

## THE KARNATAKA EXCISE ACT, 1965

### ARRANGEMENT OF SECTIONS

#### Statements of Objects and Reasons:

Sections:

#### CHAPTER I

##### PRELIMINARY

1. [Short title, extent, commencement and application.](#)
2. [Definitions.](#)

#### CHAPTER II

##### ESTABLISHMENT AND CONTROL

3. [Appointment of Excise Commissioner.](#)
4. [Deputy commissioner.](#)
- 4A. [Joint Commissioner of Excise and Deputy Commissioner of Excise](#)
5. [Appointment of Superintendents of Excise and Deputy Superintendents of Excise.](#)
- 5A. [Constitution of an Intelligence Bureau and appointment of Superintendents and Deputy Superintendents of Excise \(Intelligence Bureau\)](#)
6. [Appointment of Inspectors of Excise, Sub-Inspectors of Excise and other Subordinate Officers.](#)
7. [Delegation of powers.](#)

#### CHAPTER III

##### IMPORT, EXPORT AND TRANSPORT

8. [Import of intoxicant.](#)
9. [Export of intoxicant.](#)
10. [Prohibiting of transport of intoxicant.](#)
11. [Transport of intoxicant.](#)
12. [Permits for transport.](#)

#### CHAPTER IV

##### MANUFACTURE, POSSESSION AND SALE

13. [Manufacture, etc., of excisable article prohibited except under a licence.](#)
14. [Possession of excisable articles in excess of the quantity prescribed.](#)
15. [Sale of excisable articles without licence prohibited.](#)
- 15A. [Consumption or allowing consumption of Liquor unlicensed Public Places.](#)
16. [Establishment of distilleries and warehouses.](#)

- 16A. [Licence to manufacture bottle or manufacture and bottle arrack for sale.](#)
- 16B. [Licences granted for manufacture and bottling of arrack cease to be valid.](#)
- 17. [Power to grant lease of right to manufacture, etc.](#)
- 18. [Lessee's permission to draw toddy.](#)
- 19. [Duties of licensees with regard to measurement and testing.](#)
- 20. [Prohibition of employment of children and of women.](#)
- 21. [Closing of shops for the preservation of public peace ,etc.](#)

## **CHAPTER V**

### **EXCISE DUTY AND COUNTERVAILING DUTY**

- 22. [Excise duty or countervailing duty on excisable articles.](#)
- 23. [Ways of levying such duties.](#)
- 23A. [Remittance of Excise Revenue through electronic means](#)
- 24. [Payment of fees for grant or renewal of lease or license](#)
- 24A. [Grant of Exclusive or other Privilege in respect of foreign liquor.](#)
- 25. [Tax for tapping tress from whom leviable.](#)

## **CHAPTER VI**

### **LICENCES AND PERMITS**

- 26. [Form and conditions of licence, etc.](#)
- 27. [Power to take security and counterpart agreement.](#)
- 28. [Technical defects, irregularities and omissions.](#)
- 29. [Power to cancel or suspend licence, etc.](#)
- 30. [Power to withdraw licence.](#)
- 31. [Surrender of licence.](#)

## **CHAPTER VII**

### **OFFENCES AND PENALTIES**

- 32. [Penalty for illegal import, etc.](#)
- 33. [Penalty for rendering denatured spirit fit for human consumption.](#)
- 34. [Penalty for illegal possession.](#)
- 35. [Penalty for offence not otherwise provided for.](#)
- 36. [Penalty for misconduct of licensee, etc.](#)
- 37. [Penalty for adulteration, etc., by licenced vendor or manufacturer.](#)
- 38. [Penalty for consumption in Chemist's shop, etc.](#)
- 38A. [Penalty for allowing permises, etc, to be used for the purposes of committing an offence under this Act.](#)

- 39. [Manufacture, sale or possession by one person on account of another.](#)
- 40. [Presumption as to commission of offence in certain cases.](#)
- 41. [Criminal liability of licensee for acts of servants.](#)
- 42. [Enhanced punishment after previous conviction.](#)
- 42A. [Security for abstaining from commission of certain offences](#)
- 43. [Liability of certain things to confiscation.](#)
- 43A. [Confiscation by Excise Officers in certain cases](#)
- 43B. [Issue of show-cause notice before confiscation under section 43A](#)
- 43C. [Order of confiscation when an offender is not known or cannot be found etc.](#)
- 43D. [Revision.](#)
- 43E. [Appeal.](#)
- 43F. [Award of confiscation not to interfere with other punishments](#)
- 43G. [Bar of jurisdiction in certain cases](#)
- 44. [Omitted.](#)
- 45. [Compounding of offences.](#)
- 45A. [Omitted](#)
- 45B. [Omitted](#)
- 46. [Penalty on Excise Officer making vexatious search, seizure, detention or arrest.](#)
- 47. [Penalty for Excise Officer refusing to do duty.](#)
- 48. [Penalty for vexatious delay.](#)
- 49. [Penalty for abetment of escape of persons arrested, etc.](#)

### CHAPTER VIII

#### DETENTION, INVESTIGATION AND TRIAL OF OFFENCES

- 50. [Landholders, officers and others to give information.](#)
- 51. [Power to enter and inspect places of manufacture and sale.](#)
- 51A. [Third Party Inspection or special Audit](#)
- 52. [Power to arrest without warrant, to seize articles liable for confiscation and to make searches.](#)
- 53. [Power of magistrate to issue a warrant.](#)
- 54. [Power to search without warrant.](#)
- 55. [Power of Excise Officers in matters of investigation.](#)
- 56. [Report by investigating Officer.](#)
- 57. [Report by Excise Officer.](#)
- 58. [Arrest, search, etc., how to be made.](#)

- 59. [Security for appearance in case of arrest without warrant.](#)
- 59A. [Certificate of Inspectors of Excise to be evidence](#)
- 60. [Procedure for prosecution.](#)
- 60A. [Procedure to be followed by Magistrate](#)

## CHAPTER XI

### APPEALS AND REVISION

- 61. [Appeals.](#)
- 62. [Revision.](#)

## CHAPTER X

### MISCELLANEOUS

- 63. [Recovery of Government dues.](#)
- 63A. [Recovery of certain tax arrears as arrears of excise revenues.](#)
- 64. [Government lien on property of defaulters.](#)
- 65. [Recovery of dues by lessee under section 17.](#)
- 66. [Refund in cases of exported liquor.](#)
- 67. [Power of State Government to exempt, etc.](#)
- 68. [Protection of action taken under this Act.](#)
- 68A. [Suit or prosecution in respect of acts done under colour of duty not to be entertained without sanction of the State Government.](#)
- 68B. [Bar of jurisdiction of Civil Courts](#)
- 68C. [Injection not to be granted in respect of recovery of exercise dues](#)
- 68D. [Excise revenue to be paid irrespective of pendency of any Writ Petition, Suit, etc](#)
- 69. [Limitation of suits.](#)
- 70. [Offences by companies, etc.](#)
- 71. [Power to make rules.](#)
- 72. [Repeal and saving.](#)

## STATEMENTS OF OBJECTS AND REASONS

I

**Act 21 of 1966.-** After reorganisation of the States on 1st November 1956, there are different Acts in force in the New Mysore State Viz., in Old Mysore Area and Hyderabad Karnataka area and Madras Karnataka area respectively as noted below:-

1. The Mysore Excise Act, 1901 (Act No. V of 1901).
2. The Hyderabad Abkari Act, 1316 (No.1 of 1316 F).
3. The Madras Abkari Act, 1886 (Madras Act I of 1886).

The existence of different sets of laws in different areas causes considerable administrative and procedural difficulties and also in conveniences in the proper implementation of Excise Act, on a uniform basis throughout the State. Therefore, with a view to have a uniform law for the entire New Mysore State, a uniform Excise bill has been prepared and it replaces the Acts referred to above.

(Obtained from L.A. Bill No. 4315 dated 16-6-1962.)

## II

**Amending Act 1 of 1970.-** A large number of licensees dealing in Indian made Foreign Liquor have challenged the validity of levy and collection of litre fee on Indian made foreign liquors, on the ground that the Mysore Excise Act 1965 does not specifically empower the Government to levy litre fees. It was considered necessary to make specific provision to levy excise duty in the form of litre fees with retrospective effect.

At present there is an Enforcement Branch in the Excise Department, with a Deputy Commissioner and a number of Excise Officers. They have been detecting cases of illicit manufacture, sale, transport, possession, import and export of liquors.

It was considered necessary to give statutory status to the Intelligence Bureau so that the work of the officers could be carried on in a more effective manner under the authority of law.

In order to ensure expeditious disposal of the trial of offences under the Act, it was considered necessary to provide that offences under the Act should be tried summarily.

As the Houses of Legislature were not in Session and the matter was urgent, the Mysore Excise (Second Amendment) Ordinance, 1970 was promulgated on the 7th August 1970, for the purposes indicated above and for making some other provisions found necessary for carrying on the administration of the Excise Department effectively.

This Bill is intended to replace the Ordinance.

(Vide Notification No. 5249 / L.A., Bangalore-1, dated 11-9-1970.)

## III

**Amending Act 1 of 1971.-** The Mysore Excise Act, 1965 (Mysore Act 21 of 1966) does not empower the State Government to delegate its powers under the Act to the Excise Commissioner or to any other officer. It was considered necessary for the effective implementation of the Act to have power enabling the Government to delegate its powers under the Act to the Excise Commissioner or to any other officer. In order to effectively prevent commission of certain offences, it was considered necessary to provide the minimum punishment for such offences. It was also considered necessary

to prohibit the sale or supply of consumption of any intoxicant in a hotel, boarding house or refreshment room not licensed under the Act except in a place used for lodging of persons in such hotel or boarding house or refreshment room. In the light of the experience gained in the working of the Act, it was also considered necessary to make certain other amendments.

For this purposes, the Mysore Excise (Amendment) Ordinance, 1969, was promulgated. The Bill seeks to replace the Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No. 9 dated 10-1-1970 at page 9.)

#### IV

**Amending Act 61 of 1976.-** Under section 67 of the Karnataka Excise Act, 1965, the State Government may exempt or reduce the excise duty leviable under section 22 of the said Act on any liquor sold for use or consumption by the members of the Armed Forces of the Union. In exercise of these powers, Government has reduced the excise duty leviable on RUM manufactured in the State and sold for use or consumption by the Armed Forces of the Union and exported outside the State to twenty five paise per proof litre.

Representations have been made to Government from certain para-military Units for granting them concessional rate of export duty on supplies of Rum. Some of these para-military Units are subject to Army Act and are being deployed in the border areas in high altitudes and in times of operation, they are also engaged in operational duty along with the Army in the forward areas. Para-military Unit cannot however be regarded as Armed Forces and granted the concessional rate of excise duty on RUM unless Section 67 of the Karnataka Excise Act 1965 is amended. Considering these facts, the issue of Rum at the concessional rate of export duty to para-military Units is justified. Hence, for this purpose Section 67 of the Karnataka Excise Act had to be amended.

As the Karnataka legislative Assembly was not in session and as the matter was urgent, the Karnataka Excise (Amendment) Ordinance, 1976 was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 4424 dated 8-11-1976 at page 3.)

#### V

**Amending Act 32 of 1982.-** Consequent on the new Code of Criminal Procedure 1973 (Central Act 2 of 1974), coming into force with effect from 1st April 1974 the nomenclature and relevant sections referred to in the Karnataka Excise Act has to be substituted.

At present under Section 67 the State Government is empowered to exempt or reduce either prospectively or retrospectively the excise duty payable under section 22 of any liquor sold to certain categories of institutions. The Accountant General has argued that licence fee is not in the nature of excise duty or countervailing duty and therefore exemption cannot be granted with retrospective effect to the licence fee. Therefore it is proposed to take the power to exempt licence fee also in respect of certain categories of institutions by amending clause (a) of section 67 of the said Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 167 dated 10-3-1981 at page 4)

## VI

**Amending Act 28 of 1987.-** It is considered necessary to amend the Karnataka Excise Act, 1965 to provide that no licence to manufacture or to bottle, or to manufacture and bottle arrack for sale shall be granted to persons who are not the holders of distillery licence, under section 16.

As the Karnataka Legislative Council was not in session and the matter was urgent the Karnataka Excise (Amendment) Ordinance, 1987 (Karnataka Ordinance 2 of 1987) was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 574 dated 2-9-1987 at page 3.)

## VII

**Amending Act 36 of 1987.-** It is considered necessary to amend the Karnataka Excise Act 1965 (Karnataka Act No. 21 of 1966) to provide for stringent measure to prevent illegal import, export, transport, manufacture and possession of intoxicants.

Provision is also proposed for closure of liquor shops in the event of outbreak of infectious diseases.

As the existing punishment provided under sections 32 and 34 is inadequate, a provision is made to enhance the same.

Similarly, the fee for compounding of offences under section 45 is also enhanced.

Section 55 is amended to provide for the investigation of offences arising under section 38 and 38A by the Excise Officers.

Provision is further made for confiscation by the Excise Officers of the vehicle involved in a commission of offences under the Act. Provision is also made for appeal and revision against the order of confiscation.

The jurisdiction of Criminal Courts is taken away from adjudicating the matters pertaining to confiscation of properties.

The remaining amendments are consequential in nature.

As the Karnataka Legislative Council was not in session and the matter was urgent, the Karnataka Excise (Second Amendment) Ordinance, 1987 (Karnataka Ordinance No. 4 of 1987 ) was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 576 dated 2-9-1987 at page 8.)

