

KARNATAKA EXCISE (CONFISCATED ARTICLES DISPOSAL) RULES, 1967

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KARNATAKA EXCISE (CONFISCATED ARTICLES DISPOSAL) RULES, 1967

In exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act No. 21 of 1966), read with Sections 43 and 44 of the said Act, the Government of Karnataka 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. 470 in Part IV-2C(i) of the Karnataka Gazette, Extraordinary, dated 19th October, 1967, namely:

1. Title, extent and commencement :-

(1) These rules may be called the Karnataka Excise (Confiscated Articles Disposal) Rules, 1967.

(2) They shall extend to all the areas of the State of Karnataka,

where the Karnataka Excise Act, 1965 is in force.

(3) They shall come into force at once.

2. Confiscated Articles to be made over to the Deputy Commissioner :-

Subject to the provisions of the Karnataka Excise Act, 1965, when any article, animal or thing is duly confiscated either by the order of Court or otherwise, such article, animal or thing shall be made over to the Deputy Commissioner for disposal or be disposed off according to these rules.

3. Potable liquor :-

(1) Confiscated potable liquor, if it is in sealed bottles or in other receptacles, the contents of which may reasonably be believed not to have been tampered with, shall be disposed off in the following manner, namely:

(i) Such liquor shall be disposed off by public auction after fixing a reserve price which shall be not less than seventy-five per cent of the ordinary local price of such liquor (excluding taxes and duties) in the case of bottled liquor with the seals intact and fifty per cent of the ordinary local price of such liquor (excluding taxes and duties) in the case of loose liquor, to the highest bidder provided that the bid offered does not exceed the maximum price, if any, fixed by the Government or Excise Commissioner and that such bidder holds a licence to sell liquor under the Karnataka Excise Act or the rules and orders made thereunder.

(ii) If no adequate bid is received in auction, a report shall be made to the Excise Commissioner for orders regarding its disposal and the goods disposed off as per the orders.

(2) All other confiscated liquor, except potable spirits, rectified spirit and absolute alcohol shall be destroyed and potable spirits and rectified spirits and absolute alcohol shall be sent to the Excise Commissioner for redistillation or such other disposal as he may deem fit.

4. Denatured Spirit :-

All confiscated denatured spirit other than that in bottles bearing the seal of an Excise Officer shall be destroyed if it is less than five litres. The denatured spirit in bottles bearing the seal as aforesaid shall be sold by public auction to the highest bidder provided he

holds a licence for the retail sale of denatured spirit. In all other cases a sample of such denatured spirit shall be sent to the Chemical Examiner to the Government of Karnataka for analysis as to whether it conforms to the specification of denatured spirit permitted for sale. If the analysis shows that the confiscated denatured spirit conforms to such specifications, it shall be sold to the highest bidder provided he holds a licence for the wholesale sale of the denatured spirit. If no adequate bid is received in auction, a report shall be made to the Excise Commissioner for orders regarding its disposal and it shall be disposed off in accordance with those orders. If the analysis shows that the confiscated denatured spirit does not conform to the specifications, a report shall be made to the Excise Commissioner and the denatured spirit disposed off as per the orders.

5. Methyl Alcohol and Higher Alcohols :-

All confiscated methyl alcohol or higher alcohol shall be destroyed.

6. Medicinal and Toilet Preparations containing Alcohol, Perfumed Spirits and Alcoholic Essences :-

(1) All confiscated toilet preparations, perfumes and essences containing alcohol other than essences used in the manufacture of potable liquors shall be sold by public auction:

Provided that where such articles are not of the nature, quality and substances which they purport to be, they shall be destroyed.

(2) Essences containing alcohol used in the manufacture of potable liquors shall be destroyed, if they are found not fit for use by the Chemical Examiner.

7. Toddy and Neera :-

Confiscated toddy and neera shall be destroyed.

8. Intoxicating Drugs :-

(1) All confiscated hemp and intoxicating drugs other than Ganja and Bhang shall be destroyed.

(2) All confiscated Ganja and Bhang if less than fifty grams in weight shall be destroyed.

(3) All confiscated Ganja or Bhang which on examination is found to be unfit for human consumption shall, with the previous sanction of the Excise Commissioner, be destroyed.

