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GOVERNMENT OF TRIPURA
LAW DEPARTMENT

No. F- 2(1)-LAW/LEG/87

Dated, Agartala, the 3rd August, 1987.

The following Act of the Tripura Legislative Assembly received assent of the Governor on 27.6.1987 and is hereby published for general information.

A. B. Paul.
Deputy Secretary, Law.

Tripura Act No. 12 of 1987.

THE TRIPURA EXCISE ACT, 1987.

AN

ACT

to consolidate and amend the Laws relating to duties of excise in Tripura.

BE it enacted by the Tripura Legislative Assembly in the Thirty Eighth year of the Republic of India as follows :-

CHAPTER— I

Preliminary

1. Short title, Extent and Commencement :-

- (1) This Act may be called the Tripura Excise Act, 1987.
- (2) It extends to the whole of Tripura.
- (3) It shall come into force immediately.

2. Definitions :- (1) In this Act unless there is anything repugnant in the subject or context,

- (a) “beer” includes ale, stout, porter and all other fermented liquor made from malt; and such other substances as the State Government may specify on this behalf.
- (b) “bottle” means to transfer liquor from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not; and includes re-bottling.
- (c) “Collector” means the Collector of the District and includes any officer appointed by the State Government to exercise and perform all or any of the powers and functions of the Collector under this Act ;
- (d) “denaturant” means any substance prescribed for admixture with spirit in order to render the mixture unfit for human consumption ;
- (e) “denature” means mixing of spirit with one or more denaturants in such

manner as may be prescribed for the purpose of rendering it unfit for human consumption ;

- (f) “excisable article” means :-
- (a) any alcoholic liquor for human consumption ; or
 - (b) any intoxicating drug; “but does not include medicinal and toilet preparations containing alcohol or any intoxicating drug”.

“Explanation” :- In this clause the expressions “medicinal preparations and toilet preparations” have the same meaning as assigned to it in the “Medicinal and Toilet Preparations (Excise Duties) Act, 1945.”

- (g) “excise duty” and “countervailing duty” means any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of List—II in the Seventh Schedule to the Constitution,
- (h) “Excise Commissioner” means the officer appointed under Sec
- (i) “Excise officer” means the Collector or any officer or other person appointed or invested with powers under section 5 ;
- (j) “Excise Revenue” means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs ;
- (k) “export” means to take out of Tripura otherwise than across a customs frontier as defined by the Central Government;
- (l) “import” (except in the phrase “import into India”) means to bring into Tripura otherwise than across a customs frontier as defined by the Central Government ;
- (m) “Intoxicant” means —
- (i) any liquor, or
 - (ii) any substance from which liquor may be distilled and which is declared by the State Government by notification in the Tripura Gazette to be an intoxicant for the purpose of this Act or
 - (iii) any intoxicant drug ;

- (n) “intoxicating drug” means —
- (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabissativa* L.), including all forms known as bhang, siddhi or ganja;
 - (ii) charas, that is. the resin obtained from the Indian hemp, plant, which has not been submitted to any manipulations other than those necessary for packing and transport;
 - (iii) any mixture, with or without neutral materials of any of the above forms or intoxicating drug, or any drink prepared there from ; and
 - (iv) any other intoxicating or narcotic substances or any fermenting agent which the State Government may specify in this behalf by notification, **such** substance or agent not being opium, cocaleat, or a manufactured drug, as defined in the Narcotic Drug and Pschycotropic Substances Act, 1985.
- (o) “Liquor” means intoxicating liquor and includes all liquid consisting of or containing alcohol and any substance which the State Government, by a notification may declare to be liquor for the purpose of the Act.
- (p) “manufactures” includes —
- (i) every process whether natural or artificial, by which any intoxicant is produced or prepared (including the topping of tari producing trees and the drawing of tari from trees).
 - (ii) every process for the rectification, flavouring, blending, or colouring of liquor or for the reduction of liquor for sale ; and
 - (iii) re-distillation,
- (q) “Notification” means notification in the Tripura Gazette.
- (r) “Pachwal” means fermented rice, millet or other grain, whether mixed with any liquid, or not and any liquid obtained therefrom, whether diluted **or** undiluted, but does net include beer :
- (s) “Place” includes building, house, shop, booth, vessel, raft, vehicle and tent;
- (t) “Prescribed” means prescribed by rules made under this Act;

(u) “sale” includes any transfer otherwise than by way of gift ;

Explanation :- The supply of liquor by a club, mess, institute, society, lodge or other similar organisation by whatever name called to its member or their guest whether on payment of price or of any fee or subscription or not shall be deemed to be a sale within the meaning of this clause ;

(v) “State Government” means the State Government of Tripura.

(w) “Spirit” means any liquor containing alcohol obtained by distillation, whether it is denatured or not;

(x) “tari” means fermented or unfermented juice drawn from any coconut, palmyra ; date or other kind of palm tree; and

(y) “transport” means to remove from one place to another within the State of Tripura.

3. Power to declare “country liquor” and “foreign liquor” :- The State Government may, by notification, declare what, for the purpose of this Act or any portion thereof, shall be deemed to be “country liquor” and “foreign liquor” respectively.

4. Definition of retail and wholesale :-

(i) The State Government may, ‘by notification, declare with respect either to whole of Tripura or to any specified local area, and as regards purchasers generally or any specified class of purchasers and either generally or for any specified occasion, what quantity of any intoxicant shall, for the purpose of this Act, be the limit of a retail sale.

(2) The sale of any intoxicant in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall be deemed to be a sale by wholesale.

CHAPTER— II

Establishments, Control, Appeal and Revision.

5. Establishments, delegation and withdrawal of powers :-

(1) The administration of the Excise Department and the collection of the excise revenue within a district shall ordinarily be under the charge of the Collector.

- (2) The State Government may, for the whole of Tripura or any specified local area,
- (a) appoint an officer of the Government to be the Excise Commissioner who shall, subject to such control as the State Government may direct from time to time be in charge of the administration of the provisions of this Act and rules made thereunder including collection of excise revenue;
 - (b) appoint any other person to exercise all or any of the powers and to perform all or any of the duties, conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or to the exclusion of, the Collector and subject to such control as the State Government may direct;
 - (c) appoint any other officers of the Excise Department, to perform such powers and duties of the excise officer as the State Government may think fit;
 - (d) appoint officer of the designation 'Public Analyst' to be in-charge of scientific analysis of samples and materials in relation to administration of this Act ;
 - (e) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (c) of this sub-section shall be exercised and performed by any servant of the Government. or any other person ;
 - (f) delegate to the Excise Commissioner, all or any of the powers conferred upon the State Government by or under this Act, except the powers to make rules;
 - (g) withdraw from any officer or person all or any of the powers or duties conferred or imposed upon him by or under this Act; and
 - (h) permit the delegation by the Excise Commissioner or the Collector, to any person or classes of persons specified in such notification, of any powers conferred or duties imposed upon him by or under this Act.

6. Control, Appeal and Revision :-

- (1) The Collector shall in respect of all proceeding under this Act, be subject to the control of the Excise Commissioner.

- (2) Orders passed under this Act or under any rule made hereunder shall be appealable in such cases, to such authorities and under such procedures as may be prescribed-
- 3) The State Government may revise any order passed by the Collector or the Excise Commissioner or by any officer exercising the powers of an appellate authority under any rule made under this Act.

CHAPTER—III

Import, Export and Transport.