### VIII

**Amending Act 1 of 1994.-** It was considered necessary to amend the Karnataka Excise Act, 1965 to terminate the existing licences for manufacturing and bottling of arrack given to the private distillery by the end of 30th June, 1993 and to entrust the manufacturing and bottling of arrack to the Government agencies like Mysore Sugar Company and Mysore Sales International Limited with effect from the 1st July 1993.

As the matter was urgent and both the Houses of the State Legislature were not in session, the Karnataka Excise (Amendment) Ordinance 1993 (Karnataka Ordinance 6 of 1993) was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Obtained from L.A. Bill No. 29 of 1993. )

### IX

**Amending Act 2 of 1994.-** The High Court of Karnataka in Writ Petition No. 1956 of 1971 had declared sub-rule (1) of rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 as invalid in so far as it relates to levy of licence fee retail vending of Indian and Foreign Liquors. It also directed the State Government to refund the petitioner the amount collected from him with in three years next before 2-8-1971 by way of licence fee for retail vending of Indian and Foreign Liquors. The Supreme Court in civil appeal no. 1801 of 1974, while confirming the judgement of the High Court has held that rule 8(1) has gone beyond the enabling provision in the section, by requiring licence fee to be paid. It has also observed that it may be possible for the Legislature to make a statutory provision for a licence fee of the type contemplated under the rules but without authority of the statute a rule of the type impugned should not have been made.

Accordingly, it was considered necessary to amend the Karnataka Excise Act, 1965, retrospectively to take specific power for making rules to levy fee and also to validate the collection of fee made under the impugned rule.

Hence the Bill.



(Obtained from L.A. Bill 30 of 1993.)

## X

**Amending Act 2 of 1995.-** It is considered necessary to restrain the Civil Courts from granting injunctions for recovery of Excise revenue and to bar jurisdiction of Civil Courts in respect of any action taken, or to be taken by such officer or authority in pursuance of powers conferred under the Karnataka Excise Act, 1965.

Hence the Bill.

(Obtained from L.A. Bill No. 42 of 1993.)

## XI

**Amendeing Act 7 of 1997.-** It is considered necessary to amend the Karnataka Tax on Luxuries (Hotel, Lodging Housed and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Tax on Entry of Goods Act 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Professions, Traders, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976), the Karnataka Excise Act, 1966 (Karnataka Act 21 of 1966), the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958), the Karnataka Agricultural Income tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), and to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill No. 12 of 1997.)

## XII

**Amending Act 21 of 1998.-** Certain Posts of Deputy Commissioner of Excise have been recently upgraded as Joint Commissioner of Excise. The Joint Copmmissioner of Excise is required to exercise statutory powers under the Karnataka Excise Act , 1965. But, the defintion "Excise Officer "does not include Joint Commissioner of Excise. The term "Joint Commissioner of Excise" is also not defined in the Act. Therefore, it is considered necessary to amend the Karnataka Excise Act, 1965,-

- (i) to define the term "Joint Commissioner of Excise";
- (ii) to bring the Joint Commissioner of Excise within the defintion of Excise Officer; and
- (iii) to enable the Joint Commissioner of Excise to exrecise certain statutory powers.

Hence the Bill.

(Obtained from L.A. Bill No. 5 of 1998)

### XIII

**Amending Act 12 of 1999.-** To provide a deterrent in order to minimise the Excise offences it is proposed to prescribe a minimum penalty of fine of Rs. 5,000 and a maximum of Rs. 25,000 for each offence under section 45 of the Karnataka Excise Act, 1965. Presently the maximum penalty leviable under this section is fine of Rs 5,000 only. Accordingly policy announcement has been made in the Budget Speech 1998-99. In order to give effect to the said policy announcement section 45 of the Karnataka Excise Act, 1965 requires amendment.

Hence the Bill.

(Obtained from L.C. Bill No. 8 of 1998. File No. 18/1998)

### XIV

**Amending Act 21 of 2000.-** Representation were made to the Government by the manufacturers, Wholesalers and Retail Traders of Liquor for Merger of Sales Tax with the Excise duty, since for payment of Sales Tax and Excise duty, the trade has to deal with two Department resulting in administrative and procedural difficulties and inconvenience. Further merger of sales tax with Excise duty will simplify the procedural complication etc. On examination of the above representations the Government considered it necessary to amend the Karnataka Sales Tax Act, 1957 and the Karnataka Excise Act, 1965, to provide for,

- (i) levy of additional excise duty on the value, cost or price of the excisable articles.
- (ii) recovery of sales tax arrears as arrears of excise revenue.
- (iii) treating tax or other amount due as arrears of excise revenue for the purpose of recovery of such tax or other amount due.

Hence the Bill.

(Obtained from L.A. Bill No. 38 of 2000)

### XV

**Amending Act 15 of 2001.-** To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Excise Act, 1965.

Hence the Bill.

(Vide L.A. Bill No. 11 of 2001 Filed No. SAMVYASAHE 16 SHASANA 2001)

## XVI

**Amending Act 38 of 2003.-** It is considered necessary to amend the Karnataka Excise Act, 1965.-

- i) to remove the ambiguity in the definition of "toddy" and "excise tree" by omitting the words " of which contains alcohol and " appearing in the definition of excise tree;
- ii) to provide for giving the interim custody of the property seized under sub-section (1) of section 43A to the owners of such property on production of a Bank Guarantee equal to the value of the seized property;
- iii) to provide for acceptance of money or imposition of penalty in lieu of cancellation or suspension of a license for contravention of conditions of license or of any rule made under the Act.

Hence the Bill.

(LA Bil No. 4 of 2003 DPAL 38 SHASANA 2003)

## XVII

**Amending Act 27 of 2004.-** Section 16-A of the Karnataka Excise Act, 1965 provides for entrusting the task of manufacture and/or bottle arrack for sale to a Company or agency owned or controlled by the State Government or a State Government Department. Accordingly, at present, M/s. MSIL and M/s. Mysugar Co., have been entrusted with this task. MSIL does not have primary distillery. M/s. Mysugar Co., is not in a position to supply the required quantity as the Company is in difficult financial position. Of late, due to scarcity of molasses, which is the main raw material for providing rectified spirit, the manufacture and supply of arrack has been gradually affected. After the Government of India has rescinded Molasses Control Order and the State has no control to regulate the manufacture and sale of molasses. However, the Karnataka legislature has recently passed a bill to regulate it and the same has been sent to Government of India to get the assent of the President. Further, there is an element of non-duty paid arrack in the open market. In order to ensure supply of the required quantity of rectified spirit for manufacture of arrack, it is necessary to liberalise arrack manufacture.

Presently, inspection and scrutiny of records maintained by a distillery or a brewery is the responsibility of the Excise Department. This responsibility is discharged primarily by officers posted at the distillery or brewery and through special inspections. However, more than the inspection and scrutiny of records mandated by the Karnataka Excise Act, 1965, it is necessary to form an opinion on the output produced by the manufacturer vis-à-vis the inputs consumed. The essential feature of such an inspection/audit is to correlate the input and output. This is a specialised

function for which expert help is necessary. A similar requirement is mandated under section 14AA of the Central Excise Act, 1944. Section 51 of the Karnataka Excise Act, 1965 empowers Excise Commissioner, Deputy Commissioner, Excise Officer and Police Officers to enter and inspect places of manufacture and sale. In order to empower the proposed third party similarly, it is necessary to amend the Karnataka Excise Act, 1965.

In the budget speech for the year 2004-05, the Hon'ble Deputy Chief Minister had announced to liberalise manufacture of arrack by allowing primary distilleries to undertake this activity. The primary objective of this policy is to eliminate 'seconds' or non-duty paid arrack and to thus enhance arrack revenues significantly. Further by liberalising the manufacture of arrack it will be made as market driven such that it should not be responsibility of the Government to supply arrack but rather the function of demand and supply in the market.

Hence the Bill.

(L.A. Bill No. 19 of 2004)

### **XVIII**

**Amending Act 14 of 2005.-** It is felt necessary to make the excise law more stringent in order to net more revenue, check evasion of excise duties, by taking away the existing compounding powers and making the law more stringent by rendering the offences under the Act cognizable and non-bailable.

Hence the Bill.

[L.A. Bill No. 13 of 2005]

### **XIX**

**Amending Act 27 of 2007.-** In the Budget speech for the year 2007-08, it has been announced banning of sale of arrack in the State from 1<sup>st</sup> July 2007. Hence, it is considered necessary to amend section 16A and 16B of the Karnataka Excise Act, 1965.

It is considered necessary to prevent hooch tragedies which occurred in Bangalore and Hassan districts recently, claiming 45 lives and one of the main causes of these tragedies has been the sale of illicit arrack and spurious and adulterated liquor by unauthorized vendors in unauthorized places. In order to prevent recurrence of such tragedies, it is proposed to amend section 37 by introducing stringent punishment to the persons who indulge in adulteration of liquor with harmful poisonous substances or chemicals or methyl alcohol or any other poison as defined in Indian Poisons Act, 1919 or substances, which endanger human life or cause grievous hurt to human beings.

It is considered that public Transport vehicle belonging to the Karnataka State Transport Undertaking shall not be confiscated when an offence is reported under the provisions of the Karnataka Excise Act, 1965. Therefore an amendment to section 43 is proposed.

Section 51 A is proposed to be substituted to empower the state Government to prescribe the conditions and restrictions subject to which accounts or records of every licensee shall be audited by a cost Accountant.

Hence the Bill.

[L.A.Bill No. 39 of 2007]

[Entry 51 of List II of the Seventh Schedule to the Constitution of India.]

## XX

**Amending Act 19 of 2010.-** At present under Section 67 of the Karnataka Excise Act, 1965, the State Government is empowered to exempt or reduce either prospectively or retrospectively the excise dues payable under Section 22 of any liquor sold to certain categories of institutions.

Of late, more number of consulates/diplomatic agents has started functioning in the State Headquarters. The offices of Consulates of Germany, Japan, France, Britain, Switzerland, Ireland, Maldives, Finland, and Spain are established in Bangalore. It is the privilege of the State Government to extend benefit of exemption of tax on liquor to the diplomats as a matter of honouring their dignity.

Therefore, it is proposed to amend Section 67(1)(i) of the Karnataka Excise Act, 1965 with an enabling provision to extend the benefit of exemption of tax on liquor to 'diplomatic agents'.

Hence the Bill.

[L.A.Bill No. 41 of 2009, File No.DPAL 38 Shasana 2009]

[Entry 8 and 51 of List II of the Seventh Schedule to the Constitution of India.]

## XXI

**Amending Act 26 of 2013.-** The Karnataka State Beverages Corporation was established for distributing liquor for sale in the State. As the Government grants distributor licence to the Corporation and collects privilege fee from the Corporation. In order to bring clarity in the interpretation of the scheme of collection of privilege fee, it is proposed in the Budget speech for the year 2013-14 to amend section 24 of the Karnataka Excise Act retrospectively to deem always the privilege fee collected as part of State Government's revenue.

Hence, the Bill.

[L.A. Bill No.14 of 2013, File No. Samvyashae 22 Shasana 2013]

[Entry 51 of List II of the Seventh Schedule to the Constitution of India.]

## XXII

**Amending Act 11 of 2014.**-It is considered necessary to amend the Karnataka Excise Act, 1965 to facilitate payment of all Excise Revenue like License Fee, Excise Duty, Additional Excise Duty or any other form of fee by way of electronic remittance.

Hence the Bill.

[L.A. Bill No.28 of 2014, File No. Samvyashae 54 Shasana 2013]

[Entry 51 of List II of the Seventh Schedule to the Constitution of India.]

## XXIII

**Amending Act 01 of 2017.**- In the Budget Speech 2015-16, the Hon'ble Chief Minister, proposed to bring amendment to the Excise Act to permit members of Coconut Growers Federation to harvest 'Neera' in limited quantities from the coconut trees and thereby increasing the income of the coconut growers significantly. Further, Neera production is legally permitted in the States like Kerala, Tamil Nadu, Maharashtra, Goa and Union Territories of Lakshadweep and Andaman and Nicobar Islands.

Therefore, it is considered necessary to amend the Karnataka Excise Act, 1965 to,-

- (i) remove the term "unfermented juice" from the definition of "Toddy" and to distinguish "Neera" from "Toddy";
- (ii) define the term "Neera";
- (iii) regulate tapping of Neera and manufacture of Neera products; and
- (iv) provide punishment for violation of provisions of section 13A and the rules made thereunder.

Hence, the Bill.

[L.A. Bill No.38 of 2016, File No. Samvyashae 53 Shasana 2016]

[entry 51 of List II of the Seventh Schedule to the Constitution of India]

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**<sup>1</sup>[ KARNATAKA ]<sup>1</sup> ACT 21 OF 1966**

*(First published in the <sup>1</sup>[Karnataka]<sup>1</sup> Gazette on the Eighteenth day of August, 1966 )*

**THE <sup>1</sup>[KARNATAKA]<sup>1</sup> EXCISE ACT, 1965**

*(Received the assent of the President on the Third day of August, 1966)*

(As amended by 1 of 1970, 1 of 1971, 61 of 1976, 32 of 1982, 28 of 1987, 36 of 1987, 1 of 1994, 2 of 1994, 2 of 1995, 7 of 1997, 21 of 1998, 12 of 1999, 21 of 2000, 15 of 2001, 38 of 2003, 27 of 2004, 14 of 2005, 27 of 2007, 19 of 2010, 26 of 2013, 11 of 2014 and 01 of 2017.)

