

KARNATAKA EXCISE (BREWEY) RULES, 1967

CONTENTS

1. Title, extent and commencement
2. Definitions
3. Application for licence
- 3A. Licensee to sell only to Distributor
4. Renewal of licence
5. Fee for grant or renewal of Licence
- 5A. Additional Lease Amount
6. Duration of licence
7. Security to be taken
- 7A. Deputation of Supervisory Staff
- 7B. Attendance of Officers
8. Control
9. Vessels in Brewery
10. Name of each room or vessel to be distinctly marked
11. Alterations Repairs, etc
12. Storage of Beer in Casks
13. Gauging Rods
14. Brewing Book
15. Brewing Book maintenance
16. Brewing
17. Surveys
18. Stock Book
19. Corrections, etc., in the accounts
20. Samples
21. Stock taking
22. The charging and collection of duty
23. Refund when and how made
24. Quarters
25. Breach of Rules
26. The licensee to be bound by all additional Rules
27. Appeal
28. Repeal and Savings

KARNATAKA EXCISE (BREWEY) RULES, 1967

In exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), read with Sections 13 and 16 of the said Act, the Government of Karnataka hereby makes the following rules, the draft of the same having been previously published as required by sub-section (1) of Section 71 of the said

Act, in Notification GSR No. 510, in Part IV, Section 2C(i) of the Karnataka Gazette, dated the 23rd November, 1967, namely:-

1. Title, extent and commencement :-

(1) These rules may be called the Karnataka Excise (Brewery) Rules, 1967.

(2) They shall extend to all the areas in the State of Karnataka where the Karnataka Excise Act, 1965 is in force.

(3) They shall come into force at once.

2. Definitions :-

In these rules unless the context otherwise requires,

(a) "Act" means the Karnataka Excise Act, 1965;

(b) "Commissioner" means the Excise Commissioner;

(c) "Deputy Commissioner" means the Deputy Commissioner of the district in which the Brewery is situated;

(d) "Inspecting Officer" means an Officer not below the rank of a Sub-Inspector of Excise appointed to control, supervise, inspect the operations of the Brewery and the storage and issue of Beer therefrom;

(e) "Laboratory", means the Laboratory of the Chemical Examiner to the Government of Karnataka;

(f) "Beer" means, any liquor prepared from malt or grain with or without the addition of sugar and hops and includes ale, black beer, porter, stout and spruce beer;

(g) "Brewery" means a building where Beer is manufactured, and includes every place therein where Beer is stored or issued;

(h) "Copper" means any vessel into which either worts or water is boiled or heated in the course of brewing;

(i) "Fermenting Vessel" means any vessel in which worts are fermented by the action of yeast;

(j) "Form" means a form appended to these rules;

(k) "Gravity" means the proportion which the weight of a liquid bears to that of an equal bulk of distilled water, the gravity of distilled water at 60° Fahr, being taken to be 1000°;

- (1) "Hop-back" means any vessel into which worts are run after boiling in order to remove the spent hops;
- (m) "Licence" means a licence granted for a brewery under the Act or rules framed under the Act;
- (n) "Licensee" means a holder of a licence;
- (o) "Mashtun" means any vessel in which malt or grain is exhausted in the course of brewing;
- (p) "Racking or settling back" means any vessel into which worts are passed from a fermenting vessel and racked either at once or after a time into store vats or casks;
- (q) "Sugar" means any saccharine substance, extract or syrup and includes any material capable of being used in brewing except malt or corn;
- (r) "Under back" means any vessel into which worts run either from the mashtun or hop-back;
- (s) "Wort" means the liquor obtained by exhaustion of malt or grain or by the solution of saccharine matter in the process of brewing.

3. Application for licence :-

(1) Any person desirous of obtaining a licence for a brewery shall apply to the Commissioner in Form No. 1 through the Deputy Commissioner. The application shall be accompanied by a treasury challan for having credited the fee prescribed in Rule 5 and a full description (hereinafter called an "Entry") of the premises or the plan of the proposed building and utensils in which the purpose of and distinguishing marks on each room, place and vessels shall be clearly specified. The entry shall be checked either by the Deputy Commissioner or some other Officer duly authorised by him in this behalf, who will certify to the fact, if he finds it correct, and forward it to the Commissioner, who, if satisfied that permission may be granted to the starting of the brewery with the previous sanction of the Government issue the licence in Form No.

2.¹[(2) The licensee under these rules may be permitted to sell bulk beer (draught beer; to persons holding licence under the Karnataka Excise (Lease of Right of Vend of Beer) Rules, 1976, on payment of ²[an additional licence fee of ³ [rupees two lakhs forty thousand.]]