7. Restriction on Import :-

- (1) No intoxicant shall be imported unless —
 - (a) the State Government has given permission, either general or special, for its import;
 - (b) such conditions (if any) as the State Government may impose have been satisfied ; and
 - (c) the duty (if any) payable under Chapter V has been paid or a bond has been executed for the payment thereof;

Provided that the State Government may subject to such conditions (if any) as it thinks fit to impose, exempt any intoxicant from provisions of this sub-section.

8. Restriction on Export or Transport :- No intoxicant shall be exported or transported unless —

- (a) the duty (if any) payable under Chapter V has been paid or a bond has been executed for the payment thereof;
- (b) such conditions, if any, as the State Government may impose, have been satisfied:

Provided that the State Government may subject to such conditions (if any) as it thinks fit to impose, exempt any intoxicant from the provisions of this section.

9. Power to prohibit Import, Export or Transport :- The State Government may by notification.

- (a) prohibit the import or export of any intoxicant into or from the State of Tripura or any part thereof, or
- (b) prohibit the transport of any intoxicant, either absolutely or in such circumstances as it may by notification specify.

10. Pass for import, export or transport :-

- (1) No intoxicant exceeding such Quantity as the State Government may prescribe by notification either generally or for any specified local area, shall be imposed exported or transport, except under a pass ;
- (2) The pass required by Sub-section (1) may be granted by the Collector ;
- (3) Such pass may be either general for definite period and particular kind of intoxicants, or special for specified occasions and particular consignments only.

CHAPTER—IV

Manufacture, Possession and Sale

11. Licence required for manufacture :-

- (a) No intoxicant shall be manufactured,
- (b) no hemp plant (Cannabis Sativa) shall be cultivated.
- (c) no portion of the hemp plant (Cannabis Sativa) from which an intoxicating drug can be manufactured or produced shall be collected,
- (d) no liquor shall be bottled for sale,
- (e) no distillery or brewery shall be worked, and
- (f) no person shall use, keep or. have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector :

Provided that any tari producing tree may be tapped and tari may be drawn from any tree, without a license under this section by the person in possession of the tree, for the purpose of being used solely in the manufacture of gur or molasses, or for the purpose of being used for the preparation of food for domestic

consumption not exceeding a limit of four litres.

12. Drawing of tari in notified area :-

Notwithstanding anything contained in the proviso to section 11;

- (a) no tari producing tree shall be tapped or
- (b) no tari shall be drawn from any tree, in any local area specified in this behalf by the State Government by notification, except under the authority and subject to the terms and condition of a license granted in that behalf by the Collector :

Provided that, when any exclusive privilege of manufacturing tari has been granted under section 20, the State Government may declare that the written permission given by the grantee to draw tari shall have the same force and effect as a license granted by the Collector under this section:

Provided also that in any local area specified by notification under this section, the State Government may by notification, declare that this section shall not apply to tress tapped or tari drawn under such special conditions as the Excise Commissioner may prescribe.

13. Establishment of distileries, breweries or warehouse :-

- (1) The Excise Commissioner may,
 - (a) subject to any restrictions imposed by the State Government establish, or authorise the establishment of distileries or breweries, in which liquor any be manufactured under a license granted under section 11;
 - (b) discontinue or other for discontinuation of any such distillery or brewery;
 - (c) establishment or authorise the establishment of warehouse wherein any intoxicant may be deposited and kept without payment of duty;
 - (d) discontinue or order for discontinuation of any such warehouse,
- (2) No distillery, brewery or warehouse, as aforesaid, shall be established except by, or under the authority of the Excise Commissioner.

14. License required for depositing or keeping intoxicant in warehouse or other place of storage :- No person shall, except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector, deposit or keep any intoxicant in any warehouse or other place of storage

established, authorised or continued under this Act.

15. Payment of duty on removal from distillery, brewery, warehouse or other place of storage :- No intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage licensed, established, authorised or continued under this Act, unless the duty (if any) payable under Chapter V has been paid or a bond has been executed for the payment thereof-

16. Subject to the provision of the Act :- No person shall have in his possession any intoxicant,

- (i) in excess of the quantity declared under section 4 to be the limit of retail sale; and
- (ii) not obtained from a licensed vendor except under a permit granted by the Collector:

Provided that the restriction of this section shall not apply to a person possessing tree and drawing tari therefrom not exceeding, four litres for domestic consumption.

17. (1) A licensed vendor shall not have his possession at any place other than that authorised by his license any intoxicant in excess of such quantity as the State Government may under section 4 declare to be the limit of retail sale except under a permit granted by the Collector in that behalf.

(2) Notwithstanding anything contained in the foregoing provision if the State Government thinks fit so to do on the ground of health, morality or public order, it may, by notification, prohibit either absolutely or subject to such conditions as it may prescribe the possession of any intoxicant by all persons generally or by any specified class or classes of persons.

18. License required for sale :- No intoxicant and no portion of a hemp plant (Cannabis Sativa) from which an intoxicating drug can be manufactured or produced, shall be sold except under the authority and subject to the terms and conditions of a license granted in 'that behalf' by the Collector in conformity with general instructions issued by the State Government in respect of settlement of any class or class of vend Licenses :

Provided that —

- (1) a license for such sale in more than one district shall be granted only by, the Excise Commissioner or by a Collector specially authorised in that behalf by the Excise Commissioner ;

- (2) a cultivator or owner of any hemp plant (Cannabis Sativa) may sell-without a license, those portions of the plant from which an intoxicating drug can be manufactured or produced, to any person licensed for the purpose under this Act, to any officer whom the Excise Commissioner, may authorise to purchase or receive the same,
- (3) no. license shall be required for any of the following sales, namely :-
 - (a) the sale of foreign liquor lawfully procured by any person for his private use, within the permissible limit when such sale is made by such person himself or on his behalf upon his quitting a station, or on behalf of his representatives in interest after his decease.
 - (b) the sale of tari lawfully possessed, and intended to be used in the manufacture of gur or molasses; or
 - (c) the sale of tari lawfully possessed and intended to be used in the Manufacture of bread to a person holding a permit to use tari for the purpose of making bread ; or
 - (d) the sale of tari lawfully possessed and intended to be used, solely for the preparation of food for domestic consumption and ‘not
 - (i) as an intoxicating article, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale.

19. Manufacture and sale of liquor in or near cantonments :- Within the limits of any military cantonment and within such distance from those the as, the Central Government may in any case prescribe, no license for Manufacture or sale of liquor shall be granted except with previous consent of Commanding Officer,

20. Grant of exclusive privilege for manufacture and sale of country liquor or intoxicating drugs :-

- (1) The State Government may grant to any person, on such condition and for such period as it may think fit the exclusive privilege for one or more of the following purposes, namely :-
 - (a) manufacturing;
 - (b) supplying by wholesale ;

- (c) supplying by retail sale any country liquor or intoxicating drugs within any specified local area ;

Provided that public notice shall be given of the intention to grant any such exclusive privilege and that any objection made by any person residing within the area affected shall be considered before an exclusive privilege is granted.

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

21. Transfer of Exclusive privilege :

- (1) A grantee of an exclusive privilege under section 20 shall not let or assign the same or any portion thereof unless he is expressly authorised, by a condition made under that section to do so.
- (2) Such letting or assignment shall be made only to a person approved by the Collector or if the letting or assignment extends to more than one district by the Excise Commissioner.
- (3) The lessee or assignee shall not exercise any rights as such unless and until the Collector or the Excise Commissioner or as the case may be, has upon his application, granted him a license to do so.

