
KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF LIQUORS) RULES, 1969

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KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF LIQUORS) RULES, 1969

In exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), 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 No. GSR 89 (HD 103 EDC

69), dated the 4th March, 1969, in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated the 4th March, 1969, namely:-

1. Title, extent and commencement :-

(1) These rules may be called the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969.

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

(3) They shall come into force at once.

2. Definitions :-

¹ [In these rules, unless the context otherwise, requires,

(a) "Excise year" means a period of twelve months commencing on the first day of July;

(b) "Form" means a Form appended to these rules;

(c) "Right of Retail Vend of Liquors" means the lease of the right of retail vend of liquors]

1. Rule 2 substituted by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.

3. Lease of Retail Vend :-

¹[(1)] The right of retail vend of liquors may be disposed of,

(i) by tender;

(ii) by auction;

(iii) by tender-cum-auction; or

(iv) in any other manner;

Provided that if the disposal is not finalised in any one manner, the State Government may, by order, direct that it may be done in any other manner.

²[(2) xxx]

³[(3) The right of retail vend of arrack disposed under these rules shall be the exclusive right but in such districts as may be specified by the Government ⁴[only bottled arrack or arrack in polythene sachet] ⁵[xxx] shall be \$pld to consumers:]

6[Provided that if for any reason supply of **7** [bottled arrack or arrack in polythene sachet] cannot be arranged in sufficient quantity, Government may specify the areas in which bulk arrack may be permitted to be sold subject to the conditions specified therein.]

1. Rule 3 renumbered as sub-rule (1) by GSR 196, dated 1-5-1972 and shall be deemed to have come into force w.e.f. 1-4-1972.
2. Sub-rule (2) omitted by GSR 72, dated 22-4-1991, w.e.f. 22-4-1991.
3. Sub-rule (3) inserted by GSR 137, dated 30-4-1979, w.e.f. 30-4-1979.
4. Substituted for the words "only bottled" by GSR 4, dated 20-5-1993, w.e.f. 1-7-1993.
5. The words "or arrack packed in polythene sachets" omitted by GSR 294, dated 9-11-1987, - w.e.f. 10-11-1987.
6. Proviso to sub-rule (3) inserted by GSR 72, dated 22-4-1991, w.e.f. 22-4-1991.
7. Substituted for the words "bottled arrack" by GSR 4, dated 20-5-1993, w.e.f. 1-7-1993.

3A. Grant of Lease to Government Companies etc :-

1 [(1)Notwithstanding anything contained in these rules the State Government may, if it is considered expedient in the interest of Government revenue or for any other reasons to be recorded in writing, grant the lease of right of retail vend of liquor in favour of a n y company or agency owned or controlled by the State Government or a State Government department, on such terms and conditions as it deems fit;

(2) Where the lease of right of retail vend of liquor is granted under sub-rule (1) the State Government may relax the application of any of the provisions of these rules in respect of the lease granted in favour

1. Rule 3-A inserted by GSR 104, dated 5-7-1994, w.e.f. 5-7-1994.

4. Notification by the Excise Commissioner :-

After an order under Rule 3 is made, the Excise Commissioner shall issue a notification containing the following particulars, namely.

(i) the name or names of shops or group of shops of liquors in taluk or taluks or district or districts to be disposed of **1** [or area or areas in which the right of retail vend of liquors has to be disposed off.]

(ii) where the disposal is by tender, the last date for receipt of

tenders, the time and place of their consideration;

(iii) where the disposal is by auction, the date on which, the time at which and the place in which the auction will be held;

(iv) where the disposal is by tender-cum-auction, the last date for receipt of tenders and the time at which and the place in which auction will be held;

(v) the period of lease;

(vi) the general conditions governing the tender, auction or tender-cum-auction.

1. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

4A. Registration of Excise Contractors :-

¹[(1) Every application for registration as Excise Contractor shall be made in three sets to the Excise Commissioner in Form-I ²[within such date and time as may be specified by the Excise Commissioner.]

³[(2) The application under sub-rule (1) shall be accompanied by the following documents,

(a) the solvency certificate ⁴[or a bank guarantee as specified in sub-rule (2-a) or Kissan Vikas Patra or National Savings Certificate] ⁵[xxx;]

(b) the treasury receipt for having paid the application fee for registration;

(c) three passport size photographs of the applicant.

⁶[(2-a)' The applicant shall obtain the solvency certificate referred to under sub-rule (2),

(i) in case the amount is upto rupees fifty thousand, from the Tahsildar of the taluk concerned ⁷[xxx]; and

(ii) in case the amount is rupees fifty thousand and above, from the Deputy Commissioner of the District concerned ⁸[xxx]]. ⁹[Provided that in lieu of the Solvency Certificate the applicant may furnish for an equivalent amount, the following,

(a) an irrevocable Bank Guarantee from a Scheduled Bank (in Form 1-A); or

(b) Kisan Vikas Patra; or

(c) National Savings Certificate; which shall be endorsed in favour of the Excise Commissioner:

Provided further that in case, the bid or offer is not confirmed in favour of the applicant, the Bank Guarantee or the Certificates specified in the first proviso, shall be returned to him within sixty days from the date of non-confirmation. In case where the bid or offer is confirmed in favour of the applicant the Bank Guarantee or the Certificates specified above shall be returned to the applicant after three months of the expiry of the lease period, provided that the amount specified therein is not adjusted towards any kind of dues payable to the Government.]

