

## **Eastern Bengal And Assam Excise Act, 1910**

**[08 June 1910]**

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### **Eastern Bengal And Assam Excise Act, 1910**

**[08 June 1910]**

(For Statement of Objects and Reasons - see E.B. and A., Gazette,

1909 Pt. V P.35; for Report of Select Committee see *ibid*; for Proceedings in Council, see *ibid* 1909, Pt. VI, P. 12; *ibid* 1910 Pt. VI, pp. 3 and 36, Also see Assam Act XXXIX of 1954.) Substituted by the Assam Repealing and Amending Act, 1953 (Act X of 1953 for "The Eastern Bengal and Assam Excise Act". An Act to consolidate and amend the Excise Law in force in Eastern Bengal and Assam . Whereas it is expedient to consolidate and amend the law in force in Eastern Bengal and Assam relating to the import, export, transport, manufacture, sale and possession of intoxicating, liquor and of intoxicating drugs; It is here by enacted as follows:-

CHAPTER 1  
PRELIMINARY

**1. Short Title :-**

(1) this Act may be called "Assam Excise short title Act, 1910".

Commencement

(2) It shall come into force on such date (The 1 st April, 1912; see E.B. and A. Gazette of the 2 nd December, 1911) as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may, by notification appoint in this behalf.

Extent

(3) It extends to the whole of Eastern Bengal and Assam except the Dibrugarh Frontier Tract (Now absorbed in the Lakhimpur and the Sadiya Frontier Tracts) in the Lakhimpur district, the Mikir Hills Tracts in the Nowgong and Sibsagar districts, the North Cachar Sub-division of the Cachar district and the districts of the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the Lushai Hills (and the Chitagong Hill Tracts). [and to the Mizo District.) (Extended to Mizo District vide Assam Act. XXIV of 1961)

(4) The (State Government) (Substituted by A.O. 1950 for "Provincial Government") may, by notification (The Act was extended with certain modifications to the Dibrugarh Frontier Tract in the Lakhimpur district (now absorbed in the Lakhimpur and Sadiya Frontier Tracts), the Mikir Hills Tract in the Nowgong and Sibsagar districts, the North Cachar Sub-division of the Cachar district, and to the Garo Hills district vide paragraph (1) of Notification No. 7351-G.J., dated 2 nd December, 1925, as amended by Notification No. 3029-E. Dated 16 th November, 1928 and 3310-E, dated 10 th December, 1928), extend to any of the said excepted tracts and districts, or any part thereof, all or any of the provisions of this Act, and may modify the provisions so

extended or restrict their operation in such manner as it thinks fit.

## **2. Repeal Of Enactments :-**

The enactments mentioned in the (Inserted by Assam Act II of 1933, s.2) (first) Schedule are hereby repealed to the extent specified in the third column thereof,-

## **3. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context,-

"Beer"

(1) "Beer" includes ale, stout, porter, and all other fermented liquor usually made from malt.

"Board"

(2) "Board" means the [State Government (Substituted by A.O. 1950 for "Provincial Government") of Assam ]

"To bottle"

(3) "To bottle" means to transfer liquor from a cask or other vessel to a bottle or other receptacle, whether any process of rectification be employed or not, and includes re-bottling.

"Club"

[(3a) "Club" means a society of persons associated together for social intercourse, for the promotion of politics, sports, art, science, literature, or for any purpose except the acquisition of gain, and whether the same be registered under the Indian Companies Act 1913, the Co-operative Societies Act, 1912, the societies Registration Act, 1860, or otherwise incorporated, or not] (Inserted by Assam Act VIII of 1939) [VII of 1913 II of 1912 XXI of 1860]

"Collectors"

(4) "Collector" includes the District Collector, and in any provision of the Act includes also any officer whom the (State Government) (Substituted by A.O. 1950 for "Provincial Government") may, by notification, declare or appoint to be a Collector for the purposes of that provision.

"Denaturant"

(5) (Substituted by Assam Act I of 1918. s.2, for the following:- "Denatured means effectually and permanently rendered unfit for human consumption.") "Denaturant" means any substance prescribed by rule made in this behalf under clause (m) of section 36 for admixture with spirit in order to tender the mixture unfit for human consumption, whether as a beverage, or internally, as a

medicine or in any other way whatsoever.

"To denature"

"Denatured spirit"

(5a) (Inserted by Assam Act I of 1918. s.2) "To denature" means to mix spirit with one or more denaturants in such manner as may be prescribed by rule made in this behalf under clause (m) of section 36; and "denatured spirit" means spirit so mixed.

"District Collector"

(6) "District Collector" means the chief officer in-charge of the revenue administration of a district

"Excisable article"

(7) [Substituted by the A.O. for clause (7)] Excisable article means -

(a) Any alcoholic liquor for human consumption; or

(b) Any intoxicating drug;

"Excise duty"

(7a) (Inserted by the A.O. 1937) Excise duty and countervailing duty means any such excise duty or countervailing duty as the case may be, as is mentioned in (entry 51) (Substituted by the A.O. 1950 "item 40.") of List II in the Seventh Schedule to (the Constitution) (Substituted by the A.O. 1950 for "Government of India Act, 1935.")

"Excise Commissioner"

(8) "Excise Commissioner" means the officer appointed by the (State Government) (Substituted by the A.O. 1950 for "Provincial Government.") under Section 8, Sub-section (2), Clause (a).

