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## **Abkari Act, 1 of 1077**

### **(Kerala Act No. 1 of 1077)**

The Act was passed by His Highness the [Maharaja] of Cochin on the 5th day of August 1902, corresponding to the 31st day of Karkadagom 1077 and extended to the whole of Kerala as per Act 10 of 1967 which received the assent of the President on 29th July, 1967.

**Preamble.** - Whereas it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in the [State of Kerala] is enacted as follows:-

#### I. - Preliminary And Definitions

**1. Short title.** - This Act may be cited as "the [Abkari Act] 1 of 1077.

**Extent.** - It extends to the whole of the [State of Kerala].

[Commencement.- x x x ]

**2. Repeal of Enactments.** - From the date on which this Act comes into force [\*\*\*], the enactment mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said Schedule [x x x ]:

Provided that all [Licences and privileges] granted under any of the said enactments in force on the date on which this Act comes into force [\*\*\*] shall continue in force for the periods for which the same have been respectively granted, subject to the provisions of the enactments under which such [Licences and privileges] were granted:

Provided further that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced or any claim which has arisen or any penalty which has been incurred, before this Act comes into force.

**3. Interpretation.** - In this Act, unless there be something repugnant in the subject or context :-

**(1) Abkari Revenue:-** "*Abkari Revenue*" means revenue derived or derivable from any duty, fee, tax, fine or confiscation, imposed or order under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.

**(2) Abkari officer:-** "*Abkari Officer*" means the [Commissioner of Excise] or any officer or other person lawfully appointed or invested with powers under Sections 4 or 5.

[(2A) Blending:- "*Blending*" means the mixing of two different spirits of the same or different strength;

**(2B) Bonded Warehouse:-** "*Bonded Warehouse*" means a warehouse where liquor is stored in bond.]

**(3) Commissioner :-** ["Commissioner"] means the officer appointed by the [Government] under section 4, clause (a).

[(4) "**Collector**" means the Collector of a district and includes any other officer appointed by the Government to exercise the powers and perform the duties of a Collector under this Act];

[(5) **Compounding**:- "*Compounding*" means the preparation of foreign liquor by the addition of flavouring or colouring matter or both to imported or Indian made spirits.]

**(6) Abkari Inspector:-** "*Abkari Inspector*" means an officer appointed under section 4, clause (d).

[(6A) "**Arrack**" means any potable liquor other than Toddy, Beer, Spirits of Wine, Wine, Indian made spirit, foreign liquor and any medicinal preparation containing alcohol manufactured according to a formula prescribed in a pharma-copoeia approved by the Government of India or the Government of Kerala, or manufactured according to a formula approved by the Government of Kerala in respect of patent and proprietary preparations or approved as a bonafide medicinal preparation by the Expert Committee appointed under Section 68A of the Act;]

**(7) Imprisonment:-** "*Imprisonment*" means imprisonment of either description as defined in the [Indian Penal Code.]

**(8) Toddy:-** "*Toddy*" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree.

**(9) Spirits:-** "*Spirits*" means any liquor containing alcohol and obtained by distillation, [ x x x x ].

[ x x x x ]

**(10) Liquor:-** "*Liquor*" includes spirits of wine, [arrack], spirits, wine, toddy, beer and all liquid consisting of or containing alcohol.

**(11) Beer:-** "*Beer*" includes ale, stout, porter and all other fermented liquors usually made from malt.

**(12) [Country liquor:-** "*Country Liquor*" means toddy or arrack;]

**(13) Foreign Liquor:-** "*Foreign Liquor*" includes all liquor other than country liquor.

Provided that in any case in which doubt may arise the Government may declare by notification what, for the purposes of this Act, shall be deemed to be "*country liquor*" and what "*foreign liquor*".

**[(13A) "*Foreign Made Foreign Liquor*"** means any liquor produced, manufactured or blended, compounded and bottled abroad and imported into India by land, air or sea;

**(13B) "*Indian Made Foreign Liquor*"** means any foreign liquor other than Foreign Made Foreign Liquor;"]

**[(14) intoxicating drug** means any intoxicating substance other than a Narcotic drug or a psychotropic substance regulated by the Narcotic Drugs and Psychotropic Substance Act, 1985 (Central Act, 61 of 1985), which the Government may by notification declare to be an intoxication drug.]

**(15) Sale or Selling:-** "*Sale or selling*" includes any transfer [including] gift.

**[(16) "*Import*"** means to bring into the State.

**(17) "*Export*"** means to take out of the State.]



**[(17A) "Transit"** means to move from one place in a State to another place in that State or to any other state through the territory of the State of Kerala.

*Explanation.* - In this clause, "State" means a State other than the State of Kerala and includes a Union Territory].

**(18) Transport :-** "Transport" means to move from one place to another within the [\*\*\*] State.

[(18A) x x x ]

**(19) Manufacture:-** "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, [prepared [compounded] or blended] and also redistillation and every process for the rectification of liquor.

**[(19A) Bottle:-** "Bottle" means to transfer liquor from a cask or other vessel to bottle, jar, flask or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes rebottling].

**(20) Rectification :-** "Rectification" includes every process whereby spirits are purified or are coloured or flavoured by making any material therewith.

**(21) Place :-** "Place" includes also a house, building, shop [tent, booth, raft, vehicle and vessel].

**[(21A) Police Station:-** "Police Station" includes any place which the Government may, by notification, declare to be Police Station for the purposes of this Act].

**(22) Tap :-** "Tap" means to prepare or manipulate the spathe or other part of any toddy-producing tree with the object of extracting toddy therefrom. The attaching of pots is not necessary to constitute the act.

**[(23) Rental:-** *"Rental"* means the rental payable under Section 18A in consideration of the grant of an exclusive or other privilege of manufacturing supplying or selling any liquor or intoxicating drugs.]

**[(24) State:-** *"State"* means the State of Kerala].

**[(25) Warehouse :-** *"Warehouse"* means that part of a distillery, brewery, winery or other manufactory where liquor intended for issue is kept and includes a warehouse established under a special licence taken out under the Act or Rules;]

II. - Establishment and Control

**4. [The Government may, by notification in the Gazette.]** - (a) The Government may appoint an officer to control the administration of the Abkari Department:- Appoint an officer, who shall be styled the [Commissioner of Excise] and who shall, subject to the general control of the Government have [Control] of the administration of the Abkari Department and of the collection of the Abkari Revenue or of both;

(b) May appoint any person other than the Commissioner to perform all or any of his duties :- Appoint any person other than the [Commissioner of Excise] to exercise all or any of the powers and to perform all or any of the duties of the [Commissioner of Excise], subject to the control of the Government.

(c) May withdraw Abkari powers from commissioner or other officer appointed under clause (a) or clause (b):-Withdraw from the [Commissioner] or other officer appointed under clause (a) or clause (b) any or all of his powers in respect of the Abkari Revenue;

(d) May appoint officer to take action under Sections 40 to 53:- Appoint officers to perform the acts and duties mentioned in Sections 40 to 53 inclusive of this Act;

(e) And subordinate officers:- Appoint subordinate officers of such classes and with such designations, powers and duties under this Act as the Government may think fit.

(f) May appoint any [Officer of Government] or persons to act as above :- Order that all or any of the powers and duties assigned to any officer under clauses (d) and (e) of this section shall be exercised and performed by any [Officer of Government] or any person.

[(g) Delegate to any Abkari Officer all or any of [their powers] under this Act;]

**[5. The Government may, from time to time, make rules.** - (1) Prescribing the powers and duties under this Act to be exercised and performed by Abkari Officers of the several classes; and

(2) regulating the delegation by the Government or by the Commissioner of Excise of any powers conferred by this Act or exercised in respect of Abkari Revenue under any law for the time being in force]

**[5A. Power of the Government to authorise officers to admit persons arrested to bail.** - The Government may, by notification, and subject to such conditions as may be prescribed in such notification empower all or any of the officers or classes of officers or persons mentioned in section 34, either by name, or in virtue of their office, throughout the [\*\*\*] State or in any local area, to admit a person arrested under the section to bail to appear, when summoned or otherwise directed, before an Abkari Officer having jurisdiction to enquire into the offence for which such person has been arrested, and may cancel or vary such notification].

III. - Import, Export and Transport

**[6. Import of liquor or intoxicating drug.** - (1) No liquor or intoxicating drug shall be imported unless the permission of the Government or any officer authorised by the Government in this behalf is obtained for the importation of such liquor or intoxicating drug and unless the duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor or intoxicating drug, have been paid [or a bond for such payment on its importation has been executed.]

[Provided that notwithstanding anything contained this Act, no import fee shall be levied on rectified spent or Extra Neutral Alcohol including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption.]

(2) A permission granted by the Government or such officer under subsection (1) shall subject to such conditions and restrictions as may be specified by the Government by notification in the Gazette.]

