

Mizoram Excise Act, 1973

Act No. 7 of 1974

ner433

[Received the assent of the President on 17th April, 1974]

An Act to control the import, export, transport, manufacture, sale and possession of alcoholic liquor and intoxicating drugs and to provide for the imposition of duty of excise thereon in the Union Territory of Mizoram, and for matters connected therewith.

Be it enacted by the Legislature Assembly of Mizoram in the Twenty-fourth Year of the Republic of India as follows :

CHAPTER I

Preliminary

1. **Short title, extent and commencement.**- (1) This Act may be called the Mizoram Excise Act, 1973.

(2) It extends to the whole of the Union territory of Mizoram.

(3) It shall come into force on such date as the Administrator may, by notification in the official Gazette, appoint in this behalf.

2. **Definitions.**- In this Act, unless the context otherwise requires-

(1) "*Administration of Justice Rules*" means the "Rules for the regulation of the procedure of officers appointed to administer justice in the Lushai Hills" made by the Governor of Assam under Section 6 of the Scheduled Districts Act, 1874;

(2) "*Administrator*" means the Administrator of the Union territory of Mizoram appointed by the President under Article 239 of the Constitution;

(3) "*Beer*" includes ale, stout, port, and all other fermented liquor usually made from malt;

(4) "*to bottle*" means to transfer liquor from a cask or other vessel to a bottle or other receptacle, whether any process of rectification be employed or not, and includes rebottling;

(5) "*Club*" means a society of persons associated together for social intercourse, for the promotion

of politics, sports, art, science, or literature or for any purpose except the acquisition of gain and whether the same be registered under the Companies Act, 1956, the Co-operative Societies Act, 1912 or under any Act relating to co-operative societies in force in any State, or the Societies Registration Act, 1860, or otherwise incorporated or not;

(6) "*Collector*" includes a Deputy Commissioner and any officer whom the Administrator may, by notification, appoint or declare to be a Collector for the purpose of any provision of this Act;

(7) "*denaturant*" means any substance prescribed for a mixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally, as a medicine;

(8) "*to denature*" means to mix spirit with one or more denaturants in such manner as may be prescribed under Clause (1) of sub-section (2) of Section 76 and 'denatured spirits' means spirits so mixed;

(9) "*Deputy Commissioner*" means the Chief Officer-in-charge of the administration of a district;

(10) "*duty*" or "*countervailing duty*" means the duty of Excise or countervailing duty, as the case may be, mentioned in entry 51 in List II of the Seventh Schedule to the Constitution;

(11) "*Excisable article*" means-

(a) any alcoholic liquor for human consumption, not being a medicinal preparation or a toilet preparation under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955; or

(b) any intoxicating drug;

(12) "*Excise Commissioner*" means the officer appointed by the Administrator under Clause (a) of sub-section (2) of Section 6;

(13) "*Excise Officer*" means a Collector or any officer or other person appointed or invested with powers under Section 6;

(14) "*Excise revenue*" means revenue derived or derivable from any duty, fee, tax, penalty, payment (not being a fine imposed by a court of law) or confiscation imposed, made or ordered under any provision of this Act, or of any other law for the time being in force relating to alcoholic liquor or intoxicating drugs;

(15) "*export*" means to take out of the territory to which this Act applies otherwise than across a customs frontier as defined by the Central Government;

(16) "*Government*" means the Government of the Union territory of Mizoram;

(17) "*holder of a licence*" includes a person whose bid, tender or application for a licence has been accepted by the Excise Officer empowered to grant such licence, although such person may not in fact have received the licence;

(18) "*import*" (except in the phrase 'import to India') means to bring into the territory to which this Act 'applies otherwise than across a customs frontier as defined by the Central Government';

(19) "*intoxicant*" means any liquor or intoxicating drug but does not include a medicinal preparation or a toilet preparation under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (Central Act 16 of 1955);

(20) "*intoxicating drugs*" 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) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

(iii) any other intoxicating or narcotic substance which the Administrator may, by notification, declare to be intoxicating drug, such substance not being opium, coca leaf or a manufactured drug, as defined in Section 5 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930);

(21) "*liquor*" means intoxicating liquor and includes Zu, Rakzu, all liquid consisting of or containing alcohol and any substance which the Administrator may by notification, declare to be liquor for the purposes of this Act but does not include to be medicinal preparation or toilet preparation under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;

(22) "*Magistrate*" means the Deputy Commissioner or any Assistant to the Deputy Commissioner who has been empowered under the Administration of Justice Rules to administer criminal justice in the Union territory;

(23) "*manufacture*" includes every process, whether natural or artificial, by which any intoxicant is produced, redistillation and every process for the rectification, flavouring, blending to colouring of liquor;

(24) "*notification*" means a notification published in the Official Gazette;

(25) "*place*" includes a house, building, shop, tent, vessel, raft and vehicles;

(26) "*prescribed*" means prescribed by rules made under this Act :

(27) "sale" includes any transfer otherwise than by way of gift;

(28) "spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not and includes 'Rakzu';

(29) "transport" means to move from one place to another within the territory to which this Act applies;

(30) "Union territory" means the Union territory of Mizoram;

(31) "zu" means any rice, millet or other grain fermented naturally from itself or with some foreign or artificial substance, whether mixed with any liquid or not, and any liquid obtained therefrom, whether diluted or undiluted, but does not include beer.

3. **Power to declare foreign liquor.**- The Administrator may, by notification, declare beer, brandy, whisky, gin, rum, milk punch, wines and such other liquor as foreign liquor for the purposes of this Act:

Provided that where the interests of any State may be affected, no such declaration shall be made except after obtaining the previous sanction of the Central Government.

4. **Wholesale and retail sale.**- The Administrator may, by notification, declare with respect either to the whole of the territory to which this Act applies or to any local area comprised therein, and as regards purchasers generally or any specified class of purchasers and generally or for any specified occasion, with quantity of any intoxicant shall, for the purposes of this Act, be the limit of sale by retail and of sale by wholesale, respectively.
5. **Saving of certain enactments.**- Nothing contained in this Act shall affect the provisions of the Cantonments Act, 1924, the Customs Act, 1962 or the Indian Tariff Act, 1934 or any rule or order made under any of the said Acts.

CHAPTER II

Establishment and Control

6. **Appointment of officers and the conferment, withdrawal and delegation of powers.**-

(1) Within a district, the administration of the Excise Department and the collection of excise revenue shall be under the charge of the Deputy Commissioner.