22. Maintenance and use of measures, weights and instruments by licensed manufactures and vendors :- Every person who manufactures or sells any intoxicant under a license granted under this Act —

- (a) Shall supply himself with such standard measures, standard weights and instruments duly stamped and verified by the competent authority as the Excise Commissioner may prescribe' and shall keep the same in good condition ; and
- (b) When such measures, weights or instruments have been so prescribed, shall, on the requisition of any Excise Officer duly empowered by the Collector in this, behalf, measure, weight or test any intoxicant in his possession, at such time and in such manner as such officer may require,

23. Employment of young persons or woman by licensed vendors :-

- (1) No person who is licensed to sell foreign liquor or country spirit for consumption on his premises shall, during the hours in which such premises

are kept open for business, employ or permit to be employed, either with or without remuneration, any person under the age of twentyone years, in any part of such premises in which such liquor or spirit is consumed by the public.

- (2) No person who is licensed to sell foreign liquor or country spirit for consumption on his premises shall, without the previous written permission of the Excise Commissioner; during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman, in any part of such premises in which such liquor is consumed by the” public.
- (3) Every permission granted under sub-section (2) .shall be endorsed on the license and may be modified or withdrawn.

24. Power to close shops temporarily :-

- (1) The District. Magistrate or a Sub-Divisional Magistrate, may by notice in to the ‘license require that any shop in which any intoxicant is said shall be closed at such time or for such period as such Magistrate may think necessary for the preservation of the public peaces and maintenance of law and order.
- (2) If any riot or unlawful assembly is apprehended or occurs in the vicinity of any shop in which any intoxicant is sold, any Magistrate or any Police Officer of or above the rank of Sub-Inspector present, may require such shop to be kept closed for such period as he may think necessary.
- (3) When any Magistrate or Police Officer makes a direction under sub-section (1) or sub-section (2) he shall forthwith inform the Collector of his action and the reason therefor.

CHAPTER— V

DUTY

25. Power to impose duty on import, export, transport and manufacture :-

- (1) An excise duty or a countervailing duty, as the case may be, at such rate or rates as the State Government may direct from time to time, may be imposed either generally or for any specified local area, on —
 - (a) any excisable article imported, or .
 - (b) any excisable article exported, or

- (c) any excisable article transported, or
- (d) any excisable article (other than tari) manufactured under any license granted in respect of clause (a) of section 12, or
- (e) any hemp plant (*Cannabis Sativa*) cultivated, or any portion of such plant collected, under any license granted in respect of clause (b) or clause (c) of section 12, or
- (f) any excisable articles manufactured in any distillery or brewery licensed, established, authorised or continued under this Act.

Explanation :- Duty may be imposed on any article under these sub-section at different rates according to the varying strength and quality of such article.

- (2) An excise duty or a countervailing duty as the case may be at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area on any tari drawn under any license granted under sub-section (1) of section 12.

26. Ways of levying such duty :- Subject to any rules made under section 88 any duty imposed under section 25 may be levied in any of the following ways :-

- (a) on an excisable article imported :-
 - (i) by payment, upon or before importation, in the state of Tripura.
 - (ii) by payment upon issue for sale from a warehouse established, authorised or continued under this Act,
- (b) on an excisable article exported — by payment in the State of Tripura or
- (c) on an excisable article transported —
 - (i) by payment in the district from which the article is sent, or
 - (ii) by payment upon issue for sale from a warehouse established, authorised or continued under this Act.
- (d) on intoxicating drugs manufactured, cultivated or collected,
 - (i) by a rate charged upon the quantity manufactured under a license granted in respect of the provisions of section 11, clause (a) issued for sale from a warehouse established, authorised or continued under this Act, or

- (ii) by a rate assessed on the area covered by, or on the quantity or outturn of, the crop cultivated or collected, under, a license granted in respect of the provisions of section 11 clause (b) or clause (c),
- (e) on spirit or beer manufactured in any distillery or brewery licensed, established, authorised or continued under this Act,
 - (i) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued for sale from a warehouse established, authorised or continued under this Act,
 - (ii) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree or attenuation of the wash or wort, as the case may be, as the State Government may prescribe ; and
- (f) on tari drawn under a license granted under sub-section (1) of section 12 :-by a tax on each tree from which the drawing of tari is permitted : Provided that, where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from such warehouse ;

Provided also that no tax shall be levied in respect of any tree from which tari is drawn only for the manufacture of gur or molasses and under such special conditions as the Excise Commissioner may prescribe.

27. Payment for Grant of Exclusive Privilege.

Instead of, or in addition to any duty leviable under this Act, the State Government may direct payment of a sum to be fixed by it in consideration of the grant of any exclusive privilege under section 20.

CHAPTER—VI

Licenses, Permits and Passes

28. Preparation of list of places for which it is proposed to grant license for the retail sale of spirit :-

Before the expiry of every period for which existing licenses for the retail sale of spirit are in force the Collector shall prepare a list in a form prescribed by the Excise Commissioner showing what licenses it is proposed to grant for the retail sale of spirit, for consumption on the vendors' premises, for the next period of settlement.

29. Publication of such list —

- (1) The Collector shall —
 - (a) cause to be conspicuously affixed upon the site of each shop referred to in said list a notice ‘to the effect that it is proposed to grant a license for the retail sale of spirit thereat, or in the vicinity for the next period of settlement;
 - (b) if any site referred to in the said list is not at the time used for the retail sale of spirit, cause a notice to the effect that it is a proposed to grant a license for retail sale of spirit thereat, or in the vicinity for the next period of settlement, to be proclaimed in the locality by beat of drum;
 - (c) send to the Chairman or Administrator of each Municipality an extract reproducing so much of the said list as relates to shops in the Municipality; and
 - (d) cause the said list, or any portion thereof, to be published in such other method (if any) as may be prescribed.
- (2) When an extract is sent to the Chairman or Administrator of any Municipality under clause (c) of sub-section (1), he shall :-
 - (i) Cause a copy of the extract to be conspicuously affixed at the central office of the Municipality concerned ; and
 - (ii) Send to each member of each ward committee (if any) a copy of so much of the extract as relates to shop situated in his ward-

30. Time for preparation and publication of such list :-

The list mentioned in Section 28 shall be prepared’and shall be published under Section 29, at such time as may be prescribed in this behalf.

31. Submission of objections and opinions to Collector :-

- (1) Objections to any proposal contained in any list prepared under Section 28 may be received, at any time prior to the date prescribed in this behalf from :-
 - (a) Persons paying municipal rents and residing in any municipality to which such proposal relates or, if any such Municipality is divided into wards, in the ward to which such proposal relates or in any ward adjoining such ward; or
 - (b) (in the case of shops not situated in any Municipality) persons owning or

occupying land or residing in the vicinity of the shop to which such proposal relates; or

(c) the District Magistrate.

(2) Such objections must be submitted to the Collector :-

Provided that in any Municipality they may, at the option of the objector, be submitted to the Chairman or Administrator of the Municipality.

(3) Every Chairman or Administrator of a Municipality to whom an extract has been sent under Section 29, shall send to the Collector, by a date prescribed by rule made in this behalf.

(i) objections (if any) : to the proposals contained in the extract which, may be received by the Chairman, or the Administrator from persons paying municipal rates, before that date and

(ii) any opinion which the Chairman or the Administrator may wish to record on the said proposals.