"Excise officer"

(9) "Excise officer" means a Collector or any officer or other person appointed or invested with powers under Section 8.

"Excise Revenue"

(10) "Excise revenues" means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a Court of Law) or confiscation imposed or ordered under the provisions of this Act, or any other law for the time being in force relating to liquor or intoxication drugs.

"Export"

(11) "Export" means to take out for the territories to which this Act applies, otherwise than across a customs frontier as defined by the Central Government.

"Import"

(12) "Import" (except in the phrase "import into [... India ") means to bring into the territories to which this Act applies otherwise than

across a customs frontiers as defined by the Central Government (Substituted by the A.O. 1937 for clauses (11) and (12) which were substituted by Act II of 1930).

"Intoxicant"

[(12a) "Intoxicant" means any liquor or intoxicating drug.] (Inserted by the A.O. 1937)

"Intoxicating Drug"

(13) (Substituted by Act II of 1930 for the following:- "Intoxicating drug means-)" "Intoxicating drug" means -

(i) The leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*cannabis sativa*), 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 of intoxicating drug, or any drink prepared therefrom; and

II of 1950

(iv) Any other intoxicating or narcotic substance which the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in Section 5 of the Dangerous Drugs Act, 1930.

"Liquor"

(14) "Liquor" means intoxicating liquor and includes all liquid consisting of or containing alcohol; also tari and pachwai in any form; and any substance which the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") [The words "with the previous sanction of the Governor General in Council" were omitted by the Devolution Act, 1920 (XXXVIII of 1920)] may, by notification, declare to be liquor for the purposes of the Act.

"Manufacture"

(15) "Manufacture" includes every process, whether natural or artificial, by which any (Intoxicant) (Substituted by the A.O. 1937 for "excisable articles") is produced or prepared, also redistillation and every process for the rectification, flavouring, blending, or colouring of liquor.

"Pachwai"

(16) "Pachwai" means any fermented rice, millet, or other grain,

whether mixed with any liquid or not and any liquid obtained therefrom whether diluted or undiluted, but does not include beer.

"Place"

(17) "Place" includes a house, building, shop, tent vessel, raft and vehicle.

" Sale "

(18) Expressions referring to " Sale " include any transfer otherwise than by way of gift.

"Spirit"

(19) "Spirit" means any liquor containing alcohol, obtained by distillation, whether it is denatured or not.

"Tari"

(20) "Tari" means juice, whether fermented or unfermented, drawn from any kind of palm tree.

"Transport"

(21) "Transport" means to move from one place to another within the territories to which this Act applies.

#### **4. Power To Define "Country Liquor" And Foreign Liquor" Respectively :-**

The (State Government) (Substituted by the A.O. 1950 for "Provincial Government") [The words "with the previous sanction of the Governor General in Council" were omitted by the Devolution Act, 1920 (XXXVIII of 1920)] may, by notification, declare what, for the purposes of this Act, shall be deemed to be "Country liquor", and "Foreign liquor", respectively

#### **5. Section 5 :-**

(Inserted by the Devolution Act, 1920 (Act XXXVIII of 1920) (Provided that where the interests of any other state (Substituted by the A.O. 1950 for "Province") may be affected, no such declaration shall be made without the previous sanction of the (Central Government) (Substituted by the A.O. 1937 for "Governor General in Council")

(Section 5 was repealed by Act II of 1930, S.40. It ran as follows:-  
"The Local Government may, by notification, declare what shall be deemed to be Ganja, Bhang, Siddhi, or Charas")

#### **6. Wholesale And Retail Sale :-**

The Board (See foot note to s.3(2) ante) may, by notification,

declare with respect either to the whole of the territories to which this Act applies or to any local area comprised therein, and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion, what quantity of any (intoxicant) (Substituted by A.O. 1937 for "excisable article".) shall for the purposes of this Act. Be the limit of sale by retail and sale by wholesale, respectively.

## **7. Saving Of Certain Enactment :-**

Save as is provided in Section 2 and in the (first) (Inserted by Assam Act II of 1933, s.2) Schedule, nothing contained in this Act shall affect the provision of the Cantonment Act, 1889 [See now the Cantonment, Act, 1924 (Act II of 1924)] the Sea Custom Act, 1878; or the Indian Tariff Act 1894 [Now read the Indian Tariff Act, 1934 (XXXII of 1934) which has repealed the Tariff Act of 1894 (VIII of 1894)] or any rule or order made under the said Acts. [XIII of 1889 VII of 1878 VIII of 1894]

### CHAPTER 2

#### ESTABLISHMENTS AND CONTROL

## **8. Appointment Of Officers And The Conferment, Withdrawal And Delegation Of Power :-**

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

(2) The (State Government) (Substituted by the A.O. 1930 for "Provincial Government") may, by notification applicable to the whole of the territories to which this Act applies or to any district or local area comprised therein:-

(a) Appoint an officer [In Assam, the Excise Commissioner, of see. 3(8)] who shall, subject to the control of the Board (See footnote to see 3(2) ante) have the control of the administration of the Excise Department and of the collection of the Excise Department and of the collection of the Excise revenue;

(b) Appoint any person other than the District Collector who shall, subject to the control of the District Collector, exercise all or any of the Powers and perform all or any of the duties of a Collector, exercise all or any of the Powers and perform all or any of the duties of a Collector under this Act, or any other law for the time being in force relating to the excise revenue;

