

EXCISE ACT, 1910

4 of 1910

[24th February, 1910]

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SCHEDULE 1 :- Enactments Repealed

EXCISE ACT, 1910

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As amended by the U. P. Act 3 of 1914, U. P. Act 1 of 1915, U. P. Act 4 of 1919, U. P. Act 38 of 1920, U. P. Act 2 of 1923, U. P. Act 2 of 1930, U. P. Act 3 of 1941, U. P. Act 13 of 1941, U. P. Act 7 of 1970, U. P. Act 23 of 1970, U. P. Act 4 of 1971, U. P. Act 6 of 1972, U. P. Act 30 of 1972, U. P. Act 13 of 1973, U. P. Act 18 of 1974, U.P. Act 5 of 1976, U. P. Act 9 of 1978, U. P. Act 30 of 1978, U. P. Act 13 of 1979, U. P. Act 23 of 1983, U. P. Act 23 of 1984, U. P. Act 7 of 1985, U. P. Act 19 of 1986, U. P. Act 5 of 1989, U.P. Act 1 of 1990, U. P. Act 16 of 1997, U. P. Act 7 of 1998 and U. P. Act 22 of 1999. Adapted and modified by the Government of India (Adaptation of Indian Laws) Order, 1937 And Adapted and modified by the Adaptation of Laws Order, 1950 Whereas it is expedient to consolidate and amend the law in force in the United Provinces relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs; 2[And whereas in order to promote, enforce and carry into effect the policy of prohibition, it is necessary to authorize the State Government to prohibit the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the United Provinces or in any specified area or areas thereof;] It is hereby enacted as follows : 1. Received the assent of the Lieutenant

Governor on the 18th December, 1909 and of the Governor-General on the 24th February, 1910 and was published under Section 40 of the Indian Councils Act, 1860 on the 12th June, 1910--S. O. R. see Gazette, 1909, Part VII, p. 106. 2. Inserted by U.P. Act III of 1941, Section 2 and was continued by U.P. Act XIII of 1948.

CHAPTER 1

PRELIMINARY AND DEFINITIONS

1. Short title and commencement :-

(1) This Act may be called the United Provinces Excise Act, 1910, and (2) It extends to the whole of Uttar Pradesh.

2. Repeal of enactments :-

The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

3. Interpretation :-

In this Act, unless there is something repugnant in the subject or context-- (1) "excise revenue" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law), or confiscation imposed or ordered under the provisions of this Act, or any other law for the time being in force relating to liquor or intoxicating drugs; (2) "excise officer" means a Collector or any officer or person appointed or invested with powers under Section 10; (3) "Excise Commissioner" means the officer appointed by the State Government under Section 10, sub-section (2), clause (a); (3-a) "excise duty" and "countervailing duty" mean any such excise duty or countervailing duty as the case may be, as is mentioned in Entry 51 of List II in the Seventh Schedule to the Constitution; 1[(4) "manufactory" means a unit other than a distillery, where Indian made foreign liquor is manufactured]; (5) 2[* * * *]; (6) "tari" means fermented or unfermented juice drawn from a coconut, palmyra, date or any other kind of palm tree; (7) "pachwai" means fermented rice, millet or other grain, whether mixed with any liquid or not and any liquid obtained therefrom, whether diluted or undiluted; (8) "spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not; (9) "denatured" means rendered unfit for human consumption in such manner as may be prescribed by the State Government by notification in this behalf. When it is proved that any spirit contains any quantity of any substance prescribed by the State Government for the purpose of denaturation the Court may

presume that such spirit is or contains or has been derived from denatured spirit; (10) "beer" includes ale, stout, porter and all other fermented liquor made from malt; (11) "liquor" means intoxicating liquor and includes spirits of wine, spirit, wine, tari, pachwai, beer and all liquid consisting of or containing alcohol, also any substance which the State Government may, by notification declare to be liquor for the purposes of this Act; (12) "intoxicating drug" means-- (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa* L) including all forms known as Bhang, Sidhi 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 natural materials, of any of the above forms 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; (13) "intoxicant" means any liquor or intoxicating drug as defined by this Act; (14) 3[* * * *]; (15) 3[* * * *]; (16) "sale" with its grammatical variations includes and transfer otherwise than by way of gift; (17) "import" (except in the phrase "import to India") means to bring into Uttar Pradesh otherwise than across a customs frontier as defined by the Central Government; (18) "export" means to take out of Uttar Pradesh otherwise than across a customs frontier as defined by the Central Government; (19) "transport" means to move from one place to another within Uttar Pradesh; (20) "manufacture" includes every process, whether natural or artificial, by which any intoxicant is produced or prepared, and also re-distillation and every process for the rectification, flavouring, blending or colouring of liquor; 4[(20-a) "cultivation" with its grammatical variations, means the raising of a plant from seeds and includes the tending or protecting of a plant during its growth;] (21) "to bottle" means to transfer from a cask or other vessel to a bottle or other receptacle for the purposes of sale whether any process of rectification be employed or not; and bottling includes re-bottling; (22) "place" includes a house, building, shop, room, booth, tent and vessel; (22-a) "excisable article" means-- (a) any alcoholic liquor for human consumption; or (b) any intoxicating drug; (23) 5[* * * *]. 1. Inserted by U. P. Act 16 of 1997, Section 2, which was earlier omitted by U. P. Act No. 2

of 1923. 2. Omitted by U. P. Act 9 of 1978, Section 2, (w.e.f. 24-4-1978). 3. Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937. 4. Inserted by U.P. Act 23 of 1970, Section 2. 5. Omitted by U.P. Act II of 1930, Section 40.

4. Power of State Government to declare what is to be deemed "liquor" :-

(1) The State Government may by notification declare any substance to be "liquor" for the purposes of this Act or any portion thereof. (2) The State Government may, in like manner and for the like purpose declare what shall be deemed to be "country liquor" and "foreign liquor" respectively.

5. Section 5 :-

1[* * * *]. 1. Omitted by U.P. Act II of 1930, Section 40.

6. Power of State Government to declare limit of sale by retail :-

(1) The State Government may by notification declare, with respect either to the whole of Uttar Pradesh or to any local area comprised therein and as regards purchasers, generally for any specified occasion, what quantity of any class of purchasers, and generally for any specified intoxicant shall, for the purposes of this Act, be the limit of sale by retail. (2) The sale of any intoxicant in any quantity in excess of such quantity as the State Government has under sub-section (1) declared to be the limit of sale by retail shall be deemed to be sale by whole sale.

7. Possession of intoxicant by wife, clerk or servant :-

When any intoxicant is in the possession of a persons wife, clerk or servant on account of that person, it shall, for the purposes of this Act, be deemed to be in the possession of that person. Explanation.--A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

8. Saving of enactments :-

Save as provided by the Schedule nothing contained in this Act, shall affect the provisions of the Sea Customs Act, 1878, the Cantonments Act, 1889, or the Indian Tariff Act, 1894, or any rule or order made thereunder.

CHAPTER 2

ESTABLISHMENT AND CONTROL

9. Section 9 :-

1[* * *]. 1. Omitted by U.P. Act II of 1923, Section 3.

10. Administration of Excise Department in districts :-

(1) The administration of the Excise Department in any district shall, unless the State Government otherwise directs, be under the charge of the Collector of that district. (2) The State Government may by notification applicable to the whole of Uttar Pradesh or to any district or local area comprised therein-- (a) appoint an officer hereinafter referred to as the Excise Commissioner, who shall, subject to the orders of the State Government have the control of the administration of the Excise Department; (b) constitute a licensing board or appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties of a Collector in respect of the administration of the Excise Department either concurrently with or in subordination to or in exclusion of the Collector, subject to such control as the State Government may direct; (c) empower officer to perform the acts and duties mentioned in Sections 48 and 64 (a), and empower officers or persons to perform the acts and duties mentioned in Section 50; (d) appoint officers of the Excise Department of such classes and with such designations, powers and duties under this Act as the State Government may think fit, and define the areas within which such powers and duties may be exercised and performed; (e) order that all or any of the powers and duties assigned to an officer of the Excise Department under clause (d) of this subsection shall, subject to the provisions of this Act, be exercised and performed by any officer other than officer of the Excise Department or by any person; (f) delegate 1[* * *] to the Excise Commissioner all or any of its powers under this Act, except the power conferred by Section 40 to make rules; (g) withdraw from any officer or person any Or all of his powers in respect of the administration of the Excise Department; (h) permit the delegation by the Excise Commissioner or Collector to any person or classes of persons specified in such notification of any powers conferred by or under this Act or by or under any other law for the time being in force relating to excise revenue. 1. Omitted by U.P. Act II of 1923, Section 4 (3).