**[7. Export of liquor or intoxicating drug.** - (1) No liquor or intoxicating drug shall be exported unless its export is permitted by the Government or any officer authorised by the Government in this behalf and unless:-

(a) the duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor or intoxicating drug, have been paid; or

(b) a bond for such payment on its exportation or re-exportation has been executed.

(2) A permission granted by the Government or such officer under subsection (1) shall be subject to such conditions and restrictions as may be specified by the Government by notification in the Gazette.]

**8. Prohibition of manufacture, import, export, transport, transit, possession, storage, sales, etc., of arrack.** - [(1) No person shall manufacture, import export [without permit transit] possess, store, distribute, bottle or sell arrack in any form.]

[(2) If any person contravenes any provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to ten years and with fine which shall not be less than one lakh.]

**9. Prohibition of the transport of liquor.** - The Government may, from time to time, by notification, prohibit the transport of liquor or of intoxicating drugs or of any kind of liquor or intoxicating drugs, from any local area into any other local area.

**10. Transporting of liquor or intoxicating drug.** - No liquor or intoxicating drug, exceeding such quantity as the Government may, from time to time, prescribe by notification in the [\*\*\*] Gazette either generally for the whole State or for any local area, shall be transported except under a permit issued under the provisions of the next following section.

[\*\*\*]

**11. Permits for transport.** - Permits for the transport of liquor or intoxicating drug may be issued by the 76[Commissioner] or by any person duly empowered in that behalf.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs, or special for specified occasions and particular consignments only.

Every permit shall specify:-

(a) the name of the person authorised to transport liquor or intoxicating drugs;

(b) the period for which the permit is to be in force;

(c) the quantity and description of liquor or intoxicating drugs for which it is granted;

(d) any other particulars which the Government may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

IV. - Manufacture, Possession and Sale

**12. Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.** - [(1)] No liquor or intoxicating drug shall be manufactured.

[\*\*\*]

no toddy producing tree shall be tapped;

no toddy shall be drawn from any tree;

[no distillery, brewery, winery or other manufactory in which liquor is manufactured shall be constructed or worked;]

[\*\*\*]

[no liquor shall be bottled for sale; and]

no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquory other than toddy or any intoxicating drug;

except under the authority and subject to the terms and conditions of a licence granted by the [Commissioner] in that behalf, or under the provisions of Section 21;

Provided that the Government may, by notification, direct that in any local area it shall not be necessary to take out a licence for the manufacture of liquor for Bona-fide home consumption.

[Licences granted under this section shall extend to and cover servants and other persons employed by the licencees and acting on their behalf]

[\*\*\*]

**[12A. Manufacture of preparations containing liquor or intoxicating drug.** - No preparation to which liquor or intoxicating drug is added during the process of its manufacture or in which alcohol is self generated during such process shall be manufactured in excess of the quantity specified by the Commissioner:

Provided that in specifying the quantity of a medicinal preparation, the Commissioner shall have due regard to the total requirement of that preparation for consumption or use in the State.]

**[12B. Utilisation of liquor or intoxicating drug in the manufacture, and limit of possession, of certain preparations.** - (1) No person shall utilise liquor or intoxicating drug in the manufacture of any preparation in excess of the quantity specified by the Commissioner and except under and in accordance with the terms and conditions of a licence granted by the Commissioner in that behalf:

Provided that where such preparation is a medicinal preparation, the Commissioner shall, in specifying the quantity of liquor or intoxicating drug, have due regard to the total requirement of such medicinal preparation for consumption or use in the State.

(2) No person shall possess any preparation containing liquor or intoxicating drug, other than a medicinal preparation for the bona-fide treatment, mitigation or prevention of disease in human beings or animals, in excess of the quantity specified by the Commissioner.]

**[12C. Prohibition of counterfeiting, selling, buying, receiving, possessing, etc of any forged or counterfeit label or security sticker. -**

(1) No person shall counterfeit or knowingly perform, any part of the process of counterfeiting, any label or security sticker which is used for the sale of liquor.

(2) No person shall sell or buy or receive from any other person or otherwise traffic in, or use any forged or counterfeit label or security sticker which is used for the sale of liquor knowing or having reason to believe that the same is forged or counterfeit.

(3) No person shall have in his possession any forged or counterfeit label or security sticker knowing or having reason, to believe that the same is forged or counterfeit and intending to use the same as genuine for the sale of liquor.

(4) No person shall make or buy or sell or dispose of any machinery instrument, printing press, computer, printer or scanner or any similar material for the purpose of being used or knowing or having reason to believe that it is intended to be used for forging or counterfeiting any label or security sticker for the sale of liquor.

*Explanation.* - For the purpose of this section the expression "counterfeit" shall have the same meaning as in section 28 of the Indian Penal Code, 1860 (Central Act 45 of 1860).]

**13. Possession of liquor or intoxicating drugs in excess of the quantity prescribed by the Government prohibited. -**

No person not being a licensed manufacturer or vendor of liquor or intoxicating drugs shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as the Government may from time to time, prescribe by notification, either generally [or specially with regard to persons, places or time] in respect of any specified description or kind of liquor or intoxicating drug, unless under a licence granted by the [Commissioner] in that behalf :

Provided that-

(1) **No fee to be charged for license for possession for private consumption.** - No fee shall be charged for any such license granted for the possession of such liquor or intoxicating drugs for bona-fide private consumption or use.

(2) **Proviso as regards foreign liquor.** - Nothing in this section extends to any foreign liquor [other than denatured spirit] in the possession of any warehouse man as such [\*\*\*].

**[13A. Power to prohibit possession of liquor or drugs.** - The Government may, by notification, prohibit the possession by any person or class of persons either throughout the whole State or in any local area, of any liquor or intoxicating drug either absolutely or subject to such conditions as [the Government may prescribe.]

**[14. Establishment and control of distilleries breweries, warehouses, etc.** - The Commissioner may, with the previous approval of the Government.

(a) establish public distilleries, breweries or wineries, or authorise the establishment of private distilleries, breweries, wineries or other manufactories in which liquor may be manufactured under a licence granted under this Act;

(b) establish public warehouses or authorise the establishment of private warehouses wherein liquor may be deposited and kept [with or] without payment of duty under a licence granted under this Act;

(c) Discontinue any public or private distillery, brewery, winery or other manufactory or warehouse so established;

(d) prescribe the mode of supervision that may be necessary in a distillery, brewery, winery or other manufactory or warehouse so established, or in any other manufactory where preparations containing liquor or intoxicating drugs are manufactured, to ensure the proper collection of duties, taxes and other dues payable under this Act or the proper utilisation of liquor or intoxicating drugs;

(e) prescribe the size and nature of the establishment necessary for such supervision and the cost of the establishment and other incidental charges in connection with such supervision to be realised from the licensees; and

(f) prescribe the allowance for wastage of alcohol that may occur in-



(i) the process of manufacture of alcohol;

(ii) the process of manufacture of any preparation containing alcohol; and

(iii) the storage, transport and use of non-duty paid alcohol].

**Table Showing Rules Regarding Supervision**

No	Subject	Rules
1	Size of Supervisory establishment in a Distillery	Rule 13 of D&W.Rules 1968.
2	Payment of Cost of Establishment to Supervisory Staff in a distillery	Rule 14(1) of D&W.Rules 1968
3	Size of Establishment in the warehouse in a Distillery	Rule 21 of D&W.Rules 1968
4	Supervision in the Warehouse in a distillery	Rule 18 of D&W.Rules 1968
5	Posting of supervisory officers in the distillery and Warehouses	Rule 24 of D&W.Rules 1968
6	Supervisory control in Distilleries and Warehouses.	Rule 29 of Part-I and rule 2 of Part-II of D&W.Rules 1968
7	Claim of Overtime Fees by Supervisory officers in a distillery.	Rule 128 of Part-II of D&W.Rules 1968
8	Supervisory control in Breweries.	Rule 4 of main rules and rule 1 of additional rules to Brewery rules 1967
9	Payment of Cost of Establishment	Rule 21 a of brewery rules 1967.

	to Supervisory Staff in a Brewery.	
10	Claim of Overtime fees by Supervisory officers in a Brewery.	Rule 31 A of Additional Rules to Brewery Rules.
11	Posting of Supervisory officers and payment of their Cost of Establishment in FL-9 shops.	Rule 13(9a) of Foreign Liquor Rules 1953.
12	Supervision and Payment of Cost of Establishment of supervisory staff in a FL (C,B7B) Unit.	Rule 6 of foreign Liquor (Compounding, Blending & Bottling) Rules 1975.
13	Entitlement for Overtime fees by supervisory staff in FL(C,B7B) Unit.	Rule 6 A of foreign Liquor (Compounding, Blending & Bottling) Rules 1975
14	Posting of supervisory officers, and payment of their Cost of Establishment, in respect of Foreign Liquor Bonded Warehouses and KSBC Head Office.	Rule 9 of foreign Liquor (Storage in Bond) rules 1961.
15	Supervision and Payment of Cost of Establishment and Overtime fees of supervisory staff in a Bonded Spirit Store.	Rule 16 of Rectified Spirit Rules 1972.
16	Supervision and control in a Winery.	Rule 17 of Winery rules 1970.
17	Payment of cost of Establishment to supervisory staff in a Winery.-	Rule 38 of Winery rules 1970.

