

## **Orissa Prohibition Act, 1956**

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## **SCHEDULE 1 :- THE SCHEDULE**

### **Orissa Prohibition Act, 1956**

An Act to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors in the drugs in the State of Orissa Whereas it is expedient as early as possible to bring about and extend the prohibition, except in respect of sacramental, medicinal, scientific, Industrial and such like purposes, of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of intoxicating liquors and drugs in the State of Orissa; It is hereby enacted by the Legislature of the State of Orissa in the Seventh Year of the Republic of India as follows: Published vide Orissa Act No. 9 of 1957. For Statement of Objects and Reasons, see Orissa Gazette Ext. 29-3-1956, and for Report of the Select Committee, see *ibid*, dated the 14th September, 1956.

#### CHAPTER 1 PRELIMINARY

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

- (1) This Act may be called the Orissa Prohibition Act, 1956.  
(2) It extends to the whole of the State of Orissa.  
(3) Sections 1 and 3 shall come into force at once and the remaining provisions of this Act shall come into force in respect of such of the intoxicating liquors and drugs and in such area or areas and on such date or dates as the State Government may, by notification, appoint.

### **2. Repeal :-**

- (1) From the date on which the provisions of this Act, other than Sections 1 and 3 comes into force in any local area, the enactments mentioned in the Schedule shall cease to be in force in such area to the extent specified in the fourth column of the Schedule.

(2) The Orissa Prohibition Act, 1939 (Orissa Act VII of 1939) is hereby repealed.

### **3. Definitions :-**

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

(1) "alcohol" means ethyl alcohol of any strength and purity having the chemical composition  $C_2H_5OH$ ;

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

(3) "buy" or "buying" includes any receipt including gift;

(4) "Collector" includes any person specially empowered by the State Government to exercise all or any of the powers and to perform all or any of the duties of a Collector under this Act;

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

(6) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed;

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

(8) "export" means-

(a) to take out of any local area in which this Act is in force to any other local area in the State of Orissa in which this Act is not in force; or

(b) to take out of the State of Orissa;

(9) "foreign liquor" includes all liquor brought into India by sea, air or land :

Provided that the State Government may, by notification, declare that any specified description of any other liquor shall, for the purposes of this Act, be deemed to be foreign liquor-

(10) "import" means-

(a) to bring into any local area in which this Act is in force from any

other local area in the State of Orissa in which this Act is not in force; or

(b) to bring into the State of Orissa;

(11) "Intoxicating drug" means-

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

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

(iii) any mixture, with or without neutral materials, of any of the above form of intoxicating drug or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in Section 2 of the Dangerous Drugs Act, 1930 (11 of 1930)

(12) "liquor" means intoxicating liquor and includes spirits or wine, methylated spirits, spirits, wine, beer, tari and all liquids consisting of or containing alcohol but does not include sweet-tari;

(13) "manufacture" includes-

(a) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the rectification of liquor, but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption; and

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

(14) "medicinal preparations" includes all drugs which are a remedy or prescription prepared for internal or external use of human beings or animals and all substances intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals;

(15) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugar which can be fermented and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup; but does not include any article which the State Government may, by notification declare, not to be molasses, for the purposes of this Act;

(16) "Officer-in-charge of a police-station" has the same meaning

as in the Code of Criminal Procedure, 1898 (V of 1898) and includes any person or an Officer-in-charge of a police-station under Section 53;

(17) "place" includes house with its premises, shed, enclosure, space, building, shop, tent, vessel, booth, raft and vehicle;

(18) "prescribed" means prescribed by rules made under this Act;

(19) "Prohibition Commissioner" means such officer as the State Government may, by notification, appoint under Sub-section (1) of Section 48;

(20) "Prohibition authority" means the Prohibition Commissioner, a Collector or any other Prohibition Officer appointed for performing any of the functions under this Act;

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

(22) "Registered Medical Practitioner" means any person registered under the provisions of any law for the time being in force :

(23) "sale" or "selling" includes any transfer including gift;

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

Explanation-Denatured" means subjected to a process prescribed by the State Government by notification for the purpose of rendering unfit for human consumption;

(25) "sweet-tari" means juice drawn into receptacles treated with lime or any other prescribed substance or in any prescribed method or manner so as to prevent any fermentation;

(26) "tari" means the fermented or unfermented juice drawn from a cocoanut, palmyra, date or and other kind of palm tree and does not include sweet-tari;

(27) "toilet preparation" means any preparation, which is intended for use in the toilet of the human body or in perfuming apparel of any description or any substance intended to cleanse, improve or alter the complexion, skin, hair or teeth, and includes deodorants and perfumes;

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

(29) "transport" means to move from one place to another within any local area to which this Act applies.