32. Grant of licenses by Collector and submission of list with objections and opinions to Excise Commissioner.

(1) After the date prescribed for the receipt of objections and opinions submitted under Section 31 the Collector shall consider the same,- and shall, if necessary, revise the said list, and shall decide for what places licenses for the retail sale of spirit shall be granted, and may, in his discretion, grant licenses accordingly.

(2) The Collector shall then forthwith submit the said list, as so revised and the said objections and opinions and his own opinion to the Excise Commissioner.

33. Finality of decisions of Excise Commissioner :-

The Excise Commissioner shall consider the list of objection and opinion sent to him -and may modify or annul any order passed or license granted by the Collector, and notwithstanding anything contained in section 6, his orders shall be final.

34. Application of sections 28 to 33 to licenses for retail sale of intoxicants other than spirit :-

The provisions of sections 28 to 33 as to licenses for the retail sale of spirit shall apply also in respect of license for the retail sale, in any local area specified in any order made by the State Government in this behalf, of any other intoxicant specified in such order.

35. Exemption of certain licenses from sections 28 to 34 :-

Section 28 to 34 shall not apply in the case of any license which it is proposed to grant

- a) to any person, for the retail sale of any intoxicant, during any period not exceeding one month; or
- (b) to any person, for the sale of any denatured spirit; or
- (c) to any person, for the retail sale of any intoxicant in substitution for a license which has been cancelled or withdrawn or surrendered before the expiration of the period for which it was granted ; or which has lapsed on the death' of the person to whom it was granted ; or
- (d) to any medical practitioner, chemist, druggist, apothecary or keeper of a dispensary, for the retail sale of any intoxicant for medical purposes.

36. Fees for terms, conditions, and form of, and duration of licenses, permits and passes—Every license, permit or passed under this Act —

- (a) shall be granted—
 - (i) on payment of such fees (if any), and (ii) subject to such restrictions and on such conditions and
- (b) shall be in such form and contain such particulars as the State Government may direct.

37. Grant of license, permit etc. :-

Every license, permit or pass under this Act shall be granted for such period is may be prescribed.

38. Counterpart agreement by license, and security or deposit :-

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

39. Technical defects, irregularities and omissions :-

- (1) No license granted under this Act shall be deemed to the invalid by reason

merely of any technical defect, irregularity or omission in the license *or* in any proceedings taken to the grant thereof.

- (2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission, shall be final.

40. Power to cancel or suspend license, permit or pass :-

- (1) Subject to such restrictions as the State Government may prescribe, the authority who granted any license, permit or pass under this Act may cancel or suspend it —
 - (a) If it is transferred or sublet by the holder thereof without the permission of the said authority; or
 - (b) if any duty or fee payable by the holder thereof be not duly paid ; or
 - (c) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of the terms or conditions thereof or
 - (d) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence or any offence punishable under the Narcotic Drug and Psychotropic Substances Act, 1985 or under the Trade and Merchandise Marks Act, 1958 (43 of 1958), or under any section which has been introduced into the Indian Penal Code by section 3 of that Act (Act XLV of 1860); or under the Medical and Toilet Preparations (Excise duties) Act, 1945 ; or
 - (e) if the holder thereof is punished for any offence under the Customs Act, 1962 or
 - (f) Where a license, permit or pass has been granted on the application of the holder of any exclusive privilege granted under section 20 on the requisition in writing of such holder ; or
 - (g) if the conditions of the license, permit or pass provided for such cancellation or suspension at will.
- (2) When a license, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c), clause (d), or clause (e) of sub-section (1) the authority aforesaid may cancel any other license, permit or pass granted to such person by, or by the authority of, the State Government under this

Act, or under the Narcotic Drugs and Psychotropic Substances Act, 1985.

- (3) The holder of a license, permit or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof.

41. Power to withdraw license :-

- (1) Whenever the authority who granted any license under this Act considers that the license should be withdrawn for any cause other than those specified in section 40, it may withdraw the license either :—
 - (a) on the expiration of fifteen days notice in writing of its intention to do so, or
 - (b) forthwith, without notice.
- (2) if any license be withdrawn under sub-section (1), the said authority shall, pay to the licensee such sum (if any), by way of compensation, as the Excise Commissioner may direct.
- (3) When a license is withdrawn under sub-section (1), any fee paid in advance, deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount (if any) due to the Government.

42. Surrender of license :-

- (1) Any holder of a license granted under this Act to sell an intoxicant may, unless his license is liable to cancellation or suspension under section 40 surrender the same on —
 - (i) the expiration of one month's notice in writing given by him to the Collector of his intention to surrender it, and
 - (ii) payment of the fees payable for the license for the whole period for which it would have been current but for such surrender:

Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may direct the licensing authority to remit to the holder thereof the sum so payable on surrender, and any fees paid in advance, or any portion of such sum or fees.

- (2) Sub-section (1) shall not apply in the case of a license for the sale of any country liquor or intoxicating drug in the exercise of an exclusive privilege granted under section 20.

Explanation :- The words “holder of a license” as used in this section, include a person whose tender or bid for a license has been accepted, although he may not actually have received the license.

43. Bar to right of renewal and to compensation :-

No person to whom a license has been granted under this Act shall have any claim to the renewal of such license, or, save as provided in section 41 any claim to, compensation on the determination thereof.

CHAPTER—VII

Departmental Management or Transfer.

44. Power of Collector to take grants under management or to transfer them :-

If any holder of a license granted under this Act, or any person to whom an exclusive privilege has been granted under section 20, contravenes any provision of this Act, or any made hereunder, or makes default in complying with any rendition imposed upon him by such license or privilege, or

if any holder of a license granted under this Act surrenders the same under Section 42,

the collector may (in the case of a license, after the cancellation or surrender thereof and, in the case of an exclusive privilege, at any time) —

- (a) take the grant under management, at the risk and loss of the person to whom it was made, or
- (b) transfer the unexpired portion of the grant, at the risk and loss of the said person, to any other person.

CHAPTER — VIII

Offences and Penalties

45. Penalty for unlawful import, export, transport, manufacture, possession, sale etc :- If any person, in contravention of this Act, or of any rule, notification or order made, issued or given, or license, permit or pass granted, under this Act.

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

or

- (b) cultivates, any hemp plant (Cannabis Saliva), or
- (c) collects or sells any portion of the hemp plant (Cannabis Sativa) from which-an intoxicating drug can be manufactured or produced ; or
- (d) bottles, any liquor for purposes of sale; or
- (e) works any distillery -or brewery ; or
- (f) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus, whatsoever for the purpose of manufacturing any intoxicant other than tari, or
- (g) establishes any distillery, brewery or warehouse, or
- (h) removes any intoxicant from any distillery, brewery, warehouse or other place of storage licensed, established, authorised or continued under this Act,

he shall be liable to imprisonment for a term which may extend to two years or to fine which may extend to five thousand rupees, or to both.

46. Offences by Companies :-

- (1) where an offence under this Act has been committed by a Company, every person, at the time the offence was committed was in charge of and was responsible to the Company for the conduct of the business of the Company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the Commission of such offence.

- (2) Notwithstanding anything contained in sub-section(1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any Director, Manager, Secretary or other Officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :—For the purpose of this section.

- (a) Company means any body corporate and includes a firm or other association of individual, and
- (b) ‘Director in relation to a firm means a partner in the firm.