(3) The application fee for grant or registration shall be **10**[Rs. 1,000/-.] The application fee paid shall not be refundable.

(4) On receipt of application under sub-rule (1), the Excise Commissioner shall.

(a) If the application does not contain all particulars or is otherwise not in order, return the same for representation along with such further details as required within a week failing which such application shall be deemed to have been rejected. If the application is represented without full details as required, it shall be summarily rejected.

(b) If the application is in order, forward the copies of such application the Deputy Commissioner of the concerned districts where the applicant is residing and where his immovable properties, if any, are located by Registered Post, for a report.

(c) The Deputy Commissioner shall verify the correctness or otherwise of the particulars furnished in the application by the applicant and shall furnish a report to the Excise Commissioner with his remarks thereon as far as possible within fifteen days from the date of receipt of the application along with his specific recommendation.

(d) On receipt of the report from the Deputy Commissioner, the Excise Commissioner shall, in deciding whether to register or not the applicant as an Excise Contractor have regard to the following matters,

(i) The interest of Revenue Generally;

(ii) The status, antecedents and previous experience of the applicant; and

(iii) The solvency of Applicant.

Explanation. For the purpose of this clause, the expression antecedents means the conduct of the applicant in relation to the payment of Excise Rentals and other dues payable by him to the Government.

(e) The procedure specified in sub-clause (b) shall also be followed in respect of applications from outside Karnataka. In such cases the issue of Registration Certificate shall be subject to the receipt of report from the concerned Deputy Commissioner/District Collector:

Provided that on an application to be made by the applicant, the Excise Commissioner, may at the cost of such applicant to be paid in advance, depute an Officer not below the rank of Sub-Inspector of Excise to obtain the necessary information.

(5) Subject to the provisions of the Act and the Rules framed thereunder, within fifteen days from the date of receipt of report from the Deputy Commissioner under clause (c) of sub-rule (4), the Excise Commissioner may register the applicant as an Excise Contractor and grant a Certificate of Registration in Form-II on such terms and conditions and subject to such registrations as he may deem fit.

(6) If the Excise Commissioner refuses to register the applicant as excise Contractor, he shall do so by an order in writing giving reasons for such refusal and communicate the same to the applicant: Provided that the Excise Commissioner shall take a decision in regard to grant of Certificate of Registration in Form-II under sub-rule (5) or refusal thereof under sub-rule (6) ¹¹ [at least ten days before the commencement of the disposal of the right of retail vend of liquor in the State for the next excise year.]

(7) Every registration certificate granted under sub-rule (5), shall not be transferrable.

(8) The registration certificate issued under sub-rule (5), shall be valid for participation in tender/auction for the disposal of right of retail vend of liquor for the excise year specified in such certificate.

1. Rules 4-A and 4-B inserted by GSR 54, dated 1 -3-1989, w.e.f. 1 -3-1989.

2. Substituted for the words "within fifteenth day of February of every year" by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.
3. Sub-rule (2) substituted by GSR 5, dated 10-1-1990, w.e.f. 10-1-1990.
4. Inserted by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.
5. The words, figure and letter "in Form 1-A" omitted by GSR 128, dated 28-8-1990, w.e.f. 28-8-1990.
6. Sub-rule (2-a) inserted by GSR 5, dated 10-1-1990, w.e.f. 10-1-1990.
7. The words "or from any Scheduled Bank" omitted by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.
8. The words "or from any Scheduled Bank" omitted by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.
9. Provisos inserted by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.
10. Substituted for the letters and figures "Rs. 25.000/-" by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993
11. Substituted for the heading 'Tenders how submitted' by GSR 111, dated 3-4-1970, w.e.f. 9-4-1970.

4B. Cancellation of registration certificate :-

The Excise Commissioner may at any time cancel the registration as excise contractor and the certificate of registration issued under sub-rule (5) of Rule 4-A if it is found, after enquiry that the excise contractor is disqualified or has incurred disqualification under these rules:

Provided that before cancellation of registration certificate, the Excise Commissioner shall give an opportunity of being heard to the applicant.]

5. Manner of submission of tenders :-

¹[(1) Where the right of retail vend of liquors is to be disposed of by tenderer²[xxx], the tender shall be submitted by the tenderer himself or by his power-of-attorney holder in a sealed cover addressed to,

(a) in the case of shop or group of shops ³[or the area or areas] within a district, to the Deputy Commissioner of that District, and

(b) in the case of a shop or group of shops ⁴[or the area or areas] in more than one district in a Division, to the Divisional Commissioner of that Division.