## CHAPTER 2

### PROHIBITIONS AND PENALTIES

#### **4. Prohibition Of The Manufacture Of, Traffic In, And Consumption Of, Liquors And Intoxicating Drugs :-**

(1) Whoever-

- (a) imports, exports, transports or possesses liquor or any intoxicating drug; or
- (b) manufactures liquor or any intoxicating drug; or
- (c) except in accordance with the rules made by the State Government in that behalf, cultivates the hemp plant (*Cannabis Sativa*); or collects any portion of such plant from which an intoxicating drug can be manufactured; or
- (d) taps any tari-producing tree or permits or suffers to be tapped any tari-producing tree belonging to him or in his possession; or
- (e) draws tari from any tree or permits or suffers tari to be drawn from any tree belonging to him or in his possession; or
- (f) constructs or works any distillery or brewery; or
- (g) uses, keeps or has in his possession any materials, steel, utensil, implement or apparatus whatsoever for the tapping of tari or the manufacture of liquor or any intoxicating drug; or
- (h) bottles any liquor for purposes of sale; or
- (i) sells liquor or any intoxicating drug; or
- (j) drinks or buys liquor or any intoxicating drug; or
- (k) allows any of the acts aforesaid upon premises in his immediate possession;

shall be punished-

(i) in the case of an offence failing under Clause (a), Clause (b), Clause (f), Clause (g), Clause (h) or Clause (i), or an offence failing under Clause (k) in so far as it relates to an act specified to any of the clauses aforesaid, with imprisonment which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees; and

(ii) in any other case with imprisonment which may extend to three months or with fine which may extend to two hundred rupees, or with both :

Provided that nothing contained in this sub-section shall apply to any act done under and in accordance with the provisions of this Act or the terms of any rule, notification, order, licence or permit issued thereunder.

(2) It shall be presumed until the contrary is shown-

(a) that a person accused of any offence under Clauses (a) to (j) of Sub-section (1) has committed such offence in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever, for the tapping of tari or the manufacture of liquor or any intoxicating drug, or any such materials, as are ordinarily used in the tapping of tari or the manufacture of liquor or any intoxicating drug, for possession of which he is unable to account satisfactorily;

(b) that a person accused of the offence of having drunk liquor or intoxicating drug under Clause (i) of Sub-section (1) has committed such offence if he emits smell of liquor by mouth or nose or shows any other physiological signs and symptoms; and

(c) that a person accused of any offence under Clause (k) of Sub-section (1) has committed such offence if an offence is proved to have been committed in premises in his immediate possession in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of tari or the manufacture of intoxicating drug or any such materials as are ordinarily used in the tapping of tari or the manufacture of liquor or any intoxicating drug.

## **5. Punishment For Altering Or Attempting To Alter Any Denatured Spirit And For Possession Of Such Spirit :-**

(1) Whoever-

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

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

shall be punished with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) It shall be presumed, until the contrary is proved, that a person accused of any offence under Sub-section (1) has committed such offence in respect of any denatured spirit for the possession of which he fails to account satisfactorily.

## **6. Punishment Of Conspiracy :-**

When two or more persons agree-



- (a) to commit or cause to be committed any offence under Section 4 or Section 5; or
- (b) to evade or nullify the provisions of this Act in any area to which it has been applied, each of such persons shall, notwithstanding that no act except that agreement was done by any of the parties thereto in pursuance thereof or that the agreement was made or the operations thereunder took place in an area to which this Act has not been applied, be punished with imprisonment which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

## **7. Prohibition Of Publication Of Advertisement Relating To Intoxicant, Etc :-**

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

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

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

- (a) catalogues or price lists which may be generally or specially approved by the Prohibition Commissioner in this behalf;
- (b) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet, or other publication printed and published outside the State;
- (c) any advertisement or other matter contained in any newspaper printed and published in the State before such date as the State Government may, by notification, specify; and
- (d) any other advertisement or matter which the State Government may, by notification, generally or specially exempt from the operation of this section.