(c) Appoint officers of the Excise Department of such classes and

with such designations, powers and duties under this Act as the (State Government) (Substituted by the A.O. 1930 for "Provincial Government") may think fit;

(d) Order that all or any of the powers and duties assigned to any officer under clause (c) of this section shall be exercised and performed by any (servant of the Government) (Substituted by the A.O. 1937 for "Government Officer") or any other person;

(e) Delegate to the Board (See footnote to see 3(2) ante) all or any of its powers under this Act;

(f) Withdraw from any officer or person all or any of his powers or duties under this Act;

(g) Authorise-

(i) The Board (See footnote to see 3(2) ante) to delegate to the Excise Commissioner and also in such cases and such matters as the (State Government) (Substituted by the A.O. 1930 for "Provincial Government") may specify, to a Commissioner of a Division.

(ii) The Excise Commissioner and in such cases and such matters as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may specify, a Commissioner of a Division, subject to the control of the Board (See footnote to section 3(2) ante) to delegate to Collectors and

(iii) Collectors, subject to the control of the Excise Commissioner and the Board (See footnote section 3(2) ante), to delegate to subordinate officers,

Subject to such conditions and restrictions as may be prescribed by any rules made under section 36, sub-section (2), clause (a) any powers conferred upon, or delegated to, or exercised in respect of the excise revenue by the Board (See footnote to section 3(2) ante), the Excise Commissioner, Commissioners of Divisions and Collectors, respectively, by or under the provisions of this Act or of any other law for the time being in force relating to excise.

## **9. Section 9 :-**

(1) Orders passed by the Excise Commissioner, a District Collector, or a Collect other than a District Collector under this Act or under any rule made under this Act shall be appealable to the Assam Board of Revenue constituted under Section 3 of the Assam Board of Revenue Act, 1962 (Assam Act No. XXI of 1962) in the manner prescribed.

(2) In hearing appeals, the Assam Board of Revenue may call for

the proceedings held by any of the Officers mentioned in sub-Section (1) and pass such order or orders thereon as it thinks fit".] (Substituted by Assam Act VIII of 1971)

### CHAPTER 3

#### IMPORT, EXPORT AND TRANSPORT

#### **10. Restrictions On Import :-**

(1) No (intoxicant) (Substituted by the A.O. 1937 for "excisable article") shall be imported unless -

(a) The (State Government) (Substituted by A.O. 1950 for "Provincial Government.") has given permission either general or special for its import;

(b) Such conditions (if any) as the (State Government) (Substituted by A.O. 1950 for "Provincial Government.") may impose have been satisfied; and

(c) The duty (if any) (payable under Chapter V) (Substituted by the A.O. 1937 for "imposed under section 21.") has been paid or a bond has been executed for the payment thereof.

(2) Sub-section (1) shall not apply to any article which has been imported into (The word "British" omitted by the A.O. 1950) India and was liable, on such importation, to duty under the Indian Tariff Act 1894 [Now read the Indian Tariff Act, 1934 (XXXII of 1934) which has repealed the Tariff Act of 1894 (VIII of 1894)] or the Sea Customs Act, 1878 [(VIII of 1894) (VIII of 1878)]

(3) Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in (The word "British" omitted by the A.O. 1950) India and declared under section 4 to be foreign liquor

#### **11. Restrictions On Export And Transport :-**

No (intoxicant) (Substituted by the A.O. 1937 for "excisable article") shall be exported or transported unless -

(a) The duty (if any) payable under Chapter V) (Substituted by the A.O. 1937 for "imposed under section 21, or.") (Clause (b) of Section 11 omitted by the A.O. 1937. It ran as follows:- "If the article was previously imported, the duty (if any) imposed on its importation under the Indian Tariff Act, 1894 or the sea customs Act, 1878, has been paid on a bond has been executed for the payments thereof.")

Provided that the Board (See footnote to s.3(2) ante) may, subject to such conditions (if any) as it thinks fit to impose exempt any (intoxicant) (Substituted by the A.O. 1937 for "excisable article")

from the provisions of this Section.

## **12. Prohibition Of Import, Export Or Transport :-**

The (State Government) Substituted by the A.O. 1950 for "Provincial Government") may, by notification [The words "with the sanction of the Governor-General in Council were omitted by the Devolution Act, 1920 (XXXVIII of 1920)]

(a) Prohibit the import of export of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") into or from the territories of which this Act applies or any part thereof.

(b) Prohibit the transport of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article")

[The proviso which was inserted by the Devolution Act, 1920 (Act XXXVIII of 1920), omitted by the A.O. 1937. It ran as follows:-

Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Governor-General in Council."]

## **12A. The State Government May, By Notification :-**

(1) Prohibit into the areas to which this Act applies the publication or display of advertisements of liquor or intoxicating preparations in the Newspaper, Periodicals, Journals, Hoardings, Banners etc. printed and published in and from that area;

(2) Prohibit into the areas to which this Act applies the entry of Newspapers, Journals, Periodicals etc., if they contain advertisement of liquor or intoxicating preparations." ] (Inserted by Assam Act, XVI of 1976)

## **13. Passes For Import, Export Or Transport :-**

No (intoxicant) (Substituted by the A.O. 1937 for "excisable article") exceeding such quantity as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe by notification either generally for the whole of the territories to which this Act applies or for any local area comprised therein, shall be imported, exported or transported, except under a pass issued under the provisions of the next following section:

[The proviso to sec. 13 was repealed by Assam Act VIII of 1939. It ran as follows:-

"Provided that in the case of duty paid foreign liquor other than denatured spirit such passes shall be dispensed with, unless the Local Government shall by notification, otherwise direct with respect to any local Area".]