11. Appeals and revisions :-

1[(1) The Collector and every other Excise Officer (not being the Excise Commissioner) shall, in respect of all proceedings under this Act, be subject to the control of the Excise Commissioner and all

orders passed by Collector or such other officer under this Act, shall be appealable to Excise Commissioner in the manner prescribed by rules made by the State Government in this behalf : Provided that no appeal shall be entertained under sub-section (1) unless it is preferred by the aggrieved person within thirty days from the date of communication of such order, and unless the appellant has furnished satisfactory proof of having paid a sum of not less than 25 per cent. of the disputed amount of tax, fee, penalty or other dues, if any, as the case may be : Provided further that the appellate authority may, for special and adequate reasons to be recorded in writing waive or relax the requirements of the preceding proviso in respect of such disputed amount of tax, fees, penalty or other dues. (2) State Government may either suo motu or on an application by an aggrieved person call for and examine the records relating to any order passed in any proceedings under this Act, for the purposes of satisfying itself as to the correctness, legality or propriety of any such orders or as to the regularity of such proceedings; and, if in any case it appears to the State Government that such order or proceedings should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly : Provided that no order adversely affecting any party shall be passed under this section unless he has been given a reasonable opportunity of making his representation : Provided further that no application under this sub-section shall be entertained unless it is preferred within thirty days from the date of the order of the Excise Commissioner and unless an appeal, where it lies, has been filed and disposed of by the Excise Commissioner : Provided also that no application for revision shall be entertained unless the applicant has furnished satisfactory proof of having paid a sum of not less than 25 per cent. of the disputed amount of tax, fee, penalty or other dues, if any, as the case may be : Provided also that the State Government may, for reasons to be recorded in writing waive, or relax the requirement of preceding proviso in respect of such disputed amount of tax, fees, penalty or other dues]. 1. Substituted by U.P. Act 9 of 1978, Section 3 (w.e.f. 24-4-1978).

CHAPTER 3

IMPORT, EXPORT AND TRANSPORT

12. Import of intoxicants :-

(1) No intoxicant shall be imported unless-- (a) the State Government has given permission, either general or special, for its

imports; (b) such conditions (if any) as the State Government may impose have been satisfied; and (c) the duty (if any) imposed under Section 28 has been paid or a bond has been executed for the payment thereof. (2) Sub-section (1) shall not apply to any article which has been imported in India and was liable on such importation to duty under the Indian Tariff Act, 1894,¹ or the Sea Customs Act, 1878. (3) Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in India and declared under Section 4 to be foreign liquor. 1. Now Indian Tariff Act, 1934 (Act XXXII of 1934).

13. Export and transport of intoxicants :-

No intoxicant shall be exported or transported unless-- (a) the duty (if any) imposed under Section 28, or (b) if the article was previously imported, the duty (if any) imposed on its importation under the Indian Tariff Act, 1894,¹ or the Sea Customs Act, 1878, had been paid, or a bond has been executed for the payment thereof.

14. Section 14 :-

1[* * *]. 1. Omitted by U. P. Act 6 of 1972, Section 2.

15. Passes necessary for import, export and transport :-

No intoxicant exceeding such quantity as the State Government may prescribe by notification, either generally for the whole of the Uttar Pradesh, or for any local area comprised therein, shall be imported, exported or transported except under a pass issued under the provisions of the next following section : Provided that, in the case of duty-paid on foreign liquor other than denatured spirit such passes shall be dispensed with unless the State Government shall by notification otherwise direct to any local area : Provided also, unless the State Government shall otherwise direct, that no pass shall be required for the transport of any intoxicant exported under a pass issued by an officer duly authorised in this behalf from any place beyond the limits of Uttar Pradesh to any other place beyond the said limits.

16. Grant of passes for import, exports and transport :-

Passes for the import, export or transport of intoxicants may be granted by the Collector. Such passes may be either general for the definite periods and kinds of intoxicants or special for specified occasions and particular consignments only.

17. Manufacture of intoxicants prohibited except under the provisions of this Act :-

(1)(a) No intoxicant shall be manufactured; (b) no hemp plant (Cannabis Sativa) shall be cultivated; (c) no portion of the hemp plant (Cannabis Sativa) from which any intoxicating drug can be manufactured shall be collected; (d) no liquor shall be bottled for sale; and (e) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari; except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector. (2) No distillery, 1[brewery or manufactory] shall be constructed or worked except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner under Section 18. 1. Substituted by U.P. Act 16 of 1997, Section 3.

18. Establishment or licensing of distilleries and warehouses :-

The Excise Commissioner may-- (a) establish a distillery in which spirit may be manufactured under a licence granted under Section 17 on such conditions as the State Government deems fit to impose; (b.) discontinue any distillery so established; (c) licence, on such conditions as the State Government deems fit to impose the construction and working of a distillery or 1[brewery or manufactory]; (d) establish or licence a warehouse wherein any intoxicant may be deposited and kept without payment of duty; and (e) discontinue any warehouse so established. 1. Substituted by U.P. Act 16 of 1997, Section 4.

19. Removal of intoxicants from distillery, etc. :-

No intoxicant shall be removed from any distillery, 1[brewery, manufactory], warehouse or other place or storage established under this Act unless the duty (if any) payable under Chapter V has been paid or a bond has been executed for the payment thereof. 1. Substituted by U.P. Act 16 of 1997, Section 5.

20. Possession of intoxicants in excess of the quantity prescribed by State Government prohibited except under permit :-

(1) No person not being possession any quantity of any intoxicant in excess of such quantity as the State Government has under Section 6 declared to be the limit of sale by retail except under a

permit granted by the Collector in that behalf. (2) 1[* * *]. (3) A licensed vendor shall not have in his possession, at any place other than that authorized by his licence, any quantity of any intoxicant in excess of such quantity as the State Government has under Section 6 declared to be the limit of sale by retail, except under a permit granted by the Collector in that behalf. (4) 1[* * *]. 1. Omitted by U. P. Act 30 of 1978 (w.e.f. 1-5-1978).

20A. Section 20A :-

1[* * *]. 1. Omitted by Act 6 of 1972, Section 3.

20B. Section 20B :-

1[* * *]. 1. Omitted by Act 6 of 1972, Section 3.

21. Sale of intoxicants without licence prohibited :-

No intoxicant shall be sold without a licence from the Collector, provided, that-- (1) a person licensed under Section 17 to cultivate or collect hemp plant (cannabis sativa) may sell without a licence those portions of the plant from which intoxicating drugs can be manufactured to any person licensed under this Act to deal in the same or to any officer whom the Excise Commissioner may prescribe; (2) a licence for sale in more than one district of Uttar Pradesh shall be granted only by the Excise Commissioner; (3) 1[* *]. 1. Omitted by Act 3 of 1972, Section 2 (w.e.f. 11-8-1972).

22. Prohibition of sale to persons under the age of twenty one years :-

No licensed vendor and no person in the employ of such vendor and acting on his behalf shall sell or deliver any liquor or intoxicating drug to any person apparently under the age of 1[twenty one years] whether for consumption by such person or by any other person and whether for consumption on or of the premises of such vendor. 1. Substituted by U. P. Act 9 of 1978, Section 5 (w.e.f. 24-4-1978), for the words "eighteen years".

23. Prohibition of employment of persons under the age of twenty-one years, and of women :-

1[(1) No person who is licensed to sell liquor for consumption on his premises shall during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any person under the age of 1[twenty-one years] in any part of such premises in which such liquor or spirit is consumed by the public. (2) No person who is licensed to sell foreign liquor for consumption on his premises shall, without the

previous permission in writing of the Excise Commissioner during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman in any part of such premises in which liquor is consumed by the public. (3) Every permission granted under sub-section (2) shall be endorsed on the licence, and may be modified or withdrawn. 1. Substituted by U. P. Act 9 of 1978, Section 5 (w.e.f. 24-4-1978), for the words "eighteen years".

24. Grant of exclusive privilege of manufacture, etc. :-

Subject to the provisions of Section 31, the Excise Commissioner may grant to any person a licence for the exclusive privilege-- (1) of manufacturing or supplying by wholesale, or of both, or (2) of selling by wholesale or by retail; or (3) of manufacturing or of supplying by wholesale, or of both, and of selling by retail; any country liquor or intoxicating drug within any local area.

24A. Grant of exclusive or other privilege in respect of foreign liquor :-

1[(1) Subject to the provisions of Section 31, the Excise Commissioner may grant to any person a licence or licences for the exclusive or other privilege,-- (a) of manufacturing or of supply by wholesale, or of both; or (b) of manufacturing or of supplying by wholesale, or of both and selling by retail; or (c) of selling by wholesale (to wholesale or retail vendors); or (d) of selling by retail at shops (for consumptions off' the premises only, any foreign liquor in any locality. (2) The grant of licence or licences under clause (d) of sub-section (1) in relation to any locality shall be without prejudice to the grant of licences for the retail sale of foreign liquor in the same locality in hotels and restaurants for consumption on their premises. (3) Where more licences than one are proposed to be granted under clause (d) of sub-section (1) in relation to any locality for the same period, advance intimation of the proposal shall be given to the prospective applicants for every such licence. (4) The provisions of Section 25, and proviso to Section 39 shall apply in relation to the grant of a licence for an exclusive or other privilege under this section as they apply in respect of the grant of a licence for an exclusive privilege under Section 24.] 1. Inserted by U. P. Act 20 of 1972, Section 3 (w.e.f. 11-8-1972) and then again inserted by U. P. Act 5 of 1976, Section 2 (ii).