(2) The Administrator may, by notification applicable to the whole of the territory to which this Act applies or to any district or local area comprised therein-

(a) appoint an officer who shall, subject to the control of the Administrator, have the control of the

administration of the Excise Department and of the collection of the Excise revenue;

(b) appoint any person other than the Deputy Commissioner who shall, subject to the control of the Deputy Commissioner, exercise all or any of the powers and perform all or any of the duties of a Collector under this Act or any other law of the time being in force relating to the Excise revenue;

(c) appoint officers of the Excise Department of such classes and with such designation, powers and duties under this Act as the Administrator may think fit;

(d) order that all or any of the powers and duties assigned to any officer under Clause (c) shall be exercised and performed by any officer of the Government or any other person;

(e) withdraw from any officer or person referred to in Clause (c) or Clause (d) all or any of his powers or duties under this Act;

(f) delegate to the Excise Commissioner, Collectors and to any subordinate officer, subject to such conditions and restrictions as may be prescribed by any rule made under Clause (a) of sub-section (2) of Section 76 any power conferred upon, or exercised in respect of the Excise revenue by the Administrator, the Excise Commissioner and Collectors, respectively by or under the provisions of this Act.

7. **Appeals.**- (1) Any person aggrieved by any order under this Act or any rule made thereunder passed by any officer, other than the Excise Commissioner, may, within such time and in such manner as may be prescribed, appeal to the Excise Commissioner.

(2) Any person aggrieved by any order passed under this Act or any rule made thereunder by the Excise Commissioner may, within such time and in such manner as may be prescribed, appeal to the Administrator.

8. **Revision.**- The Administrator may, either on his own motion or on an application of any person aggrieved by any decision or order passed under this Act or any rule made thereunder, made within six months from the date of communication of the applicant of the decision or order against which the application is made call for and examine the records of any proceedings (including those relating to the grant or refusal of a licence, permit or pass)-

(a) from which no appeal lies under this Act; or

(b) from which an appeal lies but no appeal has been preferred within the time prescribed; or

(c) from which an appeal has been preferred but such appeal has been disposed of, for the purpose of signifying himself as to the correctness, legality or propriety of any decision or order

passed and if in any case it appears to him that such decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass such orders thereon as he may deem fit:

Provided that no decision or order, adversely affecting any party shall be passed under this section unless he has been given an opportunity of making his representation.

CHAPTER III

Import, Export and Transport

9. **Restriction on import.**- (1) No intoxicant shall be imported unless-

(a) the duty, if any, payable under Chapter V has been paid or a bond has been executed for the payment thereof; and

(b) such conditions, if any, relating to payment of duty, licence, or requirements of public health as the Administrator may impose have been satisfied.

(2) The provisions of sub-section (1) shall not apply to any article which has been imported into India and was liable, on such importation, to duty under the Customs Act, 1962 :

Provided that the provisions of Clause (b) of sub-section (1) shall not apply to any liquor manufactured in India and declared under Section 3 to be foreign liquor.

10. **Restriction on export and transport.**- No intoxicant shall be exported or transported unless the duty, if any, payable under Chapter V has been paid :

Provided that the Administrator may, subject to the conditions as he thinks fit to impose, exempt any, intoxicant from the provisions of this section.

11. **Prohibition of import, export or transport.**- The Administrator may with the view to enforcing a policy of prohibition or for purposes of public health, by notification-

(a) prohibit the import or export of any intoxicant into or from the territory to which this Act applies or any part thereof; or

(b) prohibit the transport of any intoxicant.

12. **Passes for import, export or transport.**- No intoxicant, exceeding such quantity as the Administrator may by notification, specify either generally for the whole of the territory to which this Act applies 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.

13. **Grant of passes.**- (1) A pass for the import, export or transport of intoxicants may be issued by the Collector or by any officer specially authorized by the Excise Commissioner in that behalf.

(2) A pass issued under sub-section (1) may be either general for definite period and specified kinds of intoxicants, or special only for specified occasions and particular consignment.

(3) A pass under Section 12 or under sub-section (1) may be issued only for the purposes of imposing and collecting duty or ensuring conformity with licence requirements and any other requirements under this Act.

CHAPTER IV

Manufacture, Possession and Sale

14. **Prohibition of manufacture, import, etc., of Charas.**- (1) No person shall manufacture, import, export, transport, possess or sell charas (Cannabis Resin).

(2) If any person contravenes the provisions of sub-section (1), he shall be punished with imprisonment for a term which may extend to five years and also with fine.

15. **Manufacture and preparations for manufacture permitted only under licence.**- Except under the authority and in accordance with terms and conditions of a licence granted in that behalf by the Collector or by the Excise Commissioner-

(a) no intoxicant shall be manufactured;

(b) no hemp plant (Cannabis Sativa L.) shall be cultivated or collected;

(c) no liquor shall be bottled for sale;

(d) no distillery or brewery shall be constructed or worked; and

(e) no person shall use, keep or have in his possession and materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant.

16. **Establishment or licensing of distilleries, breweries and warehouses.**- The Excise Commissioner, with the sanction of the Administrator may-

(a) establish a distillery in which spirit may be manufactured under a licence granted under Section

15 on such conditions as the Administrator may impose;

(b) discontinue any distillery so established;

(c) license on such conditions, as the Administrator may impose, the construction and working of a distillery or brewery;

(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.

17. Limits of possession with exceptions and prohibitions in special cases.- (1) No person shall have in his possession any quantity of any intoxicant in excess of such quantity as the Administrator may, under Section 4 declare to be the limit of sale by retail, except under the authority and in accordance with the terms and conditions of-

(i) a licence for the manufacture, sale or supply of such article; or

(ii) in the case of intoxicating drugs a licence for the cultivation or collection of the plants from which such drugs were produced; or

(iii) a permit granted by the Collector in that behalf.

(2) Nothing in sub-section (1) shall apply to-

(a) any foreign liquor other than denatured spirit in the possession of any common carrier or warehouseman as such; or

(b) any foreign liquor lawfully procured by, and in the possession of any person for his own *bona fide* private consumption and not for sale.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Administrator may, by notification, prohibit the possession by any person or class of persons either throughout the whole of the territory to which this Act applies or in any local area, place or class of places comprised therein of any intoxicant either absolutely or subject to such conditions as he may prescribe.