## **14. Grant Of Passes :-**

Passes for the import, export or transport of (intoxicants) (Substituted by the A.O. 1937 for "Excisable article") may be granted by the Collector or by an officer specially authorised by the Excise Commissioner in that behalf.

Such passes may be either general for definite periods and specified kinds of (intoxicants) (Substituted by the A.O. 1937 for "Excisable article") or special for specified occasions and particular consignments only.

#### CHAPTER 4

#### MANUFACTURE, POSSESSION AND SALE

### **15. Manufacture And Preparations For Manufacture Permitted Only Under License :-**

(1) Except under the authority and in accordance with the terms and conditions of license granted in that behalf by the ["Authority prescribed in the rules framed under this Act."] (Substituted by Assam Act III of 1974)

(a) No (intoxicant) (Substituted by the A.O. 1937 for "Excisable article") shall be manufactured;

(Substituted for the original s.15(1)(b) by the s.40 of the Dangerous Drugs Act, 1930(II of 1930). [(b) No hempplant (Cannabis sativa L.) shall be cultivated or collected;]

(c) No liquor shall be bottled for sale;

(b) No distillery or brewery shall be constructed or worked; and

(c) 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) (Substituted by the A.O. 1937 for "Excisable article") other than tari;

Provided that nothing in clause (c) shall apply to tari, which may lawfully be sold under clauses (b) to (c) of proviso (4) to Section 18.

(2) Unless and until the (State Government) 2 shall, by notification issued under sub-section (3) direct otherwise, nothing in clause (a) of sub-section (1) shall apply to -

(i) Tari intended to be used solely for the manufacture of gur or molasses,

(ii) Tari intended to be used solely for the preparation of food for domestic consumption, and not as an intoxicant or for the preparation of any intoxicant article or of any article for sale, and

(iii) Tari up to a limit of four seers for the domestic consumption of

the person in possession of the tree from which it is drawn.

3. Notwithstanding anything contained in sub-section, (2) the (State Govt.) (Substituted by the A.O. 1950 for "Provincial Government") may, by notification, prohibit the manufacture of tari by any person or class of persons either throughout the territories to which this Act applies, or in any local area comprised therein, either absolutely or subject to such conditions as it may prescribe.

### **16. Establishment Or Licensing Of Distilleries, Breweries And Warehouse :-**

The Excise Commissioner, with the sanction of the Board, (See footnote to \* S.3(2) ante) may

(a) Establish a distillery, in which spirit may be manufactured under a license granted under section 15, sub-section (1), on such conditions as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") thinks fit to impose;

(b) Discontinue any distillery so established;

(c) license, on such conditions as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") thinks fit to impose, the construction and working of a distillery or brewery;

(d) Established or licence a warehouse wherein any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") may be deposited and kept without payment of duty; and

(e) Discontinue any warehouse so established.

### **17. Limit Of Possession, With Exceptions And Prohibitions, In Special Cases :-**

(1) No. person shall have in his possession any quantity of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") in excess of such quantity as the Board (See foot-note to s.3(2) ante) may, under section 6, declare to be the limit of sale by retail, except under the authority and in accordance with the terms and conditions of -

(i) A license for the manufacture, sale or supply of such article, or

(ii) In the case of intoxicating drugs, a license for the cultivation or collection of the plants from which such drugs were produced, or

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

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

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

(b) Any foreign liquor lawfully procured by, and in the possession of, any person for his own bonafide private consumption and not for sale, or

(c) Tari intended to be used solely for the manufacture of gur or molasses, or

(d) Tari intended to be used solely for the preparation of food for domestic consumption, and not as an intoxicant or for the preparation of any intoxicating article or of any article for sale.

(3) Notwithstanding anything contained in sub-section (1) and (2), the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may by notification, prohibit the possession by any whole of the territories to which this Act applies, or in any local area (place or class of place) (Inserted by the Assam Excise (Amendment) Act, 1952 (Act, XV of 1952) comprised therein, of any (intoxicant) (Substituted by the A.O. 1937 for "Excisable article.") either absolutely or subject to such conditions as it may prescribe.

### **18. Prohibition Of Sale Without License And The Exceptions To Such Prohibition :-**

(1) No (intoxicant) (Substituted by the A.O. 1937 for "Excisable article.") shall be sold except under the authority and in accordance with the terms and conditions of a license granted by the "[Authority prescribed in the rules framed under this Act]" (Substituted by Assam Act. III of 1974) in that behalf Provided as follows:-

[Deleted by Assam Act III of 1974]

[(1) (2)] 7A, on such conditions as may be determined by the Board (See foot-note to s.3(2), ante), a license for sale granted under the Excise law in force in another province may be deemed to be a license granted under this Act;

[(2) (3)] 7B, a person licensed to cultivate or collect plant from which an intoxicating drug is produced, may sell without a license those portions of the plant from which the intoxicating drug is manufactured or produced, to any person licensed under this Act to deal in the same, or to any officer whom the Excise Commissioner may prescribe;

[(3) (4)] 7c.4 nothing in this section applies to -

(a) The sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representative in interest upon his quitting a station or after his

decease,

(b) The sale of tari lawfully possessed by a person in possession of the tree from which it was drawn to a person licensed under this Act to manufacture or sell tari,

(c) The sale of tari lawfully possessed and intended to be used solely for the preparation of food for domestic consumption and not as an intoxicant or for the preparation of any intoxicating article or of any article for sale, and

(d) 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.

