

## **Goa Excise Duty Act, 1964**

**5 of 1964**

**[27 October 1964]**

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## **Goa Excise Duty Act, 1964**

### **5 of 1964**

**[27 October 1964]**

An Act to consolidate and amend the law relating to the levy of a tree tax and of a duty of excise on certain articles in the State of Goa and for matters connected therewith. Be it enacted by the Legislative Assembly of Goa, in the Fifteenth year of the Republic of India as follows:-

#### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Goa Excise Duty Act, 1964.
- (2) It extends to the whole of the State of Goa.
- (3) It shall come into force on such date as the Government may, by notification, appoint and different date may be notified for different areas. [Vide Annexure I].

#### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

- (a) "beer" includes ale, stout, porter keg Beer and any other

fermented liquor usually made from malt;

(b) "to bottle" means to transfer liquor from a cask or other vessel/tanker to a bottle, jar, flask or similar receptacle for the purpose of sale, whether any process of manufacture or rectification be employed or not, and includes rebottling;

(bb) "cashew liquor" means liquor manufactured from cashew fruit in any part of India;

(c) "country liquor" means liquor manufactured in any part of India other than Indian Made Foreign Liquor;"

(cc) "dealer" means any person dealing in excisable articles and foreign liquor, either for monetary consideration or gratuitously and includes, licence holders, permit holders tenderers, bidders, toddy tappers, distributors, sale promoters, lease holders engaged in transactions of liquor, directly or indirectly;

(d) "denatured" means effectually and permanently rendered unfit for human consumption;

(dd) "Chief Secretary" mean Chief Secretary to the Govt. of Goa.

(e) "Commissioner" means the Commissioner appointed under sub-section (1) of section 3;"

(f) "duty" means the duty of excise imposed by or under this Act in any of the ways indicated in section 13, and in the case of imports, the countervailing duty mentioned in entry 51 of List II in the Seventh Schedule to the Constitution;

(ff) "excisable article" means –

(i) liquor, other than foreign liquor,

(ii) intoxicating drug, or

(iii) opium,

(iv) foreign liquor

but does not include any medicinal and toilet preparations containing alcohol, opium, Indian hemp and other narcotic drugs and narcotics;

(g) "Excise Officer" means the Commissioner appointed under sub-section (1) of section 3 or any other Officer appointed under sub-section (2) and (3) of section 3;"

( h ) "export" with its grammatical variations and cognate expressions means take out of the State to the rest of India or take to a place outside India."

(i) "foreign liquor" means any liquor (other than rectified spirit, denatured spirit and perfumed spirit) imported into India and on which a duty of customs is leviable under the Indian Tariff Act, 1934 (Central Act 2 of 1934) or the Customs Act, 1962 (Central Act 52 of 1962);

- (j) "Government" means the Government of Goa;
- (k) "import" with its grammatical variations and cognate expressions means to bring into the State from the rest of India or from any place outside India;
- (kk) "Indian made foreign liquor" means brandy, whisky, gin, rum, vodka milk punch, wines or beer manufactured in India and such other liquor as may be declared by the Government as Indian made foreign liquor; [Vide Annexure III]
- (kkk) "intoxicating drugs" means –
- (i) the leaves, small stalks and flowering on fruiting top, of the Indian hemp plant;
- (ii) bhang, siddi or ganja;
- (iii) charas, that is to say, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulation, other than those necessary for packing and transport; or
- (iv) coca leaf, that is to say, the leaf of coca plant (which means the plant of any species of the genus erythroxylon), except a leaf from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed;
- (v) Coca derivative, that is to say, –
- (a) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;
- (b) ecgonine, having the chemical formula  $C_9H_{15}NO_3$  and all the derivatives of ecgonine from which it can be recovered;
- (c) cocaine, that is methylester of benzoyl ecgonine having the chemical formula  $C_{17}H_{21}NO_4$  and its salts; and
- (d) all preparations containing more than 0.1 percent cocaine;
- (vi) any mixture, with or without neutral materials, of any of the intoxicating drugs mentioned in above sub-clauses;
- (l) "liquor" includes–
- (a) spirits of wine, methylated or denatured spirits, spirits, wines, toddy, beer, feni and all liquid consisting of or containing alcohol, wash, other than medicinal and toilet preparations;
- (b) any other intoxicating substance which the Government may by notification declare to be liquor for the purpose of this Act;
- (m) "manufacture" includes every process, whether natural or artificial, by which any excisable article is produced or prepared wholly or partly and, in relation to liquor, also re-distillation and every process for the rectification, reduction, flavouring, blending or colouring thereof;"
- (mm) molasses means the heavy, dark coloured viscous liquid produced in the final stage of the manufacture of gur or sugar

containing in solution or suspension, sugar which can be fermented, and includes the solid form of such liquid and also any product formed by the addition to such liquor or solicited of any ingredient which does not substantially alter the character of such liquid or solid; but does not include any article which the Government, may, by notification, declare not to be molasses, for the purposes of this Act:"