(2) The cover containing the tender shall be superscribed with the words "TENDER FOR THE LEASE OF THE RIGHT OF RETAVEND OF LIQUORS" (the kind of liquors to be mentioned) in the shop or

⁵[Districts.....area.....areas.....in district..... districts for the period] and shall be delivered to the concerned Deputy Commissioner or the Divisional Commissioner or to such Officer as the Deputy Commissioner or the Divisional Commissioner may authorise to receive ⁶[not later than the date and time fixed for the receipt of the tenders in the notification referred to in Rule 4] fixed for the receipt of tenders.

(3) Where more than one tender is submitted by a person, the tender containing the highest offer shall be considered and not the other tenders.

(4) Every tender received shall be acknowledged by the Officer receiving it.

(5) A tender shall not be conditional and if it is conditional it shall be rejected.

(6) Every tender shall be accompanied by an earnest money deposit of an amount equal to ⁷[one month's rent of each shop or group of shops in the previous year]. Such deposit shall be made ⁸[x x x x] or in the form of a demand draft on a Scheduled Bank in favour of the Deputy Commissioner or the Divisional Commissioner as the case may be ⁹[or the Excise Commissioner]. Tenders not accompanied by such deposit shall be rejected: ¹⁰[Provided that in the case of shops which were not in existence in the previous year earnest money deposit shall be five hundred rupees for each shop]: ¹¹[Provided further that the earnest money deposit in respect of any shop or group of shops which were not separately disposed of in the previous year, shall be the proportionate lease amount for such shop or shops calculated on the basis of the average monthly consumption of the previous year]. ¹² [Provided also the earnest money deposited in respect of any area or areas which were not disposed of in the previous year shall be the proportionate lease amount for such area or areas calculated on the basis of the average monthly consumption of the previous year.]

1. Substituted for the heading 'Tenders how submitted' by GSR 111, dated 3-4-1970, w.e.f. 9-4-1970.

2. The words "or tender-cum-auction" omitted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

3. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

4. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993..

5. Substituted for the words "districts for the period" by GSR 100, dated 20-5-1993, w.e.f.20-5-1993.

6. Substituted for the words "not later than 3 p.m. on the last date fixed for the receipt of tenders" by GSR 189, dated 16-6-1970, w.e.f. 25-6-1970.

7. Substituted for the words "rupees five hundred per shop or the amount equal to one fourth of the monthly rent of each shop or group of shops in previous year whichever is less" by GSR 111 dated 3-4-1970, w.e.f. 9-4-1970.
8. The words "either in cash or " omitted by GSR 94, dated 24-4-1984, w.e.f. 24-4-1984.
9. A comma and the words "or the Excise Commissioner" inserted by GSR 90, dated 26-4-1983, w.e.f. 26-4-1983
10. Proviso to sub-rule (6) inserted by GSR 216, dated 12-6-1970, w.e.f. 18-6-1970.
11. Further proviso to sub-rule (6) inserted by GSR 89, dated 26-4-1983, and shall be deemed to have come into force w.e.f. 1 -4-1983.
12. Third proviso to sub-rule (6) inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

6. Joint Tenders :-

A tender submitted jointly by more than one person shall be rejected, unless the tender is by a firm registered under the Partnership Act, 1932 (Central Act 9 of 1932) and is submitted by the person duly authorised by the firm.

7. Disqualification :-

(1) A person shall be disqualified from submitting a tender, if he,

(i) is a minor or an undischarged insolvent or is of unsound mind; or

(ii) is holding an Office of profit under the State Government or Central Government; or

(iii) has not paid the arrears of any excise dues or sales tax in respect of liquor sold by him; or

1[(iii-a) has not produced a valid income-tax Clearance Certificate or;]

(iv) has been convicted of any cognisable and non-bailable offence or any offence under the Dangerous Drugs Act, 1930 or under the Medicinal and Toilets Preparation (Excise Duties) Act 1955, or under Sections 481, 482, 483, 484, 485, 486, 487 and 489 of the Indian Penal Code.

2[(v) has not obtained a registration certificate as provided under Rule 4-A of these Rules].

Explanation. For the purposes of this sub-rule, a company, firm or

other body corporate shall be deemed to have incurred the disqualification if the person in charge of and responsible for the conduct of the business of such company, firm or other body corporate has incurred the disqualification.

(2) A person shall not be disqualified under clause (ii) of sub-rule (1) if he produces a certificate from a competent Revenue, Excise or Commercial Tax Officer to the effect that the arrears have been paid.

(3) The contractors registered under Rule 4-A³ [of these rules shall be eligible to participate in any auction or tender as specified hereunder.

⁴ [(4) Nothing in clause (v) of sub-rule (1) or in sub-rule (3) of this rule shall apply to any person submitting a tender or participating in auction or tender under these rules, during the period commencing from Twenty-fourth day of April, 1998 to Thirtieth day of June, 1999.]