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

- (a) which solicits the use of or offers any intoxicating drug; or

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

### **8. Penalty For Printing Or Circulating Or Publishing Advertisements In Contravention Of Provisions Of The Act, Etc :-**

(1) Whoever, in contravention of the provisions of Section 7 or of any rule, regulation or order made thereunder, prints or publishes in any newspaper, news-sheet, book, leaflet, booklet or any single or periodical publication or otherwise displays or distributes any advertisement or other matter-

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

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of, or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of a licence, permit, pass or authorization granted thereunder, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) Whoever, in contravention of a notification issued under Sub-section (3) of Section 7, circulates, distributes or sells any newspaper, news-sheet, book, leaflet, booklet or other publications printed and published outside the State which contains any advertisement or matter-

(a) which solicits the use of or offers any intoxicating drug , or

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act, or to commit a breach of, or to evade the provisions of any rule, regulation of order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder, shall on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

### **9. Penalty For Being Drunk And For Disorderly Behaviour :-**

(1) Whoever in any street or thoroughfare or public place of in any place to which the public have or are permitted to have access-

(i) is drunk and incapable of taking care of himself, or  
(ii) behaves in a disorderly manner under the influence of drink, or  
(iii) drinks or has drunk any quantity whatsoever whether or not he behaves in a disorderly manner or is incapable of taking care of himself, and who is not the holder of a permit granted under the provisions of this Act or is not eligible to hold a permit under this Act,

shall, on conviction, be punished- ,

(i) for an offence under Clause (i) or Clause (iii)-

(a) for a first offence, with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees or with both;

(b) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonments shall not be less than one month and fine shall not be less than one hundred rupees ; and

(ii) for an offence under Clause (ii)-

(a) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees;

(b) for a subsequent offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

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

(2) In prosecution for an offence under Sub-section (1), it shall be presumed until the contrary is proved, that the person accused of the said offence, has drunk liquor or consumed any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose.

Explanation-A person shall be presumed to be drunk if he emits smell of liquor by mouth or nose or shows any other physiological signs and symptoms.

**10. Punishment For Opening, Keeping Or Using Any Place As A Common Drinking House Or For Having Care, Management Or Control Of Or ForAssisting In Conducting**

## **Business Of Any Such Place :-**

Whoever in contravention of this Act, or of any rule or order made thereunder, or of any licence or permit granted under this Act-

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

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

shall be punished with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

## **11. Punishment For Being Found Drunk Or For Purpose Of Drinking In A Common Drinking-House :-**

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

## **12. Punishment For Allowing Premises To Be Used For The Commission Of An Offence :-**

(1) Whoever being the owner or occupier, or having the use or control, of any place, Knowingly permits it to be used for the commission by any other person of any offence punishable under Section 4, Section 5 or Section 9, shall be punished with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

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

## **13. Punishment For Obstruction To, Or Assault On Officer, Etc :-**

Whoever assaults or obstructs-

(a) any officer or person exercising powers under this Act ; or

(b) any informant or other person helping any officer or person while exercising powers under this Act,

shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.

**14. Punishment For Offences Not Otherwise Provided For :-**

Whoever is guilty of any wilful act or intentional omission in contravention of any rule, notification or order made, issued or given under this Act and not otherwise provided for this Act, shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**15. Punishment For Abetment Of Escape Of Persons Arrested, Etc :-**

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

(a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act; or

(b) acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act or of any rule made thereunder may be evaded or broken,

and any other officer of the State Government or of a Local authority who abets the commission of any offence against this Act, shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees or with both.

**16. Vexatious Search, Seizure, Etc. By Excise Officer :-**

Any officer 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, conveyance or vessel;

(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 this duty;

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

**17. Penalty For Attempt To Commit Offence :-**

Whoever attempts to commit or abets the commission of any offence punishable under this Act, shall be liable to the punishment provided for such offence.

**18. Security For Abstaining From Commission Of Certain Offences :-**

(1) Whenever any person is convicted of an offence punishable under Section 4 other than the offence of drinking liquor or consuming intoxicating drug, or of an offence under Section 5, Section 6 or Section 11, the Magistrate convicting him may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, to abstain from the commission of offences punishable under those sections during such period, not exceeding three years, as he may direct.

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

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

1[(4) An order under this section may also be made by an Appellate Court or by the High Court or the Sessions Judge, as the case may be, when exercising powers of revision]

1. Substituted vide Orissa Prohibition Laws (Amendment) Act, 1975- O.A. No. 40 of 1975.

**19. Demand For Security For Good Behaviour :-**

(1) Whenever Magistrate of the first class receives information that any person within the local limits of his jurisdiction habitually commits, or attempts to commit or abets the commission of an offence punishable under Section 4 or Section 5 such Magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years, as the Magistrate may

direct.

(2) The provisions of the Code of Criminal Procedure, 1898 (V of 1898) shall, in so far as they are applicable, apply to any proceedings under Sub-section (1) as to the bond referred to therein were a bond required to be executed under Section 110 of that Code.

## **20. Release Of Offenders On Bond :-**

Whenever any person is convicted of an offence of drinking liquor or consuming intoxicating drug under Clause (j) of Sub-section (1) of Section 4, the Magistrate convicting him may, instead of sentencing him at once to any punishment, direct that he be released on his executing a bond, with or without sureties, to appear and receive sentence when called upon during such period not exceeding three years as the Magistrate may direct and in the meantime to keep the peace and be of good behaviour.