**An Act to provide for a uniform excise law in the <sup>1</sup>[State of Karnataka]<sup>1</sup>.**

WHEREAS it is expedient to provide for a uniform law relating to the production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicating drugs and the levy of duties of excise thereon, in the <sup>4</sup>[State of Karnataka]<sup>4</sup> and for certain other matters hereinafter appearing;

BE it enacted by the <sup>1</sup>[Karnataka]<sup>1</sup> State Legislature in the Sixteenth Year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

**CHAPTER I**

**PRELIMINARY**

**1. Short title, extent, commencement and application.-** (1) This Act may be called the <sup>1</sup>[Karnataka]<sup>1</sup> Excise Act, 1965.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

(2) It extends to the whole of the <sup>1</sup>[State of Karnataka]<sup>1</sup>.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

(3) It shall come into force on such <sup>1</sup>[date]<sup>1</sup> as the State Government may by notification, appoint.

1. Act came into force on 30-9-1967 by notification.

(4) All the provisions of this Act shall be applicable to the areas of the State in which the <sup>1</sup>[Karnataka]<sup>1</sup> Prohibition Act, 1961 (<sup>1</sup>[Karnataka]<sup>1</sup> Act 17 of 1962) is not in operation and shall apply to such extent as is specified in the said Act in the areas in which the said Act, is in operation.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

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

(1) "beer" includes ale, stout and porter;

(2) "to bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask <sup>5</sup>[polythene sachet]<sup>5</sup> or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes re-bottling;

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

(4) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption;

<sup>2</sup>[(5) "Deputy Commissioner" means the Deputy Commissioner of the revenue district;]<sup>2</sup>

<sup>3</sup>[(5A) 'Deputy Commissioner of Excise' means a Deputy Commissioner of Excise appointed under section 4A;]<sup>3</sup>

(6) "excisable article" means,-

- (a) any liquor;
- (b) any intoxicating drug;
- (c) opium; or

(d) other narcotic drugs, narcotics and non-narcotic drugs which the State Government may by notification declare to be an excisable article;

(7) "Excise Commissioner" means the officer appointed as Excise Commissioner under section 3;

(8) "excise duty" and "countervailing duty" means any such excise duty or countervailing duty, as the case may be, as is mentioned in Entry 51 of List II of the Seventh Schedule to the Constitution;

<sup>2</sup>[(9) 'Inspector of Excise' means an Inspector of Excise appointed under section 6 ;]<sup>2</sup>

(10) "Excise Officer" means the Excise Commissioner, <sup>6</sup>[a Joint Commissioner of Excise]<sup>6</sup> a Deputy Commissioner, <sup>3</sup>[a Deputy Commissioner of Excise]<sup>3</sup> or any officer or other person lawfully appointed or invested with power under <sup>2</sup>[section 5, section 5A or section 6]<sup>2</sup>;

(11) "excise revenue" means revenue derived or derivable from any duty, fee, tax, rent, fine 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;

<sup>3</sup>[(11A) 'excise tree' includes the Gulmohwa, cocoanut, palm, palmyra, date, bagani or doddasal tree, or any other tree, the fermented or unfermented juice <sup>7</sup>[x x x]<sup>7</sup> from which toddy or any other liquor can be prepared;]<sup>3</sup>



(12) "export" means to take out of the State otherwise than from a Customs station as defined under section 2 of the Customs Act, 1962 (Central Act 52 of 1962);

<sup>2</sup>[(13) "foreign liquor" includes every liquor imported into India;]<sup>2</sup>

(14) "import" except in the phrase "import into India", means to bring into the State otherwise than from a Customs station as defined under section 2 of the Customs Act, 1962 (Central Act 52 of 1962);

<sup>2</sup>[(15) 'Indian liquor' means liquor produced, manufactured or compounded in India in the same manner as Gin, Brandy, Whisky or Rum imported into India, and includes 'milk punch' and other liquor consisting of or containing sprits;]<sup>2</sup>

(16) "intoxicant" means any liquor as defined in clause (18) or any intoxicating drug as defined in clause (17);

(17) "intoxicating drug" means,-

(i) the leaves, small stalk and flowering or fruiting tops of the Indian hemp plant 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 neutral 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 manufactured drug as defined under section 2 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930);

<sup>6</sup>[(17A) "Joint commissioner of Excise" means a Joint Commissioner of Excise appointed under section 4A]<sup>6</sup>

(18) "liquor" includes,-

(a) spirits of wine, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol <sup>1</sup>[or wash]<sup>1</sup>; and

(b) any other intoxicating substance, which the State Government may by notification, declare to be liquor for the purposes of this Act;

(19) "manufacture" includes every process whether natural or artificial, by which any fermented, spirituous or intoxicating liquor or intoxicating drug is produced or prepared and also redistillation and every process for the rectification of liquor;

<sup>1</sup>[(19A) "material" includes mhowra flower, molasses, wash, rotten jaggery, grapes, cashewnut fruits, and such other substances as the State Government may by notification specify;

(19B) "mhowra flower" means the flower of *passialatifolla(ippe)* but does not include the berry or seed of the mhowra tree;

(19C) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of jaggery or sugar containing in solution or suspension, sugars which can be fermented, and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup; but does not include any article which the State Government may by notification declare not to be molasses, for the purposes of this Act;]<sup>1</sup>

(20) "notification" means a notification published in the official Gazette;

(21) "place" includes a house, building, shop, booth, tent, vessel, raft and vehicle;

(22) "police station" includes any place which the State Government may, by notification, declare to be a police station for the purpose of this Act;

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

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

<sup>1</sup>[(24A) "rotten jaggery" means jaggery which is unfit for human consumption or the consumption of which is injurious to health;

**Explanation.**- 'jaggery' shall be deemed to be unfit for human consumption or the consumption of it shall be deemed to be injurious to health if it is of dark brown colour with strong smell or if on chemical analysis it is found to contain more than fifteen percent of reducing sugar or less than seventeen percent of total sugar;]<sup>1</sup>

(25) "sale" or "selling" includes any transfer otherwise than by way of gift;

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

<sup>3</sup>[(26A) 'Sub-Inspector of Exercise' means an officer appointed as Sub-Inspector of Excise under section 6;]<sup>3</sup>

<sup>8</sup>["(27) "Toddy" means fermented juice drawn from an excise tree but does not include Neera."]<sup>8</sup>

<sup>9</sup>["(27-A) "Neera" means the juice drawn from a coconut tree and collected in receptacles in any manner and not subjected to fermentation, which is transparent, syrupy, sweet in smell and taste, without the slightest foam on its surface and preserved without any acid."]<sup>9</sup>

<sup>4</sup>[(28) xxx]<sup>4</sup>

(29) "transport" means to move from one place to another within the State whether the intervening area lies wholly within the State or not.

<sup>1</sup>[(30) "wash " includes fermented wort and a dilute solution of sugar from which spirit is distilled.]<sup>1</sup>

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.
2. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.
3. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.
4. Omitted by Act 1 of 1971 w.e.f. 7-8-1970.
5. Inserted by Act 1 of 1994 w.e.f. 1-7-1993.
6. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.
7. Omitted by Act 38 of 2003 w.e.f. 3.9.2003.
8. Substituted by Act 1 of 2017 w.e.f. 4-1-2017.
9. Inserted by Act 1 of 2017 w.e.f. 4-1-2017.

## CHAPTER II

### ESTABLISHMENT AND CONTROL

**3. Appointment of Excise Commissioner.-** (1) The State Government may appoint, by notification, an officer not below the rank of a Deputy Commissioner, as Excise Commissioner for the <sup>1</sup>[State of Karnataka]<sup>1</sup>, who subject to the general or special orders of the State Government in this behalf, shall be the chief controlling authority in all matters connected with the administration of this Act.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

(2) The Excise Commissioner shall exercise all the powers of the Deputy Commissioner in respect of the administration of this Act and shall have the control of the administration of the Excise Department.

**4. Deputy Commissioner.-** (1) The Deputy Commissioner shall within the limits of his jurisdiction exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act to a Deputy Commissioner subject to such control as the State Government may from time to time direct.

(2) For the purposes of this Act, all Deputy Commissioners shall be subordinate to the Excise Commissioner.

<sup>1</sup>[4A. <sup>2</sup>[**Joint Commissioner of Excise and Deputy Commissioner of Excise**]<sup>2</sup>.- (1) The State Government may appoint, by notification, as many <sup>2</sup>[Joint Commissioners of Excise or Deputy Commissioners of Excise]<sup>2</sup> as it thinks fit, for such area or areas as may be specified in the notification.

- I 1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.
2. Substituted by Act 21 of 1998 w.e.f. 28-5-1998.

(2) <sup>1</sup>[A Joint Commissioner of Excise or a Deputy Commissioner of Excise]<sup>1</sup> appointed under sub-section (1), shall exercise such powers and perform such duties and functions assigned to a Deputy Commissioner under this Act, as may be specified by the State Government in the notification, and thereupon the Deputy Commissioner shall not be competent to exercise the powers or perform the duties and functions so specified.

1. Substituted by Act 21 of 1998 w.e.f.28-5-1998.

(3) <sup>1</sup>[A Joint Commissioner of Excise or a Deputy Commissioner of Excise]<sup>1</sup> shall be subordinate to the Excise Commissioner and shall be subject to the control of the Excise Commissioner and the State Government.]<sup>1</sup>

1. Substituted by Act 21 of 1998 w.e.f.28-5-1998.

**5. Appointment of <sup>1</sup>[Superintendents of Excise and Deputy Superintendents of Excise]<sup>1</sup>.-** (1) The State Government may appoint an officer as <sup>1</sup>[Superintendent of Excise]<sup>1</sup> for a district or part of a district to exercise all or any of the powers and to perform all or any of the duties of a Deputy Commissioner in respect of the administration of this Act, either concurrently with or in subordination to the Deputy Commissioner subject to such control as the State Government may direct.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(2) The State Government may appoint such number of <sup>1</sup>[Deputy Superintendents of Excise]<sup>1</sup> for a district or part of a district as it thinks fit to exercise such powers and perform such duties as the State Government may direct.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

**<sup>1</sup>[5A. Constitution of an Intelligence Bureau and appointment of Superintendents and Deputy Superintendents of Excise (Intelligence Bureau)].-** (1) There shall be an Intelligence Bureau headed by the Excise Commissioner and consisting of a <sup>2</sup>[Joint Commissioner of Excise or a Deputy Commissioner of Excise]<sup>2</sup> and such number of Superintendents of Excise (Intelligence Bureau) and Deputy Superintendents of Excise (Intelligence Bureau) as may be appointed by the State Government under sub-section (2) and such other officers as may be appointed by the Excise Commissioner with the prior approval of the State Government.

(2) The State Government may appoint,-

- (i) an officer as Superintendent of Excise (Intelligence Bureau) for a district or part of a district or for more than one district;

- (ii) an officer as Deputy Superintendent of Excise (Intelligence Bureau) for a district or part of a district or for more than one district,

to exercise the powers relating to detection, investigation and trial of offences under the Act, and to perform such duties and functions of an Excise Officer as the Excise Commissioner may direct subject to such rules as may be prescribed.]<sup>1</sup>

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

2. Substituted by Act 21 of 1998 w.e.f. 28-5-1998.

**6. Appointment of <sup>1</sup>[Inspectors of Excise, Sub-Inspectors of Excise]<sup>1</sup> and other subordinate officers.-** (1) The State Government may appoint <sup>1</sup>[Inspectors of Excise and Sub - Inspectors of Excise]<sup>1</sup> to exercise the powers and to perform the duties in connection with detection, investigation and trail of offences under this Act.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(2) The State Government may appoint subordinate officers of such classes and with such designations, powers and duties under this Act as it may think fit.

(3) The State Government may, by notification direct that all or any of the powers and duties assigned to an <sup>1</sup>[Inspector of Excise, Sub-Inspector of Excise]<sup>1</sup> or subordinate officer under sub-sections (1) and (2), shall be exercised and performed by any officer of the State Government.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(4) The State Government may, by notification, delegate its powers under sub-sections (1), (2) and (3) to the Excise Commissioner, <sup>2</sup>[the Joint Commissioner]<sup>2</sup> the Deputy Commissioner <sup>1</sup>[the Superintendent of Excise or the Deputy Superintendent of Excise]<sup>1</sup>, as the case may be.

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

2. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.

**<sup>1</sup>[7. Delegation of powers-** (1) The State Government may by notification delegate to the Excise Commissioner or to any other Excise Officer any of its powers under this Act except the powers under section 67 and 71.

(2) The State Government may by notification delegate subject to such conditions and as may be specified therein any of the powers conferred by or under this Act on the Excise Commissioner <sup>2</sup>[or the Joint Commissioner of Excise]<sup>2</sup> or the Deputy Commissioner, to any Excise Officer.]<sup>1</sup>

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

2. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.

### CHAPTER III

#### IMPORT, EXPORT AND TRANSPORT

**8. Import of intoxicant.-** (1) No intoxicant shall be imported except under a permit granted by the Deputy Commissioner on payment of such countervailing duty and fees, as may be levied under this Act and on such other terms as may be prescribed:

Provided that the Deputy Commissioner may subject to such restrictions and conditions as may be prescribed to ensure the collection of the countervailing duty, permit the import of any intoxicant without the payment of the countervailing duty:

Provided further that no countervailing duty shall be payable on any intoxicant which being liable to the payment of duty under the Indian Tariff Act, 1934, or any other law, for the time being in force, relating to the duties of customs on goods imported into India, it has been dealt with according to such law.