1. Clause (iii-a) of sub-rule (1) inserted by GSR 134, dated 27-4-1977, w.e.f. 5-5-1977.

2. Clause (v) of sub-rule (1) inserted by GSR 54, dated 1-3-1989, w.e.f. 1-3-1989.

3. Sub-rule (3) substituted by GSR 128, dated 28-8-1990, w.e.f. 28-8-1990.

4. Sub-rule (4) substituted by Notification No. FD 11 PES 98, dated 6-5-1998 and shall be deemed to have come into force w.e.f. 24-4-1998.

8. Withdrawl of tender :-

A tender once submitted shall not be withdrawntill the right of retail vend of liquor is disposed of.

9. Consideration of tenders :-

Where the right of retail vend of liquor within a district is to be disposed by tender, the Deputy Commissioner of the District and where the disposal is of the right in more than one district in a Division, the Divisional Commissioner of that Division shall on the day and at the time and place specified in the notification .issued under Rule 4, open in the presence of such of the persons who have submitted the tenders as are present, all the tenders received, make a list of the offers made, and may alter the tenders are recorded in respect of all the shops, or group of shops, ¹ [or the area or areas] accept the highest offer provisionally and announce the same:

Provided that where auction to dispose the right in more than one district is also taken, the Deputy Commissioner shall not announce the acceptance or otherwise of the highest tender for the shop or group of shops within a district before the announcement by the Divisional Commissioner of the highest tender in respect of a shop or a group of shops in more than one district.

1. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

10. Auctions :-

(1) Where the right of retail vend of liquor within a district is to be disposed of by auction, the Deputy Commissioner of that district and where the disposal of the right is in more than a district in a Division, the Divisional Commissioner of that Division shall, on the date and at the time and place notified under Rule 4, hold the auction.

(2) The shop, or group of shops ¹ [or the area or areas] shall be auctioned in the order in which they appear in the notification issued under Rule 4 unless it is changed by the Deputy Commissioner or the Divisional Commissioner. Every change in the order shall be announced at the place where the auction is held before the commencement of auction.

1. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

11. Procedure at auction :-

(1) The Deputy Commissioner or the Divisional Commissioner, as the case may be, shall cause the sale notification to be read out and explained in Kannada. He shall thereafter prepare a list of intending bidders in respect of each shop or group of shops ¹[or the area or areas] to be auctioned.

(2) Only persons included in such list shall be permitted to bid.

(3) No persons shall be included in such list if,

(a) he is a person disqualified from submitting a tender;

(b) he has not deposited the earnest money at the rates and in the manner specified in sub-rule (6) of Rule 5:

Provided that in the case of a person whose bid for a shop or group of shops ²[or the area or areas] is not accepted, the earnest money deposited by him in respect of such bid shall, if he so desires, be

treated as earnest money for other shop or group of shops ³[or the area or areas] at the same auction and if such amount is less than the amount of earnest money required to be deposited for the other shop or group of shops ⁴[or the area or areas] the amount falling short is made good.

(4) After the list under sub-rule (1) is prepared, bids in respect of the shop or group of shops ⁵[or the area or areas] shall be invited.

(5) The bids offered shall be recorded in such list and the signature of the highest bidder shall be obtained in token of his offer. A bid once offered shall not be withdrawn.

(6) A bid offered jointly by more than one person shall be rejected. No person other than a power of attorney holder shall be entitled to offer a bid in the name of another person:

Provided that in the case of a firm, company or other body corporate, the person duly authorised in this behalf may offer bids on behalf of the firm, company or other body corporate.

(7) The Deputy Commissioner or the Divisional Commissioner, as the case may be, may, after the bids are recorded in accordance with sub-rule (3) in respect of all the shops or group of shops ¹[or the area or areas] accept provisionally, the highest bid and announce the same:

Provided that where auction to dispose the right in more than one district is also taken, the Deputy Commissioner shall not announce the acceptance or otherwise of the highest bid for the shop or group of shops ²[or the area or areas] within a district before the announcement by the Divisional Commissioner of the highest bid in respect of the shop or group of shops ³ [or the area or areas] in more than one district.

1. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

2. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

3. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

4. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

5. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

12. Procedure of Tender-cum-Auction :-

¹[(1) Where the right of retail vend of liquor within a district has to be disposed of by tender-cum-auction, the Deputy Commissioner of that District and where the disposal of the right is in more than one

district of a division, the Divisional Commissioner of that division shall on the date

(2) Where the right of retail vend of liquors is to be disposed of by tender-cum-auction, the tender shall be submitted by the tender himself or by his power of attorney holder in a sealed cover addressed to,

(a) in the case of a shop or group of shops, or the area or areas within a district, to the Deputy Commissioner of that district; and

(b) in the case of a shop or group of shops or the area or areas in more than one district in a division to the Divisional Commissioner of that Division.

(3) The Cover containing the tender shall be superscribed with the following,

(i) Tender for the lease of right of retail vend of Toddy/Arrack for the period from.....to.....

