall dispose of <sup>7</sup>[foreign liquor] according to such instructions as may be given by the <sup>6</sup>[Commissioner], or any officer authorised in this behalf by the <sup>9</sup> [Commissioner]

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

2. These words were added by Bom. 22 of 1960, s. 19(a).

3. This words was substituted for the word "warehouse" by Bom. 22 of 1960, s. 19(b) (i).

4. Clause (ii) was deleted by Bom. 22 of 1960, s. 19(b) (ii).

5. These clauses were substituted for the original by Bom. 22 of 1960, s.19(b) (iii).

6. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

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

9. These words were substituted for the words "liquor, intoxicating drug or hemp" by Bom. 22 of 1960, s.18.

## **35. Hotel licenses :-**

(1) The <sup>1</sup>[State] Government may by rules or an order in writing, authorise an officer to grant licenses to the managers of hotels to sell foreign liquor to the holders of permits granted under this Act: Provided that the <sup>1</sup>[State] Government is satisfied, that such hotel has ordinarily a sufficient number of boarders eligible to hold permits.

(2) Such licenses shall be issued on the following conditions: -

(i) liquor shall be sold <sup>3</sup>[\* \* \*] to the permit holders <sup>4</sup>[residing or boarding] at the hotel,

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

(iii) the holders of hotel licenses shall pay the expenses of any officer of the excise establishment, if any, required for grant and control of permits on the premises <sup>5</sup> [or for the supervision over the issue and consumption of foreign liquor in the hotel.

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

3. The words "in sealed bottles" were deleted by Bom. 26 of 1959, s.12(1).

4. These words were substituted for the word "residing" by Bom. 26 of 1959, s. 12(2).

5. This portion was added by Bom. 22 of 1960, s.20.

## **36. Special import licenses to hotels :-**

Deleted by Bom. 22 of 1960, s.21.

### **37. Dining car licenses :-**

Deleted by Bom. 22 of 1960, s.21.

### **38. Licenses to shipping companies and Masters of Ships :-**

The <sup>1</sup>[State] Government may by rules or by an order in writing, authorise an officer to grant licenses to any shipping company for each ship <sup>2</sup>[or to the Master of any ship] to sell foreign liquor <sup>3</sup> [and to permit the use or consumption of foreign liquor on such ship on such conditions as may be prescribed.]

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

2. These words were inserted by Bom. 26 of 1959, s.14(1).

3. These words were substituted for the word "on condition that such liquor shall be sold only to bona fide passengers on such ship" by Bom. 26 of 1959, s.14(2).

### **39. Permission to use or consume foreign liquor[\* \* \*] on warships, troop ships and in messes and canteens of armed forces :-**

The <sup>1</sup>[State] Government may, on such conditions as may be specified <sup>2</sup>[by a general or special order, permit-

(i) the sale of foreign liquor to,

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

(a) the members of the armed forces in messes and canteens <sup>3</sup> [of the armed forces], and

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

1. This portion was added by Bom. 22 of 1960, s.20.

2. This portion was substituted for the words beginning with the words "in the notification" and ending with the word "canteens" by Bom. 26 of 1959, s.15(1).

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

### **40. Permits :-**

(1) The <sup>1</sup>[State] Government may by rules or by an order in writing, authorise an officer to grant permits for the use or consumption of foreign liquor to person on following conditions :-

(a) that such person is not minor;

(b)<sup>2</sup>[\* \* \* \*]

(c)

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

(ii) that such person is on the Register of Foreigners under the Registration of Foreigners Act, 1939, (XVI of 1939) and is not domiciled to <sup>3</sup>[India]: Provided that, in the case if any person falling under sub-clause (i) or (ii)-

(III) such person has been residing or intends to resides in India temporarily and that such person has a fixed and settled purpose of making his sole and permanent home in any country outside India; and

(b1) that such person has been ordinarily using or consuming such liquor <sup>4</sup>[\* \* \* \*] (3)  
Such permits shall be granted for such quantities as may be prescribed.

<sup>5</sup>[(4) If any question arises whether the conditions imposed by clause (a) or (c) of sub-section (1) are satisfied or not in any case, the State Government shall decide the question and its decision shall be final.]<sup>6</sup>

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. Clause (b) was deleted by Bom 26 of 1952, s. 16(1).
3. This word was substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.
4. Sub-section (2) was deleted by Bom. 22 of 1960, s.23.
5. Sub-section (4) was added by Bom. 26 of 1959, s. 16(2).
6. The explanation was deleted Bom. 26 of 1959, s. 16(3).

**40A. Health permits :-**

**1**

(1) The State Government may by rules or by an order in writing, authorise an officer to grant a health permit for the use or consumption of foreign liquor to any person who requires such liquor for the preservation and maintenance of his health:

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

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

1. Sections 40A and 40B were inserted Bom. 26 of 1959, s. 17.

**40B. Emergency permits :-**

(1) The State Government may by rules or by an order in writing, authorise an officer to grant a emergency permits for the use or consumption of brandy, rum or champagne or any other kind of a liquor to any person for his own use or consumption or to any head of a household for the use of his household for medicinal use on emergent occasions:

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

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

(2)<sup>2</sup> [\* \* \* \*]

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

1. These words were inserted by Bom. 22 of 1960, s.24(a).
2. Sub-section (2) and the Explanation were deleted by Bom. 22 of 1960, s.24(b).

**41. Special permits to foreign sovereigns, etc :-**

(1) The <sup>1</sup>[State] Government may grant special permits for the use or consumption of foreign liquor <sup>2</sup>[to any person who is-

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

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

(c) a member of the staff appointed by or serving under any person, specified in clause (a) or (b):

Provided that such member is a national of a foreign State; <sup>3</sup>[\* \* \*]

<sup>4</sup>[(cl) a member of a foreign Government;

<sup>5</sup>(2) An authorisation under this section shall be granted on the recommendation of such

members of the community to which the person applying for the authorisation belongs as may be approved by the State Government in that behalf.

(3)<sup>6</sup>[\* \* \* \*]

(4) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the <sup>7</sup>[Commissioner]. The <sup>7</sup>[Commissioner], after holding a summary inquiry <sup>9</sup>[\* \* \*] shall decide whether or not the liquor is required by the person for sacramental purposes.

(5) The decision of the <sup>7</sup> [Commissioner] under sub-section (4) shall be final.

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

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

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

4. Clauses (c1) and (c2) were inserted by Bom. 22 of 1960, s.25(b).

5. This sub-section was substituted for the original by Bom. 22 of 1960, s.29(a).

6. Sub-section (3) was deleted by Bom. 22 of 1960, s.29(b).

7. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

9. The words "in prescribed manner" was deleted by Bom. 22 of 1960, s.29(c).

#### **42. Visitors permit :-**

**1**

(1) The State Government may by rules or by an order in writing. authorise an officer to grant visitor's permit for the purchase, possession, use or consumption of foreign liquor to a person who-

(a)

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

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

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

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

1. Section 46 was substituted for the original by Bom. 22 of 1960, s.30.

#### **43. Tourists permit :-**

**1**

(1) The State Government may by rules or by an order in writing, authorise an officer to grant <sup>2</sup>[a tourist's permit] to consume, use and buy foreign liquor to a person who is a tourist.

(2) A tourist's permit may be granted for the period of the tourist's indented stay in the <sup>3</sup>[State], but shall in no case be granted for a period exceeding one month.

(3) Such permits shall be available at such places as may be <sup>4</sup>[fixed] by the <sup>5</sup> [Commissioner] in this behalf

1. Section 46A was inserted by Bom. 20 of 1955, s.4.

2. These words were inserted and the words "tourist's permits " was deleted by Bom. 22 of 1960. s.31 (a).

3. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.



4. This words was substituted for the word "notified" by Bom. 22 of 1960, s.31(a).  
5. This words was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

#### **44. Interim permits :-**

(1) Notwithstanding anything contained in sections <sup>1</sup> Section 40 , Section 40A and Section 41 ] the <sup>2</sup>[State] Government may by rules or by an order in writing, <sup>3</sup> [authorise an officer to] grant interim permits to persons applying for permits under any of the said provisions.

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

1. These figures, letter and word were substituted for the figures and word "40 and 41" by Bom. 26 of 1952, s.22(l).
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. These words were inserted by Bom. 26 of 1952, s.22(2).

#### **45. Permits for consumption or use of intoxicating drugs or opium :-**

<sup>1</sup>

(1) The <sup>2</sup>[State] Government may, by rules or by an order in writing, authorise an officer to grant permits for the <sup>3</sup>[consumption or use] of <sup>4</sup>[intoxicating drugs] <sup>5</sup>[or opium] in such quantities as may be prescribed.

(2) Such <sup>6</sup> [permits] shall be granted oh the certificate of the Medical Board.

1. This marginal note was substituted for the original by Bom. 26 of 1952, s.23(2).
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. These words was substituted for the words "sale" by Bom. 26 of 1952, s.23(l).
4. This words was substituted for the word "hemp drug" by Bom. 26 of 1952, s.23(l).
5. These words were insetted by Bom. 22 of 1960, s.32(b).
6. This words was substituted for the word "licenses" by Bom. 22 of 1960, s.32(a).

#### **46. Permits to be non transferable :-**

<sup>7</sup> [- Permits granted under Section 40 , Section 40A , Section 40B , Section 41 , Section 46 , Section 46A, Section 47 or Section 48 shall be non-transferable.]

\* These words were inserted by by Bom. 26 of 1952, s.32(c).

#### **47. Exclusive privilege to Government to import, etc, intoxicants, and fees levied include rent to consideration for grant of such privilege to person concerned :-**

<sup>1</sup> Notwithstanding anything contained in this Act, the State Government shall have exclusive right or privilege of importing, exporting, transporting, manufacturing, bottling, selling, buying, possessing or using any intoxicant, hemp or toddy, and whenever under this Act or any license, permit, pass or authorisation or other permission given to any person for any such purpose, such fees shall be deemed to include the rent or consideration for the grant of such right or privilege to that person by or on behalf of the State Government.]

1. Section 49 was inserted by Mah. 70 of 1981, s.2.

#### **48. Warehousing of opium :-**

Deleted by Bom. 22 of 1960, s.34.

#### **49. Rules for sale, etc., of warehoused intoxicant or hemp :-**

] Deleted by Bom. 22 of 1960, s.34.

#### **50. Power of authorised officer to grant licenses, permits and passes in certain cases :-**

Notwithstanding anything contained in this Act, it shall be lawful for any officer authorised by the <sup>1</sup>[State] Government in this behalf to grant any license, passes or permits for import, export, transport, possession, sale, buying, cultivation, collection, manufacture, <sup>2</sup> [bottling], consumption and use of any intoxicant, hemp, or mhowra flowers or molasses or for the

tapping of any toddy producing tree or the drawing of toddy from such tree in cases other than those specifically provided under any of the provisions of this Act.

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

2. This word was inserted by Bom. 22 of 1960, s.35.11.

### **51. General conditions regarding licenses, etc :-**

All licenses, permits, passes or authorisations granted shall be under this Act shall be in such form and shall, in addition to or in variation or substitution of any of the conditions provided by this Act, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee: Provided that every license, permit, pass or authorisation granted only on the condition that the <sup>1</sup>[person applying] undertakes, and in the opinion of the officer authorised granted the license, permit, pass or authorisation is likely to abide by all the condition of the license, permit, pass or authorisation and the provisions of this Act.<sup>2</sup>  
[\* \* \*]

1. These words was substituted for the words "holder thereof by Bom. 22 of 1960, s.36.

2. The portion beginning with the words "and not to do anything" and ending with the words "object and purposes of this act" was deleted by Bom. 26 of 1952, s.24.

### **52. Certain licensees required to keep measures etc. :-**

<sup>1</sup> Every person who manufactures or sells any intoxicant or hemp under a license granted under this Act, shall be bound-

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

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

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

### **53. Power to cancel or suspend licenses and permits :-**

(1) <sup>1</sup>[The authority granting any license, permit, pass or authorisation under this Act may for reasons to be recorded in writing cancel or suspend it;]

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

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

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

(d) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or if the holder of the license, permit, pass or authorisation is convicted of any cognizable and non-bailable offence or <sup>2</sup>[of any offence under the Dangerous Drugs Act, 1930 [II of 1930] or under the Drugs Act, 1940 [XXIII of 1940] or under the Bombay Drugs (Control) Act 1952], [Bom.XXIX of 1952] or under the Merchandise Marks Act, 1889 [IV of 1889], or of any offence punishable under S.482 of the Indian Penal Code, 1860S.483 of the Indian Penal Code, 1860S.484 of the Indian Penal Code, 1860S.485 of the Indian Penal Code, 1860S.486 of the Indian Penal Code, 1860S.487 of the Indian Penal Code, 1860S.488 of the Indian Penal Code, 1860 and S.489 of the Indian Penal Code, 1860, or of any offence punishable under Art.8 of the Sea Customs Act, 1878 schedule to S.167 of the Sea Customs

**3**

(e) if the license, permit, pass or authorisation has been obtained through willful misrepresentation or fraud.