(2) A permit granted under sub-section (1), may be cancelled by the Deputy Commissioner for breach of any of the terms subject to which it was granted or for any other reason to be recorded in writing.

**9. Export of intoxicant.-** (1) No intoxicant shall be exported except under a permit granted by the Deputy Commissioner on payment of such fee as may be levied under this Act and on such terms as may be prescribed:

Provided that no intoxicant produced or manufactured in India shall, save as provided in section 66, be permitted to be exported unless the excise duty or countervailing duty to which such intoxicant is liable, has been paid.

(2) A permit granted under sub-section (1) may be cancelled by the Deputy Commissioner for breach of any terms subject to which it was granted or for any other reason to be recorded in writing.

**10. Prohibiting of transport of intoxicant.-** The State Government may, by notification, prohibit the transport of intoxicants or any kind of intoxicants from any local area into any other local area.

**11. Transport of intoxicant.-** No intoxicant exceeding such quantity as may be prescribed either generally or for any local area shall be transported, except under a permit issued under section 12.

**12. Permits for transport.-** (1) The Deputy Commissioner or any other person duly empowered by the State Government in that behalf may issue a permit for the transport of intoxicants.

(2) A permit under sub-section (1) may be either a general permit for definite periods and kinds of particular intoxicants or a special permit for specified occasions and particular consignments only:

Provided that a general permit shall be granted only to persons licensed under this Act and may cover any quantity of liquor transported at any one time not exceeding the quantity specified in the permit.

(3) Every permit under this section shall specify,-

- (a) the name of the person authorised to transport intoxicants;
- (b) the period for which the permit is to be in force;
- (c) the quantity and description of intoxicants for which it is granted; and
- (d) any other particulars which may be prescribed.

(4) A permit granted under this section shall extend to and include servants and other persons employed by the grantee and acting on his behalf.

## CHAPTER IV

### MANUFACTURE, POSSESSION AND SALE

**13. Manufacture, etc., of excisable article prohibited except under a licence.-** (1) No person shall,-

- (a) manufacture or collect an intoxicant; or
- (b) cultivate hemp plant; or
- (c) tap a toddy producing tree or draw toddy from any tree; or
- (d) construct or work a distillery or brewery; or
- (e) bottle liquor for sale; or
- (f) use, keep, or have in his possession, any material, still, utensil, implement or apparatus, whatsoever for the purposes of manufacturing any intoxicant other than toddy,

except under the authority and subject to the terms and conditions of a licence granted by the Deputy Commissioner in that behalf or under the provisions of section 18.

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

<sup>1</sup>["**13A. Manufacture etc., of Neera and Neera Products prohibited except under a licence.-** No person shall tap Neera from coconut tree or further process it, except with a licence granted by the competent authority or payment of such fee and subject to such terms and conditions as may be prescribed."] <sup>1</sup>

1. Inserted by Act 1 of 2017 w.e.f. 4.1.2017.

**14. Possession of excisable articles in excess of the quantity prescribed.-** (1) The State Government may, by notification, prescribe a limit of quantity for the possession of any intoxicant:



Provided that different limits may be prescribed for different qualities of the same article.

(2) No person shall have in his possession any quantity of any intoxicant in excess of the limit prescribed under sub-section (1), except under the authority and in accordance with the terms and conditions of,-

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

(b) a permit granted by the Deputy Commissioner in that behalf.

**15. Sale of excisable articles without licence prohibited.-** (1) No intoxicant shall be sold except under the authority and subject to the terms and conditions of a licence granted in that behalf:

Provided that, subject to such restrictions and conditions as the Excise Commissioner may by general or special order specify,-

(a) a person having the right to the toddy drawn from any tree may sell such toddy without a licence to a person licensed to manufacture or sell toddy under this Act;

(b) a cultivator or owner of any 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 sell, manufacture or export the intoxicating drugs or to any officer, whom the Excise Commissioner may generally or specially authorise.

(2) A licence for sale under sub-section (1), shall be granted,-

(a) by the Deputy Commissioner, if the sale is within a district, or

(b) by the Excise Commissioner, if the sale is in more than one district:

Provided that subject to such conditions as may be determined by the Excise Commissioner, a licence for sale granted under the Excise law in force in any other State may be deemed to be a licence granted under this Act.

(3) Nothing in this section shall apply to the sale of any liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

(4) Notwithstanding anything contained in sub-sections (1) and (2), no club shall supply liquor to its members on payment of a price or of any fee or subscription except under the authority of and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner and on payment of such fees according to a scale of fees to be fixed by the State Government in this behalf.



**<sup>1</sup>[15A. Consumption or allowing consumption of Liquor in unlicensed Public Places.-** No person being the owner or incharge of the management or control of any public place shall allow consumption of liquor or no person shall consume liquor in any public place unless consumption of liquor in such place is permitted under a licence granted by the Excise Commissioner or the Deputy Commissioner.

**Explanation 1.-** For the purposes of this section and section 32 “public place” means any public office or any place of public amusement or resort, recreation centre or on board, any passenger boat or vessel or any public passenger vehicle or a dining or refreshment room in a restaurant or hotel where different individuals or groups of persons consume food, but shall not include any private residential room or private residential house.

**Explanation 2.-** For the purposes of Explanation 1, “public passenger vehicle” means a vehicle used for carrying passengers for hire or reward other than a vehicle which carries passengers for hire or reward under a contract, express or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum.]<sup>1</sup>

1. Inserted by Act 15 of 2001 w.e.f. 19.4.2001.

**16. Establishment of distilleries and warehouses.-** (1) The Excise Commissioner may, with the previous sanction of the State Government,-

(a) establish a distillery, in which spirit may be manufactured under licence granted under section 13 on such conditions as the State Government may 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 brewery;

(d) licence a private bonded warehouse;

(e) establish or licence a warehouse wherein intoxicants may be deposited and kept without payment of duty; and,

(f) discontinue any warehouse so established.

(2) A warehouse established under sub-section (1), shall be for general accommodation to warehouse intoxicants subject to duty pending removal for local consumption or for export.

(3) Without the sanction of the State Government no intoxicants shall be removed from any distillery, brewery, warehouse or other place of storage established or licenced under this Act, unless the duty, if any, imposed under this Act has been paid or a bond has been executed for the payment thereof.

**<sup>1</sup>[16A. Prohibition on grant or renewal of licence for manufacture, bottle or manufacture and bottle Arrack for sale etc.,- (1)**

Notwithstanding anything contained in this Act or rules made thereunder, no licence to,-

- (a) manufacture; or
- (b) bottle; or
- (c) manufacture and bottle;

arrack for sale shall be granted or renewed to any person with effect from the 1<sup>st</sup> day of July, 2007.

(2) Notwithstanding anything contained in this Act or rules made thereunder or in any judgement, decree or order of any court, every licence granted to,-

- (a) manufacture; or
- (b) bottle; or
- (c) manufacture and bottle;

arrack for sale shall be ceased to be valid on the expiry of 30<sup>th</sup> day of June 2007:

Provided that nothing contained in this section shall affect any obligation or liability in respect of such licence granted before the 1<sup>st</sup> day of July, 2007."

1. Substituted by Act 27 of 2007 w.e.f. 1-7-2007.

<sup>1</sup>[**16B. Prohibition on grant or renewal of lease or licence to sell arrack.-** (1) Notwithstanding anything contained in this Act or rules made thereunder, no lease of right, the exclusive or other right,-

- (a) of manufacturing or supplying by wholesale or of both; or
- (b) of selling by wholesale or by retail; or
- (c) of manufacturing or supplying by wholesale or of both and of selling by retail of arrack

shall be granted or renewed with effect from the 1<sup>st</sup> day of July 2007.

(2) Notwithstanding anything contained in this Act or rules made thereunder, or in any judgement, decree or order of any court, every lease of right, the exclusive or other right,-

- (a) of manufacturing or supplying by wholesale or of both; or
- (b) of selling by wholesale or by retail; or
- (c) of manufacturing or supplying by wholesale or of both and of selling by retail of arrack

shall be ceased to be valid on the expiry of 30<sup>th</sup> day of June 2007:

Provided that nothing contained in this section shall affect any obligation or liability in respect of such lease of right the exclusive or other right.]<sup>1</sup>

1. Substituted by Act 27 of 2007 w.e.f. 1-7-2007.

**17. Power to grant lease of right to manufacture, etc.-** (1) The State Government may lease to any person, on such conditions and for such period as it may think fit, the exclusive or other right,-

- (a) of manufacturing or supply by wholesale or of both, or
- (b) of selling by wholesale or by retail, or
- (c) of manufacturing or supplying by wholesale, or of both and of selling by retail,

any Indian liquor or intoxicating drug within any specified area.

<sup>1</sup>[(1A) No lease granted under sub-section (1) shall be transferred:

Provided that the State Government may grant permission to the lessee to transfer the lease or a part thereof in favour of any other person subject to such terms and conditions (including the transferee entering into an agreement of lease with the State Government), as may be prescribed.];<sup>1</sup>

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

(2) The licensing authority may grant to a lessee <sup>1</sup>[under sub-section (1) or a transferee under sub-section (1A)]<sup>1</sup>, a licence in the terms of his lease; and when there is no condition in the lease, which prohibits sub-letting may, on the application of the lessee, grant licences to any sub-lessee approved by such authority.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

<sup>1</sup>[(3) A lease referred to in sub-section (1) or sub-section (1A) may be determined,-

- (a) if any duty or fee payable by the lessee is not duly paid; or
- (b) in the event of breach of any term or condition of the lease by the lessee or any of his servants or any person acting on behalf of or under the express or implied permission of the lessee; or
- (c) if the lessee becomes incapable of carrying on the business; or
- (d) if the conditions of the lease provide for determination at will:

Provided that no such determination shall be made unless the person affected has had a reasonable opportunity of showing cause against such determination.

(4) Where a lease is determined under clause (a), (b), or (c) of sub-section (3), the State Government may direct the Deputy Commissioner, to take the right under his management and to lease it again by re-sale or other-wise; and if on such management or re-sale, the amount realised is less than the amount payable under the lease which was determined, the loss shall be payable by the person whose lease was determined.];<sup>1</sup>

1. Sub-sections (3) and (4) Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

**18. Lessee's permission to draw toddy.-** Where a right to manufacture toddy has been leased under section 17, the State Government may declare that the written permission of the lessee to draw toddy shall have the same

force and effect as a licence under section 13 from the Deputy Commissioner for that purpose.

**19. Duties of licensees with regard to measurement and testing.-**

Every person, who manufactures or sells any intoxicant under a licence granted under this Act shall be bound,-

(a) to provide himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition and on the licensed premises, and

(b) on the requisition of the 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.

**20. Prohibition of employment of children and of women.-** (1) No

person, who is licensed to sell any intoxicant for consumption on his premises shall, during the hours in which such premises are kept open for persons employ or permit to be employed, either with or without remuneration, any children under such age as the State Government may, by rule, prescribe in this behalf, in any part of such premises in which such excisable article is consumed by the public.

(2) No person who is licensed to sell any intoxicant for consumption at his premises shall, without the previous permission in writing of the Deputy Commissioner, during the hours in which such premises are kept open for persons, employ or permit to be employed, either with or without remuneration any woman in any part of such premises in which such excisable article is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the licence and may be modified and withdrawn.

**21. Closing of shops for the preservation of public peace <sup>1</sup>[etc.,]<sup>1</sup>.-**

(1) The District Magistrate may, by notice in writing to the licensee require that any shops in which any intoxicant is sold shall be closed at such times and for such period as he may think necessary for the preservation of the public peace <sup>1</sup>[or the prevention of the spreading of any infectious diseases]<sup>1</sup>

1. Inserted by Act 36 of 1987 w.e.f. 10-8-1987.

(2) If any riot or any unlawful assembly is apprehended or occurs in the vicinity of any such shop, any Magistrate or any Police Officer not below the rank of a Sub-Inspector, who is present, may require such shop to be kept closed for such period as he may think necessary :

Provided that where a riot or unlawful assembly so occurs, the licensee shall in the absence of such Magistrate or officer, close the shop without any order and keep it closed during the continuance of such riot or unlawful Assembly.

## CHAPTER V

### EXCISE DUTY AND COUNTERVAILING DUTY

**22. Excise duty or countervailing duty on excisable articles.-** (1) An excise duty at such rate or rates as the State Government may prescribe, shall be levied on any excisable article manufactured or produced in the State under any licence or permit granted under this Act.

(2) A countervailing duty at such rate or rates as the State Government, may prescribe shall be levied on any excisable article manufactured or produced in India outside the State and imported into the State under a licence or permit granted under this Act.

(3) The rates prescribed under sub-sections (1) and (2) may be different for different kinds of excisable articles and may also be different when levied in the different ways specified in section 23.