18. Prohibition of sale without licence and the exceptions to such prohibition.- (1) No intoxicant shall be sold except under the authority and in accordance with the terms and conditions of a licence granted by the Collector or the Excise Commissioner in that behalf:

Provided that-

(a) a licence for sale of intoxicants in more than one districts shall be granted only by the Excise Commissioner or by a Collector specially authorised by the Excise Commissioner in this behalf with the prior approval of the Administrator;

(b) on such conditions as may be determined by the Administrator, a licence granted under the Excise Law in force in another State for sale of intoxicants may be deemed to be a licence granted under this Act;

(c) a person licensed to cultivate or collect plant from which an intoxicating drug is produced may sell without a licence those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to deal in the same, or to any officer whom the Excise Commissioner may specify;

(d) nothing in this section shall apply to the sale of any foreign liquor lawfully produced by any person for his private use and sold by him on his behalf or on behalf of his representative in interest upon his quitting a station or after his decease.

(2) Any club which has transactions with its members in respect of foreign liquor shall be deemed to be conducting retail sales and shall be required to take out a licence under this Act on payment of such fees and subject to such restrictions and on such conditions as may be prescribed.

19. Exclusive privilege of manufacture and supply.- (1) The Administrator may grant to any person, on such conditions and for such period as he may think fit, the exclusive privilege of manufacturing or of supplying or of both to the licensed vendors any country liquor or intoxicating drug within any specified local area.

(2) No grantee of any executive privilege under this section shall exercise the same until he has received a licence in that behalf from the Excise Commissioner.

20. Manufacture and sale in cantonment.- Within the limits of any military cantonment, no licence for the manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

CHAPTER V

Duties and Fees

21. Levy of duty.- (1) There shall be levied and collected at such rates and in such manner as may be prescribed, not exceeding rates set forth in Part A of the First Schedule appended to this Act, a duty of excise on any excisable articles manufactured in or brought into the Union territory.

(2) The Administrator may, by notification, levy a countervailing duty on any excisable article manufactured or produced elsewhere in India and imported into the Union territory at such rates as may be specified in the notification, which shall not exceed the rates of duty on similar excisable articles under sub-section (1).

(3) Different rates may be specified under sub-section (1) or sub-section (2) for different kinds of excisable articles according to the places to which excisable articles are to be removed for consumption, or according to the strength and quality of any such article or for different modes of levying duties under Section 22.

(4) The provisions of this section shall not apply to any article which has been imported into India and was liable, on such importation, to duty under the Customs Act, 1962.

22. Method of levy of duty.- Subject to such rules regulating the time, place and manner of the levy and collection of duty as may be prescribed, any duty imposed under Section 21 may be levied-

(a) in the case of excisable articles imported-

(i) either into the territory to which this Act applies or in the State or territory from which the article is imported; or

(ii) upon issue for sale from a warehouse established or licensed under clause (d) of Section 16 :

(b) in the case of excisable articles exported from the territory to which this Act applies;

(c) in the case of excisable articles transported-

(i) either into the territory to which this Act applies; or

(ii) upon issue for sale from a warehouse established or licensed under clause (d) of Section 16;

(d) in the case of intoxicating drugs-

(i) at a rate assessed on the area covered by a licence granted under the provisions of clause (b) of Section 15, or on the quantity or out-turn of the crop, cultivated or collected under such licence; or

(ii) at a rate charged upon a quantity produced or manufactured under a licence granted under the provisions of clause (a) of Section 15, or issued from a warehouse established or licensed under clause (d) of Section 16;

(e) in the case of spirit or beer manufactured in any distillery or brewery established or licensed

under Section 16-

(i) at a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under clause (d) of Section 16; or

(ii) at a rate charged in accordance with such scale or equivalents calculated on the quantity of materials, used or by the degree of attenuation of the wash of wort, as the case may be, as the Administrator may prescribe :

Provided that where payment is made upon the issue of an excisable article for sale from a warehouse established or licensed under clause (b) of Section 16, it shall be at the rate of duty in force in respect of such article on the date of issue from such warehouse.

23. **Payment for grant of exclusive privileges.**- Instead of or in addition to any duty leviable under this Chapter, the Administrator may accept payment of a sum not exceeding twenty-five thousand rupees in consideration of the grant of any exclusive privilege under Section 19.

CHAPTER VI

Licences, Permits and Passes

24. **Forms and conditions of licences, etc.**- Every licence, permit or pass under this Act shall be granted-

- (a) by such officer;
- (b) for such period;
- (c) subject to such conditions or restrictions; and
- (d) in such form and in such particulars;

as may be prescribed :

Provided that a licence shall be granted on payment of the fees specified in Part B of the First Schedule appended to this Act:

Provided further that no fee shall be charged for any permit granted under Section 17 for the possession of an intoxicant for *bona fide* private consumption or use for any pass granted under this Act.

25. **Agreement.**- Every person taking out a licence under this Act may be required to execute an agreement in conformity with the tenor of his licence, and to give such security, by way of deposit or otherwise, for the performance of his agreement as the authority granting the licence may require .
26. **Technical defects, irregularities and omissions.**- 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 any proceedings taken prior to the grant thereof.
27. **Ascertainment of local opinion.**- Before licences are granted in any year for the retail sale of any intoxicant the Collector shall take such measures, in such manner as may be prescribed, as may best enable him to ascertain local public opinion in regard to the licensing and location of shops.
28. **Cancellation or suspension of licences, etc., in certain cases.**- (1) Subject to such restrictions, as may be prescribed, the authority which granted any licence, permit or pass under this Act, may cancel or suspend the same-

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

(b) in the event of any breach by the holder thereof or by 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-cognizable offence or of any offence punishable under the Dangerous Drugs Act, 1930 or under Sections 482 to 489 of the Indian Penal Code; or

(d) if the holder thereof is convicted of any offence punishable under Section 112 or Section 114 of the Customs Act, 1962; or

(e) at will, if the conditions of the licence, permit or pass provided for such cancellation or suspension.

(2) When a licence, permit or pass held by any person is cancelled under Clause (a), Clause (b), Clause (c) or Clause (d) of sub-section (1), the authority aforesaid, if subordinate to, or subject to the control of, the Deputy Commissioner may, with the sanction of the Deputy Commissioner, or, if himself the Deputy Commissioner, with the sanction of the Excise Commissioner, cancel any other licence, permit or pass granted to such person within the same district under this Act or under any other law for the time being in force relating to Excise revenue or under the Opium Act, 1878 and the Excise Commissioner may cancel any such licence, permit or pass granted to such person in any district to which this Act applies.