## **21. Execution Of Bonds In Respect Of Minors :-**

If any person in respect of whom a bond is ordered to be executed under Section 18 is a minor the bond shall be executed by his guardian.

## **22. Punishment For Commission, Attempt To Commit Or Abetment Of Acts Making Up Offence Against Act :-**

Where any offence punishable under this Act is committed in any area to which it has been applied, whoever commits, or attempts to commit, or abets the commission of any of the acts making up the offence shall be liable to be punished therefor, whether such commission, attempt or abetment takes place within or outside the area to which this Act has been applied.

## **23. Things Liable To Confiscation :-**

Whenever any offence punishable under this Act has been committed, the liquor, materials, apparatus, utensil, or implement in respect of which or by means of which such offence has been committed, shall, subject to the provisions of Section 24, be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

## **24. Procedure In Making Confiscations :-**

(1) In the trial of offences under this Act, whether the accused is convicted or acquitted, the Court shall decide whether any article seized under this Chapter is liable to confiscation under Section 23 and, if it decides that the article is so liable, it may subject to the other provisions of this section, order confiscation accordingly.

(2) Where any article seized under this Chapter appears to be liable to confiscation under Section 23, but the person who committed the offence in connection therewith is not known or cannot be found, the Prohibition Deputy Commissioner, or other officer authorised by the State Government in this behalf, may enquire into and decide such liability, and may order confiscation accordingly:

Provided that no such order shall be made until the expiry of thirty days from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim.

## **25. Punishment After Previous Conviction :-**

If any person, after having been previously convicted of an offence punishable under Sections 4, 5, 6, 10, 11 or 12 is subsequently convicted of an offence punishable under any of these sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided that nothing in this section shall prevent any offence, which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898) from being so tried.

## **26. Offences Under The Act To Be Cognizable And Non-Bailable :-**

All offences punishable under Section 4 and Section 9 shall be cognizable and all such offences, except the offence under Clause (j) of Sub-section (1) of Section 4 shall be non-bailable and the provisions of the Code of Criminal Procedure, 1898 (V of 1848) with respect to cognizable and non-bailable offences shall, as far as may be, apply.

## **27. Power To Compound Certain Offences :-**



(1) The Prohibition Commissioner may accept from any person who has committed an offence under Clause (j) of Sub-section (1) of Section 4 so far as it relates to the consumption of liquor, or under Section 11 or Section 14, a sum of money not exceeding five hundred rupees by way of composition of such offence.

(2) On the payment of such sum of money to the Prohibition Commissioner, the accused person shall be discharged, the property seized, if any, shall be released, and no further proceeding shall be taken against such person or property in respect of such offence.

#### CHAPTER 3

#### EXEMPTIONS, CONTROL AND LICENCES

### **28. Exemption Of Preparations :-**

The State Government may, by notification direct that any preparation containing alcohol not exceeding a specified percentage by volume, shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

### **29. Power To Notify Exemptions :-**

(1) The State Government may, by notification and subject to such conditions as they think fit, exempt any specified liquor or any intoxicating drug or article containing such liquor or drug from the observance of all or any of the provisions of this Act on the ground that such liquor, drug or article is required for a medicinal, toilet, scientific, industrial or such like purposes.

(2) The State Government may, by notification either wholly or partially and subject to such conditions as they may think fit to impose, exempt the members of the Scheduled Tribe from all or any of the provisions of this Act or of all or any of the rules made under this Act either throughout the State of Orissa or in any specified area or for any specified period or occasion.

(3) When issuing a notification under Sub-section (1) and Sub-section (2), the State Government shall have power to provide that a breach of any of the conditions subject to which the exemption is notified, shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

### **30. Authorities For Bona Fide Purposes :-**

The State Government shall make suitable provisions for issuing authorities to persons and institutions for the possession and use of such liquor as may be required by them for any bona fide religious purposes in accordance with ancient custom, under such terms and conditions and penalties for infringement as may be prescribed.

### **31. Visitors Permits :-**

(1) The State Government may, by rules or an order in writing, authorize an officer to grant visitors permits to consume, use and buy foreign liquor to persons who visit the State for a period not more than a week.

(2) Such permits shall not be granted for a period exceeding one week; provided that the officer granting the permit may extend the period of such permits for the total period not exceeding one month.

### **32. Tourists Permits :-**

(1) The State Government may, by rules or an order in writing, authorise an officer to grant tourists permits to consume, use and buy foreign liquor to a person who is a tourist.

(2) A tourist permit may be granted for the period of the tourists intended stay in the State, but shall in no case be granted for a period exceeding one month.