**23. Ways of levying such duties.-** Subject to such rules regulating the time, place and manner, as may be prescribed, excise duty and countervailing duty under section 22 shall be levied in one or more of the following ways as may be prescribed, namely :-

(a) rateably on the quantity of any excisable article produced or manufactured in or issued from a distillery, brewery, manufactory or warehouse, or imported into the State;

<sup>1</sup>[(aa) by fees (called litre fees) on the quantity of excisable article imported by any person or received by any person when issued from a distillery, brewery, manufactory or warehouse, as the case may be;

**Explanation.-** In this clause, 'warehouse' includes a place where liquor is kept by a person selling liquor by wholesale.]<sup>1</sup>

1. Inserted by Act 1 of 1971 w.e.f. 30-9-1967.

<sup>1</sup>[(aaa) in the form of duty or additional duty on the value or cost price of the excisable articles produced or manufactured in, or issued from, a Distillery, Brewery, Winery or Manufactory or Warehouse or in the form of countervailing duty or additional countervailing duty on the value, cost or price of the liquor imported into the State, at such rate or rates or at such stage or stages and in such manner as may be prescribed.]<sup>1</sup>

1. Inserted by Act 21 of 2000 w.e.f. 11-1-2001 by notification.

(b) in the case of spirit or other liquor produced in any distillery established or any distillery, brewery or manufactory licensed under this Act, in accordance with its quality or strength, or 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 may be prescribed;

- (c) in the case of toddy, by tax on each tree from which toddy is drawn;
- (d) by fees on licences in respect of the manufacture or sale of any excisable article.

**<sup>1</sup>[23A. Remittance of Excise Revenue through electronic means.-** All payments of Excise revenue shall be remitted or done through electronic means (Internet), in such manner as may be prescribed. The excise commissioner shall cause to develop appropriate electronic means for remittance of all excise revenue in the manner prescribed effectively.]<sup>1</sup>

1. Inserted by Act 11 of 2014 w.e.f. 22.02.2014

**<sup>2</sup>[<sup>1</sup>24. Payment of fees for grant or renewal of lease or license.-** (1) Instead of or in addition to any excise duty or countervailing duty leviable under sections 22 and 23, the State Government may, Levy and Collect such amount as license fee or privilege fee as may be, determined by notification by the State Government, subject to, such rules as may be prescribed in consideration of grant or renewal of a license or lease or both, by or under this Act.

(2) In consideration of grant or renewal of Distributor license by or under this Act, the State Government shall levy privilege fee at such rate or amount as may be determined by notification subject to such rules as may be prescribed and the privilege fee may be collected in the notified manner at any time of the year:]<sup>1</sup><sup>2</sup>

1. Substituted by Act 2 of 1994 w.e.f. 30-9-1967

2. deemed to have been substituted by Act, 26 of 2013 w.e. f 30.06.2003

**<sup>1</sup>[24A. Grant of Exclusive or other privilege in respect of foreign liquor.-** (1) The Excise Commissioner or Deputy Commissioner may subject to such rules as may be prescribed grant to any person a licence for the exclusive or other privilege for the entire State or for any specified area,-

(a) for importing directly from outside the country or from outside the State any foreign liquor manufactured outside India, or

(b) for supplying by wholesale or by retail or for selling by Wholesale or retail any foreign liquor manufactured outside India and imported into the State.

(2) The licence to import foreign liquor under sub-section (1) shall be granted only to a person who has got the authority to import foreign liquor under the licence or authority granted by the Government of India.

(3) For grant of the licence under sub-section (1), the State Government may levy such licence fee, privilege fee, vend fee or any other form of fee as consideration.]<sup>1</sup>

1. Inserted by Act 15 of 2001 w.e.f. 19.4.2001

**25. Tax for tapping trees from whom leviable.-** When duty is levied by way of tax on <sup>1</sup>[excise trees]<sup>1</sup> under section 23 and <sup>1</sup>[excise trees]<sup>1</sup> are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him, from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied, from the person, if any, who owns or is in possession of the trees, unless he proves that the trees were tapped without his consent.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

## CHAPTER VI

### LICENCES AND PERMITS

**26. Form and conditions of licence, etc.-** (1) Every licence or permit granted under this Act shall be granted on payment of such fees for such period, and subject to such restrictions and on such conditions, and shall be in such form and shall contain such particulars, as may be prescribed.

(2) The conditions prescribed under sub-section (1) may include provision of accommodation by the licensee to Excise Officers at the licenced premises or the payment of rent or other charges for such accommodation at or near the licensed premises, and the payment of the costs, charges and expenses (including the salaries and allowances of the Excise Officer) which the State Government may incur in connection with supervision to ensure compliance with the provisions of this Act, the rules made thereunder and the licence.

**27. Power to take security and counterpart agreement.-** Subject to such rules as may be prescribed, any authority granting a licence under this Act may require the licensee,-

- (a) to give security for the observance of the terms of his licence, and
- (b) to execute a counterpart agreement in conformity with tenor of his licence.

**28. Technical defect, irregularities and omissions.-** (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.

**29. Power to cancel or suspend licence, etc.-** (1) Subject to such restrictions as the State Government may prescribe, the authority granting any licence or permit under this <sup>1</sup>[shall cancel it]<sup>1</sup>,-

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

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



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

(c) if the holder thereof or any of his servants or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act; or

(d) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930, or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, or under the Trade and Merchandise Marks Act, 1958, or under section 481, 482, 483, 484, 485, 486, 487, 488 or 489 of the Indian Penal Code or of any offence punishable under section 112 or 114 of the Customs Act, 1962; or

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

<sup>1</sup>[Provided that in case of contravention of provisions of sub-section (1) of section 36 except clauses (c), (g) and (h), the authority granting the licence or permit shall have discretion to cancel or suspend a licence or permit:

Provided further that a licence or permit shall not be cancelled or suspended without giving an opportunity of being heard to the licensee or the holder of permit, as the case may be.]<sup>1</sup>

1. Inserted by Act 14 of 2005 w.e.f. 11.4.2005.

(2) Where a licence or permit held by any person is cancelled under <sup>1</sup>[xxx]<sup>1</sup> sub-section (1) the authority aforesaid may cancel any other licence or permit granted to such person under this Act or under the Opium Act, 1878.

1. Omitted by Act 14 of 2005 w.e.f. 11.4.2005.

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

**30. Power to withdraw licence.-** (1) Whenever the authority which granted any licence under this Act considers that such licence should be withdrawn for any cause other than those specified in section 29, it may withdraw the licence on the expiration of not less than thirty days' notice in writing of its intention to do so.

(2) When a licence is withdrawn under sub-section (1), a part of the licence fee proportionate to the unexpired portion of the term of the licence and the deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount due from him to the State Government.



**31. Surrender of licence.-** (1) Any holder of a licence granted under this Act to sell an excisable article may surrender his licence on the expiration of one month's notice in writing given by him to the Deputy Commissioner of his intention to surrender the same and on payment of the fee payable for the licence for the remainder of the 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 the sum so payable on surrender or any portion thereof.

(2) Sub-section (1) shall not apply in the case of any licence granted under section 17.

## CHAPTER VII

### OFFENCES AND PENALTIES

**32. Penalty for illegal import, etc.-** (1) Whoever, in contravention of this Act, or any rule, notification or order, made, issued or given thereunder, or of any licence or permit granted under this Act, imports, exports, transports, manufactures, collects or possesses any intoxicant, shall, on conviction, <sup>1</sup>[be punished for each offence with rigorous imprisonment for a term which may extend to <sup>2</sup>[five years and with fine which may extend to fifty thousand rupees.]<sup>3</sup>]

<sup>1</sup>[Provided that the punishment,-

(i) for the first offence shall be not less than <sup>4</sup>[<sup>2</sup>[one year rigorous imprisonment and fine of not less than ten thousand rupees]<sup>2</sup>]<sup>4</sup>; and

(ii) for the second and subsequent offences shall be not less than <sup>2</sup>[two years rigorous imprisonment and fine of not less than twenty thousand rupees]<sup>2</sup> for each such offence.]<sup>1</sup>

(2) Whoever in contravention of this Act, or of any rule, notification or order made, issued or given thereunder, or of any licence or permit granted under this Act,-

- (a) save in the cases provided for in section 37, sells any intoxicant; or
- (b) cultivates or fails to take the measures prescribed for checking the spontaneous growth or for the extirpation of the hemp plants; or
- (c) taps or draws toddy from any toddy-producing tree or;
- (d) constructs or works any distillery or brewery; or
- (e) uses, keeps or has in his possession any materials, still, utensil, apparatus or implement whatsoever for the purpose of manufacturing any intoxicant other than toddy ; or
- (f) removes any intoxicant from any distillery, brewery or warehouse licenced, established or continued under this Act ; or

(g) bottles any liquor;  
shall, on conviction, <sup>1</sup>[be punished for each offence with rigorous imprisonment for a term which may extend to <sup>2</sup>[five years and with a fine which may extend to twenty thousand rupees]<sup>2</sup>]<sup>1</sup>.

<sup>1</sup>[Provided that the punishment,-

(i) for the first offence shall be not less than <sup>4</sup>[one year rigorous imprisonment and fine of not less than five thousand rupees]<sup>4</sup>; and

(ii) for the second and subsequent offences shall be not less than <sup>2</sup>[one year rigorous imprisonment and fine of not less than ten thousand rupees]<sup>2</sup> for each such offence.]<sup>1</sup>

<sup>3</sup>[(3) Whoever, being the owner or incharge of management or control of any public place allows consumption of liquor or whoever consumes liquor in any public place in which consumption of liquor is not permitted under a licence granted by the Excise Commissioner or the Deputy Commissioner, in contravention of the provisions of section 15A, shall on conviction be punished with fine which shall not be less than rupees two hundred but which may extend to <sup>4</sup>[five thousand rupees.]<sup>4</sup>]<sup>3</sup>

<sup>5</sup>["(4) Whoever violates the provisions of section 13A or the rules made thereunder shall on conviction be punished with a fine of rupees five thousand for each time, upto first five offences. In case of subsequent offence, he shall be punished with an imprisonment for a term of six months or with fine which may extend to ten thousand rupees or with both."]<sup>5</sup>

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

2. Substituted by Act 36 of 1987 w.e.f.10-8-1987.

3. Inserted by Act 15 of 2001 w.e.f. 19.4.2001.

4. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

5. Inserted by Act 01 of 2017 w.e.f. 4.1.2017.

### **33. Penalty for rendering denatured spirit fit for human consumption.-** Whoever,-

(a) renders fit for human consumption any spirit, which has been denatured; or

(b) has in his possession any spirit in respect of which he knows, or has reason to believe that any such offence has been committed or that an attempt to commit such an offence has been made;

shall, on conviction, <sup>1</sup>[be punished for each offence with rigorous imprisonment for a term which may extend to <sup>3</sup>[four years and with fine which may extend to twenty thousand rupees.]<sup>3</sup>]<sup>1</sup>

<sup>2</sup>[Provided that the punishment,-

(i) for the first offence shall be not less than <sup>3</sup>[two years rigorous imprisonment and fine of not less than five thousand rupees]<sup>3</sup>; and

(ii) for the second and subsequent offences shall be not less than rigorous imprisonment for <sup>3</sup>[two years and fine of not less than ten thousand rupees]<sup>3</sup> one thousand, for each such offence.]<sup>2</sup>

**Explanation.-** For the purposes of this section, it shall be presumed, unless the contrary is proved, that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants, is, or contains, or has been derived from denatured spirit.

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

2. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

3. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

**34. Penalty for illegal possession.-** Whoever, without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall, on conviction, be punished with imprisonment for a term which may extend to <sup>1</sup>[four years and with fine which may extend to fifty thousand rupees.]<sup>1</sup><sup>2</sup>

<sup>2</sup>[Provided that the punishment,-

(i) for the first offence shall be not less than <sup>1</sup>[one year imprisonment and fine of rupees ten thousand]<sup>1</sup>; and

(ii) for the second and subsequent offences shall be not less than imprisonment for <sup>1</sup>[two years and fine of not less than rupees twenty thousand]<sup>1</sup>, for each such offence:

Provided further that the fine inflicted, shall not be less than four times the amount of duty leviable on such intoxicant.]<sup>2</sup>

1. Substituted by Act 36 of 1987 w.e.f. 10-8-1987 and again substituted by Act 14 of 2005 w.e.f. 11.4.2005.

2. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

**35. Penalty for offence not otherwise provided for.-** Whoever does any act in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given thereunder, and not otherwise provided for in this Act, shall, on conviction, be punished <sup>1</sup>[with fine which shall not be less than two hundred rupees and not more than one thousand rupees.]<sup>1</sup>

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

**36. Penalty for misconduct of licensee, etc.-** (1) Whoever, being the holder of a licence or permit granted under this Act, or being in the employ of such holder and acting on his behalf,-

- (a) fails to produce such licence or permit on the demand of any Excise Officer or of 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 his licence, or permit, not otherwise provided for in this Act; or
- (c) save in a case provided for by section 32 wilfully contravenes any rule made under section 71; or
- (d) permits drunkenness, disorderly conduct or gaming in any place wherein any intoxicant is sold or manufactured; or
- (e) permits or suffers persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes or habitual offenders, to resort to, or assemble or remain in or on the premises where any excisable article is sold or manufactured; or
- (f) sells any intoxicant to a person who is drunk; or
- (g) sells or gives any intoxicant to any child apparently under eighteen years of age or permits or suffers such child or remain in or on the premises where any excisable article is sold, or manufactured; or
- (h) in contravention of section 20 employs or permits to be employed on any part of his licenced premises referred to in that section any child or women,

shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Where any holder of a licence or permit under this Act or any person in his employ or acting on his behalf is charged with permitting drunkenness on the premises of such holder, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the holder of the licence and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

**37. Penalty for adulteration, etc., by licensed vendor or manufacturer <sup>1</sup>[or any other person]<sup>1</sup>.**- (1) 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 <sup>1</sup>[or any other person]<sup>1</sup> 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 admixture does not amount to an offence of adulteration under section 272 of the Indian Penal Code, shall, on conviction

be punished with imprisonment for a term <sup>2</sup>[three years and with a fine which shall not be less than ten thousand rupees and not more than fifty thousand rupees.]<sup>2</sup>

1. Inserted by Act 27 of 2007 w.e.f. 29-8-2007.

2. Substituted by Act 1 of 1970 w.e.f. 23-12-1969 and substituted by Act 14 of 2005 w.e.f. 11.4.2005

(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 <sup>1</sup>[or any other person]<sup>1</sup>, -

1. Inserted by Act 27 of 2007 w.e.f. 29-8-2007.

- (a) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be Indian liquor; or
- (b) marks any bottle or the cork of any bottle, case, package, or other receptacle containing Indian liquor or uses any bottle, case, package or other receptacle containing Indian liquor, with any mark thereon or on the cork thereof, with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade mark with intention to deceive or injure any person under section 482 of the Indian Penal Code; or
- (c) sells or keeps or exposes for sale any Indian liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with counterfeit trade mark under section 486 of the Indian Penal Code;

shall, on conviction, be punished with imprisonment for a term which may extend to <sup>1</sup>[five years and with fine which may extend to fifty thousand rupees.]<sup>1</sup>

<sup>2</sup>[Provided that the punishment, -

(i) for the first offence shall be not less than <sup>1</sup>[three years' imprisonment and fine of not less than twenty thousand rupees]<sup>1</sup>; and

(ii) for the second and subsequent offences shall be not less than imprisonment for <sup>1</sup>[five years and fine of not less than fifty thousand rupees]<sup>1</sup> for each such offence;]<sup>2</sup>

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

2. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

**38. Penalty for consumption in Chemist's shop, etc.-** (1) A chemist druggist, apothecary or keeper of a dispensary, who allows any intoxicant which has not been *bona fide* medicated for medicinal purposes to be consumed on his business premises by any person shall, on conviction, 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) Any person not employed as aforesaid, who consumes any such intoxicant on such premises shall, on conviction, be punished with fine which may extend two hundred rupees.