47. Presumption as to offence where possession is not satisfactorily accounted for :-

In prosecutions under section 45 it may be presumed unless and until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of :-

- (a) any intoxicant; or
- (b) any steel utensil, implement or apparatus whatsoever for the manufacture of any intoxicant other than tari; or
- (c) any materials which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured, for the possession of which he fails to account for satisfactorily.

48. Penalty for altering or attempting to alter any denatured spirit :-

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

49. Presumption as to offence under section 48 in certain cases :

In prosecutions under section 48 when the accused person is proved to have been in possession of any spirit which is, or contain or has been derived from denatured spirit and in respect of which any such alteration or attempt as is referred to in section 48 has been made, it may, from the mere fact of such possession, be presumed unless and until the contrary is proved, that such person.

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

50. Presumption as to any spirit which contains any denaturant :-

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

51. Penalty for adulteration by licensed manufacturer or vendor or his servant :-

If any licensed manufacturer or licensed vendor, or any person employed by him and acting on his behalf, mixes, or permits to be mixed, with any intoxicant manufactured, sold or kept or exposed for sale by him, any noxious drug or any article prohibited by rule made under section 88, and such mixing does not amount to an offence punishable under section 272 of the Indian penal code (Act XLV of 1860) ; or has in his possession any intoxicant in respect of which such admixture has been made, he shall be liable to imprisonment for a term which may extend to eighteen months, or to fine which extend to three thousand rupees, or to both.

52. Penalty for fraud by licensed manufacturer or vendor or his servant :-

If any licensed manufacturer or licensed vendor, or any person employed by him and acting on his behalf,

- (a) sells or keeps or exposes for sale, as foreign liquor, any liquor which he knows or has reason to believe to be country liquor, and such sale does not amount to an offence punishable under section 417 or section 418 of the Indian penal code, or
- (b) marks any bottle, case, package or other receptacle containing country liquor, or the cork of any such bottle, or deals with any bottle, case, package or other receptacle containing country liquor,

with the intention of causing it to be believed that such bottle, case package or other receptacle contains foreign liquor, and such marking or dealing does not amount to an offence punishable under section 482 of the said Indian Penal Code, he shall be liable to imprisonment for a term which may extend to eighteen months or, to fine which may extend to two thousand Rupees or to both.

53. Penalty for certain unlawful acts of licensed vendors of their servants :-

- (1) If any licensed vendor, or any person in his employees and acting on his behalf,
 - (a) in contravention of section 23 employs or permits to be employed, in any part of his licensed premises referred to in that section, any person under age of 21 years or any domain, or
 - (b) sells any intoxicant to a person who is drunk and intoxicated, or
 - (c) sells or delivers any spirit or intoxicating drug to any persons apparently under the age of twenty one years whether for consumption by such person or by any other person, and whether for consumption on or off the premises of such vendor, or
 - (d) Permits drunkenness, intoxication, disorderly conduct, gambling or gaming on the premises of such vendor, or
 - (e) Permits any person whom he knows or has reason to believe, to have been convicted of any non-bailable offence, or
 - (f) permits any prostitute to meet, or remain on the premises of such vendor, whether for the purpose of crime or prostitution or not,he shall be liable to fine which may extend to two thousand rupees.
- (2) When any licensed vendor, or any person in his employ and acting on his behalf is charged with permitting drunkenness or intoxication on the premises of such vendor, and it is proved that any person was drunk or intoxicated on such premises, it shall lie on the person charged to prove that the vendor and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises.

54. Penalty for possession of intoxicant in respect of which an offence has been committed :-

If any person, without lawful authority, has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported or manufactured, or knowing that the prescribed duty has not been paid thereon, he shall be liable to imprisonment for a term which may extend to twelve months, or to fine which may extend to three thousand rupees, or to both.

55. Penalty for consumption in chemist's shop, etc. :-

- (1) If any chemist, druggist, apothecary or keeper of a dispensary allows any intoxicant which has not been bona fide medicated for medicinal purpose to be

consumed on his business premises by any persons not employed in his business, he shall be liable to imprisonment for a term which may extend to one year or to fine which may extend to three thousand rupees, or to both.

- (2) If any person not employed as aforesaid consumers any such intoxicant on such premises, he shall be liable to imprisonment which may extend to three months or to fine which may extend to one thousand rupees, or to both.

56. Penalty for certain acts by licensee or his servants :-

If any holder of a license permit or pass granted under this Act, or any person in his employ and acting on his behalf :-

- (a) fails to produce such license, permit or pass on the demand of any officer empowered by the State Government, by notification, to make such demand, or
- (b) in any case not provided for in section 45 willfully contravenes any rule made under section 88, or
- (c) willfully does any act, in breach of any of the conditions of the license, permit or pass, for which a penalty is not prescribed elsewhere in this Act, he shall be liable, in case (a), to fine which may extend to one thousand rupees, and in case (b) or case (a) to fine which may extend to two thousand rupees.

57. Import, export, transport, manufacture, sale or possession by one person on account of another :-

- (1) When any intoxicant has been imported, transported, manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such import, export, transport, manufacture or sale was, or that such possession is, on his account, the article shall, for the purpose of this Act, be deemed to have been imported, exported, transported, manufactured or sold by, or to be in the possession of, such other person.
- (2) Nothing in sub-section (1) shall absolve any person who imports, exports, transports, manufactures, sells or has possession of an intoxicant on account of another person from liability to any punishment under this Act for the unlawful import, export, transport, manufacture, sale or possession of such article.

58. Criminal liability of licensee for acts of servant :-

When any offence punishable under section 45, section 51, section 52, section 53, section 54, or section 56 is committed by any person in the employ and acting on behalf of the holder of a license, permit or pass granted under this Act, such holder shall also be punishable in addition to the accused as if he had himself committed the offence, unless he established that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

59. Imprisonment under section 54 or section 55 :-

No person other than the actual offender shall be punished under section 57 or section 58 with imprisonment, except in default of payment of a fine.

60. Penalty on Excise Officers making vexatious search, seizure, detention or arrest or refusing duty, or being guilty of cowardice :-

If any Excise Officer —

- (a) Without reasonable grounds of suspicion, searches or causes to be searched, any place, under colour of exercising any power conferred by this Act, or
- (b) vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or
- (c) vexatiously and unnecessarily detains, searches or arrests any person, or
- (d) without lawful cause or refuses to perform, or withdraws himself from, the duties of his office unless expressly allowed to do so in writing by the collector or unless he has given to his immediate superior two months' notice in writing of his intention to do so, or
- (e) is guilty of cowardice, he shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both.

61. Penalty for offences not otherwise punishable :-

If any person is convicted of any act in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, for which a penalty is not prescribed elsewhere in this Act, he shall be liable to fine which may extend to two hundred rupees.

62. Penalty for contempt of court :-

Every proceeding under this Act before the Excise Commissioner, a Collector, or before any officer, of such rank as the State Government may by notification, prescribe, who is exercising powers of a Collector, shall be deemed to be a “judicial” proceeding within the meaning of section 228 of the Indian Penal Code (Act XLV of 1860) and every Collector or officer holding each proceedings shall, for the purpose of Section 345, 346 and 348 of Code of Criminal procedure 1973 be deemed to be revenue court.

63. Penalty for attempt to commit offence :-

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

64. Enhanced punishment after previous conviction :-

If any person after having previously been convicted of an offence punishable under Section 45, Section 48, Section 54 or Section 55, or under similar provisions in any enactment in force prior to the commencement of this Act. Subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act.