**15. Sale of liquor or intoxicating drug without licence prohibited, Power to exempt toddy. -**

No liquor or intoxicating drug shall be sold without a licence from the [Commissioner], provided that a person having the right to the toddy drawn from any tree may sell the same without a licence to person licensed to manufacture or sell toddy under this Act [ x x x x ].

[ x x x x ]

Provided [also] that the Government may [by notification] declare that any or all of the provisions of this Act, shall not apply in any local area to trees tapped, or to toddy drawn [under such conditions as the Government may prescribe.]

[Nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station, or after his decease]

[ x x x x ]

**[15A. Consumption or use of liquor by persons under the age of [23 years] prohibited. -** No person under the age of [23 years] shall consume or use any liquor.]

**[15B. Sale of liquor to person under [23 years] of age prohibited. -** No person licensed to sell liquor and no person in the employ of such licensed person or acting with the express or implied permission of such licensed person on his behalf shall sell or deliver any liquor to any person under the age of [twenty three years]]

**[15C. Consumption of liquor in public places. -** No person shall consume liquor in any public place unless consumption of liquor in any such place is permitted under a licence granted by the Commissioner.

*Explanation 1.* - For the purpose of this section, "public place" means any street, Court, Police Station [or other public office or any club] or any place of public amusement or resort or on board any passenger boat or vessel or any [public passenger or goods vehicle], or a dining or refreshment room in a restaurant, hotel, rest-house, travellers' bungalow or tourists' bungalow where different individuals or groups of persons consume food, but shall not include any private residential room.]

*[Explanation II.* - For the purpose of Explanation 7, "public passenger or goods vehicle" means a vehicle used for carrying passengers or goods for hire or reward', with or without a contract,

express or implied, for the use of the vehicle as a whole at or for a fixed or agreed rate or sum and includes a private vehicle in any public place.]

[16. x x x x ]

[V. - Duties, Taxes and Rentals]

**[17. Duty on liquor or intoxicating drugs.** - A duty of excise or countervailing duty and/ or luxury tax shall be levied, in such manner as may be prescribed, on liquors or intoxicating drugs,-

(a) permitted to be imported under section 6, or

(b) manufactured under any licence granted under section 12; or

(c) manufactured at any distillery, brewery, winery or other manufactory established under section 14.

Provided that no duty or gallonage fee or vend fee or other taxes shall be levied under this Act on rectified spirit including absolute alcohol, which is not intended to be used for the manufacture of potable liquor meant for human consumption.

*Explanation.* - No liquor or intoxicating drug shall be permitted to be exported unless the duties, taxes, fees and such other sums as are due to the Government under this Act in respect of such liquor or intoxicating drug have been paid or a bond for such payment on its exportation or re-exportation has been executed.]

**18. [How duty or countervailing duty may be imposed.]** - [(1)] [Such duty of excise or countervailing duty may be levied and collected:]

[(a) in the case of spirit or beer, either on the quantity produced in or passed out of a distillery, brewery, winery or other manufactory licensed or established under section 12 or section 14, as the case may be 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 on the value of liquor, as the case may be, as the Government may prescribe;]

[(b) in the case of intoxicating drugs, on the quantity produced or manufactured under a licence granted under section 12 or issued from a warehouse licensed or established under section 12 or section 14;]

[(c) x x x x ]

[(d) x x x x ]

(e) in the case of toddy, or spirits manufactured from toddy, [in the form of a tax on each tree from which toddy is drawn], to be paid in such instalments and for such period as the Government may direct; or

[(f) in the case of import of spirits, beer or intoxicating drugs, in such manner as may be prescribed;]

[\*\*\*]

[(2) The duty of excise or countervailing duty under sub-section (1) shall be levied and collected at such rates as may be fixed by the Government, from time to time, by notification in the Gazette, not exceeding the rates specified below:-

	<b><i>Duty of excise</i></b>		<b><i>Maximum Rates</i></b>
(i)	[Duty of excise on liquors (Indian made)]		Rs. 200 per proof litre or an amount equal to 200 per cent of the value of the liquor whichever is higher
[(ia)	Duty of excise when levied in the form of special fees on Foreign Made Foreign Liquor.		Rs.100 per proof litre]
(ii)	Duty of excise on intoxicating drugs		Rs.1.50 per gram

(iii)	Duty of excise in form of tax on trees tapped for toddy		Rs. 50 per tree per half-year or part thereof.
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Provided that the excise duty or countervailing duty shall be payable by manufacturer or importer of the liquor or intoxicating drugs as the case may be;

Provided further that such duty or countervailing duty may be paid by any subsequent dealer on behalf of the manufacturer or importer, as the case may be.

*Explanation.* - where any liquor is chargeable with duty of excise countervailing duty at a rate depending on the value of the liquor, such value shall be the value at which the Kerala State Beverages (Manufacturing and

Marketing) Corporation Limited purchases such liquor from the supplier and in case any such liquor is not purchased by the Kerala State Beverages

(Manufacturing and Marketing) Corporation Limited such value shall be the value fixed by the Commissioner.

(3) The luxury tax on liquor or intoxicating drugs shall be levied and collected,-

(i) in the cases of any liquor in the form of a fee for licence for the sale of the liquor and in the form of a gallonage fee or vending fee or in any one of such forms and.

(ii) in the case of an intoxicating drug, in the form of a fee for licence for the sale of the intoxicating drug.]

(4) The luxury tax under sub-section (3) shall be levied at such rates as may be fixed by the Government, from time to time, by notification in the gazette, not exceeding the rates specified below:-

*Luxury tax*

(a)	when levied in the form of fee for licence for sale of [Indian Made Foreign Liquor]		
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	(i) for licence for sale of foreign liquor in wholesale		Rs.15,000 (Rupees fifteen thousand) for a year or part thereof
	(ii) for licence for sale of foreign liquor in hotels or restaurants		Rs.12,000 (Rupees twelve thousand) for a year or part thereof
	(iii) for licence for sale of medicated wines		Rs. 1,000 (Rupees one thousand) for a year or part thereof.
	(iv) for licence for sale of foreign liquor in non-proprietary club to members		Rs.1,500 (Rupees one thousand and five hundred) for a year or part thereof.
[(b)	when levied in the form of gallonage fee for foreign liquor (Indian made)		Rs. 30 (Rupees thirty) per bulk litre]
(c)	When levied in the form of a fee for licence for the sale of [Foreign Made Foreign Liquor]		
	(i) in wholesale		Rs. 25,00,000 (Rupees twenty five lakhs) for a year or part thereof
	(ii) in retail		Rs. 10,00,000 (Rupees Ten lakhs) for a year or part thereof.
	(iii) in hotels or restaurants		Rs. 25,00,000 (Rupees Twenty five Lakhs) for a year or part

			thereof.
	(iv) in non-proprietary clubs to its members a year or part thereof.		Rs.10,00,000 (Rupees Ten lakhs) for
	(v) in Seamen's and Marine Officer's club to its members		Rs.10.00,000 (Rupees Ten lakhs) for a year or part thereof
(d)	When levied in the form of gallonage fee		
	(i) [Foreign Made Foreign Liquor] other		Rs. 200 (Rupees two hundred) per than beer and wine bulk litre
	(ii) for foreign made beer and wine		Rs. 25 (Rupees Twenty five) per bulk litre

Provided that where there is a difference of duty of excise, countervailing duty or luxury tax as between two licence periods such difference may be collected in respect of all stocks of foreign liquor or intoxicating drugs held by licencees at the close of the former period.

[Provided further that the Government may, permit, the licensees who sell or serve Indian Made Foreign Liquor, to sell or serve Foreign Made Foreign Liquor also, without levying the fees specified in clause (c) above in such manner as may be prescribed.]

[Explanation. - \*\*\*]

**[18A. Grant of exclusive or other privilege of manufacture, etc., on payment of rentals. - (1)** It shall be lawful for the Government to grant to any person or persons, on such conditions and for such period as they may deem fit, the exclusive or other privilege-

(i) of manufacturing or supplying by wholesale; or

(ii) of selling by retail; or



(iii) of manufacturing or supplying by wholesale and selling by retail, any liquor or intoxicating drugs within any local area on his or their payment to the Government of an amount as rental in consideration of the grant of such privilege. The amount of rental may be settled by auction, negotiation or by any other method as may be determined by the government, from time to time, and may be collected to the exclusion of, or in addition to the duty or tax leviable under Sections 17 and 18.