]

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

**4** (3) Notwithstanding anything contained in this section, the State Government may, for reasons to be recorded in writing, suspend or cancel any license, permit, pass or authorisation.]

1. These words were substituted for the portion beginning with the words "The Director or any officer authorised in this behalf and ending with the words "granted under this Act" by Bom. 22 of 1960, s.38(a)(i).

2. This clause was inserted by Bom. 22 of 1960, s.38(a)(iii).

3. These words and figures were substituted for the words and figures "of any offence under the Dangerous Drugs Act, 1930" by Bom. 22 of 1960, s.38(a)(ii)

4. This sub-section was substituted for the original by Bom. 22 of 1960, s.38(d).

**54. Holder of licenses etc, not entitled to compensation or refused of fee for cancellation or suspension thereof :-**

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

**55. Cancellation for other reasons :-**

**12**

(1) Whenever the authority granting license, permit, pass or authorisation considers that it should be cancelled for any cause other than those specified in section 54, he may cancel it either

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

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

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

1. These words were substituted for the word "license" by Bom. 22 of 1960, s.39(a)(i).

2. This word were substituted for the words "the license" by Bom. 22 of 1960, s.39(a)(ii).

3. This clause was substituted by Bom. 22 of 1960, s.39(a)(iii).

4. This sub-section was substituted by Bom. 22 of 1960, s.39(b).

**56. Attachment of license :-**

Notwithstanding anything contained in any other section, when a license is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof, the authority granting the license may attach and take such license under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the license was attached and the amount falling due on such license during the remaining period of such license the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the provisions of this Act, and in the event if

the said profits exceeding the amount so due under the license, the license shall not be entitled to receive any of the said profits.

**57. Right :-**

title or interest under license not liable to be sold or attached in execution. Notwithstanding anything contained in any law from time being in force no right, title or interest in any license, permit, pass or authorisation granted under this Act shall be liable to be sold, transferred or attached in execution of any process of any civil or any other Court.

**58. Supervision over manufacture, etc. :-**

<sup>1</sup>, The State Government may, by general or special order direct that the manufacture, import, export, transport, storage, sale, purchase, use, collection or cultivation of any intoxicant, denatured spirituous preparation, hemp, mhowra flowers or molasses shall be under the supervision of such Prohibition and Excise or Police staff as it may deem proper to appoint, and that the cost of such staff shall be paid to the State Government by the person manufacturing, importing, exporting, transporting, storing, selling, purchasing, using, collecting or cultivating of any intoxicant, denatured spirituous preparation, hemp, mhowra flowers or molasses:

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

1. This section was inserted by Bom. 22 of 1960, s.40.

**59. Commissioner entitled to require license holder \*for owner to dispose of stocks :-**

(1)Notwithstanding the fact that the period during which any license, permit, pass or authorisation is to be in force has not expired, the [Commissioner] may direct the holder thereof to dispose'of this stock of intoxicant, <sup>1</sup>[denatured spirituous preparation], hemp, mhowra flowers before such date as may be specified in the order.

<sup>2</sup>[(1A) The [Commissioner] may also direct the owner of the stocks of any intoxicant, <sup>1</sup>[denatured spirituous preparation], hemp, mhowra flowers who does not hold any license, permit, pass or authorisation for such stock to dispose of the said stock before such date as may be specified in the order, and the owner shall comply with such direction.]

(2) Any stock intoxicant, <sup>1</sup>[denatured spirituous preparation], hemp, mhowra flowers left undisposed of after the date so specified shall together with receptacles or packages in which it is contained, be liable to forfeiture to <sup>5</sup>[the State Government by the order of the [Commissioner]. On the cancellation or the expiry of the period of any license, permit, pass or authorisation, the [Commissioner] may also direct that any stock of any intoxicant, denatured spirituous preparation,

(3) If the articles which are forfeited under sub-section (2) are sold, the <sup>6</sup>[Commissioner] may, if he thinks fit, order the whole or any portion of the sale proceed of such articles to be paid to the owner thereof.

<sup>7</sup>(4) No direction or order under sub-section (1), (1-A), (2) or (3) shall be made unless the person likely to be adversely by such affected direction or order is given reasonable opportunity of being heard, and the reasons for the direction given or order made are recorded in writing by the <sup>4</sup>[Commissioner.]<sup>9</sup>

1. These words were inserted by Bom. 22 of 1960, s,41 (a).

2. Sub-section (1A) was inserted by Bom. 26 of 1952, s.26(l).

5. These words were substituted for the words "His Majesty" by the the Adaptation of Laws Order, 1950. \* These words were inserted by Bom. 22 of 1960, s.26(2).

6. This words was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

7. Inserted by Bom. 26 of 1960,s.41(6).

9. Chapter IV-A was inserted by Bom. 26 of 1952,s.27.

**59AA. Control on manufacture etc, of articles mentioned in section 24A :-**

<sup>1</sup> No article mentioned in Section 24A shall be manufactured, imported or exported, except under a license which shall, subject to the provisions of any rules made in that behalf, be granted by an officer authorised in that behalf by an order in writing by the State Government: Provided that no such license shall be necessary for the import or export of such article to the extent of such quantity as may be prescribed.]

1. This section was inserted by Bom. 22 of 1960, s.42.

**59A. Manufacture of articles mentioned in section 24A :-**

(1) No manufacturer of any of the articles mentioned in Section 24A shall sell, use or dispose of any liquor purchased or possessed for the purposes of such manufacture under the provisions of this Act otherwise than as an ingredient of the articles authorised to be manufactured therefrom. No more alcohol shall be used in the manufacture of any of the articles mentioned in Section 24A than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the articles: Provided that in the case of manufacture of any of the articles mentioned in Section 24A in which the alcohol is generated by a process of fermentation the amount of such alcohol shall not exceed 12 percent <sup>2</sup>[by volume].

(2) No person shall-

(a) knowingly sell any <sup>7</sup> [article mentioned in section 24A] for being used as an intoxicating drink, or

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

2. These words were substituted for the words, figures and letters "articles to which section 24A applies" by Bom. 36 of 1954,s,8(i).the words, figures and letters "articles to which section 24A applies" by Bom. 36 of 1954,s,8(i).

**59B. Analysis of articles mentioned in section 24A :-**

<sup>1</sup>

[(1)] Whenever the <sup>2</sup>[Commissioner] has reason to believe that any of the articles in Sntioned in Section 24A does not correspond with the description and limitations provided in Section 59A , he shall cause an analysis of the said article to be made and is upon such analysis the <sup>2</sup>[Commissioner] shall find the said article does not so correspond, <sup>4</sup>[or obtained] such article to show cause why the said article should not be dealt with as the intoxicating liquor, such notice to be served personally or by registered post as the <sup>5</sup>[Commissioner] may determine, and shall specify the time when, place where, and the name of the officer before whom such person is required to appear. <sup>6</sup>[(1-A) If such person fails to show to the satisfaction of the <sup>4</sup>[Commissioner] that the said article corresponds with the description and limitations provided in Section 59A , the Commissioner may by notification in the Official Gazette direct that the said article be dealt with as an intoxicating liquor and thereupon the provisions of this Act relating to liquor shall apply to that article.]

<sup>8</sup>[(2) Whenever the <sup>4</sup>[Commissioner] causes an analysis of an article mentioned under Section 24A to be made under sub-section (1) <sup>10</sup>[or gives notice thereunder], he may require the person who is the manufacturer thereof or is known or believed to have imported <sup>3</sup>[or obtained] such article not to sell, distribute or otherwise deal with such article, or to remove it from any place without the previous permission of the <sup>4</sup>[Commissioner], for any period not exceeding three months from the date of such requisition or till the result of the analysis is known and <sup>13</sup>[communicated to him in writing by the <sup>4</sup>[Commissioner] whichever is earlier, or as the case may be, till such manufacturer or other

person satisfies the <sup>4</sup> [Commissioner] that the article corresponds to the description and limitations provided in Section 58A; and thereupon such manufacturer or person shall comply with such requisition during the said period.]

1. The original section 59B was re-numbered as sub-section (1) of that section by Bom. 20 of 1955, s.5.
2. This words was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
4. These words were inserted by Bom. 22 of 1960, s.44(2).
5. This words was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch
6. This sub-section was inserted by Bom. 22 of 1960, s.44(2).
8. Sub-section (2) was added by Bom. 20 of 1955, s.5.
10. These words were inserted by Bom. 22 of 1960, s.44(1).
13. These words, figures and letters were substituted for the words "communicated to him whichever is earlier" by Bom. 22 of 1960, s.44(3).

#### CHAPTER 4B

Control and regulation of denatured spirituous preparations to prevent their use as Intoxicating liquor

### **59C. Prohibition against possession of denatured spirituous preparation in excess of prescribed limit and the regulation of its possession in excess of prescribed limit :-**

(1) No person shall have in his possession, except under a permit granted by any officer empowered by the State Government in that behalf, any quantity of denatured spirituous preparation in excess of such a quantity as the State Government may by notification in the Official Gazette, specify.

(2) In specifying quantity of possession of denatured spirituous preparation under sub-section

(1) regard shall be had to the necessity for the free possession of such preparation for legitimate, domestic and other purposes, and different limits may be fixed for-

- (i) different local area,
- (ii) different classes of persons, and
- (iii) different occasions.

### **59D. Regulation of manufacture etc of denatured spirituous preparations :-**

(1) No person shall

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

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

(c) drink any denatured spirituous preparation.

(2) A license or pass required under sub-section (1) shall be granted by an officer empowered in writing in that behalf by the State Government.

#### CHAPTER 5

Mhom-a flowers

### **60. Prohibition of export or import of mhowra flowers :-**

Control and regulation of transport, sale, etc, of mhowra flowers:-

(1) No person shall export or import mhowra flowers except under a pass granted by the Collector or an officer authorised in this behalf.

(2) <sup>1</sup>[No person or head of household on his behalf or on behalf of the members of his household shall in the aggregate] collect or transport or sell or buy or have in his possession

mhowra flowers exceeding the prescribed in weight, except under the authority and subject to the conditions of a license, permit or pass granted <sup>2</sup>[by the Collector or an officer authorised] in this behalf: Provided that no license, permit or pass shall be necessary for the collection, transport, sale, purchase or possession within such area and doing such period (hereinafter called vacation period) as the <sup>3</sup>[State] Government may by notification in the Official Gazette, notify, of any quantity of mhowra flowers which shall be the produce of the year <sup>4</sup>[and of that area]: Provided further that unless the <sup>3</sup>[State] Government may by notification in the Official Gazette, otherwise direct, no license, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that-

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

(ii) there is a vacation period at the place from which and to which the said flowers are transported at the time when the said flowers are dispatched or arrive, as the case may be.<sup>6</sup>  
[\* \* \* \*]

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

2. These words were inserted by Bom. 26 of 1952, s.28(2).

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

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

6. The Explanation was deleted by Bom. 22 of 1960, s.46.

#### CHAPTER 6

Control and regulation of molasses

### **61. Control of export, etc, of molasses :-**

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

(2) The <sup>1</sup>[State] Government may, by general or special order, authorise any Collector <sup>2</sup>[or any other officer] to grant licenses for the import, export, sale or possession of molasses.

(3) The <sup>3</sup> [State] Government may authorise any Collector or any other officer to grant permits for the transport of molasses.

1. These brackets and words were inserted by Bom. 22 of 1960, s.49(a).

2. This portion was substituted for the portion beginning with the words "shall on conviction be punished" to the end of the section, by Bom. 22 of 1960, s.49(d).

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

### **62. Provisions of sections 53 to 59 to apply licenses granted under section 61 :-**

The provisions of Section 53 Section 54 Section 55 Section 56 Section 57 Section 58 and Section 59 <sup>1</sup> [(both inclusive)] shall, so far as may be applicable, apply to licenses or permits granted under Section 61 .

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

### **63. Provision of Act in relation to molasses to be in addition to, and not in derogation of Bom :-**

<sup>1</sup> XXXVIII of 1956:-The provisions of this Act in relation to molasses shall be in addition to, and not in derogation of the provisions of the Bombay Molasses (Control) Act, 1956, (Bom.XXXVIII of 1956] or of any rule or order made thereunder.]

1. This section was inserted by Bom. 22 of 1960, s.48.

### **64. Power of State Government to direct holder of stock of molasses to sell them at fixed price to any officer, person or class of persons :-**

] Deleted by Bom. 26 of 1952,s.30.

**65. Penalty for illegal import, etc of intoxicant or hemp :-**

Whoever, in contravention of the provisions of this Act, or any rule, regulation or order made or of any license, permit, pass or authorisation granted thereunder-

- (a) imports or exports any intoxicant <sup>1</sup>[(other than opium)] or hemp,
- (b) manufactures any intoxicant <sup>2</sup>[(other than opium)],
- (c) constructs or works any distillery or brewery,
- (d) bottles liquor,
- (e) sells or buys any intoxicant <sup>2</sup>[(other than opium)] or hemp, or
- (f) uses, keeps or has in his possession any materials, still, utensils, implements or apparatus for the purpose of manufacturing any intoxicant <sup>2</sup>[(other than opium)],

<sup>5</sup> (g) cultivates or collects hemp,] [shall on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fine:

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

- (i) for a first offence, such imprisonment shall not be less than six months, and fine shall not be less than five hundred rupees;
- (ii) for a second offence, such imprisonment shall not be less than nine months, and fine shall not be less than one thousand rupees;
- (iii) for a third or subsequent offences, such imprisonment shall not be less than one thousand, and fine shall not be less than one thousand rupees.