(n) "notification" means notification published in the Official Gazette;

(o) "Official Gazette" means the Goa Government Gazette;

(oo) "opium" means

(i) the capsules of the poppy (*Papaver somniferum* L), whether in their original form or cut, crushed or powdered any whether or not juice has been extracted therefrom;

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

(iii) any mixture, with or without neutral materials, of any of the above forms of opium, and includes any derivatives of opium"

(p) "place" includes a house, building, shop, tent, vehicle, vessel, boat, raft or enclosure; (q) "prescribed" means prescribed by rules made under this Act;

(r) "proof litre" means a litre of a mixture of ethyl alcohol and distilled water which at the temperature of 51 degrees Fahrenheit weighs exactly twelve-thirteenths (12/13) parts of an equal measure of distilled water at the same temperature;

(s) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

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

(t) "sale" with its grammatical variations and cognate expressions includes every transfer otherwise than by way of gift.

(u) "spirits" means any liquor containing alcohol and obtained by distillation, whether it is denatured or not;

"(uu) tap means to prepare or manipulate the spathe or other part of any toddy producing tree with the object to abstracting toddy therefrom.

Explanation:- The attaching of pots shall not be necessary to constitute the act;"

(v) State means the State of Goa including the space within the limits of territorial waters appertaining to it;

(w) "toddy" means fermented or unfermented juice drawn from coconut, cajuri or any kind of palm tree;

- (x) "transport means to move from one place or custom station to another place within the State;
- (y) wash includes fermented wort and a dilute solution of sugar from which spirit is distilled;
- (z) wort means the liquor obtained by exhaustion of malt or grain or by the solution of saccharine mater in the process of brewing.

### **3. Excise Authorities And Delegation Of Powers :-**

- (1) for carrying out the purposes of this Act, the Government shall appoint an Officer to be called the Commissioner of Excise.
- (2) To assist the Commissioner in the execution of his functions under this Act, the Government shall appoint as many Deputy Assistant Commissioners, or other Officers as may be considered necessary.
- (3) The Commissioner may, subject to the rules and orders regulating the conditions of service of persons in public service and posts, appoint as many Excise Inspectors, Sub-Inspectors of Excise and such other executive or ministerial staff as may be sanctioned by the Government to assist him in the execution of his functions.
- (4) The Commissioner and all other Officers and persons appointed under sub-sections (2) and (3) shall exercise such powers as may be conferred and perform such duties as may be required by or under this Act.
- (5) The Commissioner and all other Officers and persons appointed under sub-sections (2) and (3) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.
- (6) Subject to such restrictions and conditions as may be prescribed, the Government may by order in writing, delegate any of its powers under this Act to the Commissioner.
- (7) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing delegate any of his powers under this Act to the Deputy or Assistant Commissioner or to such the Officers and persons appointed under sub-section (2) and (3)."

### **3A. Uniforms :-**

- (1) such members of the staff appointed to perform duties under the Act shall wear such uniform which shall be supplied to them free of cost and shall be entitled to such allowances as may be prescribed. [Vide Annexure XXVIII].
- (2) The members of the staff performing duties by wearing the prescribed uniform shall be imparted requisite training at the police training center in consultation with

the Police Department.]

#### **4. Import Of Excisable Article :-**

(1) No excisable article shall be brought into the State from the rest of India or a place outside India except on the authority of a permit issued by the Commissioner indicating that the duty or fee, if any, imposed by or under this Act has been paid or bond has been executed for the payment thereof in the prescribed form and manner.

(2) No foreign liquor shall be imported into the State from custom stations situated outside the State except on the authority of a permit or no objection certificate issued by the Commissioner indicating that the fees or cess, if any, imposed or under this Act has been paid.

#### **4A. Export Of Excisable Articles :-**

No excisable articles shall be exported from the State to any place within India or outside India except on the authority of a permit or no objection certificate as the case may be, issued by the Commissioner indicating that the fees or cess, if any, imposed by or under this Act has been paid,

Provided that when the excisable articles are to be exported from the State to any place outside India, the exporter or his authorized agent shall present the excisable articles together with duplicate copy of the document issued by the Commissioner to the Customs Collector, Border Examiner or any officer of Customs or Land Customs duly appointed by the competent authority.

#### **5. Transport Of Excisable Article :-**

No excisable articles exceeding such quantity as the Government may, from time to time prescribe by notification either for the whole of the State or for any local area thereof, shall be transported within the State except on the authority of and in accordance with the conditions, if any, in a permit issued by the Commissioner. [Vide Annexure IX & XIV].

Provided that unless the Government by notification otherwise directs with respect to any local area, no such permit shall be required when foreign liquor is transported for genuine private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted under the provisions of this Act.