(2) No grantee of any privilege under sub-section (1) shall exercise the same until he has received a licence in that behalf from the Commissioner.

(3) in such cases, if the Government shall by notification so direct, the provisions of Section 12 relating to toddy and toddy producing trees shall not apply].

**19. Tax for tapping unlicensed trees from whom leviable.** - [When duty of excise is levied] by way of tax on toddy trees under section 18, the Government may, by notification, direct that the licence required under Section 12 shall be granted only on the production by the person applying for it of the written consent of the owner, or person in possession, of such trees to the licence being granted to such person so applying for it; and when such notification has been issued, such tax shall, in default of payment by the licensee, be recoverable from the owner or other person in possession who has so consented.

When, in like case, trees are tapped without license, 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.

**20. Duties may be farmed.** - [All or any of the duties, tax and rentals] leviable under this Act in any Taluk or other local area may, with the sanction of the Government, be farmed, subject to such payment and on such other conditions as the Government shall prescribe, [Such farmers] shall take out licenses as such from the [Commissioner].

**21. Toddy farmer may grant license.** - When the exclusive privilege of manufacturing toddy has been granted under [Section 18A] the Government may declare that the written permission of

the grantee to draw toddy shall have, within the area to which the privilege extends, the same force and effect as a licence from the 159[Commissioner] for that purpose under Section 12.

**22. Farmer may let or assign.** - In the absence of any contract or condition to the contrary any grantee of any exclusive or other privilege, may let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee shall excise any rights as such unless and until the grantee or farmer, as the case may be shall have applied to the 159[Commissioner] for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

**23. Recovery by farmer of rents due to him.** - When any amount is due to a grantee, farmer, lessee or assignee of an exclusive privilege, under this Act, such grantee, farmer, lessee or assignee may make an application to the [Collector] for recovery of such amount on his behalf and on receiving such application, the [Collector] may, at his discretion, recover such amount as if it were an arrear of Land Revenue, and shall pay any amount so recovered to the applicant:

Provided that execution of any process issued by the [Collector] for the recovery of such amount shall be stayed if the person against whom the process is issued institute a suit in the Civil Court to contest the demand of such grantee, farmer, lessee or assignee and furnishes security to the satisfaction of the [Collector] for the payment of the amount which such court may adjust to be due from him;

Provided also that nothing contained in this section or done thereunder shall affect the right of any grantee, farmer, lessee or assignee to recover by suit in the Civil Court or otherwise any amount due to him from such person.

VI. - Licenses, Etc.

**24. Forms and conditions of licenses, etc.** - Every license or permit granted under this Act shall be granted-

(a) on payment of such fees, if any;

(b) for such period;

(c) subject to such restrictions and on such conditions; and

(d) shall be in such form and contain particulars - as the Government may direct either generally, or in any particular instance in this behalf.

**25. Counterpart agreement to be executed by licensee.** - Every person taking out a license under this Act may be required to execute a counterpart agreement in conformity with the tenor of his license, and to give such security for the performance of his agreement as the [Commissioner] may require.

**26. Power to recall licenses, etc.** - The [Commissioner] may cancel or suspend any license or permit granted under this Act:-

(a) if [any fee, duty, tax or rental] payable by the holder thereof be not duly paid; or

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

[(bb) if the holder thereof or his servant, or any one acting with his express or implied permission on his behalf, sells or stores for sale liquor in any place other than the licensed premises; or,]

[(c) if the holder thereof is convicted of any offence against this Act or of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930, or under the Trade and Merchandise Marks Act, 1958, or under Sections 478 to 489 of the Indian Penal Code; or]

(d) where a license or permit has been granted on the application of the holder of an exclusive or other privilege or of a [farmer under Section 20] on the requisition in writing of such person; or

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

## VII. - General Provisions

**[27. Certain licensees required to keep instruments for testing, etc.** - Every person who manufactures or sells any liquor or intoxicating drugs under a license granted under this Act shall be bound:-

(a) to supply himself with such measures, weights and instruments as the [Government] may prescribe and to keep the same in good condition; and

(b) on the requisition of any Abkari officer duly empowered in that behalf, at any time to measure or weigh any liquor or intoxicating drug or to test any liquor in his possession in such manner as the said Abkari Officer may require.]

**28. Recovery of duties.** - All duties, taxes, fines and fees payable to the [Government] direct under any of the foregoing provisions of this Act or of any license or permit issued under it, and all amounts due to the [Government] by any grantee of a privilege or by any farmer under this Act or by any person on account of any contract relating to the Abkari 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, and, in case of default made by a grantee of a privilege or by a farmer, the [Commissioner] may take grant or farm under management at the risk of the defaulter or may declare the grant or farm forfeited, and re sell it at the risk and loss of the defaulter. When a grant or farm is under management under the section, the [Commissioner] may recover any moneys due to the defaulter by any lessee or assignee as if they were arrears of Land Revenue.

**[[29. Power to make rules.** - (1) The Government may, by notification in the Gazette either prospectively or retrospectively, make rules for the purposes of this Act].

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

(a) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who distill spirits from it or who use it in the manufacture of bread;

(b) for determining the number of licenses of each description to be granted in any local area;

(c) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any [distillery, brewery, winery or other manufactory in which liquor is manufactured];

(d) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith;

(e) prescribing the weights to be used for the sale of intoxicating drugs and measures to be used for the sale of liquor;

(f) fixing for any local area the maximum and minimum prices above and below which any liquor or intoxicating drug shall not be sold;

(g) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export;

(h) for the inspection and supervision of stills, distilleries, [breweries, wineries, or other manufactories in which liquor is manufactured and warehouses]; (i) for the management of any public [distillery, brewery or winery] or public warehouse established under Section 14;

(j) for placing the storage, import, export, [possession, transit or transport] of liquor or intoxicating drugs under such supervision; and control as may be deemed necessary for the purposes of this Act;

(k) prohibiting the use of any article which the Government shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug;

(l) (1) declaring the process by which spirit manufactured in or imported into [the State] shall be denatured;

(2) for causing such spirit to be denatured through the agency or under the supervision of Excise Officers;

(3) for ascertaining whether such spirit has been denatured;

(m) regulating the bottling of liquor for purposes of sale;

(n) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised and prescribing the time and manner of presenting appeals and the procedure for dealing therewith;

[\*\*\*]

(p) regulating the power of Abkari Officers to summon witnesses from a distance under Section 44;

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

[(r) for the forfeiture notwithstanding provisions to the contrary contained in the [Indian Contract Act,1872] or in any other law, of the whole or any portion of the kists deposited by persons who purchase the right to sell toddy, arrack, foreign liquors or ganja, in addition to damages recoverable by Government on account of the breach of conditions of sale laid down by the Government from time to time]

VIII. - Powers and Duties of Officers, Etc.

**30. Magistrate may issue a search warrant on application.** - If [the Commissioner of Excise or] any Magistrate, upon information [obtained] and after such enquiry as he thinks necessary, has reason to believe that an offence under [\*\*\*] this Act has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, stills, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Before issuing such warrant, the [Commissioner of Excise, or] Magistrate shall examine the informant on oath or affirmation, and the examination shall be reduced into writing in a summary manner and be signed by the informant and also by [the Commissioner of Excise or] Magistrate.

**[30A. Abkari officers to have similai powers of police officers for the purpose of investigation of offences.** - For the purpose of investigation of offences under this Act, the abkari officers shall have the same powers of investigation which the police officers have under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).]

**31. Power to certain Abkari and Police Officers to search houses, etc., without warrant.** - Whenever the [Commissioner of Excise] or any [Abkari Officer not below such rank as may be specified by the Government in this behalf or any Police Officer] not below the rank of [Sub Inspector] or a Police Station Officer, has reason to believe that an offence under [\*\*\*] this Act has been committed and that the delay occasioned by obtaining a search warrant under the preceding section will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief at any time by day or night, enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

[\*\*\*]

**32. Power to enter and inspect place of manufacture and sale.** - The [Commissioner of Excise] or any Abkari Officer not below the rank of [Preventive officer] or any Police Officer duly empowered in that behalf, may enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of any liquor or intoxicating drug, or draws toddy, or stores any liquor or intoxicating drug or toddy, and may enter and inspect, at any time during which the same may be open, and place in which any liquor or intoxicating drug is kept for sale by any licensed person; and may examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, liquor or intoxicating drugs found in such place.

**33. In case of resistance entry may be made by force, etc.** - 211[(1)] If any officer empowered to make an entry under the provisions of the last two preceding sections, cannot otherwise

make such entry, it shall be lawful for him to break open any outer or inner door, window and to remove any other obstacle to his entry into any such place.