1. Sub-rule (2), inserted by GSR 67, dated 15-3-1989, w.e.f. 16-3-1989.
2. Substituted for the words "additional licence fee equivalent to ten per cent of the brewery licence" by GSR 129, dated 17-7-1992, w.e.f. 1-7-1992.
3. Substituted for the words "rupees two lakhs" by Notification No. FD 7 PES 2000, dated 24-6-2000, w.e.f. 1-7-2000.

3A. Licensee to sell only to Distributor :-

¹ [xxx]

1. Rule 3-A omitted by Notification No. FD 325EDC 95(iii), dated 13-2-1997, w.e.f. 13-2-1997.

4. Renewal of licence :-

(1) Applications for renewal of licences shall be presented at least one month before they expire. Such applications shall be made to the Commissioner through the Deputy Commissioner and it shall be accompanied by a treasury challan for having credited the fee prescribed in Rule 5

.

(2) The Commissioner may, if satisfied that the licence may be renewed, renew the game.

5. Fee for grant or renewal of Licence :-

¹The fee for grant or renewal of a Brewery licence shall be ²[³ [rupees eighteen lakhs] per year.]]

1. Rule 5 substituted by GSR 214, dated 1-8-1986 and shall be deemed to have come into force w.e.f. 1-7-1986.
2. Substituted for the words "rupees two lakhs per year" by Notification No. FD 10 PES 95(iii), dated 31-5-1995, w.e.f. 1-7-1995.
3. Substituted for the words "rupees fifteen lakhs" by Notification No. FD 7 PES 2000, dated 24-6-2000, w.e.f. 1-7-2000.

5A. Additional Lease Amount :-

¹In respect of a licence granted under these rules, an additional licence fee equivalent to fifteen percent of the licence fee levied under Rule 5 shall be levied for a period of ² [four years] with effect from the First day of July, 1998 for the purpose of equity investment in the Karnataka Infrastructure Development and Finance Corporation.]

1. Rule 5-A substituted by Notification No. FD 7 PES 98(iii), dated 18-6-1998, w.e.f. 1-7-1998.

2. Substituted for the words "two years" by Notification No. FD 7 PES 2000, dated 24-6-2000, w.e.f. 1-7-2000.

6. Duration of licence :-

Every licence granted or renewed under these rules shall not be for a period exceeding one year.

7. Security to be taken :-

Every licensee shall execute an agreement binding himself, his heirs, legal representatives and assigns to observe the conditions of the licence, hypothecating the brewery buildings, machinery, apparatus together with the stock of Beer, etc., as security for the payment of money which may be due to Government by way of duty, rents or other payment due under the provisions of his licence. If the agreement is not Executed within ten days from the date of approval of the application for licence, the licence shall be cancelled and the licensee shall not be entitled for refund of the fee paid.

7A. Deputation of Supervisory Staff :-

¹ The Commissioner may depute such number of Excise Officers as may be necessary at the Brewery for supervision to ensure compliance with the provisions of the Act, Rules made thereunder and the licence. The cost of the establishment including pay, Leave salary and pensionary contribution in respect of such officers shall be paid by the Licensee in advance.

1. Rule 7-A inserted by GSR 111, dated 25-3-1976, and shall be and shall always deemed to have been inserted w.e.f. 1-4-1976.

7B. Attendance of Officers :-

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(1) The Deputy Commissioner, with the previous sanction of the Commissioner, shall fix the working hours of the Excise Supervisory staff posted to the Brewery, which shall not exceed eight hours on working days

.

(2) If the licensee requires the services of the Excise Supervisory staff, beyond the working hours fixed and on holidays and Sundays, he shall make a requisition in advance in writing to the Inspecting Officer. The Inspecting Officer shall permit the licensee to avail the services of the Excise Supervisory staff subject to the payment of overtime charges at twice the rate of usual

emoluments. Every fraction of an hour not less than fifteen minutes shall be treated as one hour for the purpose of payment of overtime charges. If the services of the staff is required during night, such staff shall be paid overtime charges at the rate of four times of the usual emoluments.

1. Rule 7-B inserted by GSR 296, dated 10-11-1987, w.e.f. 10-11-1987.

8. Control :-

The Inspecting Officer shall take an account of all the operations in the Brewery and it shall be competent for him or any other Officer authorised to inspect the brewery, to enter the building and to visit and examine any room, place or utensil mentioned in the entry at any time either by day or night.