(Inserted by the Assam Act VIII of 1939)[(2) Any Club which has transactions with its members in respect of foreign liquor, shall be deemed to be conducting retail sales and shall be required to take out a license under this Act on payment of such fees and subject to such restrictions and on such conditions as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government.") may prescribe]

### **19. Exclusive Privilege Of Manufacture And Supply :-**

The (State Government) (Substituted by the A.O. 1950 for "Provincial Government.") may grant to any person on such conditions and for such period as it may think fit, the exclusive privilege of manufacturing or of supplying to licensed vendors or of manufacturing any supplying to licensed vendors any country liquor of intoxicating drug within any specified local area.

No guarantee of any exclusive privilege under this section shall exercise the same until he has received a license in that behalf from the Excise Commissioner.

### **20. Manufacture And Sale In Or Near Cantonments :-**

Within the limits of any military cantonment, and within such distance from those limits as the (Central Government) (Substituted by the A.O. 1937 for "L.G.") in any case may prescribe no license for the manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

#### CHAPTER 5

#### DUTIES AND FEES

### **21. Duty Of Excisable Articles :-**

(An excise duty or a countervailing duty, as the case may be) (Substituted by the A.O. 1937 "A duty"), at such rate or rates as the either generally or for any specified local area, on any excisable article -

(a) Imported; or

(b) Exported; or

(c) Transported; or

(d) Manufactured, cultivated or collected under any license granted under section 15; or

(e) Manufactured in any brewery or distillery licensed or established under section 16;

Provided as follows:-

(1) Duty shall not be so imposed on any article which has been imported in to (The word "British" omitted by the A.O. 1950) India and was liable on such importation to the payment of duty under the Indian Tariff Act, 1894, 4 or the Sea Customs Act, 1878; [(VIII of 1894) (VIII of 1878)]

[Proviso (2) repealed by the A.O. 1937. It ran as follows -

(2) Unless the Local Government, with the previous sanction of the Governor General in Council otherwise direct, the duty on beer or denatured spirit manufactured in India shall be equal to the duty to which like liquor imported into British India by sea is liable under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878."]

Explanation - Duty may be imposed under this section at different rate according to the places to which any excisable article is to be removed for consumption, or according to the varying strength and quality of such article.

## **22. Method Of Levy Or Duty :-**

Subject to such rules regulating the time, place and manner, as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government) may prescribe, any duty imposed under section 21 may be levied as follows:-

(a) In the case of excisable articles imported, -

(i) Either in the territories to which this Act applies or in the State (Substituted by the A.O. 1950 for "Province.") or territory from which the article is imported, or

(ii) Upon issue for sale from a warehouse established or licensed under section 16, clause (d),

(b) In the case of excisable articles exported, - in the territories to which this Act applies or in the State 2 or territory to which the

article is exported,

(c) In the case of excisable articles transported, -

(i) In the district from which the excisable article is transported, or

(ii) Upon issue for sale from a warehouse established under section 16, clause (d),

(d) In the case of intoxicating drugs, -

(i) As a rate assessed on the area covered by a license granted under the provisions of section 15, sub-section (1), clause (b), or on the quantity or outturn of the crop cultivated or collected under such license, or

(ii) As a rate charged upon the quantity, produced or manufactured under a license granted under the provisions of section 15 sub-section (1), clause (a), or issued from a warehouse established or licensed under section 16, clause (d),

(e) In the case of spirit or beer manufactured in any distillery or brewery established or licensed under section 16,

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

(ii) As a rate charged in accordance with such scale or equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash of worth, as the case may be, as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe:

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

### **23. Payment For Grant Of Exclusive Privilege :-**

Instead of or in addition to any duty leviable under this Chapter, the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may accept payment of a sum in consideration of the grant of any exclusive privilege under section 19.

### **23A. Saving For Duties Being Levied At Commencement Of (The Constitution) :-**

(Inserted by the A.O. 1937) (1) Until provision to the contrary is made by the (Parliament) (Substituted by the A.O. 1950 for "Central Legislature") the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may continue to levy any duty to which this Section applies which it was lawfully levying

immediately before the commencement of (the Constitution) (Substituted by the A.O. 1950 for "Part III of the Government of India Act, 1935."), under this Chapter as then in force.

(2) The duties to which this section applies are -

(a) Any duty on intoxicants (or medicinal) or toilet preparations containing alcohol) (Inserted by the A.O. 1950) which are not excisable articles within the meaning of this Act;

(b) Any duty on an excisable article produced outside India and imported into the territories to which this Act applies whether across a customs frontier as defined by the Central Government, or not.

(3) Nothing in this section shall authorise the levy by the (State Government) (Substituted by the A.O. 1950 for "Provincial Government".) of any duty which, as between goods manufactured or produced in the State (Substituted by the A.O. 1950 for "Province".) discriminates between goods manufactured or produced in one locality and similar goods manufactured or produced in another locality.