1. These brackets and words were inserted by Bom. 22 of 1960, s.50(a)(ii).

2. Sub-sections (2) and (3) were added by Bom. 12 of 1959, s.9.

5. These words and figures were substituted and shall be deemed always to have been substituted for the words and figures "not less than 0.05 per cent" by Bom. 22 of 1960, s.50(b).

**66. Penalty for illegal cultivation and collection of hemp and other matters :-**

(1) Whoever, in contravention of the provisions of this Act, of any rule, regulation or order made or of any license, permit, pass or authorisation thereunder-

- (a) <sup>1</sup>[\* \* \* \*]
- (b) consumes, uses, possess or transports any intoxicant <sup>2</sup>[(other than opium)] or hemp,
- (c) taps or permits to be tapped any toddy producing tree,
- (d) draws or permits to be drawn toddy from any tree, shall on conviction, be punished-

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

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

(ii) for a second offence, with imprisonment for a term which may extend to nine months, and with fine which may extend to one thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six



months and fine shall not be less than one thousand rupees;

(iii) for a third or subsequent offences, with imprisonment for a term which may extend to nine months, and with fine which may extend to one thousand rupees:

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

**3**(2) Subject to the provisions of sub-section (3), where in any trial of an offence under clause (b) of sub-section (1) for the consumption of an intoxicant, it is alleged that the accused person consumed liquor, and it is proved that the concentration of alcohol in the blood of the accused person is <sup>4</sup> [not less than 0.05 per cent, weight in volume] then the burden of proving that the liquor consumed was a medicinal or toilet preparation, or an antiseptic preparation or solution, or a flavoring extract,

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

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

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

1. Clause (a) was deleted by Bom. 22 of 1960, s.50(a)(xi).

2. These brackets and words were inserted by Bom. 22 of 1960, s.50(a)(ii).

3. Sub-sections (2) and (3) were added by Bom. 12 of 1959, s.9.

4. These words and figures were substituted and shall be deemed always to have been substituted for the words and figures "not less than 0.05 per cent" by Bom. 22 of 1960, s.50(b).

#### **66A. Penalty for illegal import etc., of opium :-**

**1** :- Whoever, in contravention of the provisions of this Act, or any rule, regulation or order made thereunder or of any license, permit, pass or authorisation granted by or under this Act, imports, exports, transports, consumes, uses, possess, sells or buys opium, shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fine: Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court-

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

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

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

1. This section was inserted by Bom. 22 of 1960, s.51.

#### **67. Penalty for alteration or attempting to alter denatured spirit :-**

"[(1) Whoever in contravention of Section 21 alters or attempts to alter any denatured spirit or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees: Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months, and fine shall not be less than five hundred rupees.

**1** (2) In prosecution under this section, it shall be presumed, until the contrary is proved,

that the alteration or attempt to alter any denatured spirit was some, with the intention that such spirit may be used for human consumption as an intoxicating liquor.]]

1. This sub-section was added by Bom. 22 of 1960, s.52.

**67(1A). Penalty for alteration or attempting to alter denatured spirituous preparation :-**

**1** [ :- **2**

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

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

**3** (2) in pr, secution under this section, it shall be presumed, until the contrary is proved, that the alteration or attempt to alter any denatured spirit was some, with the intention that such spirit may be used for human consumption as an intoxicating liquor.]

1. Section 67-1A inserted by Bom. 36 of 1954, s.10.

2. Section 67-1A was renumbered as sub-section (1) by Bom. 22 of 1960, s.53.

3. This sub-section was added by Bom. 22 of 1960, s.53.

**67(1B). Penalty for contravention of provision regarding prescriptions :-**

**1** ;-

(1) Whoever-

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

(b) being a registered medical practitioner-

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

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

(iii) fails to preserve such prescription, a copy thereof, for the period for which it is required by that section to be preserved, shall on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

1. This section was inserted by Bom. 22 of 1960, s.54.

**67A. Penalty for manufacturing articles mentioned in section 24A in contravention of the provisions of section 59A :-**

**1** .;-

(1) Whoever in contravention of the <sup>2</sup>[provisions of Section 59AA or as the case may be, of Section 59A ]-

**3**

[(1a) manufactures, imports or exports any article mentioned in Section 24A . or -]

(a) sells, uses or disposes of any liquor otherwise than as an ingredient of any <sup>4</sup>Article mentioned in Section 24A ], or

(b) uses more alcohol in the <sup>5</sup>[manufacture of any of the articles mentioned in Section 24A ]

than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of such <sup>6</sup>[article], or

(c) knowingly sells <sup>7</sup>[any such article] for being used as an intoxicating drink, or sells any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose, shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) No person who has been convicted for any offence under this section or has paid any sum of money under Section 104 <sup>8</sup>[by way of composition] for such offence shall be entitled to manufacture, import or to sell any <sup>9</sup>[article mentioned in ] for a period of one year from the date of such conviction or payment, and any person who imports, manufactures or sells any <sup>10</sup> [such article] in contravention of this sub-section shall be liable to the same punishment as is provided for an offence punishable under Section 65 .

1. Sections 67A and 67B were inserted by Bom. 26 of 1952, s.31.
2. These words, figures and letters were substituted for the words, figures and letters "provisions of section 59 A" by Bom. 22 of 1960, s.55(a)(i).
3. Clause (1 -a) was inserted by Bom. 22 of 1960, s.55(a)(ii).
4. These words were substituted for the words "medicinal or toilet preparation" by Bom. 36 of 1954, s.11 (i)(a).
5. These words, figures and letter were substituted for the words "in the manufacture of such articles which may be used as intoxicating liquor" by Bom. 22 of 1960, s.55(a)(iii).
6. This word was substituted for the word "preparation" by Bom. 26 of 1954, s.11 (i)(b).
7. These words were substituted for the words, figures and letter "any article to which section 24A applies" by Bom.26 of 1954, s.11 (i)(c).
8. This word was substituted for the word "preparation" by Bom. 26 of 1954, s. 11 (i)(b).
9. These words were substituted for the words, figures and letter "preparation to which section 24A applies" by Bom. 26 of 1954, s. 11 (ii)(a).
10. This word was substituted for the word "such preparation" by Bom. 26 of 1954, s.11 (ii) (b).

**67B. Penalty for failure to satisfy the Commissioner under sub-section (1) or to comply with a requisition under sub-section (2), of section 59-B :-**

<sup>1</sup>[(1)] if the manufacturer of any articles mentioned in Section 24A fails to show to the satisfaction of the <sup>2</sup>[Commissioner] that the article corresponds to the description and limitations provided in Section 59A , his license for purchase, use or possession of liquor or alcohol for the manufacture of such article shall be revoked.

<sup>3</sup>[(2) Any person who fails to comply with any requisition made by the <sup>2</sup> [Commissioner] under sub-section (2) of Section 59B , shall, on conviction, be punished, with imprisonment for a term which may extend to one year or with fine or with both.]

1. The original section 67B was renumbered as sub-section (1) of that section by Bom. 20 of 1955, s.6(l).
2. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
3. Sub-section (2) was added by Bom. 20 of 1955, s.6(1).

**67C. Penalty for possessing, etc, denatured spirituous preparations in contravention of provisions of section 59C and 59D :-**

<sup>7</sup> :- Whoever-

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

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

(c) drinks any denatured spirituous preparation, shall on conviction, be punished-

(i) for a first offence, such imprisonment shall not be less than six months, and fine shall not

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

(ii) for a second offence, such imprisonment shall not be less than nine months, and fine shall not be less than two thousand rupees; Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees;

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

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

\* This marginal note was substituted for the original by Bom. 20 of 1956, s.6(2).

**68. Penalty for opening etc, of common drinking house :-**

Whoever-

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

(b) has the care, management or control of, or in any manner assists in conducting the business, of any place opened, kept or used as a common drinking house.<sup>1</sup> [shall on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fine: Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court.-

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

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

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

1. This portion was substituted for the original by Bom. 22 of 1960, s.57.

**69. Penalty for illegal import etc., of mhowra flowers :-**

Whoever, in contravention of the provisions of this Act, any rule, regulation or order made thereunder or of any license, permit, pass or authorisation granted thereunder, imports, exports,<sup>1</sup> [collects], transports, sells, buys or has in his possession mhowra flowers, shall, on conviction, be punished,

(i) for a first offence, with imprisonment for a term which may extend to six months, and with fine which may extend to one thousand rupees: Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees;

(ii) for a second offence, with imprisonment for a term which may extend to nine months, and fine shall not be less than one thousand rupees; Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees;

(iii) for a third or subsequent offences, with imprisonment shall not be less than one thousand, and fine shall not be less than one thousand rupees:

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

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

1. This word was inserted by Bom 26 of 1952 s.32

**70. Penalty for illegal import etc., of molasses :-**

Whoever, in contravention of the provisions of this Act, any rule, regulation or order made thereunder or of any license, permit, pass or authorisation granted thereunder, imports, exports, transports, sells, buys or has in his possession molasses, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

**71. Penalty for selling molasses at price exceeding fixed price :-**

Deleted by Bom. 26 of 1952, s.33.

**72. Penalty for removal of intoxicant, etc :-**

<sup>1</sup> :- . Whoever, in contravention of the provisions of this Act, any rule, regulation or order made thereunder or of any license, permit, pass or authorisation granted thereunder, removes any intoxicant, hemp, mhowra flowers or molasses from any distillery, warehouse, godown or other place of storage established or licensed under this Act, shall, on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.]

1. This section was substituted for the original by Bom. 22 of 1960, s.57.

**73. Penalty for printing and publishing advertisements in contravention of provisions of Act etc :-**

Whoever, in contravention of the provisions of this Act, any rule, regulation or order made thereunder prints or publishes in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodic publication or otherwise displays or distributes any advertisement or other matter, -

(a) which <sup>2</sup> solicits the use of or offers any intoxicant or hemp; <sup>1</sup> [or]

(b) which is calculated to encourage or incite any individual class or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any license, permit, pass or authorisation granted, thereunder; shall on conviction, be punished with imprisonment for a term which may extend to six months and also with fine which may extend to five hundred rupees or with both.

1. This word was inserted by Bom 26 of 1952, s 35(1).

**74. Penalty for circulating, etc, newspapers, etc, containing advertisements regarding intoxicants, etc :-**

Whoever, in contravention of a notification issued under sub-section (3) of section 24 , circulates, distributes, or sells any newspaper, news-sheet, book, leaflet, booklet or any other single or periodic publication outside the <sup>1</sup> [State] which contains any advertisement or other matter,-

(a) which <sup>2</sup> solicits the use of or offers any intoxicant or hemp; or

(b) which is calculated to encourage or incite any individual class or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any license, permit, pass or authorisation granted, thereunder; shall on conviction, be punished with imprisonment for a term which may extend to six months and also with fine which may extend to five hundred rupees or with both.

1. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.

**75. Penalty for inciting or encouraging certain acts[\* \* \*] :-**

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

(a) which solicits the use of or offers any intoxicant or hemp; or

(b)<sup>1</sup> [\* \* \* \*]

(c) does any act which is calculated to encourage or incite any individual class or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any license, permit, pass or authorisation granted, thereunder;

1. Clause (b) was deleted by Bom 26 of 1952, s 36(2).

**75A. Penalty for contravention of provisions of section 43 :-**

<sup>1</sup> ; - Whoever, in contravention of the provisions of Section 43 , -

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

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

(c) serves liquor at any ceremonial or other function or any assembly of persons where persons (not being members of his family or his employees) not holding permits under Section 40 , Section 41 , Section 46A or Section 47 are present; shall on conviction, be punished with imprisonment for a term which may extend to six months and also with fine which may extend to one thousand rupees or with both.

\* The words "frustrating provisions of this Act" were deleted by Bom 26 of 1952, s 36(3).

**76. Penalty for neglect to keep measures, etc :-**

Whoever, in contravention of the provisions of this Act, any rule, regulation or order made thereunder or of any license, permit, or pass granted under this Act, -

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

(b) refuses to measure, weigh or test any intoxicant or hemp in his possession <sup>1</sup> [or to have it weighted, measured or tested], shall, on conviction, be punished for each such offence with fine which may extend to two hundred rupees.

1. These words were added by Bom. 22 of 1960, s.60.

**77. Penalty for misconduct by licensee, etc :-**

Whoever, being the holder of a license, permit, pass or authorisation granted under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf -

(a) fails to produce license, permit, pass or authorisation on demand by a Prohibition Officer or any other duly empowered if such license, permit, pass or authorisation is in his possession or control, or

(b) willfully does or omits to do anything in contravention of any rule, regulation or order made under this Act, or [\* \* \* \*] shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to <sup>1</sup>[six] months or with fine which may extend to <sup>2</sup> [five hundred] rupees or with both.