(4) All confiscated Ganja or Bhang, if fifty grams or more in weight, and found not unfit for human consumption shall be sent to the Officer-in-charge of the State Huzur Treasury, Bangalore or such other Officer as the Excise Commissioner may nominate.

(5) The Officer referred to in clause (4) shall utilise the Ganja and Bhang sent to him, under the said clause for issue in packets to permit holders. Any Ganja or Bhang out of the stock sent to him, if found by him to be unfit for human consumption shall with the previous sanction of the Excise Commissioner be destroyed by him.

(6) The said Officer shall maintain a register showing proper accounts of the receipts and subsequent disposal of the confiscated Ganja and Bhang sent to him under clause (4).

9. Mhowra Flowers and Molasses :-

(1) Confiscated mhowra flowers and molasses, if deemed fit for use, may be sold to any person holding a licence for sale of the same under the Act or any rules, regulation or order made thereunder.

(2) Where mhowra flowers or molasses cannot be so sold, they shall be destroyed.

10. Destruction of articles to be in the presence of responsible Officer :-

Whenever any confiscated articles or hemp has to be destroyed in conformity with these rules, it shall be destroyed in the presence of the Magistrate or officer ordering the confiscation or forfeiture, as the case may be, or in the presence of the Excise Officer not lower in rank than that of an Inspector.

11. Other articles :-

(1) All confiscated articles other than those dealt within the preceding rules shall, unless "otherwise directed by the Excise Commissioner, in any particular case, be put up to auction and sold to the highest bidder, but if there is no bid, they shall be destroyed.

(2) Stills and all implements and apparatus for the manufacture of liquor or intoxicating drugs shall be broken up or otherwise rendered useless for such manufacture before being offered for sale.

(3) Confiscated utensils and such other articles of metal shall, if the Excise Commissioner so orders, be broken up or rendered useless before they are offered for sale.

12. Disposal to be deferred till time for appeal has expired except in certain cases :-

The sale or other disposal of confiscated articles shall be deferred till the period of limitation for appeal against the order of the Court, Excise Commissioner, Deputy Commissioner or any other Officer ordering confiscation has expired or if an appeal is made against such order, till the appeal is finally disposed off:

Provided that:

(a) in the case of a confiscated animal, the sale shall not be so deferred unless the owner thereof deposits with the Deputy Commissioner or other authorised Officer such sum as that Officer deems to be sufficient for the feeding and upkeep of such animal, till the end of the period required for preferring an appeal or till the disposal of such appeal as the case may be;

(b) if the article confiscated is liable to speedy and natural decay or if the disposal thereof would be for the benefit of the owner, it may be sold immediately and if the sale of such thing is not advantageous to the owner, the Deputy Commissioner or other authorised Officer may direct it to be destroyed.

13. Procedure to be adopted if order of confiscation be reversed :-

If an order of confiscation of any intoxicant or hemp or other thing be reversed on appeal, such articles, hemp or thing or the sale proceeds thereof and the balance of the amount if any deposited for feeding, upkeep or safe custody thereof after deduction of the expenditure, if any, incurred in its maintenance shall be returned to the owner thereof, or his duly authorised agent. If no one appears within two months from the date of order on appeal to claim such article, hemp or thing or the sale proceeds thereof, the same shall be handed over to the police for disposal in accordance with the provisions of the Karnataka Police Act, 1963.

14. Unclaimed confiscated intoxicants :-

Intoxicants and hemp in respect of which an offence has been committed and the offender is not known or cannot be found and intoxicants and hemp which are found unclaimed in Railways and in the Post Office shall when forwarded to the Excise Commissioner or

the Deputy Commissioner be dealt with under these rules.

15. Confiscated articles in cases compounded :-

Any intoxicant, hemp, mhowra flowers or molasses and any other property if any confiscated in a case compounded under Section 45 of the Act shall be disposed off in accordance with these rules.

16. Repeal and Savings :-

All rules corresponding to these rules framed under any of the Acts repealed under Section 72 of the Karnataka Excise Act, 1965 are hereby repealed:

Provided that such repeal shall not affect the previous operation of the said rules and anything done under the said rules shall be deemed to have been done under these rules.