24B. Removal of doubts :-

1[For the removal of doubts, it is hereby declared-- (a) that the State Government has an exclusive right or privilege of manufacture and sale of country liquor and foreign liquor; (b) that the amount described as licence fee in clause (c) of Section 41 is in its essence the rental or consideration for the grant of such right or privilege by the State Government; (c) that the Excise Commissioner as the head of the Excise Department of the State shall be deemed, while determining or realising such fee, to act for and on behalf of the State Government. 1. First inserted by Section 3 of U. P. Act 30 of 1972, and then again inserted by U. P. Act 5 of 1976, Section 2 (ii).

25. Manufacture and sale of liquor in military cantonments

:-

Within the limits of any military cantonment, and within such distance from these limits as the Central Government in any case may prescribe, no licences for the manufacture or sale of liquor or for an exclusive privilege in respect of liquor under Section 24 shall be granted unless with the consent of the Commanding Officer.

26. Grantee of exclusive privilege may let or assign :-

Subject to the conditions of his licence the grantee of any exclusive privilege may let or assign the whole, or any portion of his privilege; but no lessee or assignee of such privilege or portion of a privilege shall exercise any rights as such unless and until a licence has been granted to him by the Excise Commissioner on application made by the grantee.

27. Recovery by grantee of exclusive privilege of sums due to him :-

Any grantee, lessee or assignee as aforesaid may recover from any person holding under him any money due to him in his capacity of grantee, lessee or assignee as if it were an arrear of rent recoverable under the law for the time being in force with regard to landholder and tenant : Provided that nothing contained in this section shall affect the right of any such grantee, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

CHAPTER 5

DUTIES AND FEES

28. Duty on excisable articles :-

1[(1)] An excise duty or a countervailing duty, as the case may be, at such rate or rates as the State Government shall direct, may be

imposed, either generally or for any specified local area, on any excisable article-- (a) imported in accordance with the provisions of Section 12 (1); or (b) exported in accordance with the provisions of Section 13; or (c) transported; or (d) manufactured, cultivated or collected under any licence granted under Section 17; or (e) manufactured in any distillery established, or any distillery or brewery licensed, under Section 18 : Provided as follows-- (i) duty shall not be so imposed on any article which has been imported into India and was liable on such importation to duty under the Indian Tariff Act, 1894, or the Sea Customs Act, 1887; (ii) 2[* * *].

Explanation.--(1) Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption, or according to the varying strength and quality of such article. 3[(2) The State Government shall, in imposing an excise duty or a countervailing duty as aforesaid and in fixing its rate, be guided by the directive principles specified in Article 47 of the Constitution of India. (3) Such duty shall not exceed the maximum as provided hereinafter : (a) Countervailing duty on excisable articles imported in accordance with the provisions of Section 12 (1)--

Item No.	Description of excisable articles	Maximum rate of duty
1.	Counter liquor (excepting tari)	Rs. 20 per litre.
2.	Liquor manufactured in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India; and rectified spirit-- (a) Ale, beer, porter, cider and other fermented liquors	15 per litre.] (b) Perfumed spirit (other than medicinal and toilet preparations)
		15 per litre. (c) Wines
		8 per litre. (d) Liquors, cordials, mixtures and other preparations containing spirit not otherwise specified (other than drugs and medicines)
		70 per litre. (e) Brandy, gin, whisky, turns, rectified spirit and other sorts of spirit not otherwise specified
		60 per litre of alcohol
3.	Ganja	300 per kg.
4.	Bhang	14 per kg.

(b) Excise or countervailing duty on excisable articles exported in accordance with the provisions of Section 13--

Item No.	Description of excisable articles	Maximum rate of duty
1.	Country liquor (excepting tari and other fermented alcoholic beverages)	Rs5[20 per litre of alcohol.]
2.	Liquor manufactured in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India (excepting beer)	5[20 per litre of alcohol.]
3.	Beer brewed in India	2 per litre.]
4.	Ganja	150 per kg.
5.	Bhang	4 per kg.

(c) Excise or countervailing duty on excisable articles transported--

Item No.	Description of excisable articles	Maximum rate of duty
1.		

Country liquor (excepting tari) Rs. 20 per litre. 2. Liquor manufactured in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India; and rectified spirit-- (a) Ale, beer, porter, cider and other fermented liquors 4[15 per litre.] (b) Perfumed spirit (other than medicinal and toilet preparations) .. . 15 per litre. (c) Wines 8 per litre. (d) Liquors, cordials, mixtures and other preparations containing spirit not otherwise specified (other than drugs and medicines) 70 per litre (e) Brandy, gin, whisky, rums, rectified spirit and other sorts of spirit not otherwise specified 60 per litre of alcohol. 3. Ganja 300 per kg 4. Bhang 14 per kg.

(d) Excise duty on excisable articles manufactured, cultivated or collected under any licence granted under Section 17-- Item No. Description of excisable articles Maximum rate of duty 1. Country liquor (excepting tari) Rs. 20 per litre. 2. Liquor manufactured in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India; and rectified spirit-- (a) Ale, beer, porter, cider and other fermented liquors 4[15 per litre.] (b) Perfumed spirit (other than medicinal and toilet preparations) 15 per litre. (c) Wines 8 per litre. (d) Liquors, cordials, mixtures and other preparations containing spirit not otherwise specified (other than drugs and medicines) 70 per litre. (e) Brandy, gin, whisky, rums, rectified spirit and other sorts or spirit not otherwise specified 60 per litre of alcohol. . 3. Ganja 300 per kg. 4. Bhang 7[25 per kg.] (e) Excise duty on excisable articles manufactured in any distillery established, or any distillery or brewery licensed, under Section 18-- Item No. .Description of excisable articles Maximum rate of duty 1. Country liquor (excepting tari and other fermented alcoholic beverages) .. Rs. 20 per litre. 2. Liquor manufactured in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India; and rectified spirit-- (a) Ale, beer, porter, cider and other fermented liquors 4[15 per litre.] (b) Perfumed spirit (other than medicinal and toilet preparations) .. . 15 per litre. 8 per litre. (d) Liquors, cordials, mixtures and other preparations containing spirit not otherwise specified (other than drugs and medicines) 70 per litre. (e) Brandy, gin, whisky, rums, rectified spirit and other sorts or spirit not otherwise specified 7[60 per litre of alcohol.]] 8[(4) Notwithstanding anything contained in sub-section (3), the maximum rate of duty on Ale, beer, porter, cider and other fermented liquors occurring against Item 2 (a) in the table, in clause (e) of sub-section (3) shall be deemed to be rupees 5 per

litre with effect from June 4, 1975 and any notification issued on or after June 4, 1975 which is in conformity with the provisions of this sub-section shall be deemed to be, and always to have been valid and lawful, as if the provisions of this sub-section were in force at all material times.] 1. Renumbered as sub-section (1) by U. P. Act 7 of 1970, Section 2. 2. Proviso (ii) omitted by A.O. 1937. 3. Sub-sections (2) and (3) Inserted by U. P. Act 7 of 1970, Section 2. 4. Substituted by U. P. Act 22 of 1999, Section 2 for "5 per litre" (w.e.f. 1st April, 1999). 5. Substituted by U.P. Act 19 of 1986, Section 2 (i), for "5.00 per litre of alcohol" (w.e.f. 26-4-1986). 6. Substituted by U.P. Act of 1974, Section 2. 7. Substituted by U. P. Act 19 of 1986, Section 2 (ii), for "14 per Kg,", (w.e.f. 26-4-1986). 8. Inserted by U. P. Act No. 1 of 1990 (w.e.f. 23-12-1989).

28A. Imposition of additional duty in certain cases :-

1[(1) Where the quantity of spirit or beer in brewery is found, on examination by such officer of the Excise Department as may be authorised by the Excise Commissioner in this behalf to exceed the quantity in hand as shown in stock account, the brewery shall be liable to pay duty on such excess at the ordinary rates fixed under Section 28. (2) Where the quantity of spirit or beer is found less than that shown in the stock account on such examination and deficiency exceeds ten per cent. (allowance to the extent being made to cover losses due to evaporation, sullage and other contingencies within the brewery, and also to cover loss in bottling and storage) the Excise Commissioner shall levy an additional duty at the rate of one hundred per cent, of ordinary rates of duty in respect of such deficit as exceeds ten per cent. over and above ordinary rates of duty.] 1. Inserted by U. P. Act 9 of 1978, Section 7 (deemed always to have been inserted).