[(2) An Abkari Officer may without an order or without a warrant from a Magistrate, arrest and detain any person who obstructs him while in the execution or discharge of his duty or who has escaped from his lawful custody:

Provided that every person who is arrested and detained in custody shall be produced before the Magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate:]

**[34. Offenders may be arrested and contraband liquor, vehicles, etc. seized without warrant. -**

(1) Any [Abkari Officer] Department may arrest without warrant in any public thorough fare or open place other than a dwelling house, any person found committing an offence punishable under [this Act], and in any such thorough fare or public place may-

(a) Seize and detain-

(i) any liquor or intoxicating drug;

(ii) any materials, still, utensil, implement or apparatus;

(iii) any receptacle or package or covering; and

(iv) any animal, cart, vessel or other conveyance, which he has reason to believe to be liable to confiscation under this Act;

(b) search any person, animal, cart, vessel or other conveyance, package, receptacle or covering upon whom or in or upon which he may have reasonable cause to suspect any such liquor or intoxicating drug to be, or to be concealed.]

[(2) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply in so far as they are not inconsistent with the provisions of this Act, to all arrests searches and seizures made under this Act.]



**35. Arrest of persons refusing to give name or giving false name.** - Any person who may be accused or reasonably suspected of committing an offence under this Act, and who, on demand of any officer of the Abkari, Salt, Police, Land Revenue or Customs Departments or of any other person duly empowered, refuses to give his name and residence which such officer or person to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

**36. Searches how to be made.** - All searches under the provisions of this Act shall be made in accordance with the provisions of the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974);]

[Provided that the persons called upon to attend and witness such searches shall include at least two persons neither of whom is an Abkari, Police or Village Officer].

**37. Officers of certain Departments bound to assist.** - All officers of the Departments of Police, Customs, Salt and Land Revenue shall be legally bound to assist any Abkari Officer in carrying out the provisions of this Act.

**38. Offences to be reported, etc.** - Every [Officer of Government] other than an Abkari Officer, shall be bound to give immediate information to an Abkari Officer, and every Abkari Officers shall be bound to give immediate information either to his immediate official superior or to an Abkari Inspector, of all breaches of any of the provisions of this Act, which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

**39. Land holders and others to give information.** - All jemmies, proprietors, tenants, under tenants and cultivators who own or hold land on which there shall be [any cultivation of the hemp or coca-plant or] any manufacture on liquor or intoxicating drugs not licensed under this Act shall in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Abkari, Salt, Police, Customs or Land Revenue Departments immediately the same shall have come to their knowledge.

**[40. Procedure on arrest and seizure.** - (1) (a) Any Officer arresting a person under Section 31, Section 34 or Section 35 shall him of the grounds for such arrest.

(b) Where an Abkari Officer arrests without warrant any person other than a person suspected of, or accused of, any non-bailable offence under this Act, such Officer shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

(2) Every person arrested under Section 30 shall be produced before, and the article seized under that section shall be forwarded to, without unnecessary delay, the Magistrate or the Commissioner, as the case may be, by whom the warrant was issued.

(3) Every person arrested under Section 31 or Section 34 or Section 35 shall be produced before, and article seized under section 34 shall be forwarded to, without unnecessary delay,-

(a) to the Officer in charge of the nearest Police Station; or

(b) to the Officer empowered under section 5A, or to the Abkari Inspector.

(4) The authority or Officer before whom any person is produced under sub section (2) or sub section (3) shall, take expeditious steps as provided in section 41.

(5) The authority or Officer to whom any article is forwarded under sub-section (2) or sub section (3) shall, with all convenient despatch, take necessary steps in accordance with law for disposal of such article.]

**[41. Disposal of persons arrested.** - (1) Where any person accused of or suspected of, the commission of an offence punishable with imprisonment which may not extend to three years under this Act is arrested or brought in accordance with the provisions of Section 40, he may be released on bail, if sufficient bail be tendered for his appearance before the concerned Abkari Inspector or the Magistrate, as the case may be.

(2) Where a person accused of, or suspected of the commission of an offence punishable with imprisonment which may extend to three years or more under this Act is arrested or brought in accordance with the provisions of Section 40, he shall without any delay be produced before the Magistrate, who shall take such measures as may be necessary to proceed against such person in accordance with the provisions of the Code of Criminal Procedure, 1973, (Central Act 2 of 1974).]

**[41A. Offences to be cognizable and non-bailable.** - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974),-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for a term of imprisonment of three years or more under this Act shall be released on bail or on his own bond unless-

(i) the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (Central Act, 2 of 1994) or any other law for the time being in force on granting of bail]

**42. Bond of accused and Sureties.** - Before any person is released on bail on bond, in such sufficient but not excessive, sum of money as the officer admitting him to bail things proper, shall be executed by such person and by one or more sureties conditioned that such person shall attend in accordance with the terms of the bonds and shall continue to attend until otherwise directed by the Abkari Inspector before whom he was bailed to attend or by the Magistrate, as the case may be:

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the bond Bail under executed by such person.

The Government shall, from time to time, determine the form of the bond to be used in any Taluk or other local area.

**43. Procedure in case of default of persons admitted to bail to appear before Abkari Inspector.** - When by reason of default of appearance of a person bailed to appear before an Abkari Inspector such officer is of opinion that proceedings should be had to compel payment

of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was accused and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)] for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

**44. Abkari Officers may Summon witnesses.** - Any Abkari Officer holding an inquiry [under the Act] may summon any person to appear before himself to give evidence on such enquiry or to produce any document relevant thereto which may be in his possession or under his control; Provided that no such Abkari Officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the Government may, from time to time, by rule, direct.

**45. Terms of summons.** - Every summons issued under the last preceding section shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

**46. Examination of witnesses by Abkari Inspectors.** - Person so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such Officer. Such answers shall be reduced into writing and shall be signed by such Officer.

**47. When attendance of witnesses to be dispensed with, and procedure in such cases.** - It shall be lawful for an Abkari Inspector, instead of summoning to appear before him any person who, from sickness or other infirmity may be unable to do so, or whom by reason of rank or sex it may not be proper to summon, to proceed to the residence of such person and thereto require him to answer such questions as he may consider necessary with respect to such inquiry; and such person shall be bound so to answer accordingly, and the provisions of section 46 shall apply to such answers.

**48. Abkari Inspector may summon persons suspected of offenses against Abkari laws.** - Any Abkari Inspector may after recording his reasons in writing, summon on any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such Officer, the procedure prescribed by sections 40 to

47 inclusive of this Act shall become applicable. [The Officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by Sections 44 to 47 before summoning the person suspected].

**49. Law relating to criminal Courts as to Summoning of witnesses to apply..** - The law for the time being in force as to summonses and compelling the attendance of person summoned In Criminal Courts shall, so far as the same may be applicable apply to any summons issued by an Abkari Inspector and to any person summoned by him to appear under the provisions of this Act.

**[50. Report of Abkari Officer gives jurisdiction to a competent Magistrate.** - (1) Every investigation into the offence under this Act shall be completed without necessary delay.

(2) As soon as investigation into the offences under this Act is completed, the Abkari Officer shall forward a Magistrate, empowered to take cognizance of the offence on a police report, a report in accordance with sub section (2) of section 173 of Code of Criminal Procedure, 1973 (Central Act 2 of 1974).]

**[50A. Procedure to be adopted on receipt of report.** - Upon receipt of a final report from the Abkari Officer; the Magistrate shall inquire into such offence and commit to Court of Session if the offence is exclusively triable by Court of Session or try the person accused thereof in like manner as if a case is instituted upon a police report as provided in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).]

**51. Powers of Abkari Inspector to cause attendance of witnesses before Magistrate.** - When an Abkari Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case or admits him to bail to appear before such magistrate, such officer shall exercise all the powers conferred by the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)] on an Officer in charge of a police Station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

**52. Accused not to be detained in custody for a longer period than twenty four hours without special authority.** - No person accused or suspected of having committed an offence under this

Act shall be detained for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of a special order of a Magistrate, whether having jurisdiction to try the case or not exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where an Abkari Inspector may be and from thence to the court having jurisdiction to try the case.

**53. Police to take charge of articles seized.** - All Officers in charge of Police Stations shall take charge of and keep in safe custody pending the orders of a Magistrate or an Abkari Inspector, all articles seized under this Act which may be delivered to them and shall allow any Abkari Officer who may accompany such articles to the Police Station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the Police Station.

**[53A. Disposal of seized liquor, intoxicating drugs or articles.** - (1) Notwithstanding anything contained in this Act, the State Government may having regard to the nature of the liquor, intoxicating drug, or article, their vulnerability to theft, substitution, constraints of proper storage space or any other relevant consideration, by notification in the official Gazette, specify such liquor, intoxicating drug or article which shall, as soon as may be after their seizure, be disposed of by the authorised officer referred to in section 67B, in such manner as the Government may, from time to time determine after following the procedure hereinafter specified.