(ii) Tender for shops No.....of.....taluk. Tender for group of shops.....taluk. Tender for all shops of.....taluk. Tender for all shops of..... District.....Districts. Tender for the/area (mention the Serial No. and Group of shops or the Taluk or the area or areas, as given in the Notification issued under Rule 4).

(iii) Name and address of the tenderer:

(iv) Number and date of DD/Pay Order.

(4) The covers containing shall be delivered to the concerned Deputy Commissioner or the Divisional Commissioner or such Officer as the Deputy Commissioner or the Divisional Commissioner may authorise to receive not later than the date and time fixed for the receipt of the tenders in the notifications, referred to in Rule (4) for the receipt of tenders.

(5) Separate tenders in separate sealed covers shall be submitted for each shop or each group of shops, or each area or areas, as the case may be. Tenders submitted for more than one shop or for more than one group of shops, or for more than one area or areas, in a single cover shall be rejected.

(6) Where more than one tender is submitted by a person for the tenders.

(7) A tender shall not be conditional, and if it is conditional it shall be rejected.

(8) Every tender shall be accompanied by earnest money deposit equal to one month's rent of each shop or group of shops or area or areas for the previous excise year. Such deposit shall be made in the form of Demand Draft/Pay orders issued from a Scheduled Banks in favour of the Deputy Commissioner or the Divisional Commissioner or the Excise Commissioner. The Demand Draft/Pay Order shall be pinned to the exterior of the tender cover. Tenders not accompanied by earnest money deposit shall be rejected:

Provided that in the case of shops which were not in existence in the previous year earnest money deposit shall be five hundred rupees for such shop:

Provided further that the earnest money deposit in respect of any shop or group of shops which were not separately disposed of in the previous year, shall be proportionate lease amount for such shop or shops calculated on the basis of the average monthly consumption of the previous year:

Provided also that the earnest money deposit in respect of any area or areas which was were not disposed of in the previous year, shall be the proportionate lease amount for such area or areas calculated on the basis of the average monthly consumption of the previous year.

(9) The tender shall contain the following information,

(1) The name of the tenderer, his father's name and address.

(2) Serial number and Name of the shop or group of shops, the name of the area or areas (as given in the notification issued under Rule 4 by the Excise Commissioner) for which he has offered his tender.

(3) Monthly rental offered in respect of each shop or group of shops or the area or areas, as the case may be, (the amount shall be mentioned both in figures and words).

(10) No tender shall be received after the last date and time fixed for receiving such tenders.

(11) A tenderer shall also be eligible to participate in the auction for the shop or group of shops or the area or areas to be disposed

of.

(12) The tenderer may be present at the place of auction and at the time of opening all the tenders, which shall be ²[after the completion of the auction], but his absence shall in no way affect his tender or auction proceedings.

3[(13) xxx.]

4[(14) xxx.]

5[(15) xxx.]

(16) The Deputy Commissioner or the Divisional Commissioner, as the case may be, shall cause the sale notification to be read out and explained in Kannada. He shall prepare a list of intending bidders in respect of each shop or group of shops, or each area or areas including those who have submitted tenders earlier and desire to take part in the bid.

(17) Only persons included in such list shall be permitted to bid.

(18) No person shall be included in such list, if,

(a) he is a person disqualified from submitting the tender;

(b) he has not deposited the earnest money deposit at the rates and in the manner specified in sub-rule (8):

6[Provided that in case of a person whose bid for a shop or group of shops or an area or areas, as the case may be, is not accepted, the earnest money deposited by him in respect of such bids shall, if he so desires, be treated as earnest money for other shop or group of shops, or the area or areas, as the case may be, at the same auction and if such amount is less than the amount of earnest money required to be deposited for the other shop, or group of shops, or the area, or areas, as the case may be, the amount falling short shall be made good by such person.]

(19) After a list under sub-rule (16) is prepared bids in respect of each shop or group of shops or area or areas shall be invited.

7[(20) The shop or group of shops, or the area or areas, shall be auctioned in the order in which they appear in the notification under Rule 4, unless it is changed by the Deputy Commissioner or under the instructions in writing, if any, by the Excise

Commissioner. Every change in the order shall be announced at the -place of auction before the commencement of the auction.]

(21) The bids offered shall be recorded in the list of bids and the signature of the highest bidders obtained in token of his offer. A bid once offered shall not be withdrawn.

(22) A bid offered jointly by more than one person shall be rejected. No person other than a power of attorney holder shall be entitled to offer a bid in the name of another person;

Provided that in the case of a person, firm, company or body corporate, the person duly authorised in this behalf may offer on behalf of such firm, company or body corporate.