29. Manner in which duty be levied :-

Subject to such rules as the Excise Commissioner may prescribe to regulate the time, place and manner of payment, such duty may be levied in and or more of the following ways as the State Government may by notification direct-- (a) in the case of excisable articles imported under Section 12 (1)-- (i) by payment either in the province of import or in the province or territory of export; or (ii) by payment upon issue for sale from a warehouse established or licensed under Section 18 (d); (b) in the case of excisable articles exported under Section 13--by payment either in the province of export or in the province or territory of import; (c) in the case of excisable articles transported-- (i) by payment in the district from

which the excisable article is to be transported; or (ii) by payment upon issue for sale from a warehouse established or licensed under Section 18 (d); (d) in the case of intoxicating drugs manufactured under any licence granted under Section 17 (1)-- (i) by a rate charged upon the quantity manufactured under a licence granted under the provisions of Section 17 (1) (a), or issued from a warehouse established or licensed under Section 18 (d); (ii) where the intoxicating drug is manufactured from hemp plant (Cannabis Sativa) cultivated or collected under a licence granted under the provisions of Section 17 (1) (b) and (c), by an acreage rate levied on the cultivation, or by a rate charged upon the amount collected; (e) in the case of spirit or beer manufactured in any distillery established or any distillery 1[brewery or manufactory] licensed under Section 18-- (i) by a rate charged upon the quantity produced or issued from the distillery, 1[brewery or manufactory], as the case may be, or issued from a warehouse established or licensed under Section 18 (d); (ii) by a rate charged in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the State Government may prescribe : Provided that where payment is made upon issue of an excisable article for sale from a warehouse established or licensed under Section 18 (d), it shall be at the rate of duty which is in force on that article on the date when it is issued from the warehouse. 1. Substituted by U. P. Act 16 of 1997, Section 6 for the words "or brewery".

30. Payment of exclusive privileges :-

1[(1) Instead of or in addition to any duty leviable under this chapter, the State Government or on its behalf the Excise Commissioner may accept payment of a sum in consideration of the grant of the licence for any exclusive or other privilege under Section 24 or Section 24-A. 2[(2) The sum payable under subsection (1) may either be fixed by auction or inviting tenders or otherwise or be assessed on the basis of the sales made or quota lifted under the licence or partly fixed and partly assessed in the aforesaid manner].] 3[(3) For the financial year commencing on April 1, 1983 apart from the sum fixed for grant of licence under Section 24-A, the sum assessed called as assessed fee, on the basis of sales under the licence shall be payable, at the rate of rupees five per reputed quart bottle of all kinds of spirit, wine, liquor and cordial and at the rate of paise sixty per reputed quart bottle of

bear, stout and other fermented liquors by the wholesale vendors of foreign liquor.] 1. Substituted by U. P. Act 5 of 1976, Section 2 (iii), and shall be deemed always to have been substituted. 2. Substituted by U. P. Act No. 13 of 1979 (w.e.f. 16-8-1972). 3. Inserted by U. P. Act No. 7 of 1998 (w.e.f. 1-4-1983).

30A. Saving for duties being levied at the commencement of the Constitution :-

(1) Until provision to the contrary is made by the Parliament the State Government may continue to levy any duty to which this section applies which it was lawfully levying immediately before the commencement of the Constitution under this chapter as then in force. (2) The duties to which this section applies are-- (a) any duty on intoxicants or medicinal or toilet preparations containing alcohol which are not excisable articles within the meaning of this Act; and (b) any duty on an excisable article produced outside India and imported into Uttar Pradesh whether across a customs frontier as defined by the Central Government or not. (3) Nothing in this section shall authorise the levy by State Government of any duty which, as between goods manufactured or produced, in the State and similar goods not so manufactured or produced, discriminates in favour of the former, or which, in the case of goods manufactured or produced outside the State, discriminates between goods manufactured or produced in one locality and similar goods manufactured or produced in another locality.

CHAPTER 6

LICENCES, PERMITS AND PASSES

31. Form and conditions of licences, etc. :-

Every licence, permit or pass granted under this Act shall be granted-- (a) on payment of such fees (if any), (b) subject to such restrictions and on such conditions, (c) shall be in such form and contain such particulars, as the Excise Commissioner may direct either generally or in any particular instance in this behalf, and (d) shall be granted for such period as the State Government may, in like manner, direct.

32. Saving of licences in force at the commencement of this Act :-

Every licence which was granted under any section of the Excise Act, 1896 and is in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of this Act, shall (unless previously cancelled, suspended, withdrawn

or surrendered under this chapter) remain in force for the period for which it was granted.

33. Power of authority granting licence to require execution of counterpart agreement, etc. :-

Any authority granting a licence under this Act may require the grantee to execute a counterpart agreement in conformity with the tenor of his licence and to give such security for the performance of such agreement or to make such deposit in lieu of security as such authority may think fit.

34. Power to cancel or suspend licences, etc. :-

(1) Subject to such restrictions, as the State Government may prescribe, the authority granting any licence, permit or pass 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 of such licence, permit or pass or by his servants, or by any one acting on his behalf with his express or implied permission of any of the terms or conditions of such licence, permit or pass; or (c) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence punishable under the Dangerous Drugs Act, 1930,¹ or under the Merchandise Marks Act, 1889, or of any offence punishable under Sections 482 to 489 (both inclusive) of the Indian Penal Code; or (d) where a licence, permit or pass has been granted on the application of the grantee of an exclusive privilege under this Act, on the requisition in writing of such grantee; or (e) if the conditions of the licence or permit provide for such cancellations or suspension at will. (2) When a licence, permit and pass held by any person is cancelled under clauses (a), (b) or (c) of sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person by, or by the authority of the State Government under this Act or under any other law for the time being in force relating to excise revenue or under the Opium Act, 1878.² (3) The holder shall not be entitled to any compensation for the cancellation or suspension of his licence, permit or pass under this section nor to a refund of any fee paid or deposit made in respect thereof. 1. The Dangerous Drugs Act, 1930, now repealed by the N.D.P.S. Act, 1985. 2. The Opium Act, 1878, now repealed by the N.D.P.S. Act, 1985.

35. No compensation or refund claimable for cancellation or

suspension of licence, etc., under this section :-

(1) Further power to cancel licences.--Whenever the authority granting a licence under this Act considers that such licence should be cancelled for any cause other than those specified in Section 34 it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may cancel the licence either--
(a) on the expiration of fifteen days, notice in writing of its intention to do so, or (b) forthwith, without notice. (2) Compensation in the case of cancellation.--If any licence be cancelled under clause (b) of sub-section (1) in addition to the sum remitted as aforesaid there shall be paid to the licensee such further sum by way of compensation as the Excise Commissioner may direct. (3) Refund of fee or deposit.--When a licence is cancelled under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount (if any) due to the State Government.

36. Surrender of licence to sell by retail :-

Any holder of a licence to sell by retail under this Act may surrender his licence on the expiration of one months notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fee payable for the licence for whole period for which it would have been current but for such surrender : Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering such a licence, he may remit to the holder thereof the sum so payable on surrender, or any portion thereof. Explanation.--The words "holder of a licence" as used in this section includes a person whose tender or bid for a licence has been accepted although he may not actually have received the licence.

36A. Bar to right of renewal and compensation :-

No person to whom a licence has been granted under this Act shall have any claim to the renewal of such licence or any claim for compensation on the determination or nonrenewal thereof.

37. Technical irregularities in licences, etc. :-

(1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceeding taken prior to the grant thereof. (2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

37A. Prohibition of import, export, transport, possession or consumption of intoxicants :-

1[(1) Subject to the provisions in sub-section (4), the import or export of any intoxicant into or from Uttar Pradesh or any part thereof or the transport of any intoxicant shall be prohibited. (2) Notwithstanding anything contained in Section 20, but subject to the provision of sub-section (4), the possession or consumption by any person or class of persons or subject to such exceptions, if any, as may be specified, by all persons in Uttar Pradesh or in any specified area or areas thereof, of any intoxicant shall absolutely or subject to such conditions as may be specified, be prohibited. (3) In pursuance of the policy of gradual extension of prohibition in the State and having regard to the administrative convenience, the State Government may from time to time select different areas in that behalf after taking into account anyone or more of the following factors, namely-- (a) the character of an area as- (i) the seat of Government; or (ii) the seat of learning; or (iii) a place of pilgrimage or of religious importance; or (iv) hill area; or (v) an industrial area; or (vi) contiguous to dry areas; or (vii) inhabited by Scheduled Castes or Scheduled Tribes; or (b) the general economic condition of the local population, including their level of nutrition and standard of living; or (c) the local public opinion; or (d) any other relevant factor which in the opinion of the State Government immaterial in the public interest : Provided that nothing in this sub-section shall be construed to require the State Government to recite in its order, the considerations on the basis of which a particular area is selected at any time for enforcement of prohibition. (4) Subject to the provision of sub-section (3), the area to which the prohibition on import, export or transport of any intoxicant under sub-section (1) and on possession or consumption of any intoxicant under sub-section (2) extends and the date on which the prohibition in any area comes into force, shall be such as the State Government may, from time to time, specify by notification. (5) Notwithstanding anything contained in sub-section (4) in relation to any prohibition area, the State Government may, either by rules and by general or special order, make any exemption or relaxation in respect of the possession, consumption, import, export or transport of the intoxicants mentioned in the notification under sub-section (4) of any of such intoxicant by or for purposes of-- (a) members of the defence services; (b) foreigners