(3) Such permits shall be available at such places as may be notified by the Prohibition Commissioner in this behalf.

### **33. Provisions Not To Apply To Certain Article Or Class Of Articles :-**

Nothing in this Chapter shall be deemed to apply to-

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

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

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

(d) any flavouring extract, essence or syrup containing alcohol which is unfit for use as intoxicating liquor.

### **34. Licence For Bona Fide Medicinal And Other Purposes :-**

The State Government or subject to the control of the State

Government, the Prohibition Commissioner may issue licences, subject to the payment of such fee as may be prescribed, to any person or in respect of any institution, whether under the management of Government or not, for the manufacture, export, import, sale or possession of any liquor or article containing liquor on the ground that such liquor or article is required by such person or in respect of such institution for a bona fide medicinal, toilet, scientific, industrial or such like purpose.

**35. Prohibition For Consuming Toilet Or Medicinal Preparation Containing Alcohol In Excess Of Normal Dose :-**

(1) No person shall, for the purposes of producing a state of intoxication, consume any toilet preparation containing alcohol or consume any medicinal preparation containing alcohol in quantities in excess of the normal dose.

Explanation-The expression normal dose shall mean the quantity prescribed by a registered medical practitioner to be taken at a time, and in a case where no such prescription has been obtained, the quantity indicated to be taken at a time in the directions given by the manufacturer of the medicinal preparation.

(2) Whoever contravenes the provisions of Sub-section (1) shall be punished for every such offence with imprisonment which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(3) If any person found in a state of intoxication pleads that such intoxication was due to the consumption of a medicinal preparation containing alcohol, the burden of proving that medicinal preparation consumed was not consumed in contravention of Sub-section (1) shall lie upon him.

**36. Power Of State Government To Regulate Sale Of Any Tincture :-**

(1) If the State Government are of the opinion that for the purpose of preventing any tincture being used for the purpose of producing a state of intoxication it is necessary to regulate the sale thereof, it may, by notification declare such tincture to be a regulated tincture and thereupon no dealer shall sell or otherwise dispose of any quantity of such tincture except-

(a) as an ingredient of a prescription given by a registered medical practitioner; or

(b) upon a certificate given by a registered medical practitioner to

the effect that the purchase of the tincture in the quantity specified in the certificate is necessary for bona fide medicinal purposes.

(2) Every dealer dealing in a regulated tincture shall maintain accounts of sale or disposal of such tincture in such form as may be prescribed.

**37. Penalty For Chemist, Druggist Or Apothecary For Allowing His Premises To Be Used For Purpose Of Consumption Of Liquor :-**

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

**38. Penalty For Issuing False Prescriptions :-**

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

**39. Licences For Tapping For Sweet Tari, Etc :-**

Subject to the control of the Prohibition Commissioner, Prohibition Deputy Commissioner or any officer empowered by him may issue-

(a) licences for tapping of any trees for sweet tari for consumption thereof without fermentation or for the manufacture of jaggery therefrom; or

(b) permits for the possession, transport or sale of such tari.

**40. Permits And Licences For Possession, Etc. Of Liquor :-**

Subject to rules made by the State Government the Prohibition Commissioner or any officer empowered by him in this behalf may issue-

(a) permits authorising any person to consume and possess for private consumption any liquor on medical grounds and on production of a medical certificate in accordance with the rules made in that behalf-

(b) permits authorizing any person or institution to possess, bottle and use any liquor for any religious purpose in accordance with ancient custom;

(c) licences to the proprietors of hotels to possess liquor and issue it to visitors and tourists who hold permits under Clause (a);

(d) licences to a person in charge of a restaurant car attached to a railway train or to a person in charge of a railway refreshment room to possess liquor and serve it to bona fide travellers;

(e) licences to persons for the sale of liquor to those authorised to possess it:

Provided that permit under Clause (b) shall be granted without the payment of any fee; it shall not be refused to any person except on the ground that-

(i) a breach has been committed by such person, or by any of his servants or any one acting on his behalf with his express or implied permission, of any of the terms or conditions of any permit previously granted to him under this clause; or

(ii) such person has been convicted of any offence under this Act.

#### **41. Form And Conditions Of Licences And Permits :-**

Every licence or permit, issued under Section 29, Section 30, Section 31, Section 32 or Section 33, shall-

(1) be granted on payment of such duty and such fees, if any, for such period, and subject to such restrictions, limitations and conditions as may be prescribed; and

(2) be in such form and contain such particulars as may be prescribed.

#### **42. Counterpart Agreement To Be Executed By Holders Of Licence And Permits :-**

Every person taking out a licence or permit under Sections 34, 39 or 40 may be required to execute a counterpart agreement in conformity with the tenor of his licence or permit, and to give such security for the performance of his agreement as the Prohibition Commissioner may, specify.