#### **6. Removal Of Excisable Articles From Bonded Warehouse Of Distilleries, Etc. :-**

No excisable article shall be removed from bonded warehouse of

any distillery, brewery, winery, pot still, warehouses of licensed wholesale dealers, warehouse or other place of storage established or licensed under this Act unless the duty, fee, surcharge on duty, cess, if any, payable under this Act has been paid or unless a bond has been executed for the payment thereof in the prescribed form and manner.

## **7. Manufacture Of Liquor :-**

(1) No excisable article shall be manufactured or produced, no liquor shall be bottled], no tree shall be tapped for toddy and no juice shall be drawn from any tree or from cashew fruit except under the authority of a licence issued under this Act.

(2) No person shall use, keep or have in his possession any material, still, utensil, implement, or apparatus for the purpose of manufacturing any excisable article and no distillery, brewery or pot still shall be constructed or worked, save under the authority of a licence issued under this Act in this behalf.

(3) A licence granted under this section shall extend to and include servants and other persons employed by the licensee and acting on his behalf.

## **8. Possession Of And Transactions In Liquor :-**

(1) No person not being a licensed manufacturer or dealer of any excisable articles shall have in his possession any quantity of such articles in excess of such quantity as the Government may, by notification, prescribe, except under the authority of a permit issued by the Commissioner and in accordance with the conditions, if any, therein. [Vide Annexures X & XII]

(2) Every dealer or vendor of any excisable article or foreign liquor shall maintain a full account of his transactions in such article or foreign liquor in the prescribed form.

## **9. Sale Of Excisable Article Or Foreign Liquor :-**

No excisable article or foreign liquor shall be sold except under the authority of a licence issued under this Act;

Provided that the Government may, by notification, direct that a licence for sale granted under any other law for the time being in force in the State may, subject to such conditions as may be specified in the notification be deemed to be a licence granted under this Act.



## **10. Prohibition Or Restriction Of Import, Export, Transport, Possession, Manufacture Or Sale Of Excisable Articles :-**

Notwithstanding anything contained in this Act, the Government may, if it considers necessary in the public interest so to do, by notification prohibit or restrict the import, export, transport, possession, manufacture or sale of any or all excisable articles within the State or any part thereof. [Vide Annexures XXV, XXVII, XXX & XXXI]

### **10A. Prohibition Of Publication Of Advertisements Relating To Liquor :-**

(1) No person shall advertise in any manner or form whatsoever, or distribute any advertisement or other matter relating to liquor.-

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

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

(2) Nothing in this section shall apply to:-

(a) catalogues or price lists which may be generally or specially approved by the Commissioner in this behalf;

(b) any other advertisement or matter which the Government by notification in the Official Gazette, generally or specially exempt from the operation of this section.

Provided that no advertisement of any kind specified in clauses (a) and (b) above shall be made in schools and colleges;

## **11. Establishment Of Distilleries And Warehouses :-**

The Commissioner may with the previous approval of the Government-

(a) establish a public distillery, or authorize the establishment of one or more private distilleries, in which liquor may be manufactured under a licence granted under this Act;

(b) establish a public warehouse, or authorize the establishment of one or more private warehouses, wherein excisable articles may be deposited and kept without payment of duty and

(c) discontinue any public or private distillery or warehouse so established.

Explanation.- Any warehouse authorized to be established within the licensed premises of the distillery, brewery or winery, as the case may be, shall constitute as private bonded warehouse of the said manufacturing units.

## **12. Levy Of Duty :-**

There shall be levied and collected, at such rates as may be fixed by the Government, from time to time, by notification published in the Official Gazette, a duty of excise on all excisable articles manufactured in, or brought into the State.

Provided that no such duty shall be levied on toddy when used for the manufacture of jaggery, vinegar, yeast or neera or when drunk as such.

### **13. Mode Of Levy :-**

The duty on any excisable articles leviable under this Act may be levied in one or more of the following ways, namely:-

(a) by way of a duty on the quantity of such excisable article manufactured in or passed out of any place of manufacture or storage including a distillery, brewery or warehouse licensed or established under this Act; and

(b) by way of a duty on the quantity of such excisable article imported into the State.

### **13A. Payment Of Fees For Grant Of Licence Or Permit, Etc. :-**

Instead of or in addition to any excise duty leviable under section 12, the Government may, levy such fee as may be prescribed, in consideration of grant of any licence or permit or both by or under this Act, and not covered by section 15.

### **14. Recovery Of Tree Tax :-**

(1) There shall be levied on each tree from which toddy is drawn a tax [at such rates as may be fixed by the Government, from time to time, by notification published in the Official Gazette, and in the manner prescribed.

(2) When any tax is levied on a tree under subsection (1) the licence under section 7 shall be granted to a person other than the owner of such tree only on production of the written consent of such owner to the grant of the licence.