visiting or residing in the prohibition area; (c) travellers through the prohibition area; (d) district hospitals or medical colleges requiring any intoxicant for medical purposes; (e) persons holding licences under Sections 17, 18, 21 and 24; (f) consignment from, to, or passing through the prohibition area by rail, road or air; (g) industrial, scientific, educational, medicinal or religious purposes. (6) In relation to any exemption or relaxation that may be made under sub-section (5), the State Government may either by rules or by general or special order, provide for the grant of pass or permit by such authority as may be specified. (7) Upon the issue of a notification referred to in sub-section (4) the authority granting a licence under this Act may in so far as it relates to a prohibition area cancel it forthwith without notice, and it shall thereupon remit a sum equal to the amount of the fee payable in respect of the unexpired period of the licence, and refund any fee paid in advance or deposit made by the licensee in respect thereof, less the amount, if any, due to the State Government, but no compensation shall, in respect of such cancellation, be payable to the licensee, anything contained in Section 35 notwithstanding. (8) Where any licence is cancelled under Section 7 the licensee shall dispose of the intoxicants in his possession in such manner as the State Government or the Excise Commissioner may by general or special order direct : Provided that no act done or omission taking place during the period commencing on May 1, 1972 and ending with June 25, 1978 which would not be an offence but for such substitution shall constitute an offence punishable under the principal Act.] 1. Substituted by U.P. Act 30 of 1978 (w.e.f. 1-5-1972), which was Inserted by U.P. Act 5 of 1972.

CHAPTER 8

GENERAL PROVISIONS

38. Measures, weights and testing instruments :-

Every person who manufactures or sells any intoxicant under a licence granted under this Act shall be bound-- (a) to supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition; and (b) when such measures, weights and instruments have been prescribed, on the requisition of any excise officer duly empowered in that behalf, at any time to measure, weigh or test any intoxicant in his possession in such manner as the said excise officer may require.

38A. Interest on arrears of excise revenue :-

1[(1) Where any excise revenue has not been paid within months from the date on which it becomes payable, interest at such rate not exceeding twenty-four cent per. annum as may be prescribed, shall be payable from the date such excise revenue becomes payable till the date of actual payment : Provided that until a higher rate is prescribed, the rate of interest will be eighteen per cent. per annum : Provided further that in respect of an excise revenue which became payable before the commencement of the Uttar Pradesh Excise (Amendment) Act, 1985, interest at the said rate shall be payable from the date of such commencement, if the excise revenue is not paid within 3 months of the said date. Explanation.--Nothing in this sub-section shall be construed to affect the payment of interest under an agreement, the terms of an auction or, a decree of the Court, passed before the date of commencement of the Uttar Pradesh Excise (Amendment) Act, 1985 or which may be passed after the date of such commencement, in suits or proceedings filed before the said date. (2) Provisions of Section 39 shall mutatis mutandis apply to realisation of such interest as they apply to realisation of excise revenue.] 1. Inserted by U. P. Act 7 of 1985, Section 2 (w.e.f. 28-3-1985).

39. Recovery of excise revenue :-

All excise revenue including all amounts due to the Government by any person on account of any contract relating to the excise revenue, may be recovered from the person primarily liable to pay the same, or from his surety (if any), as arrears of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force. In case of default made by a holder of a licence the Collector may take the grant, for which the licence has been given, under management at the risk of the defaulter, or may declare the grant forfeited and re-sell it at the risk and loss of the defaulter. When a grant is under management under this section, the Collector may recover as excise revenue any moneys due to the defaulter by any lessee or assignee : Provided that no licence for an exclusive privilege granted under Section 24 shall be forfeited or resold without the sanction of the authority granting the licence.

40. Power of State Government to make rules :-

(1) The State Government may make rules for the purpose of carrying out the provisions of this Act or other law for the time being in force relating to excise revenue : 1[Provided that the Uttar

Pradesh Licensing under the Surcharge Fee System Rules, 1968, made by the Excise Commissioner, Uttar Pradesh, with the previous sanction of the State Government, as amended by the Excise Commissioner, Uttar Pradesh, from time to time, before the commencement of this Act, shall, until altered or repealed by the State Government by rules made under this section, be deemed to be and always to have been as valid and effective as if the said rules were duly made by the State Government under this section.]

(2) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules-- (a) regulating the delegation of any powers by the Excise Commissioner or Collector under Section 10 (2) (h);] (b) prescribing the powers and duties of officers of the Excise Department; 2[(c) prescribing the manner in which appeals or revisions shall be presented and the procedure for dealing with such appeals and revisions]; (d) regulating the import, export, transport or possession of any intoxicant; (e) regulating the periods and localities for which, and the persons to whom, licences for the vend by wholesale or by retail of any intoxicant may be granted; (f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such vend is granted for any locality; (g) for the prohibition of the sale of any intoxicant to any person or class of persons; (h) for the grant of expenses to witnesses and compensation for loss of time to persons released under Section 49 on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences punishable under the Act but acquitted; (i) regulating the power of excise officers to summon witnesses from a distance under the provisions of Section 49; (j) for declaring the excise officers to whom, and the manner in which, information or aid should be given under Section 56; (k) for the prohibition of the employment by the licence holder of any person or class or persons to assist in his business in any capacity whatsoever; (l) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting or remaining of persons of bad character in such premises; 3[(m) for the grant of rewards to officials, officers or informers by the Collector out of and upto fifty per cent, of composition fee and by the Magistrate trying the case, out of and upto fifty per cent, of fine recovered under the Act.] 4[* * * *] 1. Inserted U. P. Act 5 of 1976, Section 3 (w.e.f. 16-4-1976). 2. Substituted by U. P. Act 5 of 1976, Section 3 (b) (w.e.f. 16-4-1976). 3. Inserted by U. P. Act No. 13 of 1979 (w.e.f. 30-11-

1978). 4. Omitted by U. P. Act 30 of 1972.

41. Power of Excise Commissioner to make rules :-

(1) The Excise Commissioner subject to the previous sanction of the State Government may make rules-- (a) regulating the manufacture, supply, storage or sale of any intoxicant including-- (i) the erection, alteration, repair, inspection, supervision, management and control of any place for the manufacture, supply, storage or sale of such article and the fittings, implements and apparatus to be maintained therein; (ii) the cultivation of the hemp plant (*Cannabis Sativa*); (iii) the collection of portions of the hemp plant (*Cannabis Sativa*) from which any intoxicating drug can be manufactured and the manufacture of any intoxicating drug therefrom; (b) regulating the deposit of any intoxicant in a warehouse and the removal of any intoxicant from any such warehouse or from any distillery, 1[brewery or manufactory]; 2[(c) prescribing the scale of fees or manner of fixing the fees payable for any licence, permit or pass including any consideration for the grant of any exclusive or other privilege granted under Section 24 or Section 24-A or for storing of any intoxicant;] 3[Provided that nothing contained in this clause shall be construed to prevent the State Government from levying by notification made from time to time, any fee, including vend fee, as part of consideration for the granting of any such privilege.] Explanation.--(1) Fees may be prescribed under this sub-clause at different classes of licences, permits, passes or storage and for different areas. 4[(2) The manner of fixing such fee or consideration includes anyone or more of the following manners, namely-- (i) auction, (ii) invitation of tenders, (iii) assessment on the basis of sales made or quota lifted under the licence, permit or pass;] (d) regulating the time, place and manner of payment of any duty or fee; (e) prescribing the restrictions under and the conditions on which any licence, permit or pass may be granted including provision for the following matters-- (i) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable; (ii) regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength; (iii) the fixing of the strength, price or quantity in excess of or below which any intoxicant shall not be sold or supplied, and of the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any intoxicant; (iv) the prohibition of sale except for cash; (v) the fixing of the days

and hours during which any licensed premises may or may not be kept open, and the closure of such premises on special occasions; (vi) specification of the nature of the premises in which any intoxicant may be sold and the notices to be exposed at such premises; (vii) the form of the accounts to be maintained and the returns to be submitted by licence-holders; (viii) the regulation of the transfer of licences; (f) (i) declaring the process by which spirit manufacturing in India shall be denatured; (ii) for causing such spirit to be denatured through the agency or under the supervision of its own officers; (iii) for ascertaining whether such spirit has been denatured; (g) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use; (h) regulating the disposal of confiscated articles. 1. Substituted by U. P. Act 16 of 1997, Section 7 for the words "or brewery". 2. Substituted by U. P. Act 5 of 1976, Section 2 (iv), (w.e.f. 16-4-1976). 3. Inserted by U. P. Act 13 of 1979, Section 5 (i) (w.e.f. 16-8-1972). 4. Substituted by U. P. Act 13 of 1979, Section 5 (ii) (w.e.f. 16-8-1972).

CHAPTER 9

SPECIAL PROVISIONS RELATING TO THE MANUFACTURE, SUPPLY AND SALE OF TARI

42. Manufacture of Tari :-

In local areas where the State Government so notifies-- (a) no tori-producing tree shall be tapped; (b) no tari shall be drawn from any tree; except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector or under the provisions of Section 45 : Provided that in any such local area the State Government may by notification declare that these provisions shall not apply to trees tapped or tari drawn under such special conditions as the Excise Commissioner may prescribe.