(3) No licence, permit or pass shall be cancelled or suspended under sub-section (1) or sub-section

(2) except after giving to the holder thereof a reasonable opportunity of showing cause against the proposed action.

(4) The holder of a licence, permit or pass shall not be entitled to any compensation for the cancellation or suspension of his licence, permit or pass under this section or to the refund of any fee paid or deposit made in respect thereof:

Provided that in case of hardship the Excise Commissioner may grant such payment of compensation or refund of fee or deposit as he may consider necessary.

29. **Cancellation of licences in other cases.**- (1) Whenever the authority referred to in Section 28, considers that a licence should be cancelled otherwise than under the provisions of that section, 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:

Provided that no licence under this sub-section shall be cancelled except after giving the holder thereof a reasonable opportunity of showing cause against the proposed action.

(2) If any licence be cancelled under clause (b) of sub-section (1), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum by way of compensation as the Excise Commissioner may direct.

(3) When a licence is cancelled under this sub-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 Government.

30. **Surrender of licence.**- Any holder of a licence granted under this Act to sell an intoxicant may surrender his licence on the expiration of one month's 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 the 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 a licence, he may remit to the holder thereof the sum so payable on surrender and any fee paid in advance or any portion of such sum or fee :

Provided further that nothing in this section shall apply in the case of a licence held by the grantee of an exclusive privilege under Section 19.

31. **No right to renewal.**- No person to whom a licence has been granted under this Act shall have any claim to the renewal of such licence or, save as is provided in Section 29, any claim to compensation on the determination thereof.

CHAPTER VII

Prevention, Detection and Investigation of Offences

32. **Inspection of place of manufacture and sale.**- The Excise Commissioner or a Collector or any Excise or police officer, not below such rank as the Administrator may, by notification specify, may enter into and inspect at any time by day or by night any place in which licensed manufacturer carries on the manufacture of or stores any intoxicant and any place in which any intoxicant is kept for sale by any licensed person and may examine accounts and registers, and examine, test, measure or weigh any measures, weights, testing instruments, materials, stills, utensils, implements, apparatus or intoxicant found in such place.

33. **Arrest, seizure and search without warrant.**- Subject to such restrictions as may be prescribed-

(a) any officer employed in Excise, Police, Salt or Customs Department not below such rank as may be prescribed;

(b) within such areas as the Administrator may, by notification, direct such officers as may be specified in such notification;

(c) any other person duly empowered, and

(d) in any public place, any Excise or police officer-

(i) arrest without warrant any person found committing an offence punishable under Section 43 or Section 49;

(ii) seize, detain and carry away excisable or other articles which he has reason to believe to be liable to confiscation under this Act, and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Indian Opium Act, 1878 or under the Dangerous Drugs Act, 1930; and

(iii) detain and search any person upon whom, and any vessel, craft, vehicle, animal, package, receptacle, or covering in or upon which, he may have reasonable cause to suspect any excisable or other article to be.

34. **Issue of warrants.**- A Collector or Magistrate having reason to believe that an offence

punishable under Section 48, Section 49, Section 50, Section 51, Section 52 or Section 56 has been or likely to be committed may-

(a) issue warrant for the search of any place in which he has reason to believe that any intoxicant, still, utensil, implement, apparatus or materials, in respect of which such offence has been or is likely to be committed, are kept or concealed, and

(b) issue warrant for the arrest of any person whom he has reason to believe to have been or to be likely to be engaged in the commission of any such offence.

35. Search and arrest in presence of Collector or Magistrate.- (1) A Collector or Magistrate may, at any time, search or direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant under Section 34.

(2) A Collector or Magistrate may at any time arrest or direct the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under Section 34.

36. Search, seizure and arrest, following upon entry without warrant in emergent cases.- Any Excise or police officer, not below such rank as the Administrator, may by notification, specify having reason to believe and having recorded the grounds of his belief that an offence under Section 48, Section 49, Section 50, Section 51, Section 52 or Section 56 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 escaping or of concealing evidence of the offence, may at any time by day or night-

(a) enter into and search the place;

(b) seize and carry away anything found therein which he has reason to believe to be liable to confiscation under this Act, and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Opium Act, 1878 or under the Dangerous Drugs Act, 1930; and

(c) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to have committed any such offence as aforesaid.

37. Power to investigate.- (1) A Collector may, without the order of a Magistrate, investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the jurisdiction of such Collector would have power to enquire into or try under the provisions of Chapter XV of the Code of Criminal Procedure, 1898 as applicable to the Union territory under the Administration of Justice Rules, relating to the place of inquiry or trial.

(2) Any other Excise Officer when specially empowered in this behalf by the Administrator in respect of all or any specified class of offences punishable under this Act, may, without the order of Magistrate, investigate any such offence which a Court having jurisdiction over the local area to which such officer is appointed would have power to inquire into or try under the aforesaid provisions.

38. Power of Investigating Officer.- (1) Any Collector or other officer empowered under the provisions of sub-section (2) of Section 37, having recorded in writing his reason for suspecting the commission of an offence which he is empowered to investigate, may exercise the powers, conferred upon a police officer making an investigation or upon an officer-in-charge of a police station by Sections 160 to 171 of the Code of Criminal Procedure, 1898 as applicable to the Union territory under the Administration of Justice Rules, and as regards offences punishable under Section 48, Section 49, Section 50, Section 51, Section 52 or Section 56 of this Act the powers conferred upon such police officers in respect of cognizable offences by the first clause of sub-section (1) of Section 49 and by Section 51 of the said Code.

(2) Subject to such restrictions as may be prescribed, a Collector or, with the previous permission of the Collector but not otherwise, any other officer specially empowered under Section 37 may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any offence which he has investigated.

(3) For the purposes of the provisions of Section 166 of the Code of Criminal Procedure, 1898, as applicable to the Union territory under (he Administration of Justice Rules, the area to which an officer specially empowered under sub-section (2) of section 37 is appointed shall be deemed to be a police station, and such officer, the officer-in-charge of such station.