(2) Where any such notified liquor, intoxicating drug or, article has been seized under this Act, the authorised officer shall prepare an inventory of such liquor, intoxicating drug or article containing such details relating to their description, quality, quantity, mode of packing, marks, numbers of such other identifying particulars of the liquor, intoxicating drug or article or the packing containers in which they are kept, place of origin and other particulars, as the authorised officer may consider relevant to identify the liquor, intoxicating drug or article in any proceedings under this Act and make an application to any Magistrate for the purpose of,-

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such Magistrate photographs of such liquor, intoxicating drug or article and certifying such photographs as true; or

(c) Allowing to draw representative samples of such liquor, intoxicating drug or article in the presence of such Magistrate and certifying the correctness of any list of samples so drawn

(3) Where an application is made under sub-section (2) the Magistrate shall, as soon as may be, allow the application.

(4) Where any liquor or intoxicating drug or article under this Act has been kept under the custody of any court in connection with any offence committed under this Act, before the commencement of the Abkari (Amendment) Ordinance, 2002 or has been brought before a Magistrate without complying the procedure laid down in sub-section (2), the authorised officer shall obtain prior permission of the court or Magistrate before initiating proceedings under sub-section (2).

(5) Notwithstanding anything contained in the Indian Evidence Act 1872 (Central Act 1 of 1872) or the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) any Court trying an offence under this Act, shall treat the inventory, the photographs of liquor, intoxicating drug or article and any list of samples drawn under sub sections (2) and (4) and certified by the Magistrate, as primary evidence in respect of such offence.

*Explanation.* - 'Article' for the purpose of this section includes jaggery and other like substances, the value of which depreciates in passage of time.]

**[53B. Jurisdiction of courts on cuticles seized.** - Whenever any vehicle or other conveyance used for committing any offence is seized or detained under this Act, and if any court finds that it shall be released temporarily, it shall do so with direction to execute sufficient bond by way of cash security equivalent to the market value of such vehicle or conveyance, to be fixed by the Mechanical Engineer of the Excise Department or any Mechanical Engineer of or above- the rank of an Assistant Executive Engineer of the State Public Works Department, for production of such vehicle or conveyance on demand before the court or the authorised officer and such order shall not prevent the authorised officer from taking or continuing action under section 67B of this Act.]

**54. Closing of shop for the sake of public peace.** - It shall be lawful for the [District Magistrate] by notice in writing to the licensee, to require that any shop in which liquor or any intoxicating drug is closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any Police Officer who is present, to require such shop to be kept closed for such period as may be necessary.

**[54A. Bar of Certain Proceedings.** - (1) No suit, prosecution or other proceeding shall lie against any Abkari Officer or servant of the Government for any Act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No Officer or servant of the Government shall be liable in respect of any such Act in any civil or criminal proceeding, if the Act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.]

#### IX. - Penalties

**55. For illegal import, etc.** - Whoever in contravention of this Act or of any rule or order made under this Act [\*\*\*]

(a) imports, exports, [transports, transits or possesses] liquor or any intoxicating drug; or

(b) Manufactures liquor or any intoxicating drug;

[(c) x x x ]

(d) [taps or causes to be tapped] any toddy-producing tree, or

(e) [draws or causes to be drawn] toddy from any tree; or

(f) constructs or works any [distillery, brewery, winery or other manufactory in which liquor is manufactured]; or



(g) uses, keeps, or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug; or

[(h) bottles any liquor for purposes of sale; or]

[(i) [Sells or stores for sales liquor] or any intoxicating drug;]

[shall be punished.-]

[(1) for any offence other than an offence falling clause (d) or clause (e), with imprisonment for a term which may extend to [ten years and with fine which shall not be less than rupees one lakh and]

(2) for an offence falling under clause (d) or clause (e), with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

*Explanation.* - For the purpose of this section and section 64A, "intoxicating drug" means an intoxicating substance, other than a narcotic drug or psychotropic substance regulated by the Narcotic Drugs and Psychotropic Substance Act, 1985 (Central Act 61 of 1985), which the Government may by notification declare to be an intoxicating drug.]

[55A. x x x ]

**[55B. Penalty for rendering or attempting to render denatured Spirit fit for human consumption.** - Whoever, renders or attempts to render fit for human consumption any Spirit, whether manufactured in [the State] or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall, [on conviction before a competent court, be liable to imprisonment for term which may extend to five years, and fine which shall not be less than twenty five thousand rupees] or with both. For the purpose of this section it shall be presumed, unless and until 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.]

**[55C. Penalty for counterfeiting, selling, etc of label or security sticker.** - Whoever contravenes the provisions of section 12C of this Act shall, on conviction before a competent court, be punished with imprisonment for a term which may extend to five years or with a fine which may extend to rupees one lakh or with both.]

**[55D. Penalty for criminal conspiracy.** - When two or more persons agree to do or cause to be done an act which is illegal under this Act and does such an illegal act in pursuance of such agreement by any one or more of the parties to that agreement, such an agreement is designated a criminal conspiracy under this Act and each person who is a party to the criminal conspiracy shall, on conviction, be punished with the same punishment provided for the offence committed.]

**[55E. Penalty for false marking of property or use of false property mark.** - Whoever,—

(a) marks any case, package or other receptacle or any vehicle or goods or other movable property containing liquor or intoxicating drug or uses such case package, receptacle or vehicle or goods or such other property in a manner calculated to cause it to be reasonably believed that the property or goods so marked belongs to a person to whom they do not belong or marks them in the name of a fictitious person, or

(b) removes or alters or destroys the original or genuine mark of such vehicle or other things described in clause (a) of this section so as not to recognise the real owner of such vehicle or things or to escape from the legal responsibilities and other consequences thereof, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees or with both.

*Explanation.* - For the purpose of this section, the engine number and chassis number inscribed on any part of a vehicle shall be deemed to be a property mark.]

**[55F. Penalty for possession of things described in section 55E.** - Any person who, knowing that it is unlawful, is in possession and control of such property, goods, vehicle or other article described in section 55E used or intended to be used for traffic in liquor or intoxicating drug,

shall, on conviction, be punished with the same punishment as provided for the offence under the said section.]

**[55G. Penalty for making or using of false document.** - Whoever dishonestly or fraudulently or without lawful authority makes any document or alters the content of any document causing it to be believed that such document or part of it was made by a lawful authority, intending to manufacture, store, sell or to transport any liquor or intoxicating drug or to do any act which is prohibited under this Act or the Rules made or notification issued thereunder or to do anything contrary to such laws and escape from the legal responsibilities and other consequences or uses such document or part of it made by himself or by any other person for such purposes, knowing that it is a false document or is not genuine, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees or with both.

*Explanation I.* - Under this section, until the contrary is proved, it shall be presumed that the person has used such document knowing that it is false or is not genuine.

*Explanation II.* - In this section, the word "document", unless anything contrary is specified in any other section in this Act shall have the same meaning as in section 3 of the Indian Evidence Act, 1872-(Central Act 1 of 1872).]

**[55H. Penalty for unlawful advertisement.** - Whoever prints, publishes or gives any advertisement soliciting use of or offering any liquor or intoxicating drug shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both.

Provided that, this section shall not apply to price list for display at the points of sale for consumer information.]

**[55I. Penalty for showing scene of liquor or consumption or exhibition of liquor in cinemas exhibited in theatres without warning.** - (1) No scene containing use or consumption or exhibition of liquor in cinema shall be picturised and exhibited in theatres without the warning "Consumption of Alcohol is (Sic) in such scene in contrasting colours clearly visible and having a size covering 1/10th of the total size of the scene.

(2) Whoever exhibits or causes to exhibit any cinema having a scene in contravention of the provisions of sub-section (1) in any theatre shall, on conviction, be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.]

**56. For misconduct by licensee, etc.** - 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 Abkari Officer or of any other officer 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) x x x ]

(d) permits drunkenness, riot or gaming in any place in which any liquor intoxicating drug is sold or manufactured; or

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

**[56A. For allowing consumption of certain preparations in business premises, for the manufacture and stocking of such preparations, etc.** - (1) Whoever being a chemist, druggist, apothecary or keeper of a dispensary or Vaidyasala-

(a) allows any preparation containing liquor or intoxicating drug to be consumed in his business premises otherwise than for the bona fide treatment, mitigation or prevention of any disease; or

(b) manufactures or stocks or causes to be manufactured or stocked any such preparation, other than a bona fide medicinal preparation, within the premises under his control;

shall, [on conviction before a competent court, be punished with imprisonment for a term which may extend to five years, and with fine which shall not less than fifty thousand rupees.]