**<sup>1</sup>[38A. Penalty for allowing premises, etc, to be used for the purpose of committing an offence under this Act.-** Whoever, being the owner or occupier or having the use or care or management or control, of any place, room, enclosure, space, vessel, vehicle , or place knowingly permits it to be used for the purpose of commission by any other person of an offence punishable under sections 32, 33, 34, 36 and 37 shall, on conviction, be punished as if he has committed the offences punishable under the respective sections.]<sup>1</sup>

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

**39. Manufacture, sale or possession by one person on account of another.-** (1) Where any intoxicant has been manufactured or sold or if possessed by any person on account of any other person and such other person knows or has reason to believe that such 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 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 manufactures, sells or has possession of any intoxicant on account of another person from liability to any punishment under this Act for unlawful manufacture, sale or possession of such article.

**40. Presumption as to commission of offence in certain cases.-** In prosecutions under section 32 and section 34, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of,-

- (a) any intoxicant; or
- (b) any still, utensil, implement or apparatus whatsoever in the manufacture of any intoxicant other than toddy; or
- (c) any material 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.

**41. Criminal liability of licensee for acts of servants.-** Where any offence under section 32, section 33, section 34, section 36 or section 37 is committed by any person in the employ and acting on behalf of the holder of a licence or permit granted under this Act, such holder shall also be punishable as if he had committed himself the said offence, unless he establishes 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 punishable under this section with imprisonment, except in default of payment of fine.

**42. Enhanced punishment after previous conviction.-** If any person after having been previously convicted of an offence punishable under <sup>1</sup>[xxx]<sup>1</sup> section 38 or under the corresponding provisions of any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under <sup>2</sup>[the said section]<sup>2</sup>, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under <sup>3</sup>[Chapter XXI of the Code Of Criminal Procedure, 1973]<sup>3</sup>, from being so tried.

1. Omitted by Act 1 of 1970 w.e.f. 23-12-1969.
2. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.
3. Substituted by Act 32 of 1982 w.e.f. 4.9.1982.

**<sup>1</sup>[42A. Security for abstaining from commission of certain offences.-** (1) Whenever any person is convicted of an offence punishable under section 32, section 33, section 34, section 36, or section 37 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 such offence, the court may, at the time of passing sentence on such person, order him to execute a bond in the prescribed form for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

(2) The provisions of the <sup>1</sup>[Code of Criminal Procedure, 1973]<sup>1</sup>, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

1. Substituted by Act 32 of 1982 w.e.f. 04.09.1982

(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 appeal or revision.]<sup>1</sup>

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

(1) any intoxicant, material, still, utensil, implement or apparatus in respect of, or by means of which, such offence has been committed;

(2) any intoxicant lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any intoxicant liable to confiscation under clause (1); and

(3) any receptacle, package, or covering in which anything liable to confiscation under clause (1) or clause (2), is found, and the other contents, if any, of such receptacle, package or covering and any animal, vehicle, <sup>1</sup>[except the vehicles owned by the State Road Transport Undertaking or Corporation]<sup>1</sup> vessel, raft or other conveyance used for carrying the same ;

<sup>2</sup>[Proviso x x x]<sup>2</sup>

1. Inserted by Act 27 of 2007 w.e.f. 29.08.2007.

2. Omitted by Act 36 of 1987 w.e.f. 10.08.1987.

**<sup>1</sup>[43A. Confiscation by Excise Officers in certain cases.-(1)** Notwithstanding anything contained in this Act or in any other law for the time being in force, where anything liable for confiscation under section 43 is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay, produce the same before an officer not below the rank of a Superintendent of Excise authorised by the Government in this behalf by notification (hereinafter referred to as the authorised officer).

1. Sections 43A to 43G Inserted by Act 36 of 1987 w.e.f. 10.08.1987.

(2) On production of the seized property under sub-section (1), the authorised officer, if satisfied that an offence under this Act has been committed may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property:

<sup>1</sup>[Provided that the authorised officer may pending final disposal of the proceedings in respect of the property seized under sub-section (1) and subject to this section and sections 43B to 43G,-

- (i) release the seized property except excisable articles to the owner of such property;
- (ii) release the seized excisable articles to their owner if he possesses a licence under the Act or the rules made thereunder;



on production of a Bank Guarantee issued from a Scheduled Bank for a sum equal to the value as estimated by the authorised officer, (which shall be renewable by him from time to time till final disposal of such proceeding) and on execution by the owner thereof a bond for production of such property or as the case may be, excisable articles so released, if and when so required, before the authorised officer.]<sup>1</sup>

<sup>1</sup> Inserted by Act 38 of 2003 w.e.f. 03.09.2003.

(3) When making an order of confiscation under sub-section (2), the authorised officer may also order that such of the properties to which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed.

(4) Where the authorised officer after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction.

(5) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses, relating thereto, shall, where the order of confiscation made under this section is set aside or annulled by an order under section 43D or 43E, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

**43B. Issue of show-cause notice before confiscation under section 43A.**-(1) No order confiscating any property shall be made under section 43A unless the person from whom the same is seized,-

(a) is given a notice in writing informing him the grounds on which it is proposed to confiscate such property;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) is given a reasonable opportunity of being heard in the matter.

(2) without prejudice to the provisions of sub-section (1), no order confiscating any animal, cart, vessel or other conveyance shall be made under section 43A, if the owner of the animal, cart, vessel or other conveyance proves to the satisfaction of the authorised officer that it was used in carrying the liquor or intoxicants or the material, still, utensil, implements or apparatus or the receptacle, package or covering without the knowledge or connivance of the owner himself, 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.

**43C. Order of confiscation when an offender is not known or cannot be found etc.**-When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act, and not in the possession of any person cannot be satisfactorily accounted for, the authorised officer may order such confiscation:

Provided that no such order shall be made until the expiration of one month, from the date of seizing the goods intended to be confiscated or without hearing the persons if any, claiming any right thereto, and the evidence, if any, which they produce, in support of their claims.

**43D. Revision.**-Any Excise Officer not below the rank of a Deputy Commissioner of Excise specially empowered by the State Government in this behalf, may before the expiry of thirty days from the date of order of the authorised officer under section 43A or 43C *suo-motu* call for and examine the records of that order and may make such inquiry or cause such inquiry to be made and may pass such orders as he deemed fit after giving the person against whom such order is made an opportunity of being heard.

**43E. Appeal.**- Any person aggrieved by an order passed under section 43A, 43C or 43D may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which such order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant to be heard pass such orders as he deems fit and such order shall be final.

**43F. Award of confiscation not to interfere with other punishments.**- The award of any confiscation under sub-section (2) of section 43A or section 43C or section 43D or section 43E shall not prevent infliction of any other punishment to which the person affected thereby is liable under this Act.

**43G. Bar of jurisdiction in certain cases.**-Whenever any liquor, intoxicant, material, still, utensil, implements or apparatus or any receptacle, package or covering in which such liquor, intoxicant, material, still, utensil, implement or apparatus found or any animal, cart, vessel or other conveyance is used in committing any offence is seized and detained under the provisions of this Act, the authorised officer appointed under section 43A or the officer specially empowered under section 43D or the Sessions Judge hearing an appeal under section 43E, shall have, and notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or any other law for the time being in force, any other officer or Court, Tribunal or authority shall not have, jurisdiction to make orders with regard to the custody, possession, delivery, disposal or distribution of such property.]<sup>1</sup>

<sup>1</sup>[44. x x x]<sup>1</sup>

1. Omitted by Act 36 of 1987 w.e.f. 10.08.1987.

<sup>1</sup>[45. **Compounding of offences.**- (1) The Excise Commissioner, the Deputy Commissioner or any Excise Officer specially empowered in this behalf may accept from any person who is reasonably suspected of having committed an offence,-

- (i) under sub-section (3) of section 32, a sum of money not less than two hundred rupees but which may extend to five thousand rupees;
- (ii) under sub-section (1) of section 36 except clauses (c), (g) and (h) a sum of money not less than five thousand rupees but which may extend to fifty thousand rupees;

by way of compensation for the offence which may have been committed.]<sup>1</sup>

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

(2) On the payment by such person of such sum of money or 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 against such person in any Criminal Court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case shall any further proceeding be taken against such person or property with reference to the said act.

<sup>1</sup>[45A. xxx ]<sup>1</sup>

1. Omitted by Act 14 of 2005 w.e.f. 11.4.2005

<sup>1</sup>[45B. xxx]<sup>1</sup>

1. Omitted by Act 14 of 2005 w.e.f. 11.4.2005

**46. Penalty on Excise Officer making vexatious search, seizure detention or arrest.**- Any Excise Officer or other person who vexatiously and without reasonable ground for suspicion,-

- (a) enters or searches or causes to be entered or searched any closed place under colour of exercising any power conferred by this Act, or
- (b) seizes the moveable property of any person on the pretext of seizing or searching for any article liable to confiscation under this Act, or
- (c) searches, detains or arrests any person, or
- (d) in any other way exceeds his lawful powers under this Act,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

**47. Penalty for Excise Officer refusing to do duty.**- Any Excise Officer, who, without lawful excuse shall cease or refuse to perform or

withdraws 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 official superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction, be punished with imprisonment, which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**48. Penalty for vexatious delay.-** Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to the nearest Excise Officer or to the officer in charge of the nearest police station, as required by sub-section (2) of section 59 any person arrested, shall, on conviction, be punished with fine which may extend to two hundred rupees.

**49. Penalty for abetment of escape of person arrested, etc.-** Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act or abets the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purposes of enabling any person to do anything whereby any of the provisions of this Act may be evaded or contravened or the excise revenue may be defrauded and any officer of any other Department referred to in section 50 who abets the commission of any offence against this Act in any place, shall, on conviction, for every such offence, be punished with imprisonment for a term which may extend to <sup>1</sup>[three years and with fine which may extend to five thousand rupees]<sup>1</sup>, or with both.

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005

## CHAPTER VIII

### DETECTION, INVESTIGATION AND TRIAL OF OFFENCES

**50. Landholders, officers and others to give information.-** (1) Whenever any intoxicant is manufactured or collected, or any hemp-plant is cultivated, in or on any land or building, in contravention of this Act,-

- (a) all owners and occupiers of such land or building or their agents, and
- (b) (i) village officers or servants including members of the village police,
- (ii) Chairman, members and officers of the village panchayat, and
- (iii) all officers (other than Excise Officers), employed in the collection of revenue or rent of land on behalf of the State Government, or a local authority in the locality in which such land or building is situate,

shall, in the absence of reasonable excuse, be bound to give notice of the fact to a magistrate or to an officer of the Excise or Police or Revenue Department as soon as the fact comes to their knowledge.

(2) Every Excise Officer shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act, which may come to his knowledge under sub-section (1) or otherwise.

(3) All such officers, chairmen, members or servants as are referred to in sub-section (1) shall be bound,-

- (a) to take all reasonable measures in their power to prevent the commission of such breaches which they may know, or have reason to believe are about or likely to be committed; and
- (b) to assist the Excise Commissioner in carrying out the provisions of this Act.

**51. Power to enter and inspect places of manufacture and sale.-** The Excise Commissioner or a Deputy Commissioner or any Excise Officer not below such rank as may be prescribed, or any Police Officer duly empowered in that behalf, may,-

(a) enter and inspect, at any time, by day or by night, any place in which any licensed manufacturer manufactures or stores any intoxicant, and

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

(c) examine the accounts and registers, and examine, test measure or weigh any materials, stills, utensils, implements, apparatus, or intoxicant found in such place.