#### **43. Power To Cancel Or Suspend Licences And Permits :-**

(1) Subject to such restrictions as may be prescribed, the authority granting any licence or permit under this Act, may cancel or suspend it-

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

(b) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on this behalf with his express or implied permission, or any of the terms or conditions thereof; or

(c) if the holder thereof is convicted of any offence under this Act, or of any cognizable and non-bailable offence under any other Act; or

(d) if the conditions of such licence or permit provide for its cancellation or suspension at will; or

(e) if the purpose for which the licence or permit is granted, ceases to exist.

(2) Where a licence or permit held by a person is cancelled under Clause (a), (b) or (c) of Sub-section (1) the authority aforesaid may cancel any other licence or permit granted to such person under this Act.

(3) The holder of a licence or permit shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid in respect thereof.

(4) No permit granted under Clause (b) of Section 40 shall be cancelled or suspended under this section except on the grounds on which it may be refused under the proviso to Section 40.

#### **44. Punishment For Misconduct By Licensees, Etc :-**

If the holder of a licence or permit granted under this Act, or any person in the employ of such holder or acting on his behalf-

(a) fails without good and sufficient reason to produce such licence or permit on the demand of any Prohibition Officer or any other officer duly empowered to make such demand, or

(b) does act in breach of any of the conditions of the licence or permit;

such holder shall be punished in case (a) with fine which may extend to two hundred rupees, and in case (b) in addition to the cancellation or suspension of the licence or permit granted to him with fine which may extend to five hundred rupees.

(2) Any person who commits any breach of any of the conditions of the licence or permit, whether he acts with or without the

permission of the holder of such licence or permit, shall also be liable to the same punishment.

**45. Power To Compound Offences Committed By Licensees And Permit-Holders :-**

(1) The Prohibition Commissioner may accept from any person whose licence or permit is liable to be cancelled or suspended under Clause (a) or (b) of Sub-section (1) of Section 43 or who is reasonably suspected of having committed an offence under Section 44 a sum of money not exceeding five hundred rupees in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be.

(2) On the payment of such sum of money to the Prohibition Commissioner, the accused person shall be discharged, the property seized, if any, shall be released and no further proceeding shall be taken against such person or property in respect of such offence.

**46. Control Of Export, Etc. Of Molasses :-**

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

(2) The State Government may, by general or special order, authorize any Collector or any other officer to grant licences for the import or export, sale or possession of molasses.

(3) The State Government may also authorise any Collector or any other officer to grant permits for the transport of molasses.

**47. Punishment For Contravening Provisions Of Section 46 :-**

Whoever contravenes the provisions of Section 46 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

**48. Appointment Of Prohibition Commissioner, Etc. :-**

(1) The State Government, may, by notification appoint an officer to be called the Prohibition Commissioner, who subject to the control of the State Government, shall exercise such powers and shall perform such duties and such functions as are conferred upon,

by or under the provisions of this Act and shall superintend and have the control of the administration of the Prohibition Department.

(2) To assist the Prohibition Commissioner in carrying out the provisions of this Act the State Government may also appoint by notification Prohibition Deputy Commissioner or Assistant Commissioner or such other officer with such designations and assign to them such powers, duties and functions under this Act, rules, regulations or orders made thereunder, as may be deemed necessary.

#### **49. Functions Of The Collector :-**

(1) The administration of the Prohibition Department within a district shall ordinarily be under the charge of the Collector who shall be responsible for carrying out the provisions of this Act within the limits of his jurisdiction.

(2) For the purposes of this Act all Collectors shall be subordinate to the Prohibition Commissioner.

(3) The State Government may, by notification appoint any person other than the Collector to exercise in any district or place all or any of the powers and to perform all or any of the duties and functions as are conferred and imposed by or under this Act on a Collector subject to such control as the State Government may from time to time direct.

(4) The State Government may appoint such other officers of the Prohibition Department who shall be subordinate to the Collector of such classes and with such designations, powers and duties as the State Government may think fit.

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

#### **50. Delegation Of Powers :-**

(1) The State Government may delegate any of the powers exercisable by them under this Act to the Prohibition Commissioner



or such other officer as they deem fit.

(2) Subject to the control and directions of the State Government the powers conferred on or delegated to the Prohibition Commissioner may be delegated by him to any of his subordinates.

### **51. Control By The Prohibition Commissioner :-**

(1) In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder all Prohibition Officers, Prohibition Authorities and all officers including the officers of the police and other departments shall, subject to the general or special orders of the State Government be subordinate to and under the control of the Prohibition Commissioner and shall be bound to follow such orders as the Prohibition Commissioner may, from time to time, make.