(3) When any tax is due in respect of any tree, it shall be recoverable from the tapper or in default by him, where the tree is tapped without a licence under this Act, from the owner or occupier of the land, unless he proves that the trees were tapped without his consent.

Explanation: In this section, the expression owner includes a person in possession.

## **15. Licences And Permits :-**

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

(i) by such officer,

(ii) for such period.

(iii) Subject to such conditions or restrictions, and

(iv) In such form and containing such particulars, as may be prescribed;

Provided that the Government may, if it considers necessary in the public interest so to do, by order, published in the Official Gazette, direct that no licence shall be granted for manufacture or sale of any or all excisable articles and foreign liquors within the State or any part thereof.

(2) No licence or permit under this Act shall be granted or no licence shall be transferred from one licensed premises to another or from one licensee to another person or no label shall be recorded/renewed except on payment of fees at such rates as may be fixed by the Government, from time to time, by notification published in the Official Gazette.

Provided that if any person seeks transfer of licence in his name and subsequently intends to transfer the same to some other licensed premises under the provisions of the Act and rules made thereunder or vice-versa, the transfer fees will be applicable in such case as one transaction only.

## **16. Power To Cancel Licences :-**

(1) A licence or permit granted under this Act may be cancelled by the Commissioner for good and sufficient reasons to be recorded in writing, after giving an opportunity to the person concerned for making any representation and after considering such representation.

(2) In particular and without prejudice to the generality of subsection (1), the Commissioner may cancel or suspend any licence or permit granted under this Act, -

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

(b) if there is any breach by the holder of such licence or permit, or by his servants, or by any one acting with his express or implied consent on his behalf, of any of the terms or conditions of such licence or permit or of the terms of any agreement executed under section 17; or

- (c) if the holder thereof is punished for any offence against this Act, or of any cognizable or non-bailable offence; or
  - (d) if the conditions of the licence or permit provide for such cancellation or suspension.
- (3) The holder of a licence or permit shall not be entitled to any compensation for the cancellation or suspension thereof under this section nor to a refund of any fee paid or deposit made in respect thereof.

### **17. Agreement :-**

- (1) Every person taking out a licence under this Act may be required to execute an agreement in conformity with the tenor of his licence and in the form prescribed, and to give such security, if any, for the performance of his agreement as may be prescribed.

### **18. Measures, Weights And Testing Instruments :-**

- (1) Every person who manufactures or sells any excisable article or sells any foreign liquor is bound-
- (a) to equip himself with such measures, weights and instruments as the Commissioner may require and to keep the same in good condition; and
  - (b) on the requisition of any Excise Officer duly empowered in that behalf, at any time to measure, weigh or test any excisable article or foreign liquor in his possession in such manner as such Officer may require.
- (2) The manufacturer of excisable articles licensed under this Act shall not use or make use of vessels, tanks, receptacles, vats, or any other equipment in the process of manufacture/blending or for storage of raw materials, blends, alcohol or any permissible ingredient without obtaining proper calibration from the competent authority.

### **19. Prohibition Of Sale Etc, To Certain Persons :-**

No licensed vendor or a manufacturer and no person in the employ of a vendor or a manufacturer and acting on his behalf shall sell or deliver any excisable article or foreign liquor

- (a) to any person apparently under the age of 21 years, or
- (b) to any person of unsound mind.

### **20. Recovery Of Sums Due To Government :-**

In respect of any duty and other sums of any kind payable to the Government under any of the provisions of this Act or of the rules made thereunder, the officer empowered to levy such duty or require the payment of such sums may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in his hands or under his disposal or control, or may recover the amount by attachment and sale of excisable articles or foreign liquor belonging to such person; and if the amount payable is not so recovered he may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and sent it to the appropriate officer for the time being authorized by law to recover arrears of revenue and having jurisdiction over the place in which such person resides or conducts his business and the said officer, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

Explanation:- For the purposes of this section, excisable articles of foreign liquor includes the container thereof.

## **21. Transitional :-**

(1) Every stockist, dealer or vendor of liquor shall give a declaration in writing to the Commissioner or an Officer nominated by him in this behalf, containing detailed particulars and account of the various categories of liquor in his possession or control on the date of coming into force of this Act.

(2) No such liquor shall be sold by him except on payment of duty equal in amount to that leviable on liquor of a like kind if manufactured in, or, as the case may be, imported into the State after the commencement of the Act and on the grant of permission to sell the same by the Commissioner or his nominee.

(3) The Commissioner may permit the sale of the whole or part of any such stock of liquor on the deposit of a suitable amount pending the payment of the duty leviable or on executing a bond therefor in the form and manner prescribed.