65. What things are liable to confiscation :-

(1) Whenever an offence has been committed which is punishable under this Act, the intoxicant, materials, steel, utensil, implement and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

(2) Any intoxicant lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any intoxicant which is liable to confiscation under sub-section (1),

and the receptacles, packages and coverings in which any such intoxicant as first aforesaid, or any such materials, steel, utensils, implement or apparatus as aforesaid, is found.

and the other contents, if any of such receptacles or packages and the animals, carts, vessels, rafts or other conveyances used in carrying the same.

shall like-wise be liable to confiscation : provided that no animal, cart, vessel, raft or other conveyance as aforesaid shall be liable to confiscation unless the

owner thereof is proved to have been implicated in the commission of the offence.

Explanation: For the purpose of this Section “Owner” includes in relation to any animal, cart, vessel, raft or other conveyance —

- (a) which is in the possession of a minor, the guardian of such minor, or
- (b) which is subject of a hire-purchase agreement, the person in possession thereof under that agreement.

66. Confiscation by the Judicial Magistrate or Collector :-

- (1) When, in any case tried by him, the Magistrate decides that anything liable to confiscation under section 65, he may either order confiscation or give the owner of such thing an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit :

Provided that the Magistrate shall in all cases order confiscation of the intoxicants decided by him to be liable to confiscation under section 65.

- (2) Whenever anything is liable to confiscation under section 65, and the offender or the person entitled to possession is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made until the expiration of two months from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right -thereto and the evidence (if any) which he produces in support of his claim.

Provided, further, that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that its sale would be for the benefit of the owner, the Collector may at any time direct it to be sold ; and the provisions of this Sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

67. Power to compound offences and to release property liable to confiscation :-

- (1) The Excise Commissioner or the Collector, or any Excise Officer specially empowered by the State Government in this behalf not below the rank of Superintendent of Excise :-
 - (a) may accept from any person whose license, permit or pass is liable to be cancelled or suspended under clause (a) clause (b) or clause (c) of section

40, or who is reasonably suspected of having committed an offence punishable under any section of this Act other than section 57. payment of a sum of money, not exceeding rupees five thousand in lieu of such cancellation or suspension by way of composition for such offence, as the case may be ; and

- (b) in any case which any property has been seized as being liable to confiscation under section 65, may, at any time before the Magistrate has passed an order under section 66. sub-section (1), release the property on payment of any sum not exceeding the value thereof as estimated by the Collector or such Excise Officer or Rupees five thousand whichever is higher ;
2. When the amount assessed as composition money under subsection (1) have been paid, the accused person, if in custody shall be discharged and the property seized, if any, shall be released; and no further proceedings shall be taken against such person or property.

CHAPTER — IX

Detection, Investigation, and Trial of Offences and Procedure.

68. Power to enter and inspect, and power to test and seize measures, etc :- Any of the following officers namely, —

- (a) the Excise Commissioner, or
- (b) a Collector, or
- (c) any Excise Officer not below such rank as the State Government may, by notification, 'specify, may, subject to any restrictions as may be prescribed by the State Government.
 - (i) enter and inspect, at any time, by day or night, any place in which any licensed manufacturer carries on the manufacture of or stores, any intoxicants ;
 - (ii) enter and inspect, at any time during which the same may be open, any place in which any intoxicant is kept for sale by any licensed person ;
 - (iii) examine the accounts and register maintained in any such place as

aforesaid ;

- (iv) examine, test, measure or weigh any materials , steel, utensils, implements apparatus or intoxicant found in any such place as aforesaid; and
- (v) examine or test and seize any measures, weights or testing instruments, found in any such place as aforesaid, which he has reason to believe to be false.

69. Power to arrest without warrant, to seize articles liable to confiscation, and to make searches :-

Any officer of the Excise, Police, Customs or Revenue Department, not below such rank as may be specified by the State Government, may, subject to any restrictions prescribed by the State Government.

- (i) arrest without warrant
 - (a) any person found committing an offence punishable under section 45, section 48, section 54 or section 55 or
 - (b) who obstruct such officer while in the execution his duty or who has escaped or attempts to escape, from lawful custody ;
- (ii) seize and detain any article which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to the Excise-revenue ; and
- (iii) detain and search any person upon whom , and any vessel, raft vehicle, animal, package, receptacle or covering in which, he may have reasonable cause to suspect any such article to be.

70. Power to issue warrant of arrest :- The Collector or any Magistrate empowered to try offences punishable under this Act, may issue a warrant for the arrest of any person whom he has reason to believe to have committed or abetted the commission of any offence punishable under section 45, section 48, section 54 or section 55.

71. Power to issue search warrant :- If any- Collector, or Magistrate empowered to try offences punishable under this Act, upon information received and after such inquiry (if any) as he thinks necessary has reason to believe that any offence punishable under section 45, section 48, section 54 or section 55 has been or is likely to be, committed or abetted, he may issue a warrant to search for — any intoxicant material, steel, utensil, implement, or apparatus in respect of which the alleged offence has been, or is likely to be committed or abetted or any document, which throws or is

likely to throw any light on the alleged offence.

72. Power of Collector or Magistrate to arrest or search without issuing a warrant :-

The Collector, or any Magistrate empowered to try offences punishable under this Act, may at any time.

- (a) arrest or direct the arrest in his presence of any person for whose arrest, he is competent at the time and in the circumstances to issue a warrant under section 70, or
- (b) search, or direct a search to be made in his presence of, any place for the search of which he is competent to issue a search warrant under section 71.

73. Power of Excise Officer to search without a warrant :-

Whenever any Excise Officer not below such rank as the State Government may by notification, specify, has reason to believe that an offence punishable under section 45, section 48, section 54, or section 55 has 'been , is being, or is likely to be, committed or abetted, and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence,

he may, after recording 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; together or with any document which may furnish evidence of the commission of the alleged offence, and may detain and search, and if he thinks proper, arrest, any person found in such place whom he has reason to believe to have committed or abetted any such offence as aforesaid.

74. Information and aid to Excise Officer :-

- (1) Every Officer of the Police, Excise, Customs and Revenue Departments, shall be bound, subject to any rules made under section 88, to give immediate information to an Excise officer of all breaches of any of the provisions of this Act which may come to his knowledge.
- (2) Every Officer referred to in sub-section (1) and every village chowkider, shall be bound, subject to any rules made under Section 88 to give reasonable aid to any Excise officer in carrying out the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, upon request made by such officer.

75. Duty of owners and occupiers of land and other persons to give notice of

unlicensed manufacture :-

Whenever any intoxicant is manufactured, or any hemp plant (*Cannabis Sativa*) is cultivated or any portion of the hemp plant (*Cannabis Sativa*) from which an intoxicating drug can be manufactured or produced is collected, on any land, in contravention of this Act,

all owners and occupiers of such land, and their agents, and all panchayats and chowkidars of the village.

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

76. Power of Collector and certain Excise officers to investigate offences :-

- (1) A Collector may, without the order of a Magistrate, investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to inquire into or try under the provisions of chapter XV of the Code of Criminal Procedure, 1973 relating to the place of inquiry or trial.
- (2) Any other Excise officer specially empowered in this behalf by the State Government in respect of all or any specified offences punishable under this Act, may, without the order of a Magistrate, investigate any such offence which a court having jurisdiction over the local area to which *such* officer is appointed would have power to inquire into **or try** under the aforesaid¹ provision.