**<sup>1</sup>[51A. Third party inspection or audit.-** (1) Subject to such conditions or restrictions as may be prescribed, every licensee shall get his accounts or records of a financial year audited by a cost accountant before the date specified by the Excise Commissioner and by that date furnish the report of such audit in the prescribed form duly signed and verified by such cost accountant setting forth such particulars as may be prescribed or specified by the Excise Commissioner, from time to time.

(2) The report of audit referred to in sub-section (1) shall contain, inter alia, the following information,-

- (i) whether the licensee has maintained proper books of accounts and records as provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner from time to time;
- (ii) whether the licensee has manufactured excisable goods or spirit as provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner;

- (iii) whether the input-output of raw materials and final products are as per norms provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner from time to time and to point out deviations if any;
- (iv) whether the wastages occurred during the manufacture or processing of spirits and liquor are as per the norms provided under this Act or the rules framed there under or as per the orders issued by the Government or the Excise Commissioner from time to time; and
- (v) any other items and particulars that may be provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner from time to time.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the records or books of accounts of the said licensee have been audited or liable to be audited under any other law for the time being in force or otherwise.

(4) The licensee shall be given an opportunity of being heard in respect of any material gathered on the basis of audit under sub-section (1) and proposed to be utilized in any proceedings under this Act or rules made thereunder.

**Explanation.-** (1) For the purpose of this section “cost accountant” shall have the same meaning assigned to it in clause (b) of sub-section (1) of Section 2 of the cost and works Accountant Act, 1959 (Central Act 23 of 1959).

(2) “Licensee” means a person who holds a license granted under this Act or the rules made thereunder.]<sup>1</sup>

1. Substituted by Act 27 of 2007 w.e.f. 29.08.2007.

**52. Power to arrest without warrant, to seize articles liable for confiscation and to make searches.-** (1) Any officer of the State Government <sup>1</sup>[employed in the Excise Department, or any officer of the Police or Revenue Department empowered by the State Government in this behalf]<sup>1</sup>, subject to such restrictions as may be prescribed, and <sup>2</sup>[x x x]<sup>2</sup> may,-

(a) arrest without warrent any person <sup>1</sup>[for]<sup>1</sup> an offence punishable under section 32, section 33, section34, section 36 or section 37;

(b) seize and detain any excisable or other article which he has reason to belive to be liable to confiscation under this Act, or any other law for the time being in force relating to excise revenue; and

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

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

2. Omitted by Act Act 1 of 1971 w.e.f. 07.08.1970.

(2) When any person is accused or is reasonably suspected of committing an offence under this Act, other than an offence under section 32, section 33, section 34, section 36 or section 37 and on demand of any such officer as aforesaid, refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer, in order that his name and residence may be ascertained.

**53. Power of magistrate to issue a warrant.-** If a magistrate, upon information and after such enquiry (if any) as he thinks necessary, has reason to believe that an offence under section 32, section 33, section 34, section 36 or section 37 has been, is being, or is likely to be, committed, he may issue a warrant,-

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

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

**54. Power to search without warrant.-** Whenever the Excise Commissioner or a Deputy Commissioner or any police officer not below the rank of an officer in charge of a police station or any Excise Officer not below such rank as may be prescribed, has reason to believe that an offence under section 32, section 33, section 34, section 36 or section 37 has been, is being, or is likely to be, committed, 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, after recording the grounds of his belief,-

(a) at any time by day or by night enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and

(b) 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.

**55. Power of Excise Officers in matters of investigation.-** (1) Any <sup>1</sup>[Inspector of Excise or a Sub-Inspector of Excise] <sup>1</sup> or any Excise Officer not below such rank and within such specified area as the State Government may, by notification, prescribe, may, as regard offences under section 32, section 33, section 34 <sup>2</sup>[section 35, section 36, section 37, section 38 or section 38A] <sup>2</sup> exercise powers conferred on an officer in



charge of a police station by the provisions of the <sup>3</sup>[Code of Criminal Procedure 1973]<sup>3</sup> :

Provided that any such power shall be subject to such restrictions and modifications, if any, as the State Government may prescribe.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.
2. Substituted by Act 36 of 1987 w.e.f. 10.08.1987.
3. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

(2) For the purposes of section 156 of the Code, the area in regard to which an <sup>1</sup>[Inspector of Excise or a Sub-Inspector of Excise or an Excise Officer]<sup>1</sup> is empowered under sub-section (1), shall be deemed to be a police station and such officer shall be deemed to be the officer in charge of such station.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

**56. Report by Investigating Officer.-** If, on any investigation by an <sup>1</sup>[Inspector of Excise, a Sub-Inspector of Excise]<sup>1</sup> or an Excise Officer empowered under sub-section (1) of section 55, it appears that there is sufficient evidence to justify the prosecution of the accused, the Investigating Officer, shall submit a report (which shall, for the purposes of section 190 of the <sup>2</sup>[Code of Criminal Procedure, 1973]<sup>2</sup>, be deemed to be a police report) to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.
2. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

**57. Report by Excise Officer.-** Where any Excise Officer below the rank of <sup>1</sup>[a Sub-Inspector of Excise]<sup>1</sup> makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, -

(a) make a full report of all the particulars of the arrest, seizure or search to his immediate official superior <sup>2</sup>[;]<sup>2</sup>

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.
2. Substituted by Act 36 of 1987 w.e.f. 10.08.1987.

(b) unless bail be accepted under section 59, take or send the person arrested <sup>2</sup>[x x x]<sup>2</sup>, with all convenient despatch, to a Magistrate for trial or adjudication <sup>1</sup>[; and]<sup>1</sup>

1. Substituted by Act 36 of 1987 w.e.f. 10.08.1987.
2. Omitted by Act Act 36 of 1987 w.e.f. 10.08.1987.

<sup>1</sup>[(c) make a report of such seizure and take or send the thing seized, with all convenient despatch, to the authorised officer.]<sup>1</sup>

1. Inserted by Act 36 of 1987 w.e.f. 10.08.1987.



**58. Arrest, search, etc., how to be made.-** Any person arrested under this Act shall be informed, as soon as may be, of the grounds for such arrest and save as in this Act otherwise expressly provided, the provisions of the <sup>1</sup>[Code of Criminal Procedure, 1973]<sup>1</sup>, relating to arrest, detention in custody, searches, summonses, warrants of arrests, search-warrants, the production of persons arrested and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Act:

<sup>2</sup>[Provided that no search shall be deemed to be irregular by reason only of the fact that witnesses for the search are not inhabitants of the locality in which the place searched is situated.]<sup>2</sup>

1. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

2. Inserted by Act 1 of 1971 w.e.f. 07.08.1980.

**59. Security for appearance in case of arrest without warrant.-** (1) The State Government may, by notification, empower any Excise Officer to release on bail person arrested under this Act, otherwise than on a warrant.

(2) When a person is arrested under this Act, otherwise than on a warrant, by a person or officer who is not authorised to release arrested persons on bail, he shall be produced before or forwarded to,-

- (a) the nearest Excise Officer who has authority to release arrested persons on bail, or
- (b) the nearest officer in charge of the police station,

whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by or produced in accordance with sub-section (2) before an officer who has authority to release arrested persons on bail, he shall be released on bail or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of <sup>1</sup>[sections 441 to 446 and section 449 of the Code of Criminal Procedure, 1973]<sup>1</sup>, shall apply, so far as may be, in every case, in which bail is accepted or bond taken under this section.

1. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

**<sup>1</sup>[59A. Certificate of Inspectors of Excise to be evidence-**Any document purporting to be a certificate under the hand of an Inspector of Excise who has undergone the prescribed training in the examination and analysis of intoxicants and materials and who is authorised by the State Government in this behalf, in respect of any matter or thing submitted to him for examination or analysis and report may be used as evidence of the facts stated in such certificate, in any proceedings under this Act: but the court may, if it thinks fit, and shall on the application of the prosecution or the

accused person summon and examine any such Inspector of Excise as to the subject matter of his certificate.]]<sup>1</sup>

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

**60. Procedure for prosecution.-** No Magistrate shall take cognizance of an offence punishable,-

(a) under section 35 or section 38 except on the complaint or report of the Deputy Commissioner or of an Excise Officer authorised by the Deputy Commissioner in this behalf, or

(b) under any other section of this Act other than section 46 or section 48, except on his own knowledge or suspicion or on the complaint or report of an Excise or Police Officer.

**1[60A. Procedure to be followed by Magistrate.-** (1) In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of summary cases in which an appeal lies:

Provided that if in respect of any case, the Magistrate for reasons to be recorded in writing, decides that it is not desirable to follow such procedure, he shall follow the procedure prescribed in Chapter XX or Chapter XXI of the said Code according as the case is a summons case or a warrant case.]]<sup>1</sup>

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

## CHAPTER IX

### APPEAL AND REVISION

**61. Appeals.-** (1) Any person aggrieved by an order passed by any officer other than the Excise Commissioner or the Deputy Commissioner under this Act may, within sixty days from the date of communication of such order, appeal to the Deputy Commissioner.

(2) Any person aggrieved by an order passed by the Deputy Commissioner under this Act, may, within ninety days from the date of communication of such order, appeal to the Excise Commissioner.

(3) Any person aggrieved by an order passed by the Excise Commissioner under sub-section (2), may, within ninety days from the date of communication of such order appeal to the <sup>1</sup>[Karnataka Revenue Appellate Tribunal.]]<sup>1</sup>

1. Adapted by Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(4) Subject to the foregoing provisions, appeals under this section, shall be subject to the rules which the State Government may make in this behalf.

**62. Revision.-** The State Government may call for and examine the records of any proceedings before any officer including those relating to the grant or refusal of a licence, or permit, for the purposes of satisfying itself as

to the correctness, legality or propriety of any order passed in, and as to the regularity of such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit :

Provided that no order shall be annulled, reversed or modified except after giving a reasonable opportunity of being heard to the person affected by that order.

## **CHAPTER X**

### **MISCELLANEOUS**

**63. Recovery of Government dues.-** (1) The following moneys, namely:-

- (a) all excise revenue,
- (b) any loss that may accrue when, in consequence of default, a lease under section 17 has been taken under management by the Deputy Commissioner, or has been re-sold by him, and
- (c) of 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 if they were arrears of land revenue.

(2) When a lease has been taken under management by the Deputy Commissioner, or has been re-sold by him, the Deputy Commissioner may recover, in the manner authorised by sub-section (1), any money due to the defaulter by any lessee or assignee.

<sup>1</sup>**[63A. Recovery of certain tax arrears as arrears of excise revenue.-** Notwithstanding anything contained in the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) and this Act or the rules made thereunder where any amount payable under that Act has become due before or is becoming due on or after the commencement of the Karnataka Sales Tax and Excise Laws (Amendment) Act, 2000 from a person engaged in manufacture or sale of liquor including beer, spirit or alcohol and such due is accepted without any dispute by the assessee as the final amount due from him before the Commercial Tax Authority, such amount shall, after receipt of a revenue recovery certificate from the Commercial Tax authorities be recovered as if it were an arrear of excise revenue under this Act.]<sup>1</sup>

1. Inserted by Act 21 of 2000 w.e.f. 16.02.2001 by notification.

**64. Government lien on property of defaulters.-** In the event of default by any person licensed or holding lease under this Act, all his distillery, brewery or warehouse or shop or premises, fittings or apparatus, and all stocks of intoxicants or materials for the manufacture of the same held in or upon any distillery, brewery, warehouse or shop or premises, shall be liable

to be attached in satisfaction of any claim for excise revenue, or in respect of any losses incurred by the State Government through such default and to be sold to satisfy such claim which shall be a first charge upon the sale proceeds.

**65. Recovery of dues by lessee under section 17.-** Any person to whom a lease has been granted in accordance with the provisions of section 17, may, in a case where sub-letting is not forbidden by the terms of the lease, proceed against any person holding under him for the recovery of any money due in respect of such sub-lease as if it were an arrear of rent recoverable under the law for the time being in force with regard to land-lord and tenant :

Provided that nothing in this section shall affect the right of any such grantee to recover any such money by a civil suit.

**66. Refund in case of exported liquor.-** Where excise duty has been levied in respect of the manufacture or production of any liquor in the State and such liquor is subsequently exported to any other State in India and is subjected to excise or countervailing duty in that State, the Excise Commissioner may on production of proof of such payment of duty, grant refund of duty already paid to such extent as the State Government may prescribe :

Provided that where the State Government so directs, the Excise Commissioner may, permit during such period or periods as may be specified in such direction, the export of any liquor on which excise duty is payable, on the furnishing of adequate security for payment of the excise duty due thereon; and, on production of proof of payment of countervailing duty on such liquor in any other State give rebate to the extent prescribed under this section and collect the balance of the excise duty.

**67. Power of State Government to exempt, etc.-** The State Government may, by notification, and subject to such restrictions and conditions as may be specified in such notification,-

(a) exempt or reduce <sup>1</sup>[whether prospectively or retrospectively]<sup>1</sup> the excise duty levied under section 22 <sup>2</sup>[or the licence fee payable by or under this Act, in respect of any liquor sold]<sup>2</sup>,-

<sup>3</sup>[(i) for use or consumption by the members of the Armed Forces including Para-Military units) of the Union and Diplomatic agents;]<sup>3</sup>

1. Inserted by Act 1 of 1970 w.e.f. 23.12.1969.

2. Substituted by Act 32 of 1982 w.e.f. 4.9.1992.

3. Substituted by Act 19 of 2010 w.e.f. 16.04.2010.

(ii) for use for bona fide medicinal, scientific, industrial or such like purposes ;<sup>1</sup>[or]<sup>1</sup>

1. Inserted by Act 1 of 1970 w.e.f. 23.12.1969.

<sup>1</sup>[(iii) to any industrial concern or class or classes of industrial concerns;]<sup>1</sup>

1. Inserted by Act 1 of 1970 w.e.f. 23.12.1969.

<sup>1</sup>[(b) exempt, any intoxicant from any of the provisions of this Act, other than those of Chapter V, in any specified area or for any specified period or occasion.]<sup>1</sup>

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

**68. Protection of action taken under this Act.-** No suit or other legal proceeding shall lie against the State Government or any Excise Officer or any other person empowered to exercise powers or to perform the functions under this Act for anything in good faith done or intended to be done under this Act.