## **22. Power Of Government To Make Rules :-**

(1) The Government may make rules generally for the purpose of carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for-

- (a) regulating the delegation of any power by the Commissioner
- (b) defining the powers and duties of officers of the Excise Department;
- (c) regulating the extraction and distillation of toddy and its sale to licensed vendors;
- (d) regulating the extraction of cashew juice, the price to be charged for its sale, the distillation of liquor there from and the sale;
- (e) regulating the import, export, transport or possession of any excisable article;
- (f) prescribing the mode of and conditions for the grant of licence to manufacture any excisable article or sell such article or foreign liquor] by wholesale or by retail, including conditions as to the period of validity of the licence, areas in which it is valid and the procedure to be followed before its grant;
- (g) the prohibition of sale of any excisable article or foreign liquor to such persons or class of persons in such circumstances as may be prescribed;
- (h) the prohibition of the employment by the licensee of such persons or class of persons as may be specified, to assist in his business in such capacity as may be specified;
- (i) the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the assembly of persons of bad character in such premises;
- (j) regulating the deposit of any liquor in a warehouse and its removal therefrom or from any distillery, pot still or brewery;
- (k) prescribing the manner of levying or computing the fees payable in respect of any licence or permit or in respect of storage or any excisable article or foreign liquor;
- (kk) fee leviable in respect of appeal;
- (l) regulating the time, place and manner of payment of any duty or fee;
- (m) prescribing the restrictions and conditions subject to which any licence or permit may be granted.
- (n) Fixing the days and hours during which any licensed premises may or may not be kept open, and regulating the closure of such premises on special occasions;
- (o) regulating the form of accounts to be maintained and the returns to be submitted by licensees;
- (p) declaring the process by which spirits manufactured in India shall be denatured and for causing such spirit to be denatured through the agency or under the supervision of Excise Officers;

- (q) providing for the destruction or other disposal of any excisable article or foreign liquor deemed to be unfit for use;
- (r) regulating the disposal of articles confiscated and the sale proceeds thereof; and
- (s) the terms and conditions under which the Government distillery units may be leased. [Vide Annexure XXIII].

(3) All rules made under this Act shall be published in the Official Gazette and shall be laid on the table of the Legislative Assembly at its first session immediately after they are made and shall be subject to such modifications as the Assembly may make during the session in which they are so laid and the one immediately following.

### **23. Power To Enter And Inspect Place Of Manufacture And Sale :-**

(1) The Commissioner or any Excise Officer not below such rank as may be prescribed, may,-

(a) enter and inspect at any time by day or by night any place in which any licensed manufacturer carries on the manufacture of or stores any excisable article:

Provided that no Excise Officer other than the Commissioner shall so enter or search any residential premises unless he is accompanied by the Sarpanch, or the Panch or any other respectable person of the locality.

(b) enter and inspect at any time within the hours during which sale is permitted and at any other time during which the same may be open, any place in which any excisable article or foreign liquor is kept for sale by any person holding a licence under this Act;

(c) examine any book, account, or register or examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, excisable article or foreign liquor found in any such place as is referred to in clauses (a) and (b) above; and

(d) seize any measures, weights or testing instruments which he has reason to believe to be false.

(2) any Police Officer, not below such rank as may be prescribed, may also exercise the powers conferred on the Commissioner or an Excise Officer under sub-section (1) in respect intoxicating drug or opium.

### **24. Power Of Certain Officers To Investigate Into Offences :-**

(1) Any Officer of the Excise Department not below such rank as

may be prescribed may investigate into any offence punishable under this Act committed within the limits of the area in which such office exercise jurisdiction.

Provided that any Police officer, not below such rank as may be prescribed, may also investigate into an offence relating to intoxicating drug or opium committed within the limits of the area in which such Police Officer exercises jurisdiction.

(2) Any such officer may exercise the same powers in respect of such investigation as an officer in charge of a police station may exercise in respect of an investigation into a cognizable case under the provisions of the Code of Criminal Procedure 1973 (Central Act 2 of 1974) and, if specially empowered in that behalf by the Government, such officer may for reasons to be recorded by him in writing, stop further proceedings against any person concerned in any such offence into which he has investigated.

## **25. Power Of Seizure And Detention :-**

(1) Subject to such restrictions as may be prescribed, any officer of the Excise, Police Customs or Land Revenue Department not below such rank as may be prescribed, and any other person duly authorised in this behalf by the Government, may seize and detain any excisable article, foreign liquor or other article which he has reason to believe to be liable to confiscation under this Act and may search any person, vessel, raft, vehicle, animal, package, receptacle or covering upon whom, or in or upon which, he may have reasonable cause to suspect any such excisable article, foreign liquor or other article to be or to be concealed.

(2) Where as a result of such search, no excisable article, foreign liquor or other article is actually found to be concealed on such person, vessel, raft, vehicle, animal, package, receptacle or covering, a certificate to that effect shall be given in the prescribed form by the officer to the person concerned.