1. This word was substituted for the word "three" by Bom. 22 of 1960, s.61 (b).

2. These words were substituted for the words "two hundred" by Bom. 22 of 1960, s.61 (b).

**78. Penalty for misconduct by licensed vendor or manufacturer :-**

Whoever, being the holder of a license for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf-

(a) mixes or permits to be mixed with the said intoxicant any noxious drug or any foreign ingredient likely to add to the actual or apparent intoxicating quality or strength or any article prohibited by any rule made under this Act or water except for the purpose of reducing liquor to the strength prescribed in the license, or any diluting or coloring substance or any ingredient whatsoever likely to render the intoxicant inferior in quality whether such ingredient is or is not prohibited as aforesaid, when such admixture shall not amount to the offence of adulteration under S.272 of the Indian Penal Code, 1860, or.

(b) sells, or keeps or exposes for sale as foreign liquor, which liquor he knows or has reasons to believe to be a country liquor, or (XLV of 1860)

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

(d) sells any intoxicant which is not of the nature, substance and quality or other receptacle, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or receptacle contains foreign liquor, when such act shall not amount to an offence of selling goods marked with a counterfoil mark under S.486 of the Indian Penal Code, 1860 or

(e) sells any intoxicant which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any intoxicant which is not of the nature, substance and quality authorised by the terms of the license to be kept for sale by the holder of the license, shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.

**79. Liability of licensee for acts of servants :-**

The holder of a license, permit, pass or authorisation granted under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission on his behalf under the provisions of this Act as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence: Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

**80. Import, export, etc of intoxicant by any person on account of another :-**

(1} Whenever any intoxicant, hemp,- mhowra flowers or molasses are manufactured, imported, exported, transported, sold or are possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or are possession is, on his account, the intoxicant, hemp, mhowra flowers or molasses, as the case may be, shall, for the purpose of this Act, be deemed to have been manufactured, imported, exported, transported, sold or to be in possession of, such other person.

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

**81. Penalty for attempts or abetment :-**

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

**82. Breach of license, permit, etc, to be an offence :-**

(1) In the event of any breach by the holder of any license, permit, pass or authorisation granted under this Act or by his servants or by any person acting on his express or implied permission on his behalf of any of the terms and conditions of such license, permit, pass or authorisation such holder shall in addition to the cancellation or suspension of the license, permit, pass or authorisation granted to him be punished, on conviction, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

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

**83. Penalty for conspiracy :-**

When two or more persons agree-

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

(b) <sup>1</sup> [\* \* \*] to commit breach of a condition of a license, permit, pass or authorisation, each of such persons shall, on conviction be punished, with imprisonment for a period which may extend to two years or with fine which may extend to one thousand rupees or with both

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

**84. Penalty for being found drunk in any drinking house :-**

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

**85. Penalty for being drunk and for disorderly behavior :-**

**1**

(1) Whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access, behaves in a disorderly manner under the influence of drink shall, on conviction, be punished,-

(a) for a first offence, with rigorous imprisonment for a term which may extend to six months, and fine shall not be less than one thousand rupees: Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees;

(b) for a subsequent offence, with rigorous imprisonment for a term which may extend to nine months, and fine shall not be less than one thousand rupees; Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees;

**2** (2) In prosecution for an offence under sub-section (1), it shall be presumed until the contrary is proved that the person accused of the said offence has drunk liquor or consumed



any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose].

1. Sub-section (1) was substituted by Mah. 33 of 1972, s.2.

2. Sub-section (2) was added by Bom 26 of 1952, s.88.

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

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

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

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

**87. Penalty for chemist, druggist or apothecary for allowing his premises to be used for purpose of consumption of liquor :-**

A. chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been bona fide medicated for medicinal purposes according to the prescription of a <sup>1</sup> [registered medical practitioner] or any intoxicating drug to be consumed on his business premises by any person shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

1. These words were substituted for the words "medical practitioner" by Bom. 12 of 1959. s. 10. . See now the Code of Criminal Procedure, 1973 (2 of 1974.)

**88. Penalty for issuing false prescriptions :-**

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

1. These words were substituted for the words "medical practitioner" by Bom. 12 of 1959. s. 10. . See now the Code of Criminal Procedure, 1973 (2 of 1974.)

**89. Penalty for maliciously giving false information :-**

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

**90. Penalty for offences not otherwise provided for :-**

Whoever is guilty of any willful act or intentional omission in contravention of the provisions of this Act, or rule, regulation or order made thereunder or of any license, permit, pass or authorisation granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

**91. Demand for security for abstaining from commission of certain offences :-**

(1) Whenever any person is convicted of an offence punishable under this Act, the Court

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

(2) The bond shall be in such form as may be provided under the provisions of the Code of Criminal Procedure, 1898.(V of 1898) and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such a bond if it were a bond to keep the peace ordered to be executed under S.106 of the Code of Criminal Procedure, 1973

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

**92. Release of offenders on bond :-**

Deleted by Bom. 67 of 1953. S.2.

**93. Demand for security for good behavior :-**

(1) Whenever a <sup>1</sup> [Presidency Magistrate] specially empowered by the State Government in this behalf in Greater Bombay and elsewhere, a

(2) The provisions of the Code of Criminal Procedure, 1973, shall in so far as they are applicable apply to any proceedings under sub-section (1) as if the bond referred to therein were a bond required to be executed under S.110 of the Code of Criminal Procedure, 1973.

1. These words were substituted for the original by Bom. 21 of 1954, s.3. Second Schedule.

**94. Execution of bonds in respect of minor :-**

If any person in respect of whom a bond is ordered to be executed under <sup>1</sup> Section 91 and Section 93 is a minor, the bond shall be executed by his guardian.

1. These words were substituted for the words "the last three preceding sections" by Bom. 67 of 1953, s.3. This section was substituted for the original by Bom. 22 of 1960, s.62.

**95. Punishment for vexatious search, seizure or arrest :-**

Any officer or person exercising powers under this Act who-

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

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

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

(d) in any other way maliciously exceeds or abuses his lawful powers, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.]

**96. Punishment for vexatious delay :-**

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

**97. Punishment for abetment for escape of persons arrested :-**

Any officer or person exercising power under this Act, who-

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

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

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

[Government] or of a local authority who abets the commission of any offence against this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

#### **98. Things liable to confiscation :-**

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

(a) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed, See now the Code of Criminal Procedure, 1973 (2 of 1974.) Adaptation of Laws Order, 1950.

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

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

(d) where in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than those in respect of which an offence has been committed the whole of such other intoxicant, hemp, mhowra flowers or molasses shall be confiscated by the order of the Court.

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

#### **99. Return of things liable to confiscation to bonafide owners :-**

When during the trial of a case for an offence under this Act the Court decides that anything is liable to confiscation under the foregoing section, the court, may after hearing the person, if any, claiming any right thereto and the evidence if any which he produces in support of his claims, order confiscation, or in the case of an article other than an intoxicant, hemp, mhowra flowers or molasses give the owner an option to pay fine as the Court deems fit in lieu of confiscation:

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

#### **100. Procedure in confiscation :-**

When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act is found or seized, the <sup>1</sup>[Commissioner], Collector or any other officer authorised by the <sup>2</sup>[State] Government in this behalf may make an inquiry and if after such inquiry is satisfied that an offence has been committed, may order the thing found to be confiscated:

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

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

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

3. These words were substituted for the words "any person who can claim any right thereto" by Bom. 22 of 1960, s.63.

### **101. Power of Collector, etc :-**

to order sale or destruction of articles liable to confiscation. If the thing in question is liable to speedy and natural decay, or if the <sup>1</sup>[Commissioner], Collector, <sup>2</sup>[Court] or the officer authorised by <sup>3</sup>[State] Government in this behalf is of opinion that the sale would be for the benefit of the owner, the <sup>1</sup>[Commissioner], Collector, <sup>2</sup>[Court] or the officer may at any time direct it to be sold and the provisions of Section 99 or Section 100 shall apply so far as may be to the net proceeds of the sale:Second Schedule <sup>1</sup>

Provided that where anything is liable to speedy and natural decay or is of trifling value, the Court, or the officer concerned may order such thing to be destroyed, if in its or his opinion such order is expedient in the circumstances of the case.

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
2. This word was substituted for the word "Magistrate" by Bom. 21 of 1954, s.3.
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **102. Forfeiture of any publication containing advertisement or matter soliciting use of intoxicants :-**

**1.**

(1) Where any newspaper, news-sheet, book, booklet leaflet, or other publication wherever printed or published appears to the <sup>1</sup>[State] Government to contain any advertisement or matter 3 soliciting the use of, or offering any intoxicant or hemp, the <sup>1</sup>[State] Government may by notification in the Official Gazette, declare every copy of such newspaper, news-sheet, book, booklet leaflet, or other publication printed or published in the <sup>4</sup>[State] or outside to be forfeited to <sup>5</sup>[the State] Government, and thereupon any Police Officer may seize the same whoever found in the <sup>2</sup>[State]. Any Magistrate may by warrant authorise any Police Officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such newspaper, news-sheet, book, booklet leaflet, or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.

(2) The declaration of the <sup>1</sup> [State] Government under this section shall be final and shall not be questioned in any Civil or Criminal Court.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
4. This word was substituted for the word "prc-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.
5. These words were substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950. Sec now the Code of Criminal Procedure, 1973 (2 of 1974.)

### **103. Presumption as to commission of offences in certain cases :-**

(1) In prosecutions under any of the provision of this Act, it shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, utensil, implement or apparatus, whatsoever for the manufacture of any intoxicant <sup>1</sup>[\* \* \*] <sup>2</sup>[or any materials which have undergone any process towards the manufacture of any intoxicant or from which an intoxicant has been manufactured], for the possession of which he is unable to account satisfactorily.

(2)<sup>3</sup> \* \* \*]

1. The words "as are ordinarily used in the manufacture of such intoxicant" were deleted by Bom. 22 of 1960, s.65(a).
2. These words were inserted by Bom. 20 of 1955, s.8.
3. Sub-section (2) was deleted by Bom. 22 of 1960, s.65(b).

**103A. Report of certain registered medical officers as evidence :-**

} Deleted by Bom. 12 of 1959, s.12.

**104. Compounding of offences :-**

(1) The <sup>1</sup>[State] Government may sanction the acceptance from any person whose license, permit, pass or authorisation is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under Section 9 Section 69 , Section 70 , Section 77 , Section 82 , or Section 108 , of a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be, and in all cases in which any property other than the intoxicant, hemp, mhowra flowers or molasses has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as <sup>2</sup>[State] Government may authorise in this behalf:

Provided that where a person who is reasonably suspected of having committed an offence under Section 2 Section 69 Section 70 or Section 108 is not the holder of a license, permit, pass or authorisation granted under this Act or a person in the employ of such holder or a person acting with his express or implied permission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed five hundred rupees.

**2**

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

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

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

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

**104A. Bombay Probation Offenders Act, 1938 and section 562 of Code of Criminal Procedure, 1898, not to apply to persons convicted of offence under this Act :-**

<sup>1</sup>:- Nothing in the Bombay Probation of Offenders Act, 1938, (Bom.XIX of 1938) or <sup>2</sup> [in any law corresponding to that Act in force in any part of the State or in the Probation of Offenders Act, 1958, (XX of 1958)where that Act is brought into force in any part of the State or in] S.562 of the Code of Criminal Procedure, 1973. , (V of 1898) shall apply to any person convicted of any offence under this Act.

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

2. These words and figures were inserted by Bom. 12 of 1959, s.13.

**CHAPTER 8**

**Excise Duties**

**105. Excise duties :-**

<sup>1</sup>(1) An excise duty or countervailing duty, as the case may be, at such rate as the <sup>2</sup>[State] Government shall direct may be imposed either generally or for any specified local area on-

(a) any alcoholic liquor for human consumption,

(b) any intoxicating drug <sup>3</sup>[or hemp],

**4**[(c) opium,]

(d) any other excisable article, when imported, exported, transported, possessed, manufactured or sold **5**[in or from the **6**[State], as the case may be]:

Provided that duty shall not be so imposed on any article which has been imported into **7**[the territory of India] and was liable on such importation to duty under the Indian Tariff Act, 1934, [XXXII of 1934] or the Sea Customs Act, 1878 (VIII of 1878) **8**[or on any medicinal or toilet preparation containing alcohol, opium, hemp or other narcotic drugs or narcotics.

**9**{Explanation - Duty may be imposed under this section at different rates

(i) according to the places to which an excisable article is to be removed for consumption or

(ii) according to varying strengths or quality of such article. Or

(iii) according to the manufacturing cost of the excisable article, declared in writing, by the manufacturer or the exporter to the State, to the prescribed authority and authenticated by that authority.

**4** [\* \* \* \*]

1. . Section 105 was renumbered as sub-section (1) by the Adaptation of Laws Order, 1950.

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

3. These words were added by Bom. 22 of 1960, s.67(a).

4. This clause was substituted for the original by Bom. 22 of 1960, s.67(b).

5. These words were substituted for the words and figures "in accordance with the provisions contained in Chapter IV of this Act" by Bom. 16 of 1952, s.41.

6. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.