(4) As soon as an investigation under Section 37 has been completed if it appears that there is a sufficient evidence to justify the forwarding of the accused to a Magistrate, the Investigating Officer, when he does not proceed under sub-section (2) of under Section 71, shall submit a report which for the purposes of Section 190 of the Code of Criminal Procedure, 1898, as applicable to the Union territory under the Administration of Justice Rules, shall be deemed to be a police report, in such form as the Administrator may prescribe to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police report.

39. Production of persons arrested or articles seized.- (1) Articles seized under this Act, and unless security for their appearance before the Collector be taken, persons arrested under the warrant of a Collector, shall be produced before such Collector.

(2) Articles seized under the provisions of Section 33 or Section 36 and persons arrested under the said provisions by persons or officers not empowered to accept bail shall be produced before or

forwarded to-

(a) the Collector or other officer empowered under Section 37 to investigate the case; or

(b) an Excise Officer empowered under Section 44 to accept bail; or

(c) the officer-in-charge of the nearest police station, whoever is nearest.

(3) When a person arrested is produced before an Excise Officer empowered under Section 44 to accept bail or before an officer-in-charge of a police station, such officer shall forward such person to, or take security for his appearance before, the Collector or other officer empowered under Section 37 to investigate the case.

(4) When articles seized under this Act cannot be conveniently conveyed before the officer specified in sub-section (1) or sub-section (2), the person making the seizure shall keep them in some place of safety and forthwith report the seizure to such officer.

40. Police custody of articles seized.- (1) All officers- in-charge of police station shall take charge of and keep in safe custody, pending the orders of a Collector, or other officer empowered under Section 37 to investigate the case, all articles seized under this Act which may be delivered to them, and shall allow any Excise Officer who may accompany such articles to the police station or may be deputed for the purpose by an official superior to affix his seal to such articles and to take samples of and from them.

(2) All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

41. Reports of arrests, seizures and searches.- When an Excise Officer below the rank of Collector or the officer-in-charge of a police station makes or receives information of any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure, or of the information received, to the Collector, and to the other officer, if any, empowered under sub-section (2) of section 37, within the local limits of whose jurisdiction the arrest, seizure, or search was made.

42. Procedure in executing warrants and in making arrests and searches.- (1) Save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898 as applicable to the Union territory under the Administration of Justice Rules, relating to arrests, search, warrants of arrest and searches and warrants shall apply, so far as may be, to like warrants issued and to arrest and searches made under the provisions of this Act.

(2) For the purposes of the aforesaid provisions, a Collector shall be deemed to be a court.

(3) Warrants issued by a Collector shall ordinarily be directed to one or more Excise Officers.

(4) Officers to whom a warrant issued by a Collector is directed or endorsed, and officers other than Collectors making arrest, searches and seizures under Section 33 or Section 36 shall, for the purposes of the provisions of the Code of Criminal Procedure, 1898, as applicable to the Union territory under the Administration of Justice Rules, be deemed to be police officers.

43. **Maximum period of detention.**- No person arrested under the provisions of this Act shall be detained in custody for a longer period than under all the circumstances of the case is reasonable, and such period shall not exceed twenty-four hours, exclusive of time necessary for the journey from the place of arrest to the place where a Collector or other officer empowered under Section 37 to investigate, as the case may be, and thence to the Court of a Magistrate having jurisdiction to inquire into or try the case.

44. **Bail.**- (1) When a Collector issues a warrant for the arrest of any person under this Act, he shall in every such case direct in the manner provided in Section 76 of the Code of Criminal Procedure, 1898, as applicable to the territory under the Administration of Justice Rules that such person shall be released from custody on bail or, if the Collector thinks fit, on his own bond.

(2) When any person is arrested, otherwise than under a warrant, under this Act and is prepared to give bail, he shall be released on bail or, at the discretion of the officer releasing him, on his own bond.

(3) Any Excise Officer, not below such rank as may be prescribed, shall be empowered to accept bail.

(4) If the arrest be made otherwise than under a warrant by a person or officer not empowered to accept bail, and the person arrested is prepared to give bail, the officer or person making the arrest shall, for that purpose, take the person arrested to-

(a) the nearest Excise Officer empowered to accept bail; or

(b) the nearest officer-in-charge of a police station, whoever is nearer.

(5) Bonds taken under this section from the person arrested otherwise than under warrant shall bind such persons to appear before a Collector or other officer empowered under Section 37 to investigate the case.

(6) The provisions of Sections 498 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898 as applicable to the Union Territory under the Administration of Justice Rules shall apply, so far as may be in every case in which bail is accepted or a bond taken under this section.

45. Information and aid to Excise Officers.- Subject to such conditions, if any, as the Administrator may, by notification specify, an officer employed in the Police, Salt or Customs Department, the Circle Inspector, a Village Council Member or an officer whom the Administrator may, by notification, specify within such areas as may be specified in such notification, shall be bound-

(a) to give immediate information to an Excise Officer of all breaches of any of the provisions of this Act which may come to his knowledge; and

(b) to aid any Excise Officer reasonably demanding his aid in the due carrying out of any of the provisions of this Act.

46. Obligation on landholders and others to give information in certain cases.- In such areas as the Administrator may, by notification, direct, and subject to such conditions and exceptions as he may, by notification, specify, whenever any intoxicant is manufactured, or any hemp plant is cultivated or collected on any land, or in any place or village, in contravention of the provisions of the Act, any owner or occupier of such land or place or the agent of such owner or occupier or any Member or Secretary of a Village Council shall, in the absence of reasonable excuse, be bound to give information of the fact to a Collector, to a Magistrate or to an officer of the Excise or Police Department as soon as such fact may come to his knowledge.

47. The closing of retail shops for preservation of the public peace.- (1) The Deputy Commissioner or Sub-divisional Magistrate may, by notice in writing to the licensee, require that any shop in which any intoxicant is sold by retail shall be closed at such time or for such period as such Deputy Commissioner or Sub-divisional Magistrate may deem necessary for the preservation of public peace.

(2) If any riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, any Magistrate or any police officer above the rank of constable who is present, may order the person in charge thereof to keep it closed for such period as the Magistrate or police officer may think necessary:

Provided that no shop shall be kept closed under this sub-section for a longer period than forty-eight hours without the order of a Magistrate.

(3) When any Magistrate or police officer makes a requisition or discretion under sub-section (1) or sub-section (2), he shall forthwith report the fact to the Collector having jurisdiction in the local areas in which the shop is situated.

(4) The Excise Commissioner may grant to the licensee of a shop, kept closed under sub-section (1) or sub-section (2), such compensation as he may consider necessary.