## **26. Search Warrants :-**

If any Magistrate upon information given by any Excise or Police Officer or any other person has reason to believe that an offence under this Act has been, is being or is likely to be committed, he may, after recording the information in writing signed by the informant, issue a warrant for the search of any place in which he has reason to believe that any excisable article or foreign liquor or any utensil, implement, apparatus or materials, in respect of which



such offence has been, is being, or is likely to be committed, is kept or concealed.

## **27. Power To Search Without Warrant :-**

(1) Whenever an officer of the excise Department, not below such rank as may be prescribed, has reason to believe tat an offence punishable under this Act has been, is being or is likely to be committed in any place and that a search warrant cannot be obtained without affording the offender an opportunity of concealing evidence of the offence, he may after recording his reasons and grounds of his belief, at any time, by day or night, enter and search such place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act:

Provided that no search except in case of an offence relating to intoxicating drug or opium, shall be made during the hours from 7 p.m. to 7 a.m. save in exceptional circumstances and with the prior approval of the Commissioner.

(2) Any such officer may arrest any person found in such place whom he has reasons to believe to be guilty of any offence under Act;

(3) Any Police Officer, not below such rank as may be prescribed, may also exercise the powers conferred on an officer of the Excise Department under sub-sections (1) and (2), if he has reason to believe that an offence relating to intoxicating drug or opium has been, is being, or is likely to be committed if any place and that a search cannot be obtained without affording the offender an opportunity of concealing evidence of the offence.

(4) Every person arrested under this section for an offence which is bailable shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance before Magistrate or an Excise Officer.

## **28. Duty Of Officers Of Certain Departments To Report Offence And To Assist Excise Officer :-**

Every officer of the Police, Customs and Land Revenue Departments shall be bound to give immediate information to an officer of the Excise Department of any breach of any of the provisions of this Act which may come to his knowledge and to aid any officer of the Excise Department in carrying out the provisions of this Act upon request made by such officer.

## **29. Duty Of Officer In Charge Of Police Station To Take Charge Of Article Seized :-**

Every officer incharge of a police stations shall take charge of and keep in safe custody, pending the order of Magistrate or the Commissioner or an Excise Officer duly empowered in that behalf, all articles seized under this Act which may be delivered to him; and shall allow any officer of the Excise Department who may accompany such articles to the police station or may be deputed for the purpose by his superior officer, to affix his seals to such articles, and to take samples of or from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

### **29A. Powers Of Certain Officers To Close Liquor Shops :-**

It shall be lawful for the district magistrate or a sub-divisional magistrate by notice in writing to the holder of a licence or his agent to require that any shop in which liquor is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate or for any Police Officer not below the rank of Inspector who is present, to require such shop to be kept closed for such period as may be necessary:

Provided, however, that when any such order is passed by a Police Officer, he shall, within 24 hours, report the fact to the sub-divisional magistrate or the district magistrate and shall thereafter, abide by such directions as the Magistrate may give in this regard.

## **30. Penalty For Contravention Of Provisions :-**

Whoever, in contravention of this Act, or of any rules or orders made thereunder, or of the conditions in any licence or permit obtained under this Act, -

- (a) imports, exports, transports or possesses any excisable article; or
- (b) manufactures or produces any excisable article or bottles liquor; or
- (c) constructs or works any distillery, brewery or pot still; or
- (d) uses, keeps, or has in his possession any materials, still, utensils, implements or apparatus whatsoever for the purpose of manufacturing any excisable article; or
- (e) sells any excisable article or foreign liquor; or
- (f) draws toddy from any tree, shall, on conviction before a Magistrate, be punished for each such offence with-
- (i) rigorous imprisonment which may extend to seven years, with or

without fine, if the offence relates to intoxicating drug or opium as defined in clauses (kkk) and (oo) respectively of section 2;

(ii) a fine which may extend to ten thousand rupees or imprisonment for a term which may extend to two years or with

(iii) both, if the offence relates to any other matter:

Provided that in respect of any offence under clause (f), the amount of fine may be such lower figure as may be prescribed.

### **31. Penalty For Certain Acts Or Omissions By Holders Of Licence :-**

whoever, being the holder of a licence or permit granted under this Act or being in the employ of such holder and acting on his behalf.-

(a) fails to produce such licence or permit on demand by any Excise Officer or any other officer empowered to make such demand; or

(b) willfully does or omits to do anything in breach of any of the conditions of his licence or permit not otherwise provided for in this Act; or

(c) willfully contravenes any rule made under section 22 of this Act; or

(d) permits drunkenness, disorderly conduct, riot or gambling in any place in which any liquor is sold or manufactured; or

(e) permits persons of notoriously bad character to meet or remain in any such place, shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to ten thousand rupees or with imprisonment which may extend to six months or with both.