**<sup>1</sup>[68A. Suit or prosecution in respect of acts done under colour of duty not to be entertained without sanction of the State Government-**

(1) In any case of alleged offence or of wrong alleged to have been done by any any Excise Officer, by any act done under colour or in excess of any such duty or authority under this Act, or wherein it shall appear to the court that offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained except with the previous sanction of the State Government.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer one month's notice at least of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if so, what tender or amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.]<sup>1</sup>

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

**<sup>1</sup>[68B. Bar of jurisdiction of Civil Courts. -** No Civil Court shall have jurisdiction in respect of any matter which any excise officer or other authority empowered by or under this Act has to determine and no injunction shall be granted by any court in respect of any action taken or to be taken by such excise officer or authority in pursuance of any power conferred by or under this Act.

**68C. Injunction not to be granted in respect of recovery of excise dues.-** (1) Notwithstanding anything contained in the Code of Civil

Procedure, 1908 (Central Act V of 1908) or in any other law for the time being in force, no court shall grant any permanent or temporary injunction or make any interim order restraining any proceeding which is being or about to be taken for,-

(i) the recovery of any sum or fee or both levied in consideration of grant or lease of any exclusive or other right under this Act, or the rules made thereunder or any fee, duty or countervailing, duty and including licence fee and litre fee or any other fee levied under this Act or the rules made thereunder;

(ii) the grant of any exclusive or other right under section 17.

(2) All interim orders issued or made by such court whether in the nature of temporary injunction or otherwise, restraining any proceeding referred to in clauses (i) and (ii) of sub-section (1) which is being or about to be taken shall stand dissolved or vacated, as the case may be.

**68D. Excise revenue to be paid irrespective of pendency of any Writ Petition, Suit etc.,-** Notwithstanding that a writ petition has been preferred before the High Court or a suit or other proceeding has been instituted in any Court or any appeal has been filed before any Court, the Karnataka Appellate Tribunal or the Excise Commissioner or a revision has been filed before the State Government, any sum due to the State Government under this Act as a result of demand or order made or passed by any officer or authority empowered in this behalf by or under this Act shall be payable in accordance with such demand or order.]"

1. Sections 68B to 68D Inserted by Act 2 of 1995 w.e.f. 25.02.1995.

**69. Limitation of suits.-** No suit shall lie against the State Government, or against an Excise Officer, other than a suit by the State Government, in respect of anything done or alleged to have done in pursuance of this Act, unless the suit is instituted within six months from the date of the act complained of.

**70. Offences by companies, etc.-** (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence 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 section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence 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 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.

**71. Power to make rules.-** (1) The State Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

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

(a) prescribing the powers and duties of Excise Officers;

<sup>1</sup>[(b) x x x]

1. Omitted by Act 1 of 1971 w.e.f. 07.08.1970.

(c) prescribing the time and manner of presenting appeals and the procedure for dealing with appeals;

(d) regulating the import, export, transport, manufacture, cultivation, collection, possession, supply or storage of any intoxicant and may, by such rules, among other matters,-

(i) regulate the tapping of toddy producing trees, the drawing of toddy from such trees, the marking of the same, and the maintenance of such marks;

(ii) declare the process by which spirit shall be denatured and the denaturation of spirit ascertained; and

(iii) cause spirit to be denatured through the agency or under the supervision of its own officers;

(e) regulating the periods and localities in which, and the persons or classes of persons to whom, licences for the wholesale or retail sale of any intoxicant may be granted and regulating the number of such licences which may be granted in any local area;

(f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted for any locality;



(g) regulating the time, place and manner of payment of any duty or fee and the taking of security for the due payment of any duty or fee;

(h) prescribing the authority by which, the form in which and the terms and conditions on and subject to which any licence or permit shall be granted, and may, by such rules, among other matters,-

- (i) fix the period for which any licence or permit shall continue in force;
- (ii) prescribe the scale of fees, or the manner of fixing the fees payable in respect of any lease, licence or permit, or the storing of any exercisable article;
- (iii) prescribe the amount of security to be deposited by the holders of any licence or permit for the performance of the conditions of the same;
- (iv) prescribe the accounts to be maintained and the returns to be submitted by licence holders;
- (v) prohibit or regulate the transfer of licences; and
- (vi) prescribe the age under which it shall be unlawful to employ children and to sell or give to children exercisable article;

(i) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;

(j) regulating disposal of confiscated article;

(k) regulating the grant of expenses to witnesses and to persons charged with offences under this Act, and subsequently released or acquitted;

(l) regulating the power of Excise Officer to summon witnesses;

(m) prescribing the rent payable to the Government in respect of <sup>1</sup>[excise tree]<sup>1</sup> from which toddy is drawn;

<sup>1</sup>. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

(n) any other matter that may be prescribed under this Act.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (4), every rule made under this Act shall have effect as if enacted in this Act.

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both



Houses agree in making and modification in the rule or both Houses agree that the rule 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.

**72. Repeal and saving.**- The following enactments, namely :-

- (a) The Mysore Excise Act, 1901 (Mysore Act V of 1901);
  - (b) The Abkari Act, 1316 F.(Hyderabad Act I of 1316 F.) and the Intoxicating Drugs Act, 1333 F. (Hyderabad Act IV of 1333 F.);
  - (c) The Madras Abkari Act, 1886 (Madras Act I of 1886),
- shall stand repealed:

Provided that section 6 of the <sup>1</sup>[Karnataka]<sup>1</sup> General Clauses Act, 1899 (<sup>1</sup>[Karnataka]<sup>1</sup> Act 3 of 1899) shall be applicable in respect of such repeal, and section 8 and section 24 of the said Act shall be applicable as if the said enactments were enactments within the meaning of the said Act and had been repealed and re-enacted by this Act.

1. Adapted by Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

\* \* \* \*

## NOTIFICATIONS

### I

#### **Bangalore dated 28-8-1967 [No. HD 154 EDC 67-I]**

**S.O. 1665.-** In exercise of the powers conferred by sub-section (3) of section 1 of the Mysore Excise Act, 1965 (Mysore Act No. 21 of 1966), the Government of Mysore hereby appoints the 30th day of September 1967 as the date on which the said Act shall come into force.

By Order and in the name of the  
Governor of Mysore,

N.LAKSNMAN RAU,  
*Secretary to Government,  
Home Department.*

(Published in the Kanataka Gazette Part IV -2C (ii) dated 31-8-1967 )

### II

#### **Bangalore dated 11-1-2001 [ (No. FD 20 PES 2000 (P))]**

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Sales Tax and Excise Laws (Amendment) Act, 2000 (Karnataka Act 21 of 2000), the Government of Karnataka hereby appoints the 11th day of January, 2001 as the day from which sub-section (1) of section 3 of the said Act shall come into force.

By Order and in the name of the  
Governor of Karnataka,

C.S. JAGADEESHAIAH  
*Under Secretary to Government (Excise),  
Finance Department*

(Published in the Karnataka Gazette (Extraordinary) Part IV-A as No. 32, dated 12-1-2001. )

## III

**Bangalore dated 13-2-2001 [ (No. FD 20 PES 2000 (P))]**

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Sales Tax and Excise Laws (Amendment) Act, 2000 (Karnataka Act 21 of 2000), the Government of Karnataka hereby appoints the sixteenth day of February, 2001 as the day from which section 2 and sub-section (2) of section 3 of the said Act shall come into force.

By Order and in the name of the  
Governor of Karnataka,

C.S. JAGADEESHAIAH  
*Under Secretary to Government,  
Finance Department (Excise)*

(Published in the Kanataka Gazette (Extraordinary) Part IV-A as No. 329,  
dated 12-2-2001. )

### KARNATAKA ACT NO 26 OF 2013

(First Published in the Karnataka Gazette Extra-ordinary on the seventh day of March, 2013)

### THE KARNATAKA EXCISE (AMENDMENT) ACT, 2013

(Received the assent of the Governor on the fifth day of March, 2013)

An Act further to amend the Karnataka Excise Act, 1965.

Whereas it is expedient further to amend the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Sixty fourth year of the Republic of India, as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Excise(Amendment) Act, 2013.

(2) It shall come into force at once.

**Section 24 is incorporated in the Principal Act**

**2. Amendment of section 24.-** In the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) (hereinafter referred to as the Principal Act) for section 24, the following shall be deemed to have been substituted with effect from the thirtieth day of June 2003, namely:-

**3. Power to remove difficulty.-** If any difficulty arises in giving effect to the Provisions of the Principal Act, the State Government may, by notification in the Official Gazette, make such provisions as may appear it to be necessary or expedient for removing the said difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of the Karnataka Excise (Amendment) Act, 2013.

**4. Validation.-** Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority to the contrary, anything done or any action taken or purporting to have been done or taken or proceedings held including any notification or orders issued for the levy, assessment and collection of any license fee, privilege fee, additional fee or amount in relation to such license or lease such levy, assessment and collection from any person for the purpose of Grant of license or renewal of any license or lease in pursuance of section 24 in any notification or order issued by the Government, with effect from the thirtieth day of June, 2003 shall be deemed to be valid and effective as if such levy, or collection or action or thing had been made, taken or done under the principal Act, as amended by this Act and accordingly,-

- (a) all acts, proceedings or things taken or done by any authority in connection with levy, or collection of such license fee, or privilege fee shall, for all purposes be deemed to be, and to have always been taken or done in accordance with law;
- (b) no suit or other proceedings shall be maintained or continued in any court or Tribunal or before any authority for the refund of any such license fee or privilege fee and

- (c) no court shall enforce any decree or order directing the refund of any license fee or privilege fee.

By Order and in the name of  
the Governor of Karnataka

**G.K. BOREGOWDA**  
Secretary to Government,  
Department of Parliamentary  
Affairs and Legislation

**KARNATAKA ACT NO. 11 OF 2014**

(First published in the Karnataka Gazette Extra-ordinary on the Twenty-second day of February, 2014)

**THE KARNATAKA EXCISE (AMENDMENT) ACT, 2014**

(Received the assent of the Governor on the Twentieth day of February, 2014)

An Act further to amend the Karnataka Excise Act, 1965.

Whereas it is expedient further to amend the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Sixty Fourth year of the Republic of India, as follows.-

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Excise (Amendment) Act, 2014.

(2) It shall come into force at once.

**Section 23A is in Corporated in the Principal Act**

**2. Insertion of section 23A.-** In the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), after section 23, the following shall be inserted, namely:-

**"23A. Remittance of Excise Revenue through electronic means.-**

All payments of Excise revenue shall be remitted or done through electronic means (Internet), in such manner as may be prescribed. The excise commissioner shall cause to develop appropriate electronic means for remittance of all excise revenue in the manner prescribed effectively."

By Order and in the name of  
the Governor of Karnataka,

**S.B. GUNJIGAVI**  
Secretary to Government  
Department of Parliamentary  
Affairs and Legislation.

### KARNATAKA ACT NO. 01 OF 2017

(First Published in the Karnataka Gazette Extra-ordinary on the fourth day of January, 2017)

### THE KARNATAKA EXCISE (AMENDMENT) ACT, 2016

(Received the assent of the Governor on the Thirty first day of December, 2016)

An Act further to amend the Karnataka Excise Act, 1965.

Whereas it is expedient further to amend the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty-seventh year of the Republic of India, as follows.-

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Excise (Amendment) Act, 2016.

(2) It shall come into force at once.

**Sections 2, 13-A and 32 are incorporated in the Principal Act.**

**2. Amendment of section 2.-** In the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) (hereinafter referred to as the principal Act), in section 2,-

(i) for clause (27), the following shall be substituted, namely:-

"(27) "Toddy" means fermented juice drawn from an excise tree but does not include Neera."

(ii) after clause (27), the following shall be inserted, namely:-

"(27-A) "Neera" means the juice drawn from a coconut tree and collected in receptacles in any manner and not subjected to fermentation, which is transparent, syrupy, sweet in smell and taste, without the slightest foam on its surface and preserved without any acid."

**3. Insertion of new section 13-A.-** After section 13 of the principal Act, the following shall be inserted, namely:-

**"13A. Manufacture etc., of Neera and Neera Products prohibited except under a licence.-** No person shall tap Neera from coconut tree or further process it, except with a licence granted by the competent authority or payment of such fee and subject to such terms and conditions as may be prescribed.

**4. Amendment of section 32.-** In section 32 of the principal Act, after sub-section (3), the following shall be inserted, namely:-

"(4) Whoever violates the provisions of section 13A or the rules made thereunder shall on conviction be punished with a fine of rupees five

thousand for each time, upto first five offences. In case of subsequent offence, he shall be punished with an imprisonment for a term of six months or with fine which may extend to ten thousand rupees or with both.”

By Order and in the name of  
the Governor of Karnataka,

**K.DWARAKANATH BABU**  
Secretary to Government,  
Department of Parliamentary  
Affairs