77. Powers and duties of Collector and certain Excise officers investigation offences —

- (1) Any Collector, or any Excise officer empowered under section 76, sub-section (2), may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise,
 - (a) any of the powers conferred upon Police officer making an investigation, or upon an officer in charge of a Police Station, by sections 160 to 171 of the Code of Criminal procedure 1973 and (b) as regards offences punishable under section 45, section 48, section 54 or section 55 of this Act—any of the powers conferred upon police officers in respect of cognizable offences by clause (a) of sub-section (1) of section 41 and by section 55 of the said

code and the said portions of the said code shall apply accordingly, subject to any restrictions or modifications prescribed.

- (2) Subject to any restrictions prescribed by the State Government a Collector, or an Excise Officer empowered under section 76, sub-section (2), may without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned, in any offence which he or any Excise officer subordinate to him has investigated.
- (3) For the purpose of section 156 of the Code of Criminal procedure, 1973 the area to which an Excise officer empowered under Section 76, sub-section (2), is appointed shall be deemed to be a police station, and such officer shall be deemed to be the officer-in-charge of such station.
- (4) As soon as an investigation by a Collector or by an Excise Officer empowered under section 76, sub-section (2), has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigation officer unless he proceeds under sub-section (2) of this section or under section 67 of this Act, shall submit a report which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1973 be deemed to be a Police report to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police report.

78. Security and bail :-

- (1) Whenever a Collector issues a warrant under this Act for the arrest of any person, he may at his discretion direct, by endorsement on the warrant, that, if such person executes a bond with sufficient sureties for his attendance, before the Collector or before an Excise officer empowered under section 76, sub-section (2), to investigate the case, at specified time and there after until otherwise directed by the Collector or an Excise officer empowered as aforesaid, the officer to whom the warrant is directed shall take such security, and shall release such person from custody
- (2) The endorsement shall state —
 - (a) the number of surities,
 - (b) the amount in which they, and the person for whose arrest the warrant is issued, are respectively to be bound, and
 - (c) the time at which such person is to attend as aforesaid.

- (3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Collector or to an Excise officer empowered as aforesaid.
- (4) Whenever any person is arrested under this Act, otherwise than under a warrant and is prepared to give bail, he shall be released on bail, or, at the discretion of the officer releasing him, on his own bond.
- (5) Any Excise officer not below such rank as the State Government may, by notification, prescribe, may release persons on bail or on their own bond.
- (6) Bonds taken under this section from person arrested otherwise than under warrant shall bind such persons to appear before the Collector or an Excise officer empowered under section 76, sub-section (2), to investigate the case.
- (7) A bond taken under this section for the purpose of sub-section (8) shall be deemed to be a bond under the code of criminal procedure, 1973.
- (8) The provisions of sections 439 to 449 or the code of Criminal Procedure, 1973 shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

79. Production of articles seized and persons arrested :-

- (1) Articles seized under the warrant of the Collector, and unless security for their appearance before the Collector be taken, persons arrested under such warrant, shall be produced before the Collector.
- (2) Articles seized under section 68, section 69 or section 71 and persons arrested under this Act by persons or officer not having authority to release arrested persons on bail or on their own bond, shall be produced before or forward to—
 - (a) the Collector or an Excise officer empowered under section 76, sub-section (2), to investigate the case, or
 - (b) the nearest Excise officer who has authority to release arrested persons on bail or on their own bond, or
 - (c) the officer-in-charge of the nearest police station whoever is nearer,
- (3) When a person arrested is produced before an Excise officer who has authority to release arrested persons on bail or on their own bond, or before an officer in charge of a Police Station, such officer shall forward such person to or take

security for his appearance before, the Collector or the Excise Officer empowered under section 76, sub-section (2), to investigate the case.

- (4) When any article seized can not conveniently be conveyed before officer referred to in sub-section (1) or sub-section (2), as the case may be, the person making the seizure shall dispose of such article in someplace of safety and forthwith report the seizure to such an officer.
- (5) Notwithstanding anything contained in this Act, when an article secured under section 68, section 69. section 71, section 72 is subject to speedy decay such articles may be destroyed in accordance with rules made under clause (xxxii) of section 88.

80. Custody by Police of articles seized :-

- (1) All officers in charge of Police Station shall take charge of and keep in safe custody, pending the orders of a Magistrate or of the Collector, of an Excise officer empowered under section 76, sub-section(2) to investigate the case, all articles seized under this Act which may be delivered to them ; and shall allow any Excise officer who may accompany such articles to the police station, or who may be deputed for the purpose by an official superior, to affix his seal to such articles and to take samples of and from them.
- 2) All sample so taken shall be sealed with the seal of the officer-in-charge of the Police Station.

81. Reports of arrests, seizures and searches :-

When any Excise Officer below the rank of Collector, or any officer in charge of a police station, makes or receives information of, any arrest, seizure or search under this Act, he shall within twenty four hour therefore, make a full report of all the particulars of the arrest, seizure or search, or of the information received; to the Collector, and to the Excise Officer (if any) empowered under section 76, sub-section (2) within the local limits of whose jurisdiction the arrest, seizure or search was made.

- 82. Execution of Collector's warrant :-** Any warrant issued by a Collector may be executed by any officer selected by the Collector for the purpose.

83. Maximum period of detention :-

- (1) No person arrested under this Act shall be detained in custody for a longer period than under all the circumstances of the case is reasonable ; and such period shall not exceed twenty four hours, exclusive of the time necessary

for the journey from the place of arrest to the place where a Collector or an Excise Officer empowered under section 76, sub-section(2), to investigate the case may be, and thence to the court of a Magistrate having jurisdiction to inquire into or try the case.

- (2) A Magistrate to whom an accused person is forwarded under section 167 of the Code of Criminal procedure, 1973 by a Collector or an Excise Officer empowered under section 76, sub-section(2), may exercise the powers conferred upon a Magistrate by the said section 167.

84. Application of certain provisions of the code of criminal procedure, 1973.

- (1) Save as is in this Act otherwise expressly provided, the provisions of the code of criminal procedure, 1973 relating to arrests, detentions in custody, searches, summons, warrants of arrest, search-warrant and the production of persons arrested shall apply so far as may be, to arrests, detentions and searches made, summons and warrants issued, and the production of the persons arrested under this Act.
- (2) For the purpose of the said provisions of the said code, a Collector shall be deemed to be a court.
- (3) Officers to whom a Collector's warrant is directed or endorsed, and officers (Other than Collectors)- making arrests, searches or seizures under this Act, shall for the purposes of the said provisions of the said code, be deemed to be police officers.

85. Magistrate having jurisdiction to try offences :-

No Magistrate other than —

a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence punishable under this Act.

86. Intimation of certain prosecutions :-

No Magistrate shall take cognizance of an offence referred to —

- (a) in section 45, section 48, section 54, or section 55 except on his own knowledge or suspicion, or on the complaint or report of an Excise officer or an officer empowered in this behalf by the State Government, or
- (b) in section 56, section 60, clause (d) or clause (e) or section 61, except on the

complaint or report of the Collector or an Excise officer authorised by the Collector in this behalf.

87. Bar to transfer of trial on application of accused :-

The provisions of section 191 of the code of Criminal Procedure, 1973 shall not apply in any case in which a Magistrate takes cognizance of an offence under this Act on the report of any officer referred to in clause (a) or clause (b) of section 86.