### **32. Penalty For Certain Acts By Holders Of Licence For Sale Or Manufacture :-**

Whoever, being the holder of a licence for the sale or manufacture of liquor under this Act, or being in the employ of such holder acting on his behalf,-

(a) mixes or permits to be mixed with the liquor sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength or to affect its purity;

(b) sells or exposes for sale foreign liquor or Indian made foreign liquor which he knows or has reasons to believe to be country liquor;

(c) marks any bottle or its corks, or any case, package or other receptacle containing liquor manufactured from rectified spirit or

country liquor with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to ten thousand rupees or with imprisonment which may extend to six months or with both.

**33. Penalty For Possession Of Contraband Excisable Article :-**

whoever, without lawful authority, has in his possession any quantity of excisable article knowing the same to have been unlawfully imported, transported or manufactured or knowing that the prescribed duty has not been paid thereon, shall, without prejudice to the provisions of section 30, on conviction before Magistrate, be punished with fine which may extend to ten thousand rupees or with imprisonment which may extend to one year or with both.

**34. Vexatious Search Seizure, Etc., By Officers :-**

(1) Any excise Officer or a Police Officer or other person exercising powers under this Act, or under the rules made thereunder, who,-  
(a) without reasonable ground of suspicion searches or causes to be searched any place;  
(b) vexatiously and unnecessarily detains, searches or arrests any person;  
(c) vexatiously and unnecessarily seizes the movable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;  
(d) commits, as such officer, any other act to the injury of any person, without having reason to believe that, such act is required for the execution of his duty;  
shall, on conviction before a Magistrate, be punished with fine which may extend to two thousand rupees.

(2) Any person willfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both.

**35. Penalties For Offences Not Otherwise Provided For :-**

Whoever is guilty of any act or intentional omission in contravention

of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided therein shall be punished for each such act or omission with fine which may extend to ten thousand rupees.

### **35A. Punishment For Attempt To Commit Offences :-**

Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed, and in such attempt does any act towards commission of such offence, shall be punishable-

(a) where the offence is punishable with imprisonment only, with imprisonment for a term which may extend to one half of the longest term of imprisonment provided for such offence, or

(b) where the offence is punishable with fine only, with such fine as is provided for the offence, or

(c) where the offence is punishable with both imprisonment and fine, with imprisonment for a term which may extend to one-half of the longest term of imprisonment provided for such offence and also with such fine as is provided for such offence."

### **36. Presumption As To Commission Of Offence In Certain Cases :-**

In every prosecution for an offence punishable under this Act, it shall be presumed until the contrary is proved that the accused person has committed such offence in respect of any excisable article or foreign liquor, or any still, utensil, implement, or apparatus whatsoever for the manufacture of excisable article or any such materials as are ordinarily used in the manufacture of excisable article for the possession of which he is unable to account satisfactorily; and the holder of a licence or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he establishes that all due and reasonable precaution were exercised by him to prevent the commission of such offence.

### **36A. Cognizance Of Offences :-**

(1) No court shall take cognizance of an offence under this Act or under the rules made thereunder other than an offence under section 34 except on complaint made by the Commissioner or any other officer authorized by him either generally or specially in writing or by any Police Officer or such rank as may be prescribed where the offence relates to intoxicating drug or opium.[Vide Annexure XXIX].

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act or the rules made thereunder.

(3) Notwithstanding anything contained in the Code of Criminal Procedure 1973 (Central Act 2 of 1974) any offence under this Act may be tried summarily.

(4) All offences punishable under this Act shall be cognizable and bailable, except

that an offence relating to intoxicating drug or opium shall be non-bailable.

### **37. Confiscation :-**

(1) In any case in which an offence has been committed under this Act, the excisable articles, foreign liquor, materials, still, utensil, implement or apparatus in respect or by means of which such offence has been committed shall be liable to confiscation.

Provided that no confiscation under this sub-section shall be made in cases where,-

(a) duty paid liquor is transported within the State without the authority of a permit granted under this Act; or

(b) any licensed premises are kept open in contravention of any rule made under clause (n) of sub-section (2) of section 22.

(2) Any excisable article or foreign liquor lawfully imported, exported, transported, manufactured, had in possession or sold alongwith, or in addition to, any excisable article or foreign liquor liable to confiscation under this section, and the receptacles, packages and coverings in which any such excisable article, foreign liquor, materials, still, utensil, implement or apparatus as aforesaid is or are found and the other contents if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels or other conveyances used in carrying the same, shall likewise be liable to confiscation:

Provided that no such animal, cart, vessel, or other conveyances shall be so liable to confiscation if the owner thereof, is not the owner of the articles thereby removed and establishes that he had no reason to believe that such offence was being or was likely to be committed.

(3) When anything mentioned in sub-section (1) and (2) is found in circumstances which afford reason to believe that an offence under this Act has been committed in respect or by means thereof, or when such offence has been committed and the offender is not known or cannot be found, the Commissioner may order confiscation of the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing or animal in question or without hearing the person, if any, claiming any right thereto, and considering the evidence, if any, which he produces in support of the claim.