7. These words were substituted for the words "Dominion of India" by the Adaptation of Laws Order, 1950.

8. These words were added by Bom. 22 of 1960, s.67(c).

9. This Explanation was substituted by Mah,. 9 of 1996, s. 2

\* Sec now the Customs Act, 1962 (52 of 1962).

#### **106. Manner of levying excise duties :-**

Subject to any regulations to regulate the time, place and manner of payment made by the **1**[Commissioner] in this behalf, the duties referred to in Section 105 may be levied in one or more of following ways:-

(a) In the case of an excisable article imported-

(i) by payment either in the **2**[State] at the time of its import or in the **3**[State] or territory of export at the time of its export, or

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

(b) In the case of an excisable article exported by payment in the **3**[State] at the time of its export or in the **3**[State] or territory of import;

(c) In the case of excisable articles transported-

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

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

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

(i) by a rate charged upon the quantity produced in or issued from the distillery or brewery,

as the case may be, or issued from a warehouse established or licensed under this Act, or,

(ii) by rate charged in accordance with such <sup>6</sup>[scale of equivalents] calculated on the quantity of materials used or by the degree or attenuation of the wash or wort, as the case may be, as the <sup>7</sup>[State] Government may prescribe;

(e) in the case of intoxicating drugs manufactured <sup>8</sup>[in the <sup>5</sup> [State]] by payment upon the quantity produced or manufactured or issued from a warehouse established or licensed under this Act:

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

Provided further that where one and the same person is permitted

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

(ii) to manufacture and export, country liquor or any intoxicant, such duty may be levied in consideration of the point privileges granted, as the Collector deems fit.

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

2. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.

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

6. These words were substituted for the words "sale of equivalents" by Bom. 22 of 1960, s.68.

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

8. These words were substituted for the words "in pursuance of a license granted under this Act" by Bom. 26 of 1952, s.42.

**107. Power to exempt, remit or refund excise duty :-**

Deleted by Bom. 22 of 1960, s.69.

**107A. Declaration of stock of articles mentioned in section 24A; maintenance of accounts and submission of returns :-**

**1** :- Every person who imports or manufactures any of the articles mentioned in Section 24A shall-

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

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

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

**107B. Power to obtain information and to search and seize excisable articles :-**

(1) The Collector or any officer empowered by the State Government in this behalf may, subject to such conditions as may be prescribed,-

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

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

(c) for reasons to be recorded in writing, enter any such place where he knows or has reason to believe that any excisable article in respect of which such duty or fee has not been paid is

being imported or manufactured or stored and search for the same and seize any stocks of such article found therein and detain the same until such time as proof of payment of such duty or fee is produced or such further time as may be necessary for taking action under Section 98 , Section 99 or Section 100 or for prosecuting for an offence under Section 108 .

(2) Whoever-

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

(b) obstructs any officer making an inspection, entry, a search or a seizure under clause (b) or clause (c) of sub-section (1), shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

1. These words were added by Bom. 22 of 1960, s.70.

**108. Penalty for import of intoxicant, etc :-**

without payment of duty:-Whoever imports, exports, transports, possess, <sup>1</sup>[sells] or manufactures any intoxicant or hemp without the payment of duty or fee provided for under this Act shall, on conviction, <sup>2</sup> [in addition to being required to pay such duty or fee be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or the amount of such duty or fee, whichever is greater, or with both.

1. This word was inserted by Bom. 26 of 1952, s.45( 1).

2. This portion was substituted for the words beginning with the words "be liable to the same punishments" and ending with the words "of this Act" by Bom. 26 of 1952, s.45(2).

**109. Duty on tapping of toddy trees :-**

(1) For every toddy producing tree <sup>1</sup>[which is tapped or licensed to be tapped or in respect of which a license of drawing toddy therefrom is granted] there, shall, if the <sup>2</sup>[State] Government so directs, be levied for any period during which such tree is tapped or licensed to be trapped, such duty as the State Government may from time to time direct.

(2) Every license <sup>3</sup> [for tapping of, and drawing toddy from, toddy producing trees] granted under this Act shall specify in addition to any other particulars prescribed under the provisions of this Act or rules and regulations-

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

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

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

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

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

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

**110. Duty by whom payable :-**

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

1. These words were substituted for the words "to draw toddy" by Bom. 22 of 1960, s.72.

**111. Owner of trees entitled to assistance for duty paid :-**

When the duty on toddy producing trees, is levied from the owner of the trees, he shall be



entitled to assistance in recovering the same, from the holder of the license under the provisions of the law for the time being in force relating to the recovery by superior holders of their dues from their tenants.

**112. Privilege of drawing toddy from trees belonging to Government :-**

The privilege of drawing toddy from the trees the right to which vest in the State Government may be disposed of by auction or otherwise on such terms as the Collector deems fit.

**113. Rules for levy of duty on opium, etc :-**

Deleted by Bom. 22 of 1960, s.74.

**114. Recovery of duties, etc :-**

**1**[-:

(1) All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the provisions of this Act or in respect of any license, permit, pass or authorisation granted under it, and the cost of the supervising staff appointed under Section 58A, <sup>2</sup> [if not paid within the due date or the prescribed period, shall be recovered from any person liable to pay the same or from his surety, if any, with simple interest at the rate of 2 per cent per month, from the date it has become due, as if they were arrears of land revenue.]

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

1. This section was substituted for the original by Bom. 22 of 1960, s.75.

2. This portion was substituted beginning with the words "may be recovered from any person" and ending with the words "arrears of land revenue" by Mah. 18 of 1998, s.2

CHAPTER 9

Powers and Duties of officers and Procedure

**115. Magistrates power to impose enhanced penalties :-**

Notwithstanding anything contained in S.32 of the Code of Criminal Procedure, 1973 " (V of 1898) it shall be lawful for the Presidency Magistrate or any Magistrate of the First Class to pass any sentence authorised by this Act in excess of his powers S.32 of the Code of Criminal Procedure, 1973, provided that the fine shall not exceed three thousand rupees.]

**116. Procedure to be followed by Magistrates :-**

In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898 (V of 1898) for the trial of summary cases in which an appeal lies.

**116A. Tender of pardon to accomplice :-**

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

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

(3) Every person accepting a tender under this section, shall be examined as a witness in

the Court of the Magistrate taking cognizance of the offence, and, in the subsequent trial, if any.

(4) The provisions of S.339 of the Code of Criminal Procedure, 1973 and S.339A of the Code of Criminal Procedure, 1973, shall apply to the trial of a person to whom pardon has been tendered under this section as they apply to a person to whom pardon has been tendered under S.337 of the Code of Criminal Procedure, 1973 or S.338 of the Code of Criminal Procedure, 1973.

Explanation - For the purposes of sub-section (4), the reference to the Public Prosecutor in S.339 of the Code of Criminal Procedure, 1973 shall include a reference to any officer conducting a prosecution under this Act.]

**117. Investigations, arrests, searches, etc., how to be made :-**

Save as otherwise expressly

provided in this Act, all investigations, arrests, detentions in custody and searches shall be made in accordance with provisions of the Code of Criminal Procedure, 1898\*(V of 1898)

Provided that <sup>1</sup> [\* \* \*] no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the places searched is situated.

1. These words were added by Bom. 22 of 1960, s.83(a).

**118. Procedure of Code of Criminal Procedure relating to cognizable offences to apply :-**

<sup>1</sup> :- In the absence of any provision to the contrary in this Act, the provisions of the Code of Criminal Procedure, 1898\* (V of 1898) with respect to cognizable offences shall apply to offences under this Act.

1. This section was substituted for the original by Bom. 22 of 1960, s.76. See now the Code of Criminal Procedure, 1973 (2 of 1974.)

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

3. The portion beginning with words "in any local area" and ending with the words "State Government" was deleted by Bom. 26 of 1952, s.46.

4. These sections were substituted for the original by Bom. 22 of 1960, s.78.

1. These words were substituted for the words "any other thing" by Bom. 22 of 1960, s.83(b).

**119. Certain offences to be non-bailable :-**

offences under Section 65 , Section 61 , Section 67A and section 68 shall be non-bailable.]

**120. Power of entry and inspection :-**

<sup>1</sup>:- The <sup>2</sup> [Commissioner], Collector or any Prohibition Officer duly, empowered in this behalf by the State Government, or any Police Officer may-

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

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

(c) seize any intoxicant, hemp, mhowra flowers or molasses and any material used in the

manufacture of any intoxicant and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence under this Act; and

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

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

2. These words were substituted for the word "confiscation" by Bom. 22 of 1960. s.83(a).

### **121. Power to open packages, etc :-**

(1) Any Prohibition Officer duly empowered in this behalf by the <sup>1</sup>[State] Government, or any Police Officer may open any package and examine any goods and may <sup>2</sup>[stop and search] for any intoxicant, hemp, mhowra flowers or molasses any vessel, vehicle or other means of conveyance <sup>3</sup>[and may seize any intoxicant, hemp, mhowra flowers or molasses or any other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to excise revenue found while making such search.]

(2) The unloading and carrying of goods, the bringing of them to the place appointed under sub-section (3) for examination, the opening and repacking of them, where such operations <sup>4</sup>[are necessary for searches made] under this section and the removing of goods to and placing of them in place appointed under sub-section (3) <sup>5</sup>[for examination or deposit], shall be performed by or at the expense of the owner of such goods.

(3) The owner of the goods or the persons in charge of the goods shall, if so required by any officer conducting the search, take the goods <sup>6</sup>[to a place appointed in Greater Bombay by the Commissioner of Police, Bombay and elsewhere, by the District Magistrate] for the purpose of examination or deposit.

<sup>7</sup> (4) The expenses incurred by the State Government for any of the purposes mentioned in subsection (2) may be recovered from the owner, or as the case may be, the person in charge of the goods as arrears of land revenue.]

1. These words were added by Bom. 22 of 1960, s.83(a).

2. These words were substituted for the words "any other thing" by Bom. 22 of 1960, s.83(b).

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

4. These words were substituted for the words "a magistrate" by Bom. 21 of 1954, s.3. Second Schedule.

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

6. These words were inserted by Bom. 26 of 1952, s.48 (1).

7. These words were substituted for the words "a Superintendent of Police" by Mah. 46 of 1962, s.3. Sch.

### **122. Power to require production of licenses :-**

**1**

(1) The <sup>2</sup> [Commissioner], Collector or any Prohibition Officer duly empowered in this behalf by the State Government, or any Police Officer may-

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

(b) enter and inspect, at any time by day or by night, any land on which toddy-producing

trees are growing whether such trees are licensed for tapping or not, and any warehouse, godown, shop or premises in which any licensed manufacturer or vendor manufacturer, stores, or sells any intoxicant, hemp, mhowra flowers or molasses and examine, test, measure or weigh any stock of any such articles or cause any such stock to be examined, tested, measured or weighted.

(2) If any officer mentioned in sub-section (1) finds that the holder of a license, permit, pass or authorisation issued under this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf willfully does or omits to do anything, which is an offence under this Act, such officer may seize any intoxicant, hemp, mhowra flowers or molasses or any material or article in respect of which the offence is committed and any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act and send a report to his official superior for such as he deems fit.]

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

2. These words were substituted for the word "confiscation" by Bom. 22 of 1960. s.83(a).

### **123. Arrest of offenders and seizure of contraband articles :-**

(1) Any Prohibition Officer authorised by the <sup>1</sup>[State] Government in this behalf, or any Police Officer may-

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

(b) seize and detain any intoxicant, hemp, mhowra flowers or molasses or article, which he has reason to believe to be liable to confiscation or forfeiture under this Act <sup>2</sup>[and seize any document or other article which he has reason to believe may furnish evidence of the commission of any offence under this Act.]

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

1. These words were added by Bom. 22 of 1960, s.83(a).

2. These words were substituted for the words "any other thing" by Bom. 22 of 1960, s.83(b).

### **124. Power to obtain information :-**

(1) The <sup>1</sup> [Commissioner], Collector or any Prohibition Officer specially empowered in this behalf by the State Government, or a Police Officer may, by order, require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp, mhowra flowers or molasses as may be specified in the order.

(2) If any person fails to furnish any information in compliance with the order made under subsection (1) or furnishes false information he shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

1. These words were substituted for the word "confiscation" by Bom. 22 of 1960. s.83(a).

### **125. Power to seize intoxicants, etc :-**

The <sup>1</sup>[Commissioner], Collector or any Prohibition Officer duly empowered in this behalf, or any Police Officer may-

(a) seize in any open place, or in transit any intoxicant, hemp, mhowra flowers or molasses or any other thing which he has reason to believe to be liable to <sup>2</sup>[confiscation or forfeiture]

under this Act or any other law for the time being in force relating to excise revenue <sup>3</sup>[and any document or other article which he has reason to believe may furnish evidence of the commission of any offence under this Act;]

(b) detain and search any person whom he has reason to believe to be guilty of any offence under this Act or any other law for the time being in force relating to excise revenue and if such person has any intoxicant, hemp, mhowra flowers or molasses or <sup>4</sup> [other thing] in his possession, arrest him.