43. Sale of Tari :-

In any such area as aforesaid a person having the right to the Tari drawn from any tree may sell the same without a licence to a person licensed to manufacture or sell Tari under this Act.

44. Power of State Government to exempt from provisions of Section 42, area in which exclusive privilege for manufacture etc. of Tari has been granted :-

Where a licence for the exclusive privilege of manufacture, supply or sale of Tari in any local area has been granted under the provisions of Section 24 the State Government may by notification direct that the provisions of Section 42 shall not apply to such area.

45. Grant of licence by grantee of exclusive privilege of manufacturing Tari :-

Where a licence for the exclusive privilege of manufacturing Tari has been granted under Section 24, the State Government may declare that the written permission of the grantee to draw Tari shall have the same force and effect as a licence from the Collector for that purpose under Section 42.

46. Duty on Tari :-

A duty at such rate or rates as the State Government shall direct, may be imposed either generally or for any specified local area, on any Tari manufactured under any licence granted under Section 42 1[such duty shall be levied by a tax on each tree tapped or from which Tari is drawn, and its rate shall be fixed having due regard to the principles specified in sub-section (2) of Section 28 and shall not exceed sixty rupees for a year or part thereof per tree.] 1. Substituted by U.P. Act 7 of 1970, Section 3.

47. Power to make rules :-

In particular and without prejudice to the generality of the foregoing provisions of the State Government may make rules regulating the tapping of Tan-producing trees and drawing of Tari from such trees, the marking of such trees and the maintenance of such marks in any area to which the provisions of Section 12 have been applied.

CHAPTER 10

POWERS AND DUTIES OF OFFICERS, ETC.

48. Power to enter and inspect place of manufacture and sale :-

The Excise Commissioner, or a Collector, or any Officer of the Excise Department not below such rank as the State Government may prescribe, or any police officer duly empowered in that behalf, may 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 intoxicant and may 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 intoxicant is kept for sale by any licensed person, and may examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, or intoxicant found in such place; and may seize any measures, weights or testing instruments which he has reason to believe to be false.

49. Powers of certain officers to investigate into offences punishable under this Act :-

(1) A police officer not below the rank of 1[Sub-Inspector] and an officer of the Excise Department not below such rank as the State Government may prescribe may investigate into any offence punishable under this Act committed within the limits of the area in which such 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 a cognizable case under the provisions of 1[Chapter XII of the Code of Criminal Procedure, 1973] and if specially empowered in that behalf by the State Government, such officer may without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or suppose to be concerned in any offence punishable under this Act into which he has investigated. has been prejudiced by such disregard in the matter of his defence at the trial. [State of U.P. v. Bhawani Kishore Joshi, AIR 1964 SC 221]. 1. Substituted by U.P. Act 9 of 1978, Section 8 (w.e.f. 24-4-1978)

50. Power of arrest, seizure and detention :-

Any officer of the excise, police, salt, opium or land revenue department not below such rank and subject to such restrictions as the State Government may prescribe, and any other person duly empowered in this behalf, may arrest without warrant any person found committing an offence punishable under Section 60, Section 62, Section 63 or Section 65; and may seize and detain any intoxicant or other article which he has reason to believe to be liable to confiscation under this Act or other law for the time being in force relating to excise revenue; and may detain and search any person upon whom, and any vessel, vehicle, animal, package, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

51. Power of Collector to issue warrant of arrest :-

The Collector may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under Section 60, Section 62, Section 63 or Section 65.

52. Power of Collector or Magistrate to issue a search warrant :-

If a Collector or a Magistrate, upon information obtained, has reason to believe that an offence punishable under Section 60,

Section 62, Section 63 or Section 65 has been or is likely to be committed, he may issue a warrant for the search for any intoxicant materials, still, utensil, implement or apparatus in respect of which the alleged offence has been or is likely to be committed.

53. Power of Collector or officer of the Excise Department to search without warrant :-

(1) Whenever a Collector or an officer of the Excise Department not below such rank as the State Government may prescribe or a police officer not below the rank of 1[Sub-Inspector] has reason to believe that an offence punishable under Section 60, Section 61, Section 62, Section 63, or Section 65 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 escape or of concealing evidence of the offence, he may, at any time by day or night, enter and search such place : Provided that any officer other than a Collector taking action under this sub-section shall before entering such place record the grounds of his belief as aforesaid. Further powers of seizures, detention, search and arrest.--(2) The Collector or other officer as aforesaid may seize anything found in such place which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid. 1. Substituted by U.P. Act 9 of 1978, Section 9 (w.e.f. 24-4-1978), for the words "an officer in-charge of the Police Station".

54. Procedure relating to arrest, searches, etc. :-

The provision of the 1[Code of Criminal Procedure, 1973] relating to arrests, searches, search-warrants, production of persons arrested and investigation into offences shall be held to be applicable, so far as may be, to all actions taken in these respects under this Act : Provided that an offence punishable under Section 60, Section 61,1[Section 62, Section 64-A or Section 65] may be investigated into without the order of a magistrate, and that any warrant issued by the Collector under Section 51 or Section 52 may be executed by any officer selected by the Collector for that purpose. 1. Substituted by U.P. Act 9 of 1978, Section 10 (w.e.f. 24-4-1978).

55. Certain Offences to be non-bailable :-

1[All offences punishable under sub-section (1) of Section 60,

Section 62 and Section 64-A, shall be non-bailable within the meaning of the Code of Criminal Procedure, 1973.] 1. Substituted by *ibid*, Section 11.

56. Duty of officers of certain departments to report offences and to assist officers of the Excise Department :-

Every officer of the police, salt, opium and land revenue departments shall be bound to give immediate information to an officer of the Excise Department of all breaches 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.

57. Duty of owner, occupier, lekhpal or village policeman to report certain matters :-

1[Every person who owns or occupies any land or building and the agent of such owner or occupier, on or in which there has been any unlawful manufacture of any intoxicant, or any unlawful cultivation or collection of any plants from which an intoxicating drug can be produced, and every owner of a vessel or vehicle in which any intoxicant is manufactured contrary to the provisions of this Act, and every lekhpal or village policeman in whose jurisdiction such land or building is situate or vessel or vehicle is found, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the excise, police or land revenue department immediately the same comes to his knowledge.] 1. Substituted by U.P. Act 23 of 1970, Section 3.

58. Duty of officer in-charge of police station to take charge of articles seized :-

Every officer in-charge of a police station shall take charge of and keep in safe custody, pending the orders of a Magistrate or of the Collector, 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 seal to such articles and to take samples of land from them. All samples so taken shall also be sealed with the seal of the officer in-charge of the police station.

59. Power to close shops for the sake of public peace :-

The District Magistrate by notice in writing to the licensee may require that any shop in which any intoxicant is sold shall be closed at such time 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, a magistrate of any class or any police officer above the rank of constable who is present, may require such shop to be kept closed for such period as he may think necessary : Provided that where any such riot or unlawful assembly occurs, the licensee shall, in the absence of such magistrate or police officer, close his shop without any order.

CHAPTER 11

OFFENCES AND PENALTIES

60. Penalty for unlawful import, export, transport, manufacture, possession, sale, etc. :-

1[(1) Whoever, in contravention of this Act or of any rule or order made thereunder, or of any licence, permit or pass obtained thereunder-- (a) import, export, transport or possesses any intoxicant other than charas; or (b) cultivates any hemp plant (Cannabis Sativa); or (c) collects or sells any portion of the hemp plant (Cannabis Sativa) from which any intoxicating drug can be manufactured; or (d) constructs or works any distillery, 2[brewery, manufactory] or vintnery; or (e) uses, keeps or has in his possession any material, still, utensil, implement or apparatus, whatsoever, for the purpose of manufacturing any intoxicant other than Tari; or (f) removes any intoxicant from any distillery, 2[brewery, manufactory], vintnery or warehouse licensed, established or continued under this Act; or (g) bottles any liquor for the purposes of sale; or (h) sells any intoxicant, save in the case provided for by Section 61; or (i) taps or draws Tari from any Tan-producing tree in the areas notified under Section 42; shall be punished with imprisonment which may extend to two years and with fine which shall, in the case of an offence under clause (i) not be less than ten times the amount of duty which would have been leviable if such intoxicant had been dealt with in accordance with this Act and the rules and orders made thereunder or in accordance with any licence, permit or pass obtained thereunder, and in any other case, not be less than ten times the amount of such duty, or five hundred rupees, whichever is greater. (2) Whoever in contravention of this Act or any rule or order made thereunder or of any licence, permit or pass obtained under this Act, manufactures any intoxicant or imports, exports, transports or possesses any charas, shall be punished with imprisonment which shall not be less than six months and which may extend to three years and also with

fine which shall not be less than two thousand rupees and which may extend to five thousand rupees. 3[(3) Whoever, in contravention of this Act or any rule or order made thereunder, consumes any intoxicant, shall be punished with fine which shall not be less than five hundred rupees and which may extend to one thousand rupees.] 1. Substituted by U.P. Act 9 of 1978, Section 12 (w.e.f. 24-4-1978). 2. Substituted by U.P. Act 16 of 1997, Section 8, for the words "brewery". 3. Inserted by U.P. Act 13 of 1979 (w.e.f. 16-8-1978).