(2) Whoever consumes any preparation containing liquor or intoxicating drug, which is not a bona fide medicinal preparation, in any premises referred to in sub-section (1) shall, on conviction before a Magistrate be punished with fine which may extend to [five thousand rupees.]

*Explanation.* - For the purposes of this section, "Bona fide medicinal preparation" shall mean any medicinal preparation-

(a) manufactured according to a formula prescribed in a pharmacopoeia approved by the Government of India or the Government of Kerala, or

(b) manufactured according to a formula approved by the Government of Kerala in respect of patent and proprietary medicinal preparations; or

(c) approved as a bona fide medicinal preparation by the Expert Committee appointed under section 68A].

**57. For adulteration, etc., by licensed vendor or manufacturer.** - Whoever being the holder of a licence for the sale or manufacture of liquor or of any intoxicating drug under this Act,

(a) mixes or permits to be mixed with the liquor or intoxicating drug, sold or manufactured by him, [any drug, other than a noxious drug] or any [\*\*\*] [any ingredient other than such] likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited [other than an article which the Government shall deem to be noxious] by any rule made under section 29, clause (k), when such admixture shall not amount to the offence of adulteration under [section 272 of the Indian Penal Code]; or

[(aa) mixes or permits to be mixed with starch in the liquor sold or manufactured by him; or]

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

(c) marks the cork of any bottle, case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor with any mark thereon 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 [applying a false trade mark under Section 78 of the Trade and Merchandise Marks Act, 1958]; or

(d) sells or keeps or exposes for sale any country 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 [to which a false trade mark or false trade description is applied under, Section 79 of the Trade and Merchandise Marks Act, 1958];

[Shall, on conviction before a competent court, be punished,-

(i) for the offences, other than an offence falling under clause (aa), with imprisonment for a term which may extend to five years or with fine which may extend to fifty thousand rupees or with both;

(ii) for an offence falling under clause (aa), with 'imprisonment for a term which may extend to six months or with fine which shall not be less than twenty five thousand rupees.]

**[57A. For adulteration of liquor or intoxicating drug with noxious substances, etc. - (1)**  
Whoever mixes or permits to be mixed any noxious substance or any substance which is likely to endanger human life or to cause grievous hurt to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable-

(i) if, as a result of such act, grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(ii) If, as a result of such act, death is caused to any person, with death or imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year, but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

*Explanation.* - For the purposes of this section and section 57B, the expression "grievous hurt" shall have the same meaning as in section 320 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(2) Whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to endanger human life or to cause grievous hurt to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,-

(i) if as a result of such omission, grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(ii) if as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(3) Whoever possesses any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to twentyfive thousand rupees.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), no person accused or convicted of an offence under sub-section (1) or sub-section (3) shall, if in custody, be released on bail or on his own bond, unless-

(a) the prosecution has been given an opportunity to oppose the application for such release, and

(b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872),-

(a) where a person is prosecuted for an offence under sub-section (1) or sub-section (2), the burden of proving that he has not mixed or permitted to be mixed or, as the case may be, omitted to take reasonable precautions to prevent the mixing of, any substance referred to in that sub-section with any liquor or intoxicating drug shall be on him;

(b) where a person is prosecuted for an offence under sub-section (3) for being in possession of any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, the burden of proving that he did not know that such substance was mixed with such liquor or intoxicating drug shall be on him.]

**[57B. Order to pay compensation. -** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the court when passing judgment in a case falling under Section 57A may, if it is satisfied that death or grievous hurt has been caused to any person or persons by consumption of liquor or intoxicating drug sold in any place licenced under this Act, order the licensee of that place, whether or not he is convicted of an offence



under the said section, to pay, by way of compensation, such amount as it appears to be just, to the legal representatives of the deceased or to the person or persons to whom grievous hurt has been caused.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of the order, prefer an appeal to the High Court;

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the court which passed such order:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time].

**58. For Possession of illicit liquor.** - Whoever, without lawful authority, has in his possession any quantity of liquor or of any intoxicating drug, knowing the same to have been unlawfully imported, transported or manufactured, or knowing [the duty, tax or rental payable under this Act] not to have been paid therefor, [shall be punishable with imprisonment for a term which may extend to ten years and with fine which shall not be less than rupees one lakh.]

**[58A. For sale of certain preparations.** - Whoever sells any preparation which he knows or has reason to believe is intended to serve as a substitute for alcohol or intoxicating drug shall, [on conviction before a competent court be punished with imprisonment which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both;]

Provided that nothing contained in this section shall apply to the sale of any medicinal preparation for bona fide treatment, mitigation or prevention of disease in human beings or animals.]

**[58B. For manufacture, import, export, etc., of certain preparations.** - (1) Whoever, in contravention of the provisions of this Act:-

(a) manufactures any preparations which in the opinion of the Commissioner can be used as a substitute for alcohol; or

(b) adds any substance, which when swallowed or inhaled by, or injected into, a human being produces intoxication, drowsiness, sleep, stupification or insensibility, to any alcoholic preparation; or

(c) imports, exports, transports, possesses or sells any alcoholic preparation containing ingredients not approved by the Commissioner; shall, [on conviction before a competent court, be punished with imprisonment for a term which may extend to three years and with fine which may extend to twentyfive thousand rupees.]

(2) Nothing contained in this section shall apply in the case of any medicinal preparation which is generally used for or in the treatment, mitigation or prevention of disease in human beings or animals].

**59. For vexatious search or arrest.** - Any Abkari Officer or other person who, without reasonable ground of suspicion, enters or searches or causes to be searched any closed place; or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or vexatiously and unnecessarily detains, searches or arrests any person; or in any other way vexatiously exceeds his lawful powers; shall, [on conviction before a competent court be punished for each such offence, with imprisonment for a term which may extend to three years or with fine which may extend to twenty five thousand rupees or with both;]

**60. For vexatious delay.** - Any officer or person, exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to an Abkari Inspector or to the officer in charge of the nearest Police Station, as required by section 40 of this Act, any person arrested, or any articles seized under this Act, shall, [on conviction before a competent court, be punished with fine which may extend to ten thousand rupees or with imprisonment for a term which may extend to one year or with both;]

**61. For abetment of escape of persons arrested, etc.** - Any officer or persons 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 purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or

broken or the Abkari Revenue may be defrauded; and any officer of any other Department referred to in section 37 who abets the commission of any offence against this Act in any place; shall, [on conviction before a competent court, for every such offence, be punished with fine which may extend to twenty five thousand rupees, or with imprisonment for a term which may extend to three years or with both;]

**[62. Offence committed by several persons in furtherance of common intention.** - When an offence under this Act is committed by several persons in furtherance of the common intention of all, each of such persons shall be guilty of that offence as if it was committed by him alone.]

**63. For offences not otherwise provided for.** - Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act shall, on conviction before a Magistrate, be punished for each such wilful act or omission with fine [which may extend to five thousand rupees or with imprisonment for a term which may extend to two years or with both;]

**64. Presumption as to commission of offence in certain cases.** - In prosecutions under [Section 55, Section 55B, Section 56A, Section 57, Section 58, Section 58A and Section 58B] it shall be presumed until the contrary is proved, that the accused person has committed an offence under that section in respect of any liquor or intoxicating drug, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, of the possession of which he is unable to account satisfactorily; and the holder of a licence or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under [Section 8 or Section 55 or Section 55B or Section 56 or 56A or Section 57 or Section 58 or Section 58A or Section 58B] as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence; [ x x x x ]

**[64A. Penalty for allowing land, building, room etc. for manufacture, sale or storing for sale of liquor or intoxicating drug.** - Notwithstanding anything contained in this Act, or in any other

law for the time being in force, any owner or occupier or person having control of, any land, building, room, space or enclosure, permits any person to use such land, building room, space or enclosure for manufacture sale or storing for sale of liquor or intoxicating drug in contravention of this Act or of any rule or order made thereunder or of any licence or permit obtained under this Act shall be punishable with fine which shall not less than twenty-five thousand rupees unless he proves to the satisfaction of the court that all due and reasonable precautions were taken by him to prevent such use.]

**65. What things liable to confiscation.** - In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement or apparatus in respect [or by means] of which an offence has been committed shall be liable to confiscation.

Any liquor or intoxicating drug lawfully imported, exported, transported, manufactured had in possession or sold or toddy lawfully drawn or tapped along with, or in addition to any liquor, intoxicating drug or toddy, liable to confiscation under this section, and the receptacles, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, implement or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels or other conveyances used in carrying the same, shall likewise be liable to confiscation.

**66. Confiscation how ordered.** - When the offender is convicted or when the person charged with an offence under this Act is acquitted but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the Magistrate, Whenever confiscation is authorised by this Act, the Magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay in lieu of confiscation, such fine as the officer thinks fit. 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 satisfactory accounted for, the case shall be inquired into and determined by the [Commissioner] or by any other officer authorised by the Government in that behalf, who may order such confiscation.