## CHAPTER 6

### LICENSES, PERMITS AND PASSES

#### **24. Existing License, Etc :-**

Every license, permit or pass granted under any section of the Bengal Excise and Licensing Act, 1878, and in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of this Act, and shall (unless previously cancelled, suspended or surrendered under this Chapter) remain in force for the period for which it was granted. (Ben. Act II of 1878)

#### **25. Form And Conditions Of Licenses, Etc :-**

Every license, permit or pass granted under this Act -

(a) Shall be granted -

(i) On payment of such fees, if any,

(ii) For such period, and

(iii) Subject to such restrictions and on such conditions, and

(b) Shall be in such form and contain such particulars, as the Board (See footnote to s.3(2) ante) subject to any rules made under section 36, sub-section (2), Clause (g), may direct either generally or in any particular instance in this behalf;

Provided that no fee shall be charged for any permit granted under section 17 for the possession of an (intoxicant) (Substituted by the A.O. 1937 for "Excisable Article") for bonafide private consumption or use.

#### **25A. Section 25A :-**

(1) The ["Excise Commissioner, Collector or any other Officer or authority."] (Substituted by Assam Act XXVI of 1974) in issuing any license or in making any

settlement of Shops under this Act or rules framed thereunder, shall be guided by such directions as may be issued by the State Government from time to time either generally or in particular.

(2) The State Government may, at any time, if in their opinion it is no secretary, cancel any notice calling for tenders for settlement of shops in accordance with the rules framed under this Act or any tender received in pursuance of any such notice or withdraw any shop from settlement for such period as the State Government may consider necessary without assigning any reason therefore and such power of cancellation or withdrawal the State Government.

(3) Notwithstanding anything in the Act the State Government may issuedirection to [the Excise Commissioner, Collector or any officer or authority] (Substituted by Assam Act XXVI of 1974) to cancel any noticeissued in accordance with rules framed under this Act calling for tenders for settlement of shops or any tender received in pursuance of any such notice or to withdraw any shop from settlement at any time without assigning any reason therefor and ["the Excise Commissioner, Collector, or any officer or authority"] (Substituted by Assam Act XXVI of 1974) as the case may be shall comply with such direction, and such power of issuing direction to ["the Excise Commissioner, Collector or any officer or authority"] (Substituted by Assam Act XXVI of 1974) shallbe deemed to have always been vested in the State Government.

(4) If any notice inviting tenders of any tender received in pursuance of any such notice is cancelled under this section the value of court per stamps affixed to any such tender of any money deposited along with any such tender required by or under this Act shall be refunded to the person affixing the stamp or depositing the money"] (Inserted by Assam Act V of 1973).

## **26. Counterpart Agreement And Security :-**

Every person taking out a license under this Act may be required to execute a counterpart agreement in conformity with the tenure of his license, and to give such security, by way of deposit or otherwise, for the performance of his agreement as the authority granting the license may require.

## **27. Technical Defects, Irregularities And Omissions :-**

(1) No license granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license, or any proceedings taken prior to the grant thereof.

[(2) The decision of the Assam Board of Revenue as to what is a technical defect, irregularity or omission shall be final."]  
(Substituted by Assam Act, VIII of 1978)

## **28. Ascertainment Of Local Opinion :-**

Before licenses are granted in any year of the retail sale of any (intoxicant) (Substituted by the A.O. 137 for "excisable article") the Collector shall take such measures, in accordance with rules to be made by the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") in this behalf, as may best enable him to

ascertain local public opinion in regard to the licensing and location of shops.

**29. Cancellation Suspensions Of Licenses Of Licenser, Etc. In Certain Cases :-**

(1) Subject to such restrictions as the (State Government) (Substituted by the A.O. 1950 for "provincial Government") may prescribe, the authority who granted any license, permit or pass under this Act may cancel or suspend the same -

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

(b) In the event of any breach by the holder therefore or by his servants, or by any one acting on his behalf, with his express or implied permission, of any of the terms or conditions of such license, permit or pass; or

(c) If the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognisable and non-bailable offence, or of any offence punishable (under the Dangerous Drugs Act, 1930, or) (Inserted by Act II of 1930, section 40) under the Indian Merchandise Marks Act 1889, or under sections 482 to 489 of the Indian Penal Code; 6 or [9II of 1930) (IV of 1889) (XLV of 1860)]

(d) If the holder thereof is punished for any offence referred to in clause 8 of section 67 of the Sea Customs Act 1878; or (VIII of 1878)

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

(2) When a license, permit or pass held by any person is cancelled under clauses (a), (b), (c) or (d) of sub-section (1), the authority aforesaid ["may, with the previous sanction of the State Government."] (Substituted by Assam Act, III of 1974) cancel any other license permit or pass granted to such person [... ..] (Deleted by Assam Act. III of 1974) under the Act or under any other law for the time being in force relating to excise revenue or under the opium Act, 1878 (Unrepeated Central Acts, Vol. II) [... ..] (Deleted by Assam Act. III of 1974) (I of 1178)

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

Provided that in cases of hardship the ["State Government"]

(Substituted by Assam Act. III of 1974) may grant such payment of compensation or refund of fee or deposit as ["it"] (Substituted by Assam Act. III of 1974) may think fit.