(23) The Deputy Commissioner or the Divisional Commissioner, as the case may be, after the bids are recorded in accordance with sub-rule (21) ⁸[announce the highest bid received in respect of each shop or group of shops or the area, or the areas, as the case may be]: Provided that in case, where no tenders are offered by any person in respect of any shop or groups of shops or the area or areas, and if, there is bidding in auction, the highest amount offered in the auction in respect of such shops or group of shops or the area or areas, may be provisionally accepted by the Deputy Commissioner or the Divisional Commissioner, as the case may be: Provided further that where auction to dispose of the right in more than one district is also taken, the Deputy Commissioner shall not announce the acceptance or otherwise of the highest bid or offer for the shop or group of shops within a district before the announcement by the Divisional Commissioner of the highest bid or offer in respect of the shops or group of shops in more than one District.

⁹ [(24) The Deputy Commissioner or the Divisional Commissioner as the case may be, after the completion of the auction and recording of the highest bid offered in respect of each shop or group of shops or area or areas, as the case may be, the announcement of the same, shall open the tenders in the presence of the tenderers and bidders- who are present and shall record the amount offered in each tender in respect of each shop or group of shops or area or areas, as the case may be, and announce the highest amount so offered in respect of each shop or group of shops or the area or areas, as the case may be. Thereafter, he shall compare the highest amount offered in the auction and the highest

amount offered in the tender in respect of each shop or group of shops or the area or areas, as the case may be, and may provisionally accept the amount of the highest bid in the auction or the tender, whichever is higher and announce the same.]]

1. Rule 12 substituted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.
2. Substituted for the words "before the commencement of the auction" by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
3. Sub-rule (13) omitted by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
4. Sub-rule (14) omitted by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
5. Sub-rule (15) omitted by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
6. Proviso to sub-rule (18) inserted by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
7. Sub-rule (20) substituted by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
8. Substituted for the words "in respect of all the shops or group of shops or the area or areas accepted provisionally, by the highest bid and announce the same" by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.
9. Sub-rule (24) substituted by GSR 52, dated 10-5-1995, w.e.f. 10-5-1995.

12A. Undertaking to be given with tender or bid :-

¹[The persons submitting a tender or offering a bid shall give a prior undertaking to fulfill the stipulation in Rule 8, sub-rule (5) of Rule 11 ² [or sub-rule (21)] of Rule 12, as the case may be, that such tender or bid shall not be withdrawn.]

1. Rule 12-A inserted by GSR 89, dated 26-4-1983, and shall be deemed to have come into force w.e.f. 1-4-1983.
2. Substituted for the words, brackets and figures "or sub-rule (7)" by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

13. Deposits to be made :-

(1) The person whose tender, offer or bid is accepted provisionally under Rules 9, 10, 11 and 12 shall, immediately on the day such acceptance is announced, make a deposit of an amount which together with the earnest money deposited under ¹[or the area or areas] for which his tender, offer or bid is provisionally accepted.

(2) If the deposit as required by sub-rule (1) is not made, the provisional acceptance of the tender, offer or bid shall stand cancelled, the earnest money shall be forfeited and the Deputy

Commissioner or the Divisional Commissioner may either accept provisionally the next highest tender, offer or bid or dispose of the right of retail vend of liquors afresh. In the latter case, the disposal shall be at the risk of the defaulter who shall not be entitled to any excess amount realised but shall be liable for the losses sustained by ² [the Excise Commissioner]. The State Government shall be entitled to assess such loss and recover it from the defaulter as if it were an arrear of land revenue.

(3) A defaulter shall not be entitled to tender, offer or bid at the auction held under sub-rule (2).

1. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

2. Substituted for the words "the State Government" by GSR 201, dated 2-11-1989, w.e.f. 3-11-1989.

14. Rejection of tenders or bids :-

The Deputy Commissioner or the Divisional Commissioner may reject any tender, offer or bid submitted to him on the ground that such tender, offer or bid is too low or for any other reason, to be recorded in writing.

15. Continuation :-

(1) Whenever the Deputy Commissioner or the Divisional Commissioner has accepted provisionally a tender, offer or bid, he shall, forthwith submit to the ¹[xxx] Excise Commissioner the records of the proceedings conducted by him for confirmation.

²[(2) Where the bid or tender amount offered exceeds the bid or tender amount obtained during the previous excise year, by more than five per cent of the bid or tender amount of the year. Excise Commissioner may, on consideration of records received under sub-rule (1) and having regard to the interest of excise revenue pass an order either confirming the bid or tender for the disposal of right of retail vend of liquor, or with the prior approval of the State Government, pass an order refusing to confirm the bid or tender, and the order either confirming or refusing to confirm the bid or tender shall be communicated forthwith to all concerned. In other cases, the Excise Commissioner shall forward the records of bid or tender to the State Government for consideration.]

³ [(3) The State Government shall, on consideration of the records received under sub-rule (2) and in the interest of excise revenue, pass an order either confirming the bid or tender for disposal of the

right

1. ,The words "State Government through the" omitted by GSR 54, dated 1-3-1989, w.e.f. 1-3-1989.
- 2 . Sub-rule(2)substitutedbyGSR125,dated8-7-1991, w.e.f. 8-7-1991.
3. Sub-rule (3) inserted by GSR 54, dated 1-3-1989, w.e.f. 1-3-1989.