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

[Provided further that if the thing in question is liable to speedy and natural decay, or if the [Commissioner] or any other officer authorised by the Government in that behalf is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.]

**[67. [Power to impose fine].** - [(1) The Commissioner shall be competent to impose such fine as may be prescribed in the rules, on any person holding a licence or permit issued under this Act, for contravention of any rule made under this Act.

Provided that no order imposing any fine under this section shall be made without giving the person an opportunity of being heard.]

(2) The Commissioner may impose a fine of [Rs. 3,00,000 (Rupees three lakhs)] each on any person or persons holding a licence or permit under this Act for the violation by way of reconstitution, alteration or modification without the permission of the Commissioner of any deed on the strength of which any licence is granted.]

[(3) Where a partnership firm or a company having a hotel (restaurant) holding a licence under this Act has, without the previous permission of the Commissioner, re-constituted, altered or modified any deed constituting such partnership or Board of Directors of the company, on the strength of which such licence is granted, the Commissioner may, on payment of the fine imposed under sub-section (2) and on an application from such licensee and subject to the other provisions of this Act and the rules made there under, regularise such re-constitution, alteration or modification after accepting such fee as may be prescribed by rules.]

**[67A. Power to compound offences.** - (1) The Commissioner of Excise or the Deputy Commissioner of Excise of the District concerned or any Abkari Officer specially empowered by the Government in this behalf by notification in the Gazette, may accept, from any person reasonably suspected of having committed any of the offences specified in column (1), a sum of money as specified in column (3) of the Table below by way of composition for the offence

which may have been committed and where any property has been seized, the same shall be confiscated to Government or disposed of in such manner as may be prescribed:-

**Table**

<b>Offence</b>	<b>Compounding section in the Act</b>	<b>Compounding fee in rupees</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
Transporting of liquor or intoxicating drug in excess of the quantity prescribed by the Government by notification	10	5,000
Possession of liquor or intoxicating drug in excess of the quantity prescribed	13	5,000
Consumption or use of liquor by persons under the age of [23 years]	15A	5,000
Sale of liquor to person under the age of [23 years]	15B	5,000
Consumption of liquor in public places	15C	5,000
Taps or causes to be tapped any toddy producing tree in contravention of the Act, Rules or any order made under the Act	55(d)	10,000
Draws or causes to be drawn toddy from any tree in contravention of the Act, Rules or any order made under the Act	55(e)	10,000

Misconduct by licensee etc	56	25.000
Consumption of preparations containing, liquor or intoxicating drug other than bonafide medicinal preparations in the business, manufacturing or stocking premises	56A(2)	5,000
Mixing starch with liquor	57(aa)	25,000]

(2) Where any case involving an offence specified under subsection (1) is pending before a court of law, such offence may be compounded with the permission of such court and a report of the action taken thereon shall be filed before the court.

(3) On payment of such sum of money or such value or both, as the case may be, to such officer empowered for the purpose under sub-section (1), the accused person, if in custody, shall be discharged.

*Explanation.* - For the purpose of this section, the word "compound" means compounding of offences.]

**[67B. Confiscation by Abkari Officers in certain cases.** - (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any liquor, intoxicating drug material, still, utensil, implement or apparatus or any receptacle, package or covering in which such liquor, intoxicating drug, material, still, utensil, implement or apparatus is found or any animal, cart, vessel, or other conveyance used in carrying the same is seized and detained under the provisions of this Act; the officer seizing and detaining such property shall, without any unreasonable delay, produce the same before an officer authorised by the Government in this behalf by notification in the Gazette, not being below the rank of an Assistant Excise Commissioner (hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes and detains any property specified in sub-section (1) or where any such property is produced before an authorised officer under that sub-section and he is satisfied that an offence under this Act has been committed in respect of or by means of that property and that such property is liable to confiscation under this Act, such authorised

officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property and where such property consists of any receptacle or package, the authorised officer may also order confiscation of all contents thereof.

(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.]

**[67C. Issue of show cause notice before confiscation under section 67B.** - (1) No order confiscating any property shall be made under section 67B unless the person from whom the same is seized -

(a) is given a notice in writing informing him of 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 67B 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 intoxicating drug or the material, still, utensil, implement 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.]

**[67D. Property not liable to confiscation to be returned to owner.** - Where the authorised officer passes an order under Section 67B that any property seized and detained by him or produced before him under that section is not liable to confiscation under this Act, he shall, after the expiry of thirty days from the date of such order, release such property to the person from whom it was seized.



Provided that where the Commissioner has called for under section 67F the record of an order of the authorised officer, such property shall be released only subject to the orders of the Commissioner under that section.]

**[67E. Appeal.** - (1) Any person aggrieved by any order passed under section 67B may, within thirty days from the date of communication to him of such order, appeal to an officer not below the rank of Deputy Commissioner of Excise authorised by the Government in this behalf by notification in the Gazette (hereinafter referred to as the appellate authority)

(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving an opportunity to the appellant to be heard, if he so desires, and after making such further Inquiry as may be necessary, pass such order as he thinks fit, confirming, modifying or annulling the order appealed against.

(3) An order of the appellate authority under sub-section (2) shall, subject to the provisions of Section 67F, be final and shall not be called in question in any court.]

**[67F. Revision.** - (1) The Commissioner may, before the expiry of thirty days from the date of an order passed under section 67B or Section 67E, of his own motion, call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit:

Provided that the Commissioner shall not call for and examine the record of any order passed under Section 67B if an appeal against such order is pending before the appellate authority;

Provided further that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

(2) An order of the Commissioner under sub-section (1) shall be final and shall not be called in question in any court.]

**[67G. Award of confiscation to interfere with other punishments.** - The award of any confiscation under section 67B or section 67E or section 67F shall not prevent the infliction of any punishment to which any person is liable under this Act.]

**[67H. Property confiscated when to vest in Government.** - When an order for confiscation of any property has been passed under Section 67B or Section 67E or Section 67F and such order

has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in the Government free from all encumbrances.]

**[68. Provisions of Code of Criminal Procedure and Indian Penal Code applicable to offences committed under the Act.** - The provisions of the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)], relating to execution, so far as the same are applicable, and section 67,68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.]

**[68A. Appointment of Expert Committee.** - (1) The Government shall appoint an Expert Committee consisting of-

(a) the Drugs Controller;

(b) the Chemical Examiner to the Government;

(c) two representatives each, one of whom shall be a non-official of the Allopathic, indigenous and Homeopathic systems of medicine, appointed, by the Government; and

(d) an officer of the Excise Department not below the rank of Deputy Commissioner, appointed by the Government.

(2) The functions of the Expert Committee shall be-

(a) to advise the Commissioner as to whether a medicinal preparation is a bona fide medicinal preparation or not;

(b) to advise the Commissioner as to the total requirement of medicinal preparations containing liquor or intoxicating drugs or in which alcohol is self-generated during the process of their manufacture, for the whole of the State during one year;

(c) such other functions as may be prescribed by rules made by the Government under this Act.

(3) The term of office, of and the allowances, if any, payable to the nonofficial members of the Expert Committee, the procedure to be followed by the Committee in the discharge of its

functions and the manner of filling casual vacancies among the non-official members of the Committee shall be such as may be prescribed by rules made by the Government under this Act.]

X. - Miscellaneous

**69. Publication of rules and notifications.** - All rules made and notifications issued under this Act shall be made and issued by publication in the [Gazette], [\*\*\*], All such rules and notifications shall thereupon have the force of law and read as part of this Act and may in like manner be varied, suspended or annulled.

**70. The conferring of powers and making of appointments.** - All notification and orders conferring powers, imposing duties and making appointments under this Act may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles, and all courts shall take judicial notice thereof.

**[71. The Government may exempt any liquor or intoxicating drug from the provisions of this Act.** - The Government may by notification, either wholly or partially, subject to such conditions as they may think fit to prescribe, exempt any liquor or intoxicating drug from all or any of the provisions of this Act either throughout the [\*\*\*] State or in any specified area or for any specified period or occasion or as regards any specified person or class of person.]

**72. Bar of actions.** - No action shall lie against the [Government] or against any Abkari Officer, for damages in any Civil Court for any act bona fide done or ordered to be done in pursuance of this Act, or of any law for the time being in force relating to Abkari Revenue, and all prosecutions of any Abkari Officer, and all actions which may be lawfully brought against the [Government] or against any Abkari Officer, in respect of anything done or alleged to have been done, in pursuance of this Act shall be instituted within six months from the date of the act complained of and not afterwards.

In such action, if for damages it shall be lawful for the Court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered, to refuse costs to the plaintiff and direct him to pay the costs of the defendant.