CHAPTER VIII

Penalties and Procedure

48. **Unlawful import, manufacture, possession, sale, etc.**- Whoever in contravention of this Act or any rule, notification or order made or issued under this Act, or of any licence, permit or pass granted under this Act-

(a) imports, exports, transports, manufactures, possesses or sells any intoxicant; or

(b) cultivates, collects or sells the hemp plant (*Cannabis Sativa L*); or

(c) constructs or works any distillery or brewery; or

(d) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant; or

(e) bottles any liquor for purposes of sale;

shall be punished with imprisonment which may extend to two years and with fine and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

49. **Unlawful possession in certain cases.**- Whoever without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported or manufactured or knowing that the prescribed duty has not been paid thereon, shall be punished with imprisonment for a term which may extend to two years or with fine or with both; and where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fin for a term which may extend to one year and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

50. **Penalty for altering or attempting to alter any denatured spirit.**- If any person alters or attempts to alter any denatured spirit, whether manufactured in India or not with the intention that such spirit may be used for human consumption whether as beverage, or intentionally as a medicine or in any other way whatsoever, by any method whatsoever, or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made, he shall be liable to imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

51. **Adulteration, etc.**- Whoever being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder wilfully contravenes any rule made under

Clause (1) of sub-section (2) of Section 76, shall be punished with imprisonment which may extend to two years or with fine, or with both, and where a fine is imposed the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

52. Fraud by licensee or his servant.- Whoever being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder-

(a) keeps or exposes for sale, as foreign liquor which he knows or has reason to believe to be country liquor; or

(b) marks or otherwise deals with any bottle, case, package or other receptacle containing country liquor or marks the cork of any such bottle, with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, 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.

53. Breach of rule or condition of licence.- Whoever being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf-

(a) fails to produce such licence, permit or pass on demand by any Excise Officer or any other officer duly empowered to make such demand shall be punished with fine which may extend to fifty rupees; or

(b) in any case not otherwise provided for in this Act, wilfully contravenes any rule made under Section 76, or wilfully does or omits to do anything in breach of any of the conditions of such licence, permit or pass, shall be punished with fine which may extend to five hundred rupees.

54. Criminal liability of licensee for acts of servants.- Where any offence under Section 48, Section 49, Section 50, Section 51, Section 52 or Section 53 is committed by any person in the employ and acting on behalf of the holder of a licence, permit or pass granted, the holder of a licence, permit or pass granted, as if he had himself committed the said offence, unless he establishes that all due diligence was exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punishable under this section with imprisonment, except in default of payment of fine.

55. Import, export, transport, manufacture, sale or possession by one person on account of another.- (1) Where any intoxicant has been imported, exported, transported, manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such import, export, transport,

manufacture or sale was, or that such possession is, on his account, the article shall, for the purposes of this Act, be deemed to have been imported, exported, transported, manufactured or sold by, or to be in the possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person who imports, exports, transports, manufactures, sells or has possession of an intoxicant on account of another person from liability to any punishment under this Act for the unlawful import, export, transport, manufacture, sale or possession of such article.

56. Consumption of intoxicants in druggist's shop.- If any chemist, druggist, apothecary or keeper of a dispensary allows any intoxicant which has not *bona fide* medicated, 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 three months, or with fine which may extend to one thousand rupees or with both.

(2) If any person not employed a aforesaid consumers any such intoxicants on such premises, he shall be punished with fine which may extend to two hundred rupees.

57. Vexatious search, seizure, detention or arrest or refusal of duty on part of Excise Officer.- Whoever, being an Excise Officer-

(a) without reasonable grounds of suspicion, searches or causes to be searched any place under colour of exercising any power conferred by this Act; or

(b) vexatiously and unnecessarily seizes any property of any person on the pretext of seizing or searching for any article liable to confiscation under this Act; or

(c) vexatiously and unnecessarily detains, searches or arrests any person; or

(d) without lawful excuse ceases or refuses to perform or withdraws himself from the duties of his office, unless expressly and in writing allowed to do so by the Collector or unless he shall have given to his immediate superior two months' notice in writing of his intention to do so, 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.

58. Punishment for allowing premises to be used for the commission of an offence.-

Whoever being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle or place, knowingly, permits it to be used for the commission by any other person of an offence punishable under Section 48, Section 49 or Section 50 shall be punished with imprisonment which may extend to two years, or with fine, or with both.

59. Offences not specifically provided for.- Whoever, in any case not otherwise provided for under this Act, wilfully contravenes any of the provisions of this Act, or any rule, notification

or order made or issued thereunder shall be punished with fine which may extend to two hundred rupees.

60. **Attempts.**- Whoever attempts to commit any offence punishable under this Act, shall be liable to the punishment provided for such offence.
61. **Abetments.**- Whoever abets an offence punishable under this Chapter 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, 1860, be punished with the punishment provided for the offence.
62. **Enhanced punishment after previous conviction.**- If any person after having been previously convicted of an offence punishable under Section 48, Section 49, Section 50 or Section 56 subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act.
63. **Security for abstaining from commission of certain offences.**- (1) Whenever any person is convicted of an offence punishable under Section 48, Section 49, Section 50 or Section 56 and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties, for abstaining from the commission of such offence during such period, not exceeding three years as it thinks fit to fix.

(2) The bond shall be in the form contained in the Second Schedule appended to this Act and the provisions of the Code of Criminal Procedure 1898, as applicable to the Union territory under the Administration of Justice Rules, shall in so far as they are applicable, apply to all matters connected with such bond or with the non-execution thereof as if it were a bond to keep the peace ordered to be executed under Section 106 of that Code.

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

(4) An order under this section may also be made by an Appellate Court, or by the High Court when exercising its powers of revision.

64. **Initiation of prosecution.**- (1) No Magistrate shall take cognizance of an offence punishable-

(a) under Section 48, Section 49, or Section 59, except on his own knowledge or suspicion or on the complaint or report of an Excise Officer;

(b) under Section 51, Section 52, Section 53, or Section 59 except on the complaint or report of a Collector or other officer empowered under sub-section (2) of Section 37 to investigate the case; or

(c) under clause (d) of Section 57, except with the sanction of the Deputy Commissioner.

(2) Except with the special sanction of the Administrator, no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months after the commission of the offence.

65. **Jurisdiction of courts.**- No Court inferior to that of the Court of a Magistrate of the second class shall try any offence punishable under this Act.