(2) An order passed by a Prohibition Authority other than the Prohibition Commissioner, under any of the provisions of this Act, may be revised by the prescribed authority in the prescribed manner.

### **52. Prohibition Committee :-**

(1) Subject to the approval of the Prohibition Commissioner the Collector or other Prohibition Authority in charge of a district, may constitute Prohibition Committee for any portion or portions thereof.

(2) Such Prohibition Committees shall exercise and perform the prescribed powers and duties and generally assist the Collector or other Prohibition Authority in charge of the district as the case may be in carrying out the objects of this Act.

### **53. Prohibition Authorities May Be Vested With Powers Of An Officer-In-Charge Of A Police-Station :-**

(1) The State Government may by notification, invest any of the Prohibition Authorities mentioned in Sections 48, 49 and 52 of this Act, with all or any of the powers or duties conferred or imposed by the Code of Criminal Procedure, 1898 (V of 1898) on the Officer-in-charge of a police-station within the meaning of the said Act, in respect of investigations, arrests, searches, seizures and detention in custody for offences under this Act, and may in such notification specify the area within which such authority shall exercise such

powers:

Provided that such powers shall not be conferred on any officer whose rank is lower than that of a Sub-Inspector.

(2) (a) Save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898 (V of 1898) relating to investigations, arrests, detention in custody, searches, summonses, warrants of arrest, search-warrants and the production of persons arrested shall apply so far as may be, to arrests, detentions and searches made, summonses and warrants issued, and the production of persons arrested under this Act:

Provided that no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place searched is situated.

(b) For the purposes of the said provisions of the said Code, a Collector shall be deemed to be a Court.

(c) Officers to whom a Collector's warrant is directed or endorsed, and officers (other than Collectors) making arrests, searches and seizures under this Act, shall, for the purpose of the said provisions of the said Code, be deemed to be Police Officers.

#### **54. Procedure To Be Followed :-**

In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898 (V of 1898) for the trial of cases.

#### **55. Issue Of Search Warrants :-**

If a Collector, or Prohibition Officer of such rank as the State Government may by notification direct, upon information obtained and after such enquiry, if any, as he thinks necessary, has reason to believe that an offence under Clauses (a) to (k) of Section 4 has been committed he may issue warrant for the search of any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed. Any person entrusted with the execution of such a warrant may detain and search at any time during day or night and, if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any offence under this Act.

#### **56. Arrest Of Offenders And Seizures Of Contraband Liquor And Articles Without Warrant :-**

Any Prohibition Officer or any officer of the Police Department or any other person authorised in that behalf and to the extent of such authorisation-

(a) may arrest without warrant any person found committing or attempting to commit an offence punishable under Clauses (a) to (k) of Section 4;

(b) may seize and detain any liquor, intoxicating drug or other article which he has reason to believe to be liable to confiscation under this Act, and shall, when he so seizes such articles, give the person from whom the article is seized a receipt for the same if demanded;

(c) may search at any time during day or night any person, place, vessel, vehicle, conveyance, package or covering in which he may have reasonable cause to suspect any such liquor, tari, intoxicating drug or other article to be or to be concealed; and

(d) may in case of resistance, use any force, break open any door and remove any other obstacle to his entry into any place, shop, premises, house or building.

#### **57. Person Arrested To Be Admitted On Bail :-**

In case of persons accused of bailable offences, if the officer making an arrest under the two preceding sections be not empowered to admit the person arrested to bail, he shall forward him without any unnecessary delay, with a report of the circumstances in which the arrest was made, to the nearest Officer-in-charge of the police-station, whose duty is to admit such person to bail, if sufficient bail be tendered for his appearance before the Collector or Prohibition Officer, as the case may be or to the nearest Magistrate for remand to jail custody or grant of bail, as the case may be, pending investigation.

#### **58. Duty Of Officials Of All Departments And Local Authorities To Assist :-**

Every officer of the Government and every officer or employee of a local authority shall be legally bound to assist "to any Prohibition Authority or Police Officer in carrying out the provisions of this Act.

#### **59. Offence To Be Reported :-**

Every Village Chaukidar and Dafadar and every such employee as may be prescribed by Government, shall be bound to give

information at the nearest police-station or to a Prohibition Authority of any breach of the provisions of this Act which may come to his knowledge; and all such persons shall be bound to take all reasonable measures in their power to prevent the commission of any of such breaches which they may know or have reason to believe are about or likely to be committed.