16. Lease to be executed :-

The person whose tender, offer or bid is confirmed under Rule 15 shall ¹[²within fifteen days from the date of communication of such confirmation order] or before the thirtieth day of June, whichever is earlier] enter into an agreement of lease with the State Government incorporating the terms and conditions under which the right of retail vend of liquors is leased in his favour: ³

[Provided that where on account of the order of any court, such agreement of lease could be entered into within the period or before the date specified in this rule, it shall be entered into within seven days from date of vacation of such order or the date of communication of the confirmation order, whichever is later.]

1. Substituted for the words "within seven days from the date of such confirmation" by GSR 111, dated 3-4-1970, w.e.f. 11-4-1970
2. Substituted for the words "within fifteen days from the date of such confirmation order" by GSR 139, dated 30-4-1974, w.e.f. 9-5-1974.
3. Proviso to Rule 16 inserted by GSR 89, dated 26-4-1983 and shall be deemed to have come into force w.e.f. 1-4-1983.

16A. Transfer of lease :-

¹[(1) No lease of right of retail vend of liquors shall be transferred by a lessee except with the permission of the State Government.

²[(2) The lease and the person in whose favour the lease is to be transferred shall submit separate applications to the concerned Deputy Commissioner or the Excise Commissioner, as the case may be, indicating their willingness for the transfer of the lease in question. The application of the person in whose favour the lease is to be transferred shall be accompanied by an earnest money deposit of an amount equal to one month's rent. The Deputy Commissioner shall forward the application to the Excise Commissioner with his remarks and the Excise Commissioner shall in turn forward the application with

(i) enter into an agreement of lease with the State Government incorporating the terms and conditions under which the right of retail vend of liquor is leased, by transfer, in his favour; and

(ii) furnish security for an amount equal to ³ [three-months rent] in the form of cash deposit. Government securities and other securities recognised by the Government or an irrevocable guarantee given by a Scheduled Bank and thereupon the lease shall be deemed to have been transferred in his favour and the original lessee shall be liable for all amounts due to Government in respect of the said lease upto the date of such transfer.]

(3) The provisions of Rules, 7, 17, 18, 19, 20, 21, 22 and 23 of these Rules shall mutatis mutandis be applicable to a transferee.]

1. Rule 16-A inserted by GSR 310, dated 23-9-1971, w.e.f. 7-10-1971.

2. Sub-rule (2) of Rule 16-A substituted by GSR 323, dated 14-12-1973, w.e.f. 27-12-1973.

3. Substituted for the words "two and one tenth of the monthly rent" by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.

17. Application for licence and conditions to be fulfilled :-

(1) The person in whose favour the disposal of the right of retail vend of liquors is confirmed shall,

(a) ¹[within fifteen days from the date of communication of the order of confirmation] make an application together with a list of sites with its boundaries selected for locating the shop or shops, for a licence in respect of each shop or group of shops,

(i) to the .Deputy Commissioner of the district where the disposal is of shops or group of shops ²[or the area or areas] within that district;

(ii) to the Excise Commissioner where the disposal is of shop or group of shops ³[or the area or areas] situated in more than one district.

(b) ⁴[within fifteen days from the date of communication of the order of confirmation] furnish security for an amount equal to ⁵[three and one tenth of monthly rent] in the form of cash deposit or ⁶[xxx] Government securities or other securities ⁷[x x x;]

⁸[(c) xxx.]

9[(1-A) xxx.]

(2) On the provisions of sub-rule (1) and Rule 16 being complied with **10**[xxx] the Deputy Commissioner, or the excise Commissioner as the case may be, shall issue licences **11** [in form AS-I] in respect of each shop.

(3) No lessee shall be entitled to exercise the right of retail vend of liquors until the licence under sub-rule (2) is issued to him.

1. Substituted for the words "within fifteen days from the date of confirmation" by GSR 139, 30-4-1974, w.e.f. 9-5-1974,

2. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

3. Inserted by GSR 100, dated 20-5-1993, w.e.f. 20-5-1993.

4. Substituted for the words "within fifteen days from the date of confirmation" by GSR 139, dated 30-4-1974, w.e.f. 9-5-1974.

5. Substituted for the words "two and one tenth of the monthly rent" by GSR 7, dated 7-4-1993, w.e.f. 7-4-1993.

6. The words "cash deposit for an amount equal to one month's rent and" omitted by GSR 208, dated 10-6-1969, and shall be deemed to have come into force w.e.f. 26-5-1969.

7. The words "for the balance of the amount" omitted by GSR 208, dated 10-6-1969 and shall be deemed to have come into force w.e.f. 26-5-1969.