9. Vessels in Brewery :-

All mashtuns, coppers, coolers, fermenting and racking or settling vessels shall be so placed and fixed and backs so placed as to admit of the contents being accurately gauged or measured. Before taking into use all such vessels shall be gauged by the Inspecting Officer or by such any other Officer as may be deputed by the Deputy Commissioner for the purpose, in the presence of the licensee or his authorised agent, and the tables shall be constructed for showing the total capacity of each vessel in litres and in the case of mashtuns, racking or settling vessels, its capacity for each 1/2 c.m. in depth. In the case of underbacks, coppers and cooler, dimension tables only need be constructed.

10. Name of each room or vessel to be distinctly marked :-

The name or an abbreviation thereof of each room or vessel shall be conspicuously marked and where more than one room or vessel is used for the same purpose they shall be distinguished by progressive numbers. Any room or vessel entered for a specific purpose shall be used for that purpose only.

11. Alterations Repairs, etc :-

No repairs shall be executed or additions or alterations made to either the buildings or the plant without the sanction in writing of the Commissioner. Minor repairs may be made with the written permission of the Deputy Commissioner.

12. Storage of Beer in Casks :-

Where Beer is stored in casks which are used exclusively for storing and not for issue from the brewery, such casks shall be numbered

consecutively and each shall have mark on both heads, its number and capacity which shall be entered in the register kept by the brewer in the form prescribed by the Commissioner and also the number of brew in Which the Beer was manufactured.

13. Gauging Rods :-

The Inspecting Officer shall be provided with proper gauging rods and standard saccharometer and Thermometer to which the licensee has got the approval of the Commissioner.

14. Brewing Book :-

The licensee shall keep in the Brewery, a brewing book supplied by the Commissioner. This book shall be the property of Government which shall be accessible for inspection by the Inspecting Officer or any other Officer authorised in this behalf. This shall be replaced every quarter. The entries in this book shall be made by any responsible employee of the licensee, approved by the Deputy Commissioner. There shall be no mutilations or defacement of the entries already made.

15. Brewing Book maintenance :-

The brewer shall enter in the proper columns atleast twenty-four hours before beginning to mash malt or grain or to dissolve sugar, the day and hour of brewing and in the "Remarks" column, the consecutive number of the brew and the word "Indian" or "English" as the case may be with date and hour of making entry, and atleast six hours before the time entered for mashing or dissolving, he shall enter separately in the proper columns the quantities of malt or unmalted corn, sugar and of hops or hop-substitutes to be used and the hour when all the worts will be drawn off the grains in the mashtun. He shall also enter in the appropriate columns the dip and gravity of worts collected, the number and description of the vessel or vessels in which they have been collected and the date and hour of the entry. Such entry shall be made within one hour after the collection has been completed and if the worts are not collected before 6 p.m, the entry shall be made before 8 a.m. next morning. If fermentation has started before the requisite entry is made, the brewer shall enter the true original gravity of worts. Each entry shall be initialled by the brewer or his agent.

16. Brewing :-

Beer shall be brewed from good materials and its quality shall be such as to satisfy the Commissioner. Wort shall not be brewed of a higher gravity than 1073°. Nothing shall be added to Beer after it

has been racked and removed to a Beer store except fining or other materials approved by the Commissioner. Beer, in beer stores must not be diluted and any beer found in stores must not be diluted and any beer found adulterated will be liable to forfeiture. The forfeiture of beer, will not relieve the brewer from the penalty of fine or cancellation of licence prescribed under Rule 23

17. Surveys :-

Officers surveying of breweries shall make complete survey of the whole of the brewery room every day on which they will visit the brewery showing in the proper columns in the survey book, the form of which will be prescribed by the Commissioner, the condition of each vessel and the dip and gravity of each vessel containing fermenting worts, unless such wort shall be fining, when, except in case of suspicion of fraudulent addition on removal of worts, the surface need not be broken. A copy of each survey will be made in a similar book and will be left at the brewery for the information of the brewer.

18. Stock Book :-

The licensee shall keep a stock account in such form as may be required by the Commissioner in which he shall duly enter the net quantity of beer brewed, the quantity, if any, returned and brought into stock after verification by the authorised Officers and the total quantity issued. Each issue within the State shall be accompanied by a permit in Form No. 3 issued by the Inspecting Officer. But the export permits shall be issued by the Commissioner. The stock book shall be checked atleast once in a week by the Inspecting Officer.