#### **60. Land-Holders And Others To Give Information :-**

All owners of land, tenants, under-tenants and cultivators who are in actual occupation of land or house property on or in which there shall be a tapping for tari or manufacture or sale of liquor or intoxicating drugs shall in absence of reasonable excuse be bound to give notice of the same as soon as may be to a Magistrate, Prohibition Officer, local authority having jurisdiction, the Officer-in-charge of the nearest police-station or to an employee of the local authority:

Provided that, in the case of waste lands and forest lands, the persons who are liable to give notice shall be those who actually manage such waste lands or forest lands.

#### **61. When Attendance Of Witnesses To Be Dispensed With And Procedure In All Such Cases :-**

A Police Officer or any Prohibition Authority vested with powers of an Officer-in-charge of a police-station shall instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex, it may not be proper to summon proceed to the residence of such person and require him to answer such questions as he may consider necessary with respect to such enquiry; and such person shall be bound to answer accordingly.

#### **62. Operation Of The Code Of Criminal Procedure :-**

Nothing contained in this Act shall affect the operation of the Code of Criminal Procedure, 1898 (V of 1898) except to the extent provided in this Act.

#### **CHAPTER 4**

#### **RULES AND NOTIFICATIONS**

#### **63. Power To Make Rules :-**

(1) The State Government may make rules for the purpose of

carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Government may make rules-

(a) for specifying the substance or the method or manner of preparation referred to in Clause (27) of Section 3;

(b) for the issue and cancellation of licence and permits and the enforcement of the conditions thereof and the fees to be paid for such licences and permits;

(c) prescribing the powers to be exercised and duties to be performed by persons appointed in furtherance of the objects of this Act;

(d) determining the local jurisdiction of Prohibition Authorities in regard to inquiries and the exercise of preventing and investigating powers;

(e) prescribing the quantity, extent and conditions in respect of-

(i) liquor and intoxicating drugs intended to be used for sacramental purposes; and

(ii) liquor, intoxicating drugs and tari in the possession of bona fide travellers, as provided for in Section 31 and Section 32;

(f) for exempting any specified liquor, drug or article or any class of persons under Section 29;

(g) for regulating the delegation of powers under Section 50;

(h) for regulating the cultivation of the hemp plant, the collection of those portions of such plant from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom;

(i) declaring how, denatured spirit shall be manufactured and what substances shall be deemed to be denaturants;

(j) declaring by what authority, orders passed by any Prohibition Authority other than the Prohibition Commissioner, may be revised and prescribing the time and manner of presenting application for revision under Section 51 and the procedure for dealing therewith;

(k) prescribing the powers and duties of Prohibition Committee and the members thereof and the intervals at which the members of such Committee shall make their-reports;

(l) declaring the officers who shall be bound to give information under Section 59; and

(m) for the disposal of articles confiscated and of the proceeds thereof.

#### **64. Effect Of Rule In Publication :-**

(1) All rules made and notifications issued under this Act shall be

published in the Orissa Gazette and upon such publication shall have effect as if enacted in this Act.

(2) All rules made under this Act shall be laid, as soon as possible, after they are made, before the Orissa Legislative Assembly, for a total period of fifteen days which may be comprised in one session or in two or more successive sessions and shall be subject to such modifications as the Assembly may make during the said period.

### **65. Recovery Of Money Due To Government :-**

All money due to Government, by any person on account of any licence or permit granted under this Act or rules made thereunder, may be recovered as arrears of land revenue.

#### **CHAPTER 5**

#### **LEGAL PROCEEDINGS**

### **66. Action Against Government :-**

No action shall lie against the Government or against any Prohibition, police or other officer for damages in any Civil Court for any act done in good in faith or ordered to be in pursuance of this Act.

### **67. Sanction For Prosecution Of Officers Or Persons Acting Under This Act :-**

No Court shall take cognizance of an offence committed or alleged to have been committed by any officer or person in regard to anything done under this Act until the sanction of Prohibition Commissioner or the Collector having jurisdiction has been obtained.

### **68. Courts To Take Judicial Notice Of Appointments :-**

All Courts shall take judicial notice of all notifications and orders conferring powers, imposing duties and making appointments under this Act.

#### **SCHEDULE 1**

#### **THE SCHEDULE**

[See Section 2]

<b>Year</b>	<b>Number</b>	<b>Enactments repealed</b>	<b>Extent of repeal</b>
1916	II	The B. and O. Excise Act, 1915 and all enactments	Provisions with respect to such of the intoxicating

		other than the Dangerous Drugs Act, 1930 amending the said Act	liquors and drugs as are notified under this Act in areas mentioned in the said notification.
1930	II	The Dangerous Drugs Act, 1930	So much of the Schedule II of the Dangerous Drugs Act as relates to the B. and O. Excise Act in areas to which the provisions under this Act may apply by notification.