60A. Penalty for use of place for commission of an offence respecting Cocaine :-

Omitted by Imperial Act II of 1930].

60B. Security for abstaining from cocaine offences :-

Omitted by Imperial Act II of 1930].

61. Penalty for unlawful selling to persons under twenty-one or employing persons under twenty-one, or women :-

1[If any licensed vendor, or any person in his employ and acting on his behalf-- (a) in contravention of Section 22 sells or delivers any liquor or intoxicant drug to any person apparently under the age of 1[twenty-one] years; or (b) in contravention of Section 23 employs, permits to be employed on any part of his licensed premises referred to in that section, any person under the age of 1[twenty-one] years or any woman; he shall be punished with fine which may extend to one thousand rupees. 1. Substituted by U.P. Act 9 of 1978, Section 13 (w.e.f. 24-4-1978).

62. Penalty for rendering denatured spirit fit for human consumption :-

1[Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in India or not, which has been denatured, or has in his possession any denatured spirit which has been rendered fit for human consumption or in respect of which any attempt has been made to render it so fit shall be punished with imprisonment for a term which shall not be less than six months and which may extend to three years, and shall also be liable to fine which may extend to five thousand rupees. Explanation.--For the purposes of this section, it shall be presumed that any spirit which is proved to contain any quantity of any denaturant is, or contains or has been derived from denatured spirit] 1. Substituted by U.P. Act 9 of 1978, Section 14 (w.e.f. 24-4-1978).

63. Penalty for possession of intoxicant unlawfully imported, etc. :-

Whoever, without lawful authority, has in his possession any quantity of any intoxicant knowing them same to have been unlawfully imported, transported or manufactured or knowing the prescribed duty not to have been paid thereon, shall be punished with imprisonment for a term which may extend to 1[one year] or with fine which may extend to 3[five thousand] rupees or with both. 1. Substituted by U.P. Act 9 of 1978, Section 15 (w.e.f. 24-4-1978).

64. Penalty of certain acts by licensee or his servant :-

1[Whoever, being the holder of a licence, permit or pass granted under this Art, or being in the employ of such holder and acting on his behalf-- (a) fails to produce such licence, permit or pass on the demand of any Excise Officer or any other person duly empowered to make such demand; or (b) wilfully does or omits to do, anything in breach of any of the conditions of licence, permit or pass not otherwise provided for in this Act; or (c) save in case provided for by Section 60, wilfully contravenes any rule made under Section 40; shall for each such offence, be punished with fine which may extend to two thousand rupees]. 1. Substituted by U.P. Act 9 of 1978, Section 16 (w.e.f. 24-4-1978).

64A. Penalty for adulteration etc. by licensed vendor or manufacturer :-

1[(1) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act or a person on the employ of such holder, mixes or permits to be mixed with the intoxicant 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 any article prohibited by any rule made under this Act, when such mixture does not amount to an offence of adulteration under Section 272 of the Indian Penal Code, shall be punished with imprisonment for a term which shall not be less than six months and which may extend to three years and also with fine which shall not be less than one thousand rupees and which may extend to two thousand rupees. (2) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder sells or keeps or exposes for sale, as foreign liquor, liquor which he knows or has reason to believe to be country liquor, shall be punished with imprisonment for a term which may extend to three years and with

fine which may extend to two thousand rupees : Provided that the punishment shall not be less than-- (i) imprisonment for three months and fine of two hundred rupees for the first offence, and (ii) imprisonment for six months and fine of five hundred rupees for each of the second and subsequent offences. 1. Inserted by ibid, Section 17.

65. Penalty for consumption in chemists shop, etc. :-

1[(1) If any chemists, druggists, apothecary or keeper of dispensary allows any intoxicant which has not been bona fide medicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, he shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both. (2) If any person not employed as aforesaid consumes any such intoxicant on such premises, he shall be punished with fine which may extend to five hundred rupees.] 1. Substituted by U.P. Act 23 of 1970, Section 8.

66. Penalty for excise officer refusing to do duty :-

Any excise officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his superior officer two months notice in writing of his intention to do so, shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

67. Penalty for excise officer making vexatious search, etc. :-

If any excise officer-- (a) without reasonable grounds of suspicion enters, inspects or searches, or causes to be entered, inspected or searched, any place; or (b) vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any articles liable to confiscation under this Act; or (c) vexatiously and unnecessarily detains, searches or arrests any person; he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

68. Penalty for offences not otherwise provided for :-

1[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 for in this

Act, shall be punished for each such act or omission with fine which may extend to five hundred rupees.] 1. Substituted by UP. Act 23 of 1970, Section 9.

69. Enhanced punishment after previous conviction :-

1[If any person, after having been previously convicted of an offence punishable under Section 60, Section 62, Section 63 or Section 65 or under the provisions of those sections as they stood from time to time subsequently commits and is convicted of an offence punishable under any of these sections, he shall be liable to twice the punishment which may be imposed on a first conviction under this Act : Provided that in the case of conviction for a second or subsequent offence under sub-section (1) of Section 60, Section 63 or Section 65 a sentence of imprisonment for a term of not less than three months, with fine, and in the case of conviction for a second or subsequent offence under sub-section (2) of Section 60 or Section 62 a sentence of imprisonment for a term of not less than one year with fine, shall be passed : Provided further that nothing in this section shall prevent any offence that might otherwise have been tried summarily under Chapter XXI of the Code of Criminal Procedure, 1973 from being so tried]. 1. Substituted by U.P. Act 9 of 1978, Section 18 (w.e.f. 24-4-1978).

69A. Demand for security for abstaining from commission of certain offences :-

1[(1) Whenever any person is convicted of an offence punishable under the provisions of 2[clause (b), clause (d) or clause (e), clause (g) of sub-section (1) or of sub-section (2) of Section 60 or Section 62] the court convicting 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 any offence punishable under the said provisions during such period not exceeding three years as it may direct. (2) The provisions of the Code of Criminal Procedure, 1973, shall mutatis mutandis 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 the said Code. 1. Substituted by U.P. Act 23 of 1970, Section 11. 2. Substituted by U.P. Act 9 of 1978, Section 19 (w.e.f. 24-4-1978).

69B. Penalty for abetment :-

1[Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed in consequence of such abetment and notwithstanding anything contained in Section

116 of the Indian Penal Code, be punished on conviction for such abetment with the same punishment as is provided for the principal offence.] 1. Substituted by U.P. Act 23 of 1970, Section 11

69C. Offence by companies :-

1[(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of its business, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance, of or is attributable to any neglect on the part of, any director, manager, secretary, managing agent, secretaries and treasurers, or other officer of the company, such director, manager, secretary or managing agents, secretaries and treasurers, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.--For the purposes of this section-- (a) company means any body corporate and includes a firm or other association of individuals; and (b) director in relation to a firm, means a partner in the firm.] 1. Substituted by U.P. Act 23 of 1970, Section 11.

70. Cognizance of offence :-

(1) No Magistrate shall take cognizance-- (a) of an offence punishable under Section 60, 1[Section 63, Section 64-A] or Section 65, except on his own knowledge or suspicion or on the complaint or report of an Excise Officer; or (b) of an offence punishable under Section 64, Section 66, Section 67 or Section 68 except on the complaint or report of the Collector or an Excise Officer authorised by him by a general or special order in that behalf. (2) Except with the special sanction of the State Government no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed. 1. Substituted by U.P. Act 9 of 1978, Section 20 (w.e.f. 24-4-1978).

71. Presumption as to commission of offence in certain cases :-

In every prosecution under Section 60 it shall be presumed, until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of-- (a) any intoxicant; or (b) any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant other than Tari; or (c) any materials which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured; for the possession of which he is unable to account satisfactorily, and the holder of a licence, permit or pass under this Act shall be liable to punishment, as well as the actual offender, for any offence punishable under Section 60, Section 62, Section 63, or Section 64 committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence : Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

71A. Provisions regarding pardon, etc. to apply to offences under the Act :-

1[The provisions of Sections 306 and 308 of the Code of Criminal Procedure, 1973 shall apply in relation to offences punishable under this Act as they apply in relation to offences mentioned in Section 306 of the said Code]. 1. Substituted by U.P. Act 9 of 1978, Section 21 (w.e.f. 24-4-1978).