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
2. These words were substituted for the word "confiscation" by Bom. 22 of 1960. s.83(a).
3. These words were added by Bom. 22 of 1960, s.83(a).
4. These words were substituted for the words "any other thing" by Bom. 22 of 1960, s.83(b).

#### **126. Arrest without warrant :-**

The <sup>1</sup>[Commissioner], Collector or any Prohibition Officer not below such rank as the <sup>2</sup> [State] Government, may arrest without an order from the Magistrate and without warrant an person who obstructs him in the execution of his duties under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
2. These words were substituted for the word "confiscation" by Bom. 22 of 1960. s.83(a).

#### **127. Arrest of offenders failing to give names :-**

(1) When any person who in the presence of the <sup>1</sup>[Commissioner], collector or any Prohibition Officer duly empowered in this behalf by the <sup>2</sup>[State] Government, or any Police Officer may determine, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer, in order that this name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before <sup>3</sup>[a Magistrate having jurisdiction] when so required: Provided that if such person is not resident in <sup>4</sup>[India], the bond shall be secured, by a surety or sureties residing in <sup>5</sup> [India].

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

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. These words were substituted for the words "a magistrate" by Bom. 21 of 1954, s.3. Second Schedule.
4. This word was substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.
5. These words were substituted for the word "confiscation" by Bom. 22 of 1960. s.83(a).

#### **128. Issue of warrants :-**

(1) The <sup>1</sup>[Commissioner], collector or any Prohibition Officer duly empowered in this behalf, <sup>2</sup>[or in the Greater Bombay, a Deputy Commissioner of Police or <sup>3</sup>[an Assistant Commissioner of Police] in charge of a division, or a Magistrate or <sup>4</sup>[a Superintendent of Police] or an Assistant or Deputy Superintendent of Police specially empowered by the <sup>5</sup>[State] Government in this behalf may issue a warrant-

(a) for the arrest of any person whom he has reason to believe to have committed an

offence under this Act or any other law relating to the excise revenue for the time being in force;

(b) for the search whether by day or by night of any building, vehicle or place in which he has reason to believe that any intoxicant, hemp, \* 1 mhowra flowers or molasses are manufactured or sold or stored or that any toddy is drawn contrary to the provisions of this Act or that any intoxicant, hemp, <sup>6</sup>[mhowra flowers or molasses] or other thing liable to confiscation of forfeiture, under this Act or any other law for the time being in force relating to the excise revenue is kept or concealed <sup>7</sup> [and for the seizure of such intoxicant, hemp, mhowra flowers or molasses or such other thing found in such building, vehicle or place.]

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

1. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.

2. These words were inserted by Bom. 26 of 1952, s.48 (1).

3. These words was substituted for the words "a Superintendent of Police" by Mah. 46 of 1962, s.3. Sch.

4. These words was substituted for the words "a District Superintendent of Police" by Mah. 46 of 1962, s.3. Sch.

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

6. These words was substituted for the words "opium" by Bom. 22 of 1960, s.85.

7. These words were inserted by Bom. 26 of 1952, s. 48(2).

#### **128A. Certain provisions to apply to denatured spirituous preparations :-**

The provisions of Section 80 , Section 98 , Section 99 , Section 103(1), Section 104 , Section 120 , Section 121 , Section 122 , Section 123 , Section 124 , Section 125 , Section 128 , Section 135 and Section 139 shall apply to denatured spirituous preparations as they apply to any intoxicant under this Act.]

#### **129. Prohibition officers may be empowered to investigate offences :-**

(1) The <sup>1</sup>[State] Government may empower any Prohibition Officer to investigate offences under this Act.

(2) An officer empowered under sub-section (1) shall" in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1989, upon an officer-in-charge of a Police Station for the investigation of cognizable offences.

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

(4) If the Prohibition Officer conducting the investigation is of the opinion that there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond with or without sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report.

(5) The powers of any officer empowered under this section shall be subject to such other modifications or restrictions as the <sup>1</sup>[State] Government may deem fit.<sup>3</sup>

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

3. Sections 129A and 129B were inserted by Bom. 12 of 1959, s. 16.

**129A. Power to require persons to submit to medical examination etc. :-**

(1) Where in the investigation of any offence under this Act, any Prohibition Officer duly empowered in this behalf by the State Government or any Police Officer, has reasonable ground for believing that a person has consumed an intoxicant and that for the purpose of establishing that he has consumed an intoxicant or for the procuring of evidence thereof it is necessary that his body be medically examined, or that his blood be collected for being tested for determining the percentage of alcohol therein, such Prohibition

(2) The registered medical practitioner before whom such person has been produced shall examine such person and collect and forward in the manner prescribed the blood of such person, and furnish to the Officer by whom such person has been produced, a certificate in the prescribed form containing the result of his examination. The Chemical Examiner or Assistant Chemical Examiner to Government, or other Officer appointed under sub-section (1) shall certify the result of the test of the blood, forwarded to him, stating therein in the prescribed form, the percentage of alcohol and such other particulars as may be necessary or relevant.

(3) If any person offers resistance to his production before a registered medical practitioner under sub-section (1) or on his production before such practitioner to the examination of his body or to the collection of his blood, it shall be lawful to use all means reasonably necessary to secure the production of such person or the examination of his body or the collection of blood necessary for the test.

(4) If the person produced is a female, such examination shall be carried out by, and the blood shall be collected by or under the supervision of, a female registered medical practitioner authorised by general or special order by the State Government in this behalf, and any examination of the body, or collection of blood, of such female shall be carried out or made with strict regard to decency.

(5) Resistance to production before a registered medical practitioner as aforesaid, or to the examination of the body under this section or to the collection of blood as aforesaid, shall be deemed to be an offence under S.186 of the Indian Penal Code, 1860.

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

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

(8) Nothing in this section shall preclude the fact that the person accused of an offence has consumed an intoxicant from being proved other wise than in accordance with the provisions of this section.

**129B. Documents or reports of registered medical practitioner, etc. as evidence :-**

Any document purporting to be-

(a) a certificate under the hand of a registered medical practitioner, or the Chemical Examiner or Assistant Chemical Examiner to Government, under Section 129A or of an officer appointed under sub-section (1) of that section, or

(b) a report under the hand of any registered medical practitioner, in any hospital or dispensary maintained by the State Government or a local authority or any other registered medical practitioner authorised by the State Government in this behalf, in respect of any person examined by him or upon any matter or thing duly submitted to him for examination or analysis and report. May be used as evidence of the facts stated in such certificate, or as

the case may be, report, in any proceedings under this Act; but the Court may if it thinks fit, and shall, on the application of the prosecution or the accused person, summon and examine any such person as to the subject matter of his certificate or as the case may be, report.

**130. Arrested persons and things seized to be sent to officer-in-charge of police station :-**

Every person arrested and thing seized by a Prohibition Officer under this Act, shall be sent to the officer-in-charge of the nearest Police Station <sup>1</sup>[ or to any other officer duly empowered under Section 129 if the <sup>2</sup> [Commissioner] in any particular case has directed such officer to conduct the investigation of the offence.]

1. This portion was added by Bom. 22 of 1960 ,s.86.

2. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch. See now Code of Criminal, 1973 (2 of 1974).

**131. Bail by Prohibition Officer :-**

(1) Any Prohibition Officer empowered to investigate an offence under this Act shall have power to grant bail in accordance with the provisions of the 'Code of Criminal Procedure, 1898 (V of 1898) to any person arrested without a warrant for an offence under this Act.

(2) When any person has been arrested under Section 126 , a Prohibition Officer empowered to investigate offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898. (V of 1898)

**132. Articles seized :-**

<sup>1</sup> When anything has been seized under the provisions of this Act by a Prohibition Officer exercising powers under Section 129 or by an Officer-in-charge of a Police Station], or has been sent to him in accordance with the provisions of this Act, such officer, after such inquiry as may be deemed necessary.

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken.

(b) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall sent with a full report of the particulars of seizure to the Collector.

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

1. These words were substituted for the words "When anything has been seized by a Prohibition Officer other than the Collector or Director under the provisions of this Act" Bom. 22 of 1960 ,s.87.

**133. Duty of officers of Government and local authorities to assist :-**

Every officer of the <sup>1</sup>[Government] and every officer or servant of local authority, shall be <sup>2</sup> [legally bound to assist any Prohibition Officer or police officer authorised in this behalf in carrying out the provisions of this Act.

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

2. These words were substituted for the words "legally bound to assist any" by Bom. 22 of 1960 ,s.88(a).

**134. Offences to be reported :-**

<sup>6</sup> Every village officer or servant useful to the Government, every officer of the State Government, and (with the consent of the Central Government) every officer of the Customs and Central Excise Departments and every village officer or servant of a local authority, and the Sarpanch of a village Panchayat constituted under the Bombay Village Panchayats Act, 1958, (Bom.III of 1959) shall be bound-



(a) to give immediate information at the nearest Police Station or to any officer or person authorised in this behalf of the commission of any offence and of the intention of preparation to commit any offence under this Act which may come to their knowledge;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about or likely to be committed.

\* These words were substituted for the words "officials of all departments" by Bom. 22 of 1960, s.88(b).

**135. Landlords and others to give information :-**

Every person who owns or occupies any land or building, or who is landlord of an estate residing in the village, and the agent of such owner, occupier or landlord of the land, building or estate, as the case may be, on or in which there has been unlawful tapping of toddy-producing trees or unlawful manufacture of any liquor or intoxicating drug or unlawful cultivation or collection of hemp, and every owner of a vessel or vehicle in which liquor or intoxicating drug is manufactured contrary to the provisions of this Act, shall, in the absence of a reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to a police Officer immediately the same shall have come to his knowledge.]

**136. Power to arrest and make orders detaining or restricting movements or actions of persons :-**

Deleted by Bom. 26 of 1952, s.50.

**CHAPTER 10**

Appeals and revisions

**137. Appeals :-**

(1) All orders passed by any Prohibition Officer other than the Collector or <sup>1</sup>[Director] under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

(2) All orders passed by Collector or <sup>1</sup>[Director] shall be appealable to the <sup>1</sup>[Director] and the <sup>4</sup>[State] Government respectively at any time within ninety days from the date of the order complained:

Provided that no appeal shall lie against the order passed by the <sup>1</sup>[Director] on appeal.

(3) Subject to the foregoing provisions, the rules which the <sup>2</sup> [State] Government may make in this behalf shall apply to appeals under this section.

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

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

**138. Revision :-**

<sup>1</sup> - The State Government may call for and examine the record of any proceeding before any Prohibition Officer, including that relating to the grant or refusal of a license, permit, pass or authorisation under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, any such proceeding and may, when calling for such record, direct that the order be not given effect to pending the examination of the record. On examining the record, it may either annul, reverse, modify or confirm such order, or pass such other order as it may deem fit.

1. This section was substituted for the original by Bom. 22 of 1960, s.90.

**CHAPTER 11**

Miscellaneous

**139. General powers of <sup>2</sup>[State Government in respect of licenses, etc:-<sup>4</sup>(\\)]  
Notwithstanding anything contained in this Act or the rules made thereunder, the**

## **2[State] Government may, by general or special order :-**

(a) prohibit the grant of any kind of licenses, permits, passes or authorisations throughout the <sup>1</sup>[State] or in any area;

(b) regulate the import, export, transport, possession, sale, purchase, consumption or use of any intoxicant, hemp, mhowra flowers, molasses or any article which is likely to be used for the <sup>2</sup>[State] or within the limits of any local area subject to such conditions <sup>3</sup>[as it may impose].

### **4**

(c) exempt any person or institution or any class of persons or institutions from all or any of the provisions of this Act or from all or any of the rules, regulations or orders made thereunder or from all or any of the conditions of any license, permit, pass or authorisation granted thereunder, subject to such conditions as it may impose;

(d) exempt any intoxicant or class of intoxicants, denatured spirituous preparation, hemp, mhowra flowers, or molasses from all or any of the provisions of this Act or from all or any of the rules, regulations or orders made thereunder subject to such conditions as it may impose;

(d1) remit or refund wholly or partially any fee in respect of any privilege, license, permit, pass or authorisation granted under this Act or any duty on toddy producing trees or any excise or countervailing duty or fee leviable under this Act on any intoxicants, hemp, mhowra flowers, or molasses from any person or institution or any class of persons or institutions for payment of such duty or fee, subject to such conditions as it may impose;]

(e) prescribe the maximum number of licenses, permits, passes or authorisations of any kind which may be granted in any area or to any class of persons;

(f) prescribe the number of places at which any intoxicant specified in such order <sup>5</sup>[denatured spirituous preparation], hemp, mhowra flowers, or molasses, may be sold in any area, the location of such places in any area, the days and hour during which such places may or may not be kept open, the number if such laces in respect of which licensed for sale may be granted and the number of such places which may be <sup>6</sup>[managed by the State Government departmentally;]

(g) direct that no license, permit, pass or authorisation of the kind specified in such order shall be granted without the previous approved the <sup>7</sup>[State] Government or also direct any additions or alterations to be made or in the conditions subject to which under any other provisions f this Act, such license, permit, pass or authorisation can be granted;

(h) prescribe the maximum quantity of any intoxicant, <sup>8</sup>[denatured spirituous preparation], hemp, mhowra flowers, or molasses which may be sold in any area or at any place;

<sup>9</sup>[(i) prescribe in respect of any place or area, the maximum number of toddy producing trees for tapping which or for drawing toddy from which license or licenses may be granted;]

### **10**

[(j) 'prescribe the procedure for the disposal of any shop or shops authorised to sell any intoxicant, denatured spirituous preparation, hemp, mhowra flowers or molasses under this Act and the procedure to be followed before granting any license or licenses;]

(k) direct that before granting licenses, auctions may be held, tenders called for or offers received and that licensed shall be granted <sup>11</sup>[subject to such conditions as may be prescribed] to persons who bids, tenders or offers are accepted by the Collector;

(l) specify the persons or class of persons <sup>12</sup>[to whom licenses may or may not be granted] and in cases in which auctions are held, the person or classes of persons who may or may

not be permitted to offer bids at such auctions;

(m) direct that licenses of the kind specified in such order shall be granted to persons specified in such order; and

(n) issue such other instructions in any matter pertaining to the grant or otherwise of licenses, permits, passes or authorisations under this Act, as the <sup>11</sup>[State] Government may deem proper.