19. Corrections, etc., in the accounts :-

No entry in any of the books kept by the brewer under these rules shall be erased or overwritten. If there may be any need of correction of any entry, a circle in red ink or pencil should be drawn around the incorrect entry and correct entry be made with the initials of the person incharge. The Inspecting Officer shall initial the corrections during his next inspection. Grave errors shall be reported to the Deputy Commissioner by the Inspecting Officer and his directions shall be acted upon.

20. Samples :-

Samples of wort in any stage of fermentation or of stored beer may be taken for analysis without payment by the Inspecting Officer or any Authorised Officer. The Inspecting Officer shall at least once in a quarter, forward the samples of wort in fermentation to the

laboratory for analysis. On any other occasion. When the samples of wort or beer are taken, the Inspecting Officer shall submit a special report to the Deputy Commissioner explaining the reasons and the nature of analysis required. Samples of brewing material shall be taken only if required, by the Commissioner. When, however, there is large discrepancy between the quantity of malt or unmalted corn entered in the brewing book and that of the grains in the mashtun, a sample of the grains should be taken and at once sent for analysis with a copy of entry in the brewing book, the dip of the grains in the mashtun, the quantity represented by the dip and the percentage or increase or decrease. On this report and after examination of the samples, the Commissioner will pass such orders as he thinks fit.

21. Stock taking :-

The stock of the beer in every brewery shall be taken atleast twice in each year by the Inspecting Officer or such other Officer authorised. Stock shall only be taken at other times by the Inspecting Officer or any other Officer so authorised, if there is any suspicion of fraudulent practices. In the former case immediate report shall be submitted to the Deputy Commissioner, and in the latter, to the Commissioner, along with the explanation of the brewer for any excess or deficiency exceeding. one per cent and any orders passed thereon shall be executed.

22. The charging and collection of duty :-

The duty on all the beer from the brewery for the purpose of consumption shall be paid at such rate as may be prescribed by the Government from time to time, into the Government Treasury, and the relative challan produced before the issue of the necessary permits. The Inspecting Officer shall submit a statement showing the quantity of beer issued and the amount of duty collected thereon every month to the Deputy Commissioner and a copy to the Commissioner.

23. Refund when and how made :-

Where it is found that the brewer has paid any excess amount, he may claim its refund and if on verification his claim is found to be correct, the amount shall be refunded or adjusted towards the duty on any subsequent "issues, the relevant entries being made under the initials of the Inspecting Officer in the permits towards which the adjustment is effected.

24. Quarters :-

The brewer shall, when required to do so by the Commissioner, provide quarters for the Inspecting Officer and his staff, to the satisfaction of the Deputy Commissioner or in the event of his not being able to do so, pay reasonable rent fixed by the Deputy Commissioner.

25. Breach of Rules :-

In case of any breach of these rules or conditions of licence either by the licensee or by his employees, the Commissioner may suspend or cancel the licence or both and the licensee shall not be entitled to any compensation. The suspension or cancellation shall not prevent the prosecution of any person for any offence which he may commit against the provisions of the Karnataka Excise Act, 1965 or other law for the time being in force. If, on prosecution, the licensee or his employee is convicted by the Court. It shall be lawful for the Commissioner to declare his licence forfeited.

26. The licensee to be bound by all additional Rules :-

The brewer (licensee) shall be bound by all the additional rules for the control of breweries which may hereafter be prescribed under the existing law or under any law which may hereafter be enacted and by all special orders issued by the Commissioner with regard to individual brewery and shall cause all persons employed by him in his breweries to obey all such rules.

27. Appeal :-

(1) Except as otherwise provided, an appeal shall lie,

(a) To the Deputy Commissioner from any order or proceedings taken under these rules by the Inspecting Officer or any other Officer authorised by him;

(b) To the Commissioner from any order passed or proceedings taken or any appellate order passed by the Deputy Commissioner.

(2) The appeal under clause (a) of sub-rule (1) shall be preferred within sixty days and the appeal under clause (b) of sub-rule (1) shall be preferred within ninety days of the communication of the order appealed against.

28. Repeal and Savings :-

All rules corresponding to the foregoing rules framed under any enactment repealed by Section 72 of the Act are hereby repealed:

Provided that the repeal shall not effect,

- (a) the previous operation of the rules so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability accrued or incurred under any rule so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any rule so repealed, or
- (d) any investigation or 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 such rules had not been repealed:

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment or delegation made, notification, order, instructions or direction issued, form, certificate obtained, permit or licence granted or registration effected under any such rules), shall be deemed to have been done or taken under the corresponding provisions of these rules and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Act or these rules, as the case may be.