66. **Presumption.**- (1) When, in any prosecution under this Act or in any proceeding taken under sub-section (3) of Section 70, the question arises whether an offence punishable under this Act has been committed in respect of-

(a) any intoxicant or hemp plant (*Cannabis Sativa L.*);

(b) any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant; or

(c) any materials such as are ordinarily used in the manufacture of any intoxicant;

if the person, found in possession thereof fails to account satisfactorily for such possession, it shall be presumed, until the contrary is proved, that his possession was in contravention of the provisions of this Act.

(2) When, in any prosecution under Section 53, any licensed vendor is charged with permitting drunkenness or intoxication in his shop or in any public room of his business premises, and it is proved that any person was drunk or intoxicated in such shop or room, it shall lie on such vendor to prove that he and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication in such shop or room.

67. **Presumption as to offence under Section 50 in certain cases.**- In prosecutions under Section 50, when the accused person is proved to have been in possession of any spirit which is, or contains, or has been derived from, denatured spirit, and in respect of which any such alteration or attempt as is referred to in Section 50 has been made, it may, from the mere fact of such possession be presumed unless and until the contrary is proved, that such person-

(i) has himself made such alteration or attempt; or

(ii) knows or has reason to believe that such alteration or attempt has been made.

68. **Presumption as to any spirit which contains any denatured spirit.**- In any prosecution under this Act, it may be presumed, unless and until the contrary is proved, that any spirit which contains any quantity of any denaturant is or has been derived from denatured spirit.

69. **Liability of confiscation.**- Whenever an offence punishable under this Act has been committed, the following things shall be liable to confiscation namely:

(a) the intoxicant, hemp plant (*Cannabis Sativa L.*), still, utensil, implement, apparatus or materials in respect of or by means of which such offence has been committed;

(b) any intoxicant lawfully imported, transported, manufactured and held in possession of sold along with any intoxicant liable to confiscation as aforesaid;

(c) the receptacles, packages and coverings, in which anything liable to confiscation under Clause (a) or Clause (b) is found and the other contents, if any, of such receptacles and packages; and

(d) the animals, cart, vessels, rafts or other conveyances used in carrying anything referred to in the foregoing clauses :

Provided that when it is proved that the receptacles or other articles specified in Clause (c) or Clause (d) are not property of the offender, the said articles shall not be liable to confiscation if the owner thereof established that he had no reason to believe that such offence was being or was likely to be committed.

70. **Procedure in regard to articles liable to confiscation.**- (1) When, in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under Section 69, he shall order such thing to be confiscated and placed at the disposal of the Collector.

(2) When, in any other case in which anything has been seized under this Act, an investigating officer proceeds under sub- section (2) of Section 33 or the Collector, upon an investigation made, whether by the Collector or other officer under Section 37 is of opinion that the thing seized is not liable to confiscation under Section 69, such investigating officer or the Collector, as the case may be, shall order the delivery of such thing to the person from whose possession it was taken.

(3) When, upon an investigation made as aforesaid, it appears to the Collector that an offence under this Act has been committed, and that anything seized under this Act is liable to confiscation and further appears that the offender is not known or cannot be found, the Collector shall inquire into and determine the case and, if he finds that the thing is liable to confiscation under Section 69 shall order such confiscation :

Provided that no such order shall be made until the expiration of two months from the date of seizing the thing intended to be confiscated or without hearing any person who may appear within the period and claim any right to such thing, and 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 its sale would be for the benefit of the owner, the Collector may at any time direct it to be sold; and the provisions of this sub-section and of sub-section (1) shall, as nearly as may be practicable, apply to the net proceeds of such sale.

71. **Power to compound offences.**- (1) (a) When any licence, permit or pass granted under this Act is liable to be cancelled or suspended under Clause (a) or Clause (b) of sub-section (1) of Section 28, or when any person is reasonably suspected of having committed an offence under this Act, other than an offence under Section 57, the Excise Commissioner or a Collector, instead of enforcing such cancellation or suspension or instituting a prosecution in respect of such offence, may accept from the holder of such licence, permit or pass or from such person a sum of money not exceeding five hundred rupees, and thereupon such holder or person if in custody, shall be discharged, and no further proceedings in respect of such liability or offence shall be taken against him.

(b) If in any such case referred to in Clause (a) any property has been seized as liable to confiscation under this Act, the Excise Commissioner or the Collector may release the same on receiving payment of the value thereof as estimated by him or of such smaller sum as he may think fit.

(2) The Excise Commissioner or Collector, may also, after the institution against any person of a prosecution in respect of any offence under this Act other than an offence under Section 57, compound the offence on payment of such person, of a sum of money not exceeding five hundred rupees.

CHAPTER IX

General Provisions

72. **Measures, weights and instruments.**- Every person who manufactures or sells any intoxicant under a licence granted under this Act-

(a) shall supply himself with such measures, weights and instruments as may be prescribed, and shall keep the same in good condition; and

(b) on the requisition of any Excise Officer duly empowered in that behalf, shall at any time, measure or test any intoxicant in his possession in such manner as such officer may require.

73. **Departmental management and re-sale.**-If any person to whom an exclusive privilege has been granted under Section 19, or any holder of a licence granted under this Act makes default in payment of any sum payable in respect of such privilege or licence or in complying with any other condition thereof, the Collector may, after giving such person a reasonable opportunity of making representation in the matter, take under management

such privilege or the grant expressed in such licence or may re- sell such privilege or grant at the risk and loss of the defaulter.

74. **Recovery of dues.**- All excise revenue, including any loss that may accrue when, in consequence of default, a privilege or grant has been taken under any management or re-sold by the Collector under Section 74, and 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, by distress and sale of movable property, or an arrear of land revenue, or in the manner provided for the recovery of public demands by any law for the time being in force.

75. **Offences by companies.**- (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, or was responsible to, the company, for the conduct of the business of the company, 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 under this Act 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 with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary 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 purpose 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.

76. **Power to make rules.**- (1) The Administrator may, by notification, make rules for the purpose of carrying out the provisions of this Act relating to the Excise Revenue.