72. What things are liable to confiscation :-

(1) Whenever an offence punishable under this Act has been committed-- (a) every intoxicant in respect of which such offence has been committed; (b) every still, utensil, implement or apparatus and all materials by means of which such offence has been committed; (c) every intoxicant lawfully imported, transported, manufactured, held in possession or sold along with or in addition to any intoxicant liable to confiscation under clause (a); (d) every receptacle, package and covering in which any intoxicant as aforesaid or any materials, still, utensil, implement or apparatus is or are found, together with the other contents (if any) of such receptacle or package; and (e) every animal, cart, vessel or other conveyance used in carrying such receptacle or package; shall be liable to confiscation. 1[(2) Where anything or animal is seized under any provision of this Act and the Collector is satisfied for

reasons to be recorded that an offence has been committed due to which such thing or animal has become liable to confiscation under sub-section (1), he may order confiscation of such thing or animal whether or not a prosecution for such offence has been instituted : Provided that in the case of anything (except an intoxicant) or animal referred to in sub-section (1), the owner thereof shall be given an option to pay in lieu of its confiscation such fine as the Collector thinks adequate not exceeding its market value on the date of its seizure. (3) Where the Collector on receiving report of seizure or on inspection of the seized things, including any animal, cart, vessel or other conveyance, is of the opinion that any such things or animal is subject to speedy wear and tear or natural decay or it is otherwise expedient in the public interest so to do, he may order such things (except an intoxicant) or animal to be sold at the market price by auction or otherwise. (4) Where any such things or animal is sold as aforesaid, and-- (a) no order of confiscation is ultimately passed or maintained by the Collector under sub-section (2) or on review under sub-section (6); or (b) an order passed on appeal under sub-section (7) so requires; or (c) in the case of a prosecution being instituted for the offence in respect of which the thing or the animal is seized, the order of the court so requires; the sale proceeds after deducting the expenses of the sale shall be paid to the person found entitled thereto. (5) (a) No order of confiscation under this section shall be made unless the owner thereof or the person from whom it is seized is given-- (i) a notice in writing informing him of the grounds on which such confiscation is proposed; (ii) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice; and (iii) a reasonable opportunity of being heard in the matter. (b) Without prejudice to the provisions of clause (a), no order confiscating any animal, cart, vessel, or other conveyance shall be made if the owner thereof proves to satisfaction of the Collector that it was used in carrying the contraband goods without the knowledge or connivance of the owner, his agent, if any, and the person in-charge of the animal, cart, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use. (6) Where on an application in that behalf being made to Collector within one month from any order of confiscation made under sub-section (2), or as the case may be, after issuing notice on his own motion within one month from the order under the sub-section refusing confiscation to the owner of the thing or animal seized or to the person from

whose possession it was seized to show cause why the order should not be reviewed, and after giving him a reasonable opportunity of being heard, the Collector is satisfied that the order suffers from the mistake apparent on the face of the record including any mistake of law, he may pass such order on review as he thinks fit. (7) Any person aggrieved by an order of the confiscation under subsection (2) or sub-section (6) may, within one month from the date of the communication to him of such order, appeal to such judicial authority as the State Government may appoint in this behalf and the judicial authority shall, after giving opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against. (8) Where a prosecution is instituted for the offence in relation to which such confiscation was ordered the thing or animal shall be subject to the provisions of sub-section (4) be disposed of in accordance with the order of the Court. (9) No order of confiscation made by the Collector under this section shall prevent the infliction of any punishment to which the person affected thereby may be liable under this Act.] 1. Substituted by U.P. Act 13 of 1979, Section 7 (w.e.f. 18-4-1979).

73. Further provisions for confiscation :-

When anything mentioned in clauses (a) and (b) of Section 72, sub-section (1) is, found in circumstances which afford reason for believing that an offence punishable under this Act has been committed in respect or by means thereof, or when such an offence has been committed and the offender is not known or cannot be found, the Collector may order confiscation of such things and of any other thing or animal found or used therewith which is liable to confiscation as provided by Section 72, sub-section (1) : 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 the evidence (if any) which he produces in support of his claim : Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale of the thing or animal in question would be for the benefit of its owner, the Collector 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.

73A. Order for destroying confiscated intoxicant :-

1[Where any intoxicant is confiscated under Section 72 or Section

73 the Collector may subject to any order passed in that behalf by any court if in his opinion it is expedient to do so, order the intoxicant to be destroyed anything to the contrary in this Act notwithstanding : Provided that the intoxicant shall not be destroyed except after expiration of three months from the date of confiscation or where an application for review or an appeal against the order of confiscation is pending except in accordance with the order passed in such review or appeal in this regard : Provided further that adequate sample of the intoxicant shall be preserved to meet the evidentiary requirements.] 1. Inserted by U.P. Act 13 of 1979 (w.e.f. 18-4-1979).

74. Compounding of offences :-

2[(1) Any Excise Officer specially empowered by the State Government in that behalf may accept from any person whose licence, permit or pass is liable to be cancelled or suspended under Section 34 or who is reasonably suspected of having committed an offence punishable under Section 64 or Section 68, a sum of money exceeding five thousand rupees in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be, and in all cases in which any property has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof (as estimated by such officer). 1[(1-A) Any officer specially empowered by State Government in that behalf may subject to any general or special order of the State Government compound, whether before or after the institution of the prosecution, any offence punishable under clause (a) of sub-section (1) of Section 60 or Section 63, where the quantity of the intoxicant involved does not exceed the quantity notified by the State Government in that behalf, or any offence punishable under sub-section (3) of Section 60, on payment of such sum of money as composition fee as he thinks fit, which shall not be less than fifty rupees and which may extend to three hundred rupees, where any such offence is committed by a person for the first time.] (2) On the payment by such person of such sum of money of such value or both, as the case may be, such person, if in custody, shall be set at liberty and all the property seized may be released and no proceeding shall be instituted or continued against such person in any criminal court. The acceptance of such sum of money by way of composition shall be deemed to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with

reference to same act. 1. Inserted by U.P. Act 13 of 1979 (w.e.f. 18-4-1979). 2. Substituted by U.P. Act 9 of 1978, Section 22 (w.e.f. 24-4-1978).

74A. Imposition of penalty :-

1[(1) If a holder of a licence, permit or pass granted under this Act or an employee of such holder contravenes any of the conditions of the licence, permit or pass or any rule made under this Act any Excise Officer authorised by State Government in this behalf may impose a penalty not exceeding five thousand rupees. (2) No order imposing a penalty shall be made under sub-section (1) unless the holder of the licence, permit or pass or the employee concerned is given-- (a) a notice in writing informing him of the grounds on which it is proposed to proceed under this section; (b) a reasonable opportunity of making a representation in writing, within such time as may be specified in the notice, against such grounds; and (c) a reasonable opportunity of being heard in the matter. (3) No person on whom a penalty is imposed under sub-section (1) shall be liable to prosecution in respect of any offence under this Act on the same facts.] 1. Substituted by U.P. Act 9 of 1978, Section 22 (w.e.f. 24-4-1978).

CHAPTER 12

MISCELLANEOUS

75. Exception of medicated articles :-

Nothing in the foregoing provisions of this Act applies to the import, manufacture, possession, sale or supply of any bona fide medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries, except in so far as the State Government may by notification so directed.

76. Power of State Government to exempt persons and intoxicants from the provisions of this Act :-

The State Government may, by notification and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons, or any intoxicant, wholly or partly from the operation of all or any of the provisions of this Act or of all or any of the rules made under this Act, either throughout Uttar Pradesh or in any specified area comprised therein or for any specified period, or occasion.

77. Publication of rules and notifications :-

All rules made and notifications issued under the Act shall be published in the Official Gazette, and shall have effect as if enacted

in this Act from the date of such publication or from such other date as may be specified in that behalf : 1[Provided that notwithstanding anything to the contrary contained in this section or in any judgment, decree or order, the Notification Nos. 3514-E/XIII-331-78 and 1227-E/XIII-332-78, both dated April 17, 1978, made by the State Government in exercise of the powers under Sections 28 and 29 of the amendments made by the aforesaid notifications shall have effect and be deemed always to have effect on and from April 1, 1978 :] 2[Provided further that notwithstanding anything to the contrary contained in this section, or in any contract, judgment, decree or order, the Notification No. 3842-E/XIII-512-83, dated May 25, 1983, made by the State Government in exercise of the powers under Section 30 shall have effect and be deemed always to have effect on and from April 1, 1983 :] 1. Inserted by U.P. Act 13 of 1979 (w.e.f. 30-11-1978). 2. Inserted by U.P. Act 23 of 1984, Section 2 (w.e.f. 1-4-1984).

78. 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 ordered to be done, in pursuance of this Act or of any other law for the time being in force relating to the excise revenue. Limitation of suits.--(2) No Civil Court shall try any suit which may lawfully be brought against the Government in respect of anything done, or alleged to have been done, in pursuance of this Act, unless the suit is instituted within six months after the date of the act complained of.

79. Power of Excise Commissioner, exercisable from time to time :-

Any power conferred by this Act on the Excise Commissioner may be exercised from time to time as occasion requires.

SCHEDULE 1

Enactments Repealed

(See Section 2)

Year Number Short title Extent of repeal

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL

1863 XVII The Excise (Spirits) Act, 1863 The whole so far as it affects the Uttar Pradesh.

1894 VIII The Indian Tariff Act, 1894 Section 6 so far as it affects the Uttar Pradesh.

1896 XII The Excise Act, 1896 The whole so far as it affects the Uttar Pradesh.

1906 VII The Excise (Amendment) Act, 1906 Ditto.