8. Clause (c) of sub-rule (1) omitted by GSR 307, dated 5-10-1978, w.e.f. 12-10-1978.

9. Sub-rule (1-A) of Rule 17 omitted by GSR 307, dated 5-10-1978, w.e.f. 12-10-1978.

10. The words, brackets, figure and letters "and the minimum quantity referred to in sub-rule (1-A) is fixed by the District Excise Officer or the Assistant District Excise Officer, concerned" omitted by GSR 307, dated 5-10-1978, w.e.f. 12-10-1978.

11. Inserted by GSR 72, dated 22-4-1991, w.e.f. 22-4-1991.

18. Failure to execute lease agreement, etc :-

(1) Where the person in whose favour the disposal is confirmed fails to comply with the provisions of Rules 16 and 17, the disposal of the right of retail vend of liquors **1**[may be cancelled by the Government at its discretion and if it is so cancelled, the deposit made by such person] shall be liable to be forfeited to the State Government and the right of retail vend of liquors shall be disposed of afresh in such manner as the State Government may direct: **2**

[Provided that till such disposal is made and fresh licences are granted, the Deputy Commissioner may continue the licence of the previous licensee in respect of the same shop or shops.]

(2) The disposal under sub-rule (1) shall be at the risk of the defaulter who shall, however, be not entitled to any excess amount realised from such disposal but shall be liable for the losses sustained by the State Government.³ [The Excise Commissioner shall be entitled to assess such loss] and recover it as if it were an arrear of land revenue.

1. Substituted for the words "shall be cancelled by the State Government. The deposit made by such person" by GSR 196, dated 22-6-1977 and shall be and shall be deemed to have been substituted w.e.f. 1-1-1977.

2. Proviso for sub-rule (1) inserted by GSR 111, dated 3-4-1970, w.e.f. 9-4-1970.

3. Substituted for the words "The State Government shall be entitled to assess such loss" by GSR 201, dated 2-11-1989, w.e.f. 3-11-1989.

19. Adjustment of deposits :-

(1) All deposits, unless forfeited in accordance with these rules shall be adjusted towards the final monthly rents payable by the person to whom licences are issued:¹[Provided that the Excise Commissioner may, if he considers it expedient, permit ²[xxx] the adjustment of on 6 month's cash deposit made under Rule 13 towards the rental of any of the ³[last four months] of the lease period:] ⁴ [Provided further that] an amount not exceeding one month's rent may be retained by the Deputy Commissioner or the Excise Commissioner for a period not exceeding three months after the expiry of the lease period in order that adjustment towards any sums that may be found due to the State Government under these rules may be made and the said amount of any part thereof as are not adjusted shall be refunded on the licensee producing a no due certificate issued by the Deputy Commissioner or the concerned.]

1. Proviso to sub-rule (I) inserted by GSR 58, dated 1/3-3-1980, w.e.f. 13-3-1980.

2. The words "in any particular case" omitted by GSR 66, dated 31-3-1992, w.e.f. 31-3-1992.

3. Substituted for the words "last three months" by GSR 66, dated 31-3-1992, w.e.f. 31-3-1992.

4. Substituted for the words "Provided that" by GSR 58, dated 1/3-3-1980, w.e.f. 13-3-1980.

20. Refund of deposits :-

The earnest money or other deposits made under the rules, unless forfeited or adjusted, shall be refunded to the depositor.

21. Applicability of other provisions :-

The provisions of all the rules and orders made under the Karnataka Excise Act, 1965 shall, to the extent they are not inconsistent with these rules, be applicable in the case of disposal of the right of retail vend of liquors under these rules.

21A. Number of Licences :-

¹ [Where the right of retail vend of liquor is disposed of for any particular area or areas, the number of shops to be permitted shall not exceed more than one shop for a population of 3,000 or part thereof exceeding 1,500.]

1. Rule 21-A inserted by GSR 100, dated 20-5-1993.

22. Power to increase or reduce the number of shops :-

The Excise Commissioner shall be competent to accord sanction for the increase or reduction in the number of shops:

Provided that any increase in the number of shops at the request of any licensee shall be subject to payment by the licensee of an additional rent of ¹ [five hundred rupees for each such toddy shop or beer tavern or wine tavern and one thousand rupees for each such arrack shop.]

1. Substituted for the words "one hundred rupees per year for each such shop" by GSR 197, dated 29-5-1974, w.e.f. 4-7-1974.

23. Shifting of shops :-

The Deputy Commissioner or the Excise Commissioner may, either on the application of the licensee or otherwise and for reasons to be recorded in writing direct the closure or shifting of a shop from one place to another and the licensee shall not be entitled to any compensation on account of such closure or shifting.

24. Repeal and savings :-

The Karnataka Excise (Disposal of Privileges of Retail Vend of Liquors) rules, 1967 are hereby repealed:

Provided that such repeal shall not affect,

(a) the previous operation of such rules or anything duly done or suffered thereunder, or

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

(c) any penalty, forfeiture or punishment incurred in respect of any

offences committed against the rules 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 provisions, anything done or any action taken (including any appointment or delegation made, notification, orders, instructions or direction issued, form or 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.