CHAPTER — X

Miscellaneous

88. Power of the State Government to make rules :-

- (1) The State Government may make rules to carry out the objects of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing provision, the State Government may make rules —
 - (i) for prescribing the powers and duties of officers of the Excise Department;
 - (ii) for regulating the delegation of any powers by the Excise Commissioner or Collector under clause (h) of sub-section (2) of Section 5 ;
 - (iii) for 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 hereunder, and for prescribing the time and manner for presenting, and the procedure for dealing with, such appeals;
 - (iv) for regulating the import, export, or transport, or any intoxicant;
 - (v) for regulating the periods for which licenses for the wholesale or retail vend of any intoxicant may be granted, and the number of such licenses which may be granted for any local area ;
 - (vi) for prohibiting the grant of licenses for the retail sale of any intoxicant at any place or within any local area described in the rules, or for defining the place in the vicinity of which shops for the retail sale of any intoxicant shall not ordinarily be licensed ;

- (vii) for prohibiting the grant to specified classes of persons of licenses for the retail sale of any intoxicant;
- (viii) for declaring, either generally or in respect of areas described in the rules, the persons or classes of persons to whom any intoxicant may or may not sold ;
- (ix) for prescribing restrictions subject to which a license, permit or pass granted under this Act may be cancelled or suspended ;
- (x) for regulating the procedure to be followed and prescribing the matters to be ascertained before any license for the wholesale or retail vend of any intoxicant is granted for any locality ;
- (xi) for restricting the exercise of any of the powers conferred by the section 67, 68 and 69 ;
- (xii) for declaring the Excise officers to whom and the manner in which, information or aid should be given under section 74 ;
- (xiii) for the grant of expenses to witnesses;
- (xiv) for the grant of compensation for loss of time to persons released by any Excise Officer under this Act on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences punishable under this Act and subsequently acquired; and
- (xv) for prescribing restrictions or modification in the application to the Excise Officers of the provisions of the code of Criminal Procedure, 1973, relating to powers
Police Officers which are referred to in section 76, sub-section (1), of this Act;
- (xvi) for regulating the manufacture, supply or storage of any intoxicant;
- (xvii) relating to the bottle of liquor for purpose of sale;
- (xviii) for the cultivation of the hemp plant (Cannabis Sativa);
- (xix) for the collection of portions of the hemp plant (Cannabis Sativa) from which intoxicating drugs can be manufactured or produced, and the manufacture or production of intoxicating drugs therefrom;

- (xx) for the tapping of tari-producing trees and the drawing of tari from trees;
- (xxi) for the marking of tari-producing trees in area notified under section 12, and the maintenance of such marks;
- (xxii) for fixing the strength, price or quantity in excess of or below which any intoxicant shall not be supplied or sold, and the quantity in excess of which denatured spirit shall not be possessed, and for prescribing a standard of quantity for any intoxicant ;
- (xxiii) for declaring how spirit manufactured in India shall be denatured;
- (xxiv) for causing spirit so manufactured to be denatured through the agency or under the supervision of servants of the Government;
- (xxv) for ascertaining whether any spirit so manufactured has been denatured;
- (xxvi) for regulating the deposit of any intoxicant in a warehouse established, authorised or continued under this Act, and the removal of any intoxicant from any such warehouse or from any distillery or brewery;
- (xxvii) for prescribing the scale of fees or the manner of fixing the fees payable in respect of any exclusive privilege granted under section 20 or any license, permit or pass granted under this Act, or in respect of the storing of any intoxicant.
- (xxviii) for regulating the time, place and manner of payment of such fees;
- (xxix) for prescribing the restrictions under which or the condition or which any license, permit or pass, may be granted ;
- (xxx) prohibiting the admixture with any intoxicant of any article deemed to be noxious or objectionable;
- (xxxi) regulating or prohibiting the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength;
- (xxxii) prescribing the nature and regulating the arrangement of the premises in which any intoxicant may be sold, and prescribing the notices to be exposed at such premises ;

- (xxxiii) prohibiting or regulating the employment by the licensee of any person or class of persons to assist him in his business;
- (xxxiv) prohibiting the sale of any intoxicant except for cash;
- (xxxv) prescribing the days and hours during which any licensed premises may or may not be kept open, and providing for the closing of such premises on special occasions.
- (xxxvi) prescribing the accounts to be maintained and the returns to be submitted by licensees, and
- (xxxvii) regulating the transfer of licenses;
- (xxxvii) for prescribing the particulars to be contained in licenses, permits or passes granted under this Act;
- (xxxix) for the payment of compensation to licenses whose premises are closed under section 24 or under any rule made under clause (xxxv) of this section ;
- (xl) for prescribing the time, place and manner of levying duty on intoxicants;
- (xli) for providing for the destruction or other disposal of any intoxicant deemed to be unfit for use ; and
- (xlii) for regulating the disposal of things confiscated under this Act;
- (xliii) for imposing fees at different rates for different classes of exclusive privileges, licenses, permits, passes or storage, and for different areas ;
- (xliv) for rewarding any Excise Officer or other person for any remarkable work done.

89. Publication and effect of rules and notifications :-

All rules made, and notifications issued under this Act shall be published in the Tripura Gazettee and shall have effect on the date of such publication.

90. Recovery of dues :-

(1) The following moneys, namely,—

- (a) all excise revenue,
 - (b) any loss that may accrue when a grant has been taken under management by the Collector or transferred by him under section 44 and
 - (c) all amounts due to the Government by any person on account of any contract relating to the excise-revenue, may be treated as arrear of land Revenue and recovered from the person primarily liable to pay the same, or from his surety (if any), as per provision of the Revenue law in force for recovery of arrear of land Revenue.
- (2) When a grant has been taken under management by the Collector, or has been transferred by him, under section 44 the Collector, may recover, in any manner authorised by sub-section (1), any money due to the grantee by any lessee or assignee.
 - (3) When any money is due, in respect of an exclusive privilege, to a grantee referred to in section 27 from any person holding under him, such grantee may apply to the Collector and the Collector may recover such money; on his behalf in either of the ways provided by sub-section (1):

Provided that nothing in this sub-section shall effect the right of any such grantee to recover any such money by Civil suit.

91. Power of the State Government to exempt intoxicants from provisions of Act :-

The State Government may, by notification, either wholly or partially, and subject to such condition (if any) as it may think fit to prescribe, exempt any intoxicant from all or any of the provisions of this Act, either throughout the State of Tripura or in any specified local area, or any specified period or occasion or as regards any specified class or persons.

92. Bar to certain suits :-

No suit shall lie in any civil court against the State Government, Excise Commissioner, Collector or any Excise Officer for damages for any act done in good faith or ordered to be done in pursuance of this Act or of any other law for the time being in force relating to the excise revenue.

93. Limitation of suits and prosecutions :-

No civil court shall try any suit against the Government or any Excise Officer in

respect of anything done, or alleged to have been done, in pursuance of this Act, and, except with the previous sanction of the State Government, no Magistrate shall take cognizance of any charge made against any Excise Officer under this Act or any other law relating to the excise revenue or made against any other person under this Act, unless the suit or prosecution is instituted within six months after the date of the act complained of.

94. Repeal and saving :-

- (1) The Bengal Excise Act, 1909 (Bengal Act V of 1909), in its application to the State of Tripura, is hereby repealed.
- (2) Notwithstanding such repeal every notification issued, order passed powers conferred and any other action taken under the repealed Act, shall be deemed, respectively to have been issued, passed, conferred and taken under the corresponding provisions of this Act.

A. B. Paul
Deputy Secretary, Law.