Provided further, that if the thing in question is liable to speedy and natural decay, or if the Commissioner is of the opinion that the sale of the thing or animal in question would be for the benefit of

its owner, he may at any time direct it to be sold; and the provisions of this section shall, so far as may be, apply to the net proceeds of such sale.

(4) When anything is confiscated under such-section (1) or (2) above, it shall thereupon vest in the Government.

### **38. Limits Of Confiscation And/Or Penalty :-**

Without prejudice to the limits of fines/penalties provided hereinbefore in every case in which, under this Act, anything is liable to confiscation and/or liable to penalty, as the case may be, such confiscation and/or penalty or with both may be ordered-

(a) without limit by the Commissioner, or

(b) up to confiscation of goods not exceeding ten thousand rupees and imposition of penalty not exceeding one thousand rupees by such other Excise Officer as the Government may, from time to time, empower in that behalf.

Explanation:- Penalty construed herein shall be in relation to the nature and gravity of offence committed by the licensee person or by his/her agent acting on his/her behalf and includes violating of condition of licence or of a bond.

### **39. Fine In Lieu Of Confiscation :-**

Whenever confiscation is authorised by this Act, the officer ordering the same may give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit. Payment of the fine does not absolve the owner of the goods from the payment of duties and other charges prescribed in this Act.

### **39A. Power Of Commissioner To Compound Offences :-**

(1) Subject to such conditions, if any, as may be prescribed, the Commissioner may accept from any person alleged to have committed an offence under this Act or under any rules made thereunder other than an offence under section 34 or an offence relating to intoxicating drugs or opium as defined in clause (kkk) and (oo) of section 2, either before or after the commencement of any proceedings against such persons in respect of such offence, by way of composition for such offence, a sum not exceeding five thousand rupees.

(2) When compounding of an offence is accepted the power to confiscate the goods seized under this Act in respect of such offence shall be vested in the Commissioner.

(3) On payment in full or such sum as may be determined by the Commissioner under sub-section (1),-

(a) no proceedings shall be commenced against such person aforesaid; and

(b) if any proceedings have been already commenced against such person as aforesaid, such proceedings shall not be further proceeded with,

#### **40. Appeals :-**

Any person deeming himself aggrieved by any decision or order passed under this Act or the rules made thereunder by any Excise Officer other than the Commissioner may, within ninety days from the date of such decision or order, appeal against such decision or order to the Commissioner; and where the decision or order is passed by the Commissioner including the order passed in revision under section 41 the appeal shall lie to the Chief Secretary. In disposing of the appeal the Commissioner or the Chief Secretary, as the case may be, may, after giving reasonable opportunity of being heard;-

- (a) confirm the decision or order appealed against; or
- (b) reduce, enhance or annul any amount involved in the decision or order appealed against; or
- (c) pass such other orders as he may think fit.

#### **41. Revision :-**

(1) when the decision or order is passed under this Act or the rules made thereunder by any Excise Officer other than the Commissioner, the Commissioner of his own motion may revise such decision or order after considering the facts of the case.

(2) In disposing of the revision, the Commissioner shall have the same powers as those of the appellate authority under section 40.

#### **42. Exemptions :-**

(1) Where in the opinion of the Government reasonable grounds exists for doing so, the Government may by notification and subject to such conditions and restrictions as it may impose, exempt any person or class of persons or any excisable article or foreign liquor from all or any of the provisions of the Act or of rules made thereunder either throughout the State]or in any specified part thereof or for any specified period or occasion. [Vide Annexures II, VIII, XI, XIII, XV, XVI, XVIII, XXII & XXVI].

#### **43. Publication Of Rules And Notifications :-**

All rules made and notifications issued under this Act shall be published in the Official Gazette and shall thereupon have effect from the date of such publication or from such other date as may be specified in that behalf.



#### **44. Bar Of Certain Suits :-**

(1) No suit shall lie in any civil court against the Government or any officer or person for damages for any act in good faith done or intended to be done in pursuance of the Act.

(2) No civil court shall try any suit which may lawfully be brought against the Government in respect of anything done or alleged to be done in pursuance of this Act unless the suit is instituted within one hundred and eighty days from the date of commission of the act complained of.

#### **45. Repeal :-**

(1) On the commencement of this Act, any law in force in the State of Goa, authorizing taxes and duties on manufacture and sale of excisable article or providing for any matter for which provision is made in this Act, shall stand repealed.

(2) The provisions of the General Clauses Act, 1897 shall apply to the repeal under sub-section (1) as if the law referred to therein were a Central Act.

#### **46. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order as occasion requires, do anything (not inconsistent with this Act) which appears to it to be necessary for removing the difficulty.