**14** [(2) Any order made under sub-section (1) shall, if it is of a general nature of affecting a class of persons, be notified in the Official Gazette.}]

1. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.

2. This word was substituted for the word "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.

3. These words were substituted for the words "and for such periods as it deems fit" by Bom. 22 of 1960, s.91(l)(a).

4. Clauses (c), (d) and (d 1) were substituted for the original clauses (c) and (d) by Bom. 22 of 1960, s.91 (1)(b).

5. These words were inserted by Bom. 22 of 1960, s.91(1)(c)(i).

6. These words were substituted for the words "managed by the Excise Department" by Bom. 22 of 1960, s.91(l)(c)(ii).

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

8. These words were inserted by Bom. 22 of 1960, s.91(1)(d).

9. Clause (i) was substituted for the original by Bom. 22 of 1960, s.91(1)(e).

10. This clause was substituted for the original by Bom. 22 of 1960, s.91(10)(f).

11. These words were inserted by Bom. 22 of 1960, s.91 (1 )(g).

12. These words were substituted for the words "managed by the Excise Department" by Bom. 22 of 1960, s.91(l)(h).

14. This sub-section was added by Bom. 22 of 1960, s 91 (2).

**140. Power of State Government to prohibit, regulate or control consumption or use of intoxicants, etc., in public place :-**

<sup>1</sup>The <sup>2</sup> [State] Government may, by general or special order, prohibit, regulate or control, subject to such conditions as may be specified in the order, the consumption or use of any intoxicant or hemp, in any public place.

1. These words were substituted for the words "managed by the Excise Department" by Bom. 22 of 1960, s.91(l)(h).

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

**141. Employment of additional police :-**

(1) If the <sup>1</sup>[State] Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under Section 1 Section 65, Section 65, Section 66A Section 67, Section 67A, Section 67C, Section 68, Section 69 and Section 70 the State Government may by notification in the Official Gazette, direct the employment of additional police <sup>2</sup>[in that area] for such period as it thinks fit.

(2) The cost of such additional police shall, if the <sup>3</sup>[State] Government so directs, by either in whole or in part defrayed by a tax imposed on the persons herein below mentioned, or by a rate is imposed and assessed, and charged-

(a) either generally on all persons who are inhabitants of the local area to which such notification applies; or

(b) specially on any particular sections or class or classes of such persons, and the State Government may direct the proportions in which such tax or rate shall be charged.

Explanation-for the purposes of this section "inhabitants" shall include persons who

themselves or by their or agents servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their or agents servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not reside therein.

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

**3** [(4) The provisions of sub-section (4) (7) of S.50 of the Bombay Police Act, 1951, (Bom.XXII of 1951) shall apply mutatis mutandis to the recovery of such tax or rate. ]

1. These figures, letters and word were substituted for the figures and word "65 to 69" by Bom. 22 of 1960 ,s 92(a).

2. These words were inserted by Bom. 22 of 1960 ,s.92(b)

3. This sub-section was substituted for the sub-sections (4) and (5) Bom. 64 of 1954, s.3.

#### **142. Power of Collector to close places where intoxicant or hemp is sold in certain cases :-**

**1** :-

(1) If the Collector is of the opinion that it is in the interest of public peace to close any place in which any intoxicant or hemp is sold, it shall be lawful for the Collector by an order in writing to the persons holding a license for sale of such intoxicant or hemp to require him to close such place at such time or for such period as may be specified in the order.

(2) If a riot or unlawful assembly is imminent, or takes place, it shall be lawful for any Executive Magistrate or Police officer who is present to direct that such place shall be closed and kept for such period as he thinks fit, and in the absence of any Executive Magistrate or Police officer the person referred to in sub-section (1) shall himself close the place.

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

1. This section was substituted for the original by Bom. 22 of 1960 ,s.91.

#### **143. Power of State Government to make rules :-**

(1) The <sup>1</sup>[State] Government may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to excise revenue.

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

(a) regulating and delegation of any powers by the <sup>2</sup>[Commissioner], by Collector or by any other Prohibition Officer;

(b) regulating the import, export, transport, <sup>3</sup>[collection], sale, purchase, <sup>4</sup>[bottling], consumption, use or possession of any intoxicant, <sup>5</sup>[denatured spirituous preparation] or hemp, mhowra flowers or molasses;

(c) regulating the manufacture of any intoxicant <sup>6</sup>[or denatured spirituous preparation];

(d) regulating the cultivation and collection of hemp;

(e) regulating the tapping of toddy-producing trees and drawing toddy therefrom.

(f) regulating the grant, suspension or cancellation of licenses, permits, passes or authorisations for the import, export, transport, <sup>3</sup>[collection], sale, purchase, <sup>4</sup>[bottling], consumption, use or cultivation of any of the above articles mentioned in <sup>9</sup>[clause (b) and for the matters specified in clause (e);]

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

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

**10**[(h1) prescribing the restrictions under which and the conditions on which license, permit, pass or authorisation may be granted including-

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

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

(iii) the prohibition of sale of any intoxicant, denatured spirituous preparation or hemp except for cash;

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

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

(vi) the prescription of the accounts to be maintained and the returns to be submitted by license holders or permit holders;

(vii) the regulation or prohibition of the transfer of licenses;

(viii) the writing of names and addresses and the taking of signatures of purchasers in the register if sale of any intoxicant, hemp, mhowra flowers or molasses or any article the sale or purchase of which is regulated by clause (b) of sub-section (1) of Section 139 ;

(h2)

(i) declaring the processes by which spirits shall be denatured in particular areas, or for particular purposes;

(ii) for causing such spirits to be denatured through the agency or under the supervision of the Government Officers and for the payment of charges for such supervision;

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

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

(j) prescribing the manner in which the juice from a coconut, barb, date or any kind of palm trees is to be treated for the purposes of preventing fermentation;

**11**[(k) prescribing the persons or classes of persons to whom any intoxicant, denatured spirituous preparation or mhowra flowers or molasses may or may not be sold or who may or may not be allowed to sell, purchase or use any of these articles;]

(1) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting and remaining of persons of bad character on such premises;

## **12**

(11) prescribing the occasions on which special orders may be granted for the sale by retail of larger quantities or liquor or intoxicating drugs, or opium than those which are prescribed

in any notification issued under this Act and the conditions on which such sales may be made;

(12) prescribing the amount of security to be deposited by the holder of any license, permit, pass or authorisation for the performance of the conditions for the same;

(13) providing for the maintenance by the holders of licenses, permits, passes or authorisations of the registers of sales, purchases, possession, consumption or use and the particulars to be entered in the register;]

### **13**

(m) regulating the grant of rewards or expenses to officers, informants or persons giving information or assistance in the detection or investigation of offences under this Act, and of compensation to persons charged with offences punishable under this Act and acquitted;]

(n) regulating the printing, publishing or otherwise displaying or distributing any advertisement or other matter <sup>2</sup> soliciting the use of or offering any intoxicant <sup>14</sup>[or] hemp; or which is calculated to encourage or incite any individual or class of individuals or the public generally to commit a breach of or to evade the provisions of any rule or order made thereunder or the conditions of any license, permit, pass or authorisation issued, thereunder;

(o) regulating within the <sup>15</sup>[State] the circulation, distribution or sale of any newspaper , news- sheet, book, leaflet, booklet or any other single or periodic publication <sup>16</sup>[printed and published outside the <sup>13</sup>[State] continuing any advertisement or matter, which [\* \*]solicits the use of or offers any intoxicant or hemp <sup>18</sup>[\* \*];

### **19**

[(p) imposing restrictions and conditions on buyers of intoxicant, denatured spirituous preparation, hemp mhowra flowers or molasses or any article the purchase of which is regulated by clause (b) of sub-section (1) of Section 139 including provision for compelling them to sign entries pertaining to the purchase by them of any of these articles;]

(q)<sup>20</sup>[\* \* \* \*]

(r) regulating the taking of samples of molasses;

**21**[(rl) prescribing the constitution of committees, Boards and Medical Boards or panels thereof and the procedure regarding their work;]

(s) prescribing the powers, functions and duties of Prohibition Officers, <sup>22</sup>[boards, committees] and [Medical Boards or panels thereof] and the fees and allowances payable to the members of the <sup>17</sup>[boards, Committees] and Medical Boards or panels thereof;]

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

**25**[(tl) prescribing the conditions of through transport under Section 29 ;]

(u) prescribing the fees <sup>26</sup>[(including rent or consideration)] payable in respect of any privilege, license, permit, pass or authorisation granted or issued under this Act;

### **27**

(uu) prescribing the other persons, other institutions or the circumstances under clause (b) of sub-section (3) of Section 65 ;]

(v) prescribing the period within which and the form in which a declaration under Section 107A shall be submitted and the account shall be maintained;]

**28**[(w) prescribing the manner of collecting and forwarding blood and prescribing the form

of certificates, and the other particulars required to be stated therein under sub-section (2) of Section 129A .]

(3) The power to make rules under this section shall be subject to the condition of previous publication:

Provided that any such rules may be made without previous publication, if the <sup>29</sup>[State] Government considers that they should be brought into force at once.

**30** [(4) All rules made under this Act shall be laid for not less than thirty days before each House of the State Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.]

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. This word was substituted for the word "Director" by Mah. 52 of 1973, s.3. Sch.
3. This word was inserted by Bom. 26 of 1952, s.61(l).
4. This word was inserted by Bom. 22 of 1960 ,s.94(1)(a).
5. These words were inserted by Bom. 22 of 1960 ,s.94(1)(a).
6. These words were added by Bom. 22 of 1960 ,s.94(1)(a).
9. These words, brackets and letters were substituted for the words, brackets and letters "clauses (b) and (e)" by Bom. 26 of 1952,s.51(2)(b).
10. Clauses (h1) and (h2) were inserted by Bom. 22 of 1960 ,s.94(1)(d).
11. This clause was substituted for original by Bom. 22 of 1960 ,s.94( 1 )(e).
12. Clauses (11) (12) and (13) were inserted by Bom. 22 of 1960 ,s.94(1)(f).
13. This clause was substituted for the original by Bom. 22 of 1960 ,s.94( 1 )(g).
14. This word was inserted by Bom 26 of 1952, s 51(3) (b).
15. This word was substituted for the words "pre-Reorganisation of the State of Bombay excluding the transferred territories" by Bom 12 of 1959, s.3.
16. These words were substituted for the words "whether printed or published" by Bom 26 of 1952, s 51 (4) (a).
18. The words "to be forfeited to the State Government" was deleted by Bom 26 of 1952, s s 51 (4) (b).
19. This clause was substituted for original by Bom. 22 of 1960 ,s.94(1)(h).
20. clause (q) was deleted by Bom. 22 of 1960 ,s.94(1)(i).
21. this clause was inserted by Bom. 22 of 1960 ,s.94(1)(j).
22. These words were substituted for the words "Committees" by Bom. 22 of 1960 s.94(1) (k).
24. Clauses (t) to (v) were substituted for the original clause (t), by Bom 26 of 1952, s s 51 (5).
25. This clause was inserted by Bom. 22 of 1960, s.94(1)(i).
26. These words were inserted by Mah. 70 of 1981, \\s.3.
27. This clause was inserted by Bom. 12 of 1959, s,17(a).
28. This clause was added by Bom. 12 of 1959, s,17(b).
29. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
30. This sub-section was inserted by Bom. 22 of 1960 ,s.94(2).