### **30. Cancellation Of Licenses In Other Cases :-**

(1) Whenever the authority stated in section 29 considers that a license should be cancelled otherwise than under the provisions of that section, he shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days and may cancel the license either-

(a) On the expiration of fifteen days notice in writing of intention to do so, or

(b) Forthwith without notice.

(2) If any license be cancelled under clause (b) of subsection (1), the aforesaid authority shall in addition to remitting such sum as aforesaid pay to the licensee such further sum by way of compensation as the ["State Government"] (Substituted by Assam Act, III of 1974) may direct.

(3) When a license is cancelled under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount, if any, due to (Government) (Substituted by the A.O. 1950, for "Crown").

### **31. Surrender Of License :-**

Any holder of a license; granted under the Act to sell an (intoxicant) (Substituted by the A.O. 1937, for "excisable article") may surrender his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fee payable for the license for the whole period for which it would have been current but for such surrender.

Provided that, if the ["State Government"] (Substituted by Assam Act. III of 1974) is satisfied that there is sufficient reason for surrendering a license, [it] (Substituted by Assam Act. III of 1974) may remit to the holder thereof the sum so payable on surrender and any fee paid in advance or any portion of such sum or fee;

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

Explanation - In this section and in section 34 the words "holder of a license" include a person whose bid, tender, or application for a

license has been accepted by the Excise Officer empowered to grant such license, although such person may not in fact have received the license.

### **32. No Right To Renewal :-**

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 is provided in section 30, any claim to compensation on the determination thereof.

## CHAPTER 7

### GENERAL PROVISIONS

### **33. Measures, Weights And Instruments :-**

Every person who manufactures or sells any (intoxicant) (Substituted by the A.O. 1937, for "excisable article") under a license granted under this Act,

(a) Shall supply himself with such measure weights and instruments as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe, and shall keep the same in good condition; and

(b) On the requisition of any Excise officer duly empowered in that behalf, shall at any time measure, weigh or test any (intoxicant) (Substituted by the A.O. 1937, for "excisable article") in his possession in such manner as such officer may require.

### **34. Departmental Management And Re-Sale :-**

If any person to whom an exclusive privilege has been granted under section 19, or any holder of a license granted under this Act makes default in payment of any sum payable in respect of such privilege or license or in complying with any other condition thereof, the Collector may take such privilege or the grant expressed in such license under management, or may re-sell such privilege or grant at the risk and loss of the defaulter.

### **35. Recovery Of Dues :-**

All excise revenue, including any loss that may accrue when, in consequence of default, a privilege or grant has been taken under management or re-sold by the Collector under section 34, and all amounts due to the (State Government) (Substituted by the A.O. 1950, for "Provincial Government") by any person on account of

any contract relating to the excise revenue, may be recovered from the person primarily liable to pay the same or from his surety (if any) by distress and sale of his movable property, or as arrears of land-revenue, or in the manner provided for the recovery of public demands by any law for the time being in force.

### **36. Power Of State Government To Make Rules :-**

(1) The (State Government) (Substitute by the A.O. 1950, for "Provincial Government".) may make rules for the purpose of carrying out the provisions of this Act or any other law for time being in force relating to the excise revenue.

(2) In particular and without prejudice to the generality of the foregoing provision, the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may make rules -

(a) Regulating the delegation of any powers by the Board (See footnote to S.(2). ante ), the Excise Commissioner, Commissioners of Divisions and Collectors under section 8, sub-section (2), clause (g);

(b) Prescribing the powers, duties, subordination and control of officers of the Excise Department;

(c) Regulating appeals and revisions and in particular-

(i) Declaring the cases in which and authorities to whom appeals shall lie under sub-section (3) of section 9;

(ii) Prescribing the time and manner for presenting appeals, and the procedure for dealing with appeals under sub-section (2) and under sub-section (3) of section 9; and

(iii) Declaring, in case not provided for by the Act, the Excise officers or classes of Excise Officers who shall for the purposes of sub-section (4) of section 9, be subordinate to, or subject to the control of, the several authorities specified in that sub-section;

(d) Regulating the import, export, transport, or possession of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article");

(e) Regulating the manufacture, supply, storage or sale of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article"); and in particular regulating -

(i) The erection, inspection, supervision, management and control of any place for the manufacture, supply storage, or sale of any such article and the fittings, implements and apparatus to be maintained therein;

(ii) [The cultivation of the hemp plant (*Cannabis sativa* L.), the collection of the spontaneous growth of such plant, and the

preparation of any intoxicating drug from such growth;]  
(Substituted for the original sub-clause (ii) of clause (e) of Sub-section (2) of Section 36 by S.40 of the Dangerous Act 1930 (II of 1930)

(iii) The tapping of tari-producing trees and the drawing of tari from such trees;

(iv) The bottling of liquor for sale;

(f) Regulating the deposit of (intoxicant) (Substituted by the A.O. 1937 for "excisable article") in warehouses and the removal of such articles from warehouses, distilleries or breweries

(g) Regulating the periods for which and the persons to whom licenses for the sale of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") may be granted and providing for the selection of sites at which shops may be opened;

(h) Prescribing the procedure to be followed and the matters to be ascertained before any license for such sale is granted in any local area;

(i) Prescribing in the case of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") of any foreign substance;

(ii) The regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength;

(iii) The fixing of the strength, price or quantity in excess of or below which any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") shall not be supplied, sold, or kept or exposed for sale, the fixing of the quantity in excess of which denatured spirit shall not be possessed, and the fixing of a standard of quality for any (intoxicant) (Substituted by the A.O. 1937 for "excisable article");