(2) In particular and without prejudice to the generality of the foregoing power the Administrator may make rules-

(a) prescribing the powers, duties, subordination and control of officers of the Excise Department;

(b) regulating appeals and revisions and in particular-

- (i) declaring the cases in which the authorities to whom appeals shall lie under Section 7;
- (ii) prescribing the time and manner for presenting appeals, and the procedure for dealing with appeals under this Act;
- (c) regulating the import, export, transport, or possession of any intoxicant;
- (d) regulating the manufacture, supply, storage or sale of any intoxicant and in particular regulating-
 - (i) the erection, 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 L.*), the collection of the spontaneous growth of such plant, and the preparation of any intoxicating drug from such growth;
 - (iii) the bottling of liquor for sale;
- (e) regulating the deposit of intoxicant in warehouses and the removal of such articles from warehouses, distilleries or breweries;
- (f) regulating the periods for which and the persons to whom licences for the sale of any intoxicant may be granted and providing for the selection of sites at which shops may be opened;
- (g) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted in any local areas;
- (h) prescribing, in the case of any intoxicant, the manner in which the duty on such article shall be levied;
- (i) prescribing the manner of fixing the fees payable in respect of any privilege or of licence, or in respect of the storing of any intoxicant;
Explanation. - Fees may be prescribed under this clause at different rates, different classes of privileges, or of licences or storage and for different areas;
- (j) prescribing the time, place and manner of payment of any duty or fee;
- (k) prescribing the restrictions under and the conditions subject to which licence, permit or pass may be granted and in particular providing for-
 - (i) the prohibition of the admixture with any intoxicant of any foreign substance;

- (ii) the 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 supplied, sold, or kept or exposed for sale, the fixing of the quantity in excess of which denatured spirit shall not be possessed, and the fixing of a standard of quality for any intoxicant;
- (iv) the regulation or prohibition of the employment by the licence-holder of any person or class of persons in or upon his business premises during business hours or to assist him in his business in any capacity whatsoever;
- (v) the specification of the persons or classes of persons to whom any intoxicant may or may not be sold;
- (vi) the prohibition of sale except for cash;
- (vii) the prevention of drunkenness, intoxication, gambling or disorderly conduct in or near the business premises of the holder of the licence and of the meeting or remaining of persons of bad character in such premises;
- (viii) the fixing of the days and hours during which such premises may or may not be kept open, and the closure of such premises on special occasions;
- (ix) the specification of the nature of the premises in which any intoxicant may be sold and the notices to be exhibited at such premises;
- (x) the accounts to be maintained and the returns to be submitted by holder of licences; and
- (xi) regulating or prohibiting the transfer of licences;
- (l) (i) declaring the process by which spirit manufactured in India shall be denatured;
- (ii) for causing such spirit to be denatured through the agency or under the supervision of its own officer;
- (iii) for ascertaining whether such spirit has been denatured;
- (m) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;
- (n) regulating the disposal of confiscated articles;
- (o) providing for the grant of expenses to witnesses;

(p) regulating the power of an Excise Officer to summon witnesses under the provisions of Section 38;

(q) providing for the grant of compensation to persons improperly arrested and subsequently released by any Excise Officer under Section 38, and persons charged by a Magistrate with offence under this Act and acquitted;

(r) providing for any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Mizoram while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions, and if, before the expiry of the sessions in which it is so laid or the sessions immediately following, the Legislative Assembly of Mizoram, makes any modification in the rules or decides that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

77. Application of Assam Act 2 of 1915.- Until any law relating to the interpretations of statutes is made by the Legislative Assembly of Mizoram the Assam General Clauses Act, 1915 shall apply to the interpretation of this Act as it applies to the interpretation of Assam Act.

The First Schedule

[See Sections 21 and 24]

Part A

Rates of duty on liquor manufactured in or passed out of any place of manufacture or storage including a distillery, brewery or warehouse licensed or established under this Act

- | | |
|---|------------------------------------|
| (1) Foreign liquor other than wines and beer | Fifteen rupees per proof litre. |
| (2) Beer | Seventy-five paise per bulk litre. |
| (3) Country liquor | One rupee per proof litre. |
| (4) Rectified spirit or absolute alcohol except when used for manufacture of liquor or for medicinal purposes | |
| (5) Rectified spirit when used for manufacture of denatured spirit | Fifty paise per proof litre. |

Explanation. - In this Part, "proof litre" means a litre of a mixture of ethyl alcohol and distilled water which at the temperature of 10.5 degrees of centigrade weighs exactly twelve/thirteen (12/13) parts of an equal measure of distilled water at the same temperature.

Part B

I. Manufacture :

- | | |
|--|-------------------------------|
| (1) For manufacturing liquor other than beer | Five hundred rupees. |
| (2) For manufacturing beer | Two hundred and fifty rupees. |
| (3) For manufacturing rectified spirit or absolute alcohol or both | Two hundred rupees. |
| (4) For manufacturing country liquor | Thirteen rupees per still. |
| (5) For blending of country liquor | One hundred and fifty rupees. |
| (6) For bottling of foreign liquor | One hundred rupees. |
| (7) For bottling of country liquor | Fifty rupees. |

II. Sale:

- | | |
|---|----------------------|
| (1) For wholesale vendors of liquor | Five hundred rupees. |
| (2) For retail vendors of liquor | Two hundred rupees. |
| (3) For wholesale vendors of rectified spirit or absolute alcohol or denatured spirit | Fifty rupees. |

III. Import and export:

For wholesale vendors of liquor	Ten rupees
---------------------------------	------------

IV. Miscellaneous :

- | | |
|---|--|
| (1) For retail vendors of liquors for keeping the shops open up to two hours after the prescribed time of closing | A surcharge of fifty per cent of the licence fee |
| (2) For an occasional licence for retail vendors of liquor | First day-ten rupees,
next four days-six rupees per day
next fifteen days-four rupees per day
next forty days-two rupees and fifty paise per day, and
next sixty days-one rupee and fifty paise per day. |

The Second Schedule

[See Section 63]

Bond to abstain from the commission of offences under the Act

Whereas I (name)..... inhabitant of..... (place)..... have been called upon to enter into a bond to abstain from the commission of offence under Section 48, Section 49, Section 50, Section 51 and Section 56 of the Mizoram Excise Act, 1973, for the term of..

I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to the Administrator the sum of rupees....

Dated this..... day of..... 20...

(Signature)

(Where a bond with sureties is to be executed, add-)

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offence, under Section 48, Section 49, Section 50, Section 51 and Section 56 of the Mizoram Excise Act, 1973, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the Administrator, the sum of rupees....

Dated this.....day of..... 20....

(Signature)