#### **144. Commissioners power to make regulations :-**

**1:-**

(1) The <sup>1</sup>[Commissioner] may make regulations not inconsistent with the provisions of this Act, or rules,-

(3) regulating, as the case may be, the <sup>3</sup>[ \* \* \*] supply or storage of any intoxicant, <sup>4</sup>[denatured spirituous preparation] or hemp mhowra flowers or molasses including-

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

(a)<sup>5</sup>[\* \* \* \*]

(b) regulating the deposit of any intoxicant, hemp <sup>6</sup>[\* \*] or mhowra flowers or molasses in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery;

(c) <sup>7</sup>[\* \* \*]

(d) prescribing the scale of fees <sup>8</sup>[including rent or consideration] or the manner of fixing the fees payable in respect <sup>9</sup>[\* . \*] of any storage of any intoxicant, hemp <sup>2</sup>[\* \*] or mhowra flowers or molasses;

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

(f) <sup>4</sup>[\* \* \* \*]

(g) <sup>4</sup>[\* \* \* \*]

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

(i) regulating the disposal of confiscated or forfeited articles; <sup>4</sup>[\* \* \* \*]

(j) <sup>4</sup>[\* \* \* \*]

(k) <sup>4</sup>[\* \* \* \*]

(l) <sup>4</sup>[\* \* \* \*]

(m) regarding any other matter which the <sup>1</sup> [State] Government may by notification in the Official Gazette, direct him to prescribe for the purposes of carrying out the provisions of this Act.

(2) The regulations made under this section shall be published in the Official Gazette.

1. This words were substituted for the word "Director" by Bom. 22 of 1960, s. 13(2).

3. The word "manufacture" was deleted by Bom 22 of 1960 ,s.94(a)(i).

4. These words were inserted by Bom. 22 of 1960 ,s.95(a)(ii).

5. Sub-section (ii) to (v) were deleted by Bom. 22 of 1960 ,s.95(a)(ii).

6. The word "opium" was deleted by Bom. 22 of 1960 ,s.95(b).

7. Clauses (c), (f), (g), (j), (k) and (1) were deleted by Bom. 22 of 1960 ,s.95(c).

8. These words were inserted by Mah. 70 of 1981, s.4.

9. The words beginning with the words "of any privilege" and ending with the words "authorisation or" were deleted by Bom 26 of 1952, s. 52(1).

#### **145. Officers and persons acting under this Act to be public servants :-**

All officers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of S.21 of the Indian Penal Code, 1860.(XLV of 1860)

#### **146. Bar of proceedings :-**

No suit or proceeding shall lie against the <sup>1</sup> [Government] or against any Prohibition, Police, or other officers or against any person empowered to exercise any powers or to perform any functions under this Act, for anything in good faith done or purporting to be done under this Act.

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

#### **146A. Limitation of prosecutions or suits against officers :-**

<sup>3</sup> :-

(1) All prosecutions of any Prohibition, Police, or other officers or any persons empowered to exercise powers or to perform functions under this Act and all actions which may be lawfully brought against the Government or any of the aforesaid officers or persons, in respect of anything done or alleged to have been done in pursuance of this Act, shall be instituted



within four months from the date of the Act complained of and not afterwards; and any such action shall be dismissed-

(a) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or any other law for the time being in force, as within the aforesaid period of four months it was possible to present; or

(b) in the case of action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant.

(2) Subject to the provisions of S.197 of the Code of Criminal Procedure, 1973, no Court shall take cognizance of an offence committed or alleged to have been committed by any Prohibition, Police, or other officers or any persons empowered to exercise any powers or to perform functions under this Act, in regard to anything done under this Act, until the sanction of the Collector having jurisdiction has been obtained.

\* See now Code of Criminal, 1973 (2 of 1974).

**146B. Provisions of Act not to apply to Government :-**

Save in so far as may be expressly provided in any rule, regulation or order made under this Act, nothing in this Act shall apply in respect of an intoxicant, denatured spirituous preparation] hemp or mhowra flowers or molasses which are a property and in the possession of the Government.]

**147. Provisions of this Act not to apply to import or export across customs frontier :-**

For removal of doubts it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other article in respect of its import or export across the customs frontiers.<sup>1</sup> [\* \*]

1. The words "as defined by the Dominion Government" were deleted by Bom 26 of 1952, s. 53.

**148. Repeal and amendments :-**

(1) The enactments specified in Schedule I are hereby repealed to the extent specified in the fourth column thereof and those specified in Schedule II are hereby amended to the extent specified in the fourth column thereof.

(2) But nothing in this Act or any report or amendment made thereby shall affect or be deemed to affect-

(i) any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act;

(ii) any legal proceeding or remedy in respect of any right, title, obligation or liability or anything done or suffered before the commencement of this Act and any such proceeding shall be continued and disposed of, as if this Act was not passed;

(iii) the levy of any duties under S.29A of the Bombay Abkari Act, 1878, (Bom.V of 1878) and the recovery of any duties or fees leviable under any other provisions of the Acts hereby repealed, and all such duties and fees shall be levied and recovered, as the case may be, as if this Act was not passed.

(3) Any appointment, notification, notice, order, rule or form, made or issued under any of the enactments repealed by this Act shall continue to be in force and deemed to have been made, granted or issued under the provisions of this Act, in so far as such appointment, notice, order, rule or form is not inconsistent with the provisions of this Act, unless and until it is superseded by any appointment, notification, notice, order, rule or form, made or issued under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorised in the enactments

repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name.

(4) Any license, permit, pass or authorisation or permission granted or issued under any of the enactments repealed by this Act shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act.

**149. Further repeals and savings consequent on commencement of Bom. XXV of 1949 :-**

in other areas of State<sup>1</sup> :- On the commencement of this Act in any area of the State to which it is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, the Acts mentioned in Schedule III and in force in that area, shall, to the extent specified in the fourth column thereof, stand repealed:

Provided that such repeals shall not affect,- (a) the previous operation of any Act so repealed or anything duly done or suffered thereunder, or (b) any right, obligation or liability already acquired, accrued or incurred under any Acts so repealed, or (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Acts so repealed, (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid. and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if those Acts had not been repealed:

Provided further that,-(a) any license, permit, pass or authorisation granted or permission or issued under any of the Acts so repealed shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act; and (b) notwithstanding the repeal of any of the Acts aforesaid, for all purposes in connection with the liability for, and the levy assessment and collection or refund of, any tax, duty or fee (including any penalty) leviable. (i) under any provisions of Section 27A of the Central Provinces and Berar Excise Act, 1915, (C.P. and Berar II of 1915) or ii under S.112A of the Bombay Prohibition Act, 1949, (Bom.XXV of 1949) as in force in the Saurashtra area, or iii before the commencement of this Act in any area under any provisions of any of the Acts repealed by this section, the relevant Acts repealed (including all rules, regulations, notifications and orders made or issued thereunder) shall never the less continue in force for all such purposes; and all such taxes, duties and fees shall be levied, assessed, collected, refunded and penalty imposed and paid, as the case may be, as if those relevant Acts had not been repealed.]

1. This section was inserted by Bom. 12 of 1959, s. 18.

**SCHEDULE 1A**

Outst<sup>11</sup> area of the Chanda District

## SCHEDULE IA

[See section 1(3)] Outst<sup>11</sup> area of the Chanda District.

(1) The whole of the Sironcha Tahsil; (2) The following villages of the Gadchiroli Tahsil, namely:-

(a) (1) Chargaon, (2) Gonjalui, (3) Palasgaon, (4) Chimgaon, (5) Mendha, (6) Wadega, (7) Singapur, (8) Kodalwahi, (9) Chatgaon, (10) Pander, (11) Mohandala, (12) Palakheda, (13) Suna Katizri, (14) Khutgaon, (15) Gatepalli, (16) Mendha, (17) Harikata, (18) Tohakapur, (19) Haldi, (20) Gadewahi, (21) Sakora, (22) Talodhi, (23) Karwafa, (24) Nawegaon, (25) Gotevihiir, (26) Rabhumi, (27) Jambli, (28) Ranmul, (29) Darasani, (30) Kusumghat, (31) Gattaguda, (32) Maroda, (33) Bandhona, (34) Nawargaon, (35) Gilgaon, (36) Bhandikanhar, (37) Gajanguda, (38) Sakhera, (39) Kanhargaoon, (40) Karakapalli, (41) Raven-Johla, (42) Saimar, (43) Pekinkasa, (44) Saterli, (45) Sowita, (46) Benoti, (47) Filekanar, (48) Fatri, (49) Ditantola, (50) Dewapur, (51)

Dewada, (52) Gawama, (53) Rampur, (54) Potehaon, (55) Surgadevi, (56) Rajoli, (57) Togaon, (58) Ramada, (59) Kotergaon, (60) Tulsi, (61) Tumrikasa, (62) Nagoli, (63),Karkusi, (64) Maler, , (65) Kudegaon, (66) Rawanpalli, (67) Murmari, (68) Jogna, (69) Bhagbhair, (70) Jamar, (71) Pawlisan, (72) Pendri, (72) Budapur, (74) Ahapur, (75) Muranda, (76) Dehni, (77) Chichali, (78) Banchra, (79) Lengada, (80) Jamgao, (81) Judegaon, (82) Tadgela, (83) Kods;

(b) all villages of the Puranda Police Station area, except the following 24 villages, namely:-(1) Chwada, (2) Ramtola, (3) Dhuldongri, (4) Naichrapalli, (5) Nawejhari, (6) Sattitola, (7)

Khambada, (8) Sajena, (9) Kanichak, (10) Talegaon, (11) Muska, (12) Angara, (13) Palasgaon, (14) Saotala, (15) Khodki, (16) Solan, (17) Salebhatli, (18) Nimgaon, (19) Mendha, (20) Bhausi, (21) Bhakrundi, (22) Kulkuli, (23) Nawegaon, and (24) Tultuli;

(c) all villages of the Ahiri Police Station area, except the following 33 villages, namely:-

(1) Laggam, (2) Laggam-Chak, (3) Rampur, (4) Bori, (5) Kultha, (6) Rajura-Chak, (7) Tikepalli, (8) Chatuguntapatch, (9) Tymargunda, (10) Dampur, (11) Baudukpalli, (12) Kothari, (13) Marpalli, (14) Morarli, (15) Chichela, (16) Gomhim, (17) Albatpalli, (18) Fuski, (19) Mukdi, (20) Fuski-Chak, (21) Dhanu, (22) Yella, (23) Macchaligatta, (24) Naggawhai, (25) Singanpalli, (26) Chaudampalli, (27) Champrala, (28) Laggam-Hatti, (29) Koperalli, (30) Singanpeth, (31) Machli, (32) Commni-Chak, And (33) Kondegaon. ]

**1. Schedule I-A was inserted by Bom. 12 of 1959, s.19(I).**

SCHEDULE 1  
SCHEDULE

## **SCHEDULE I**

[See section 148]

Year	No.	Short title.	Extent of repeal.
1 *	*	*	*
1878	V	The Bombay Abkari Act, 1878.	All the provisions except section 29-

			A.
1947	XXX	The Bombay Molasses Act, 1947	The whole.

SCHEDULE 2  
SCHEDULE

<p><b>SCHEDULE 2</b></p> <p>[See section 148]</p>			
	No.	Short title.	Extent of repeal.
1890	IV	The Bombay District Police Act, 1890.	1 .In Section 46- (a) in sub- section (4), for clauses (ii) and (iii), the following

clauses shall  
be  
substituted  
namely:-  
"(ii) Section  
65 or 68 of  
the Bombay  
Prohibition  
Act, 1949:"

(b) in sub-  
section (6),  
for the  
words and  
figures  
"under the  
Bombay  
Abkari Act,  
1878, or the  
Opium Act,  
1878" the

			<p>words and figures</p> <p>"under the Bombay Prohibition Act, 1949" shall be substituted.</p> <p>2. Section 61AA shall be deleted.</p>
1902	IV	<p>The City of Bombay Police Act, 1902</p>	<p>1. In Section 27-</p> <p>(a) in sub-section (2) for the words and</p>

figures  
"under the  
Bombay  
Abkari Act,  
1878" the  
words and  
figures  
"under the  
Bombay  
Prohibition  
Act, 1949 "  
shall be  
substituted;

s(b) in sub-  
section (2-  
A) for the  
(ii) and (iii),  
the following  
clauses shall  
be

			substituted namely:- "(ii) section 65 or 68 of the Bombay Prohibition Act, 1949:" 2. section 122- A shall be deleted.
2[1951	XXII	The Bombay Police Act, 1951	In section 57-  (a) in clause (b), in sub- clause (ii), portion beginning with the words and



			figures "or under section 65 or 68 of that Act" and
Year	'No.	Short title.	Extent of repeal.
			ending with the figures "1938" shall be deleted. (b) in clause (c), for the words "aforesaid Prohibition Acts" the words and figures "Bombay Prohibition

			Act, 1949 " shall be substituted.]

SCHEDULE 3  
SCHEDULE

SCHEDULE 3			
[See section 149]			
Year	No.	Short title.	Extent of repeal.
1	2	3	4
1878	I	The Opium Act, 1878, in its application to the State of Bombay.	The whole.
1915	II	Central Provinces	All provisions

		and Berar Excise Act, 1915.	except section 27-A.
1938	VII	Central Provinces and Berar Prohibition Act, 1938.	The whole.
1316F	I	The Abkari Act.	The whole.
1333F	IV	The Hyderabad Intoxicating Drugs Act.	.The whole.
1949	XXV	Bombay Prohibition Act, 1949, as in force in the Saurashtra area of the	All provisions except section 112-A.

		State of Bombay.	
1949	XXV	Bombay Prohibition Act, 1949, as in force in the Kutch area of the State of Bombay.	The whole.