(iv) The regulation or prohibition of the employment of the license-holder of any person or class of persons in or upon his business premises during business hours or to assist him in his business in any capacity whatsoever;

(v) The specification of the persons or classes of persons to whom any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") may or may not be sold;

(vi) The prohibition of sale except for cash;

(vii) The prevention of drunkenness, intoxication, gambling or disorderly conduct in or near the business premises of the license-holder and of the meeting or remaining of persons of bad character in such premises;

(viii) The fixing of the days and hours during which such premises

may or may not be kept open, and the closure of such premises on special occasions;

(ix) The specification of the nature of the premises in which any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") may be sold and the notices to be exposed at such premises;

(x) The accounts to be maintained and the returns to be submitted by license holders; and

(xi) Regulating or prohibiting the transfer of licenses;

(m) (i) Declaring the process by which spirit manufactured in \*\*\* (The word "British" omitted by the A.O. 1950) India shall be denatured;

(ii) For causing such spirit to be denatured through the agency or under the supervision of its own officers;

(iii) For ascertaining whether such spirit has been denatured;

(n) Providing for the destruction of other disposal of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") deemed to be unfit for use;

(o) Regulating the disposal of confiscated articles;

(p) Providing for the grant of expenses to witnesses;

(q) Regulating the power of Excise officer to summon witnesses from a distance under the provisions of section 43; and

(r) Providing for the grant of compensation to persons improperly arrested and subsequently released by any Excise Officer under section 43, and persons charged before a Magistrate with offences under this Act and acquitted.

Explanation - Fees may be prescribed under sub-clause (j) at different rates for different classes of exclusive privileges, licenses, permits, passes or storage, and for different areas.

["(3) The State Government may make rules regulating the terms and conditions that may be required to be complied with and the factors to be taken into consideration, in issuing licenses, remits, or passes under this Act or rules framed there under.

(4) While framing rules under this Act, the State Government may provide, from time to time for reservations to be made in favour of persons belonging to the Scheduled Castes, Scheduled Tribes. Other backward Classes and educated unemployed youths with particular reference to their economic backwardness for the purpose of this Act; and may also provide for discouraging or preventing monopoly in matters relating to such licenses, passes and permits"]  
(Inserted by Assam Act. XI of 1974)

[(5) (Renumbered by Assam Act. XI of 1974) Any rule framed under this Act may be given retrospective effect from such date as

may be considered necessary by the State Government] (Inserted by Assam Act. V of 1973)

## CHAPTER 8

### PREVENTION, DETECTION AND INVESTIGATION OF OFFENCES

#### **37. Inspection Of Places Of Manufacture And Sale :-**

The Excise Commissioner or a Collector or any Excise or Police Officer, not below such rank as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may, by notification, prescribe, may enter and inspect at any time by day or by night any place in which any licensed manufacturer carries on the manufacture of or stores any (intoxicant) (Substituted by the A.O. 1937, for "excisable article") and any place in which any (intoxicant) (Substituted by the A.O. 1937, for "excisable article") is kept for sale by any licensed person and may examine accounts and registers, and examine, test, measure or weigh any measures, weights, testing instruments, materials, stills, utensils, implements, apparatus or (intoxicant) (Substituted by the A.O. 1937, for "excisable article") found in such place.

#### **38. Arrest, Seizure And Search Without Warrant :-**

Subject to such restrictions as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe, any of the following persons, namely-

(1) Any officer employed in excise, Police, Salt, or Customs Departments or by a body of Port Commissioners, not below such rank as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe,

(2) Within such areas as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may, by notification, direct, such officers of the land Revenue Department as may be specified in such notification,

(3) Any other person duly empowered, and

(4) In any public place, any Excise or Police officer, may -

(a) Arrest without warrant any person found committing an offence punishable under section 53 or section 54.

(b) Seize, detain and carry away any excisable or other 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  $\frac{1}{2}$  (any document or other article which he has reason to believe may furnish evidence of the commission of an

offence punishable under this Act, or under the Indian Opium Act, 1878, or under the Dangerous Drugs Act, 1930, and) [(Act I of 1878) (Act II of 1930)]

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

### **39. Issue Of Warrants :-**

A Collector or Magistrate having reason to believe that an offence punishable under sections 53, 54, 55, 56, 57 or 60 has been or is likely to be committed may -

(a) Issue his warrant for the search of any place in which he has reason to believe that any (intoxicant) (Substituted by the A.O., 1937 for "excisable article"), still, utensil, implement, apparatus or materials, in respect of which such offence has been or is likely to be committed, are kept or concealed, and

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

### **40. Search And Arrest In Presence Of Collector Or Magistrate :-**

(1) Collector or Magistrate may at any time search or direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant under section 39.

(2) A Collector or Magistrate may at any time arrest or direct the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under section 39.

### **41. Search, Seizure And Arrest, Following Upon Entry Without Warrant, In Emergent Cases :-**

Any Excise or Police-Officer, not below such rank as the (State Government) (Substituted by the A.O. 1950 "Provincial Government") may, by notification, prescribe, having reason to believe and having recorded the grounds of his belief that an offence under sections 53, 54, 55, 56, 57 or 60 has been, is being, or is likely to be committed in any place, and that a search-warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, may at any time

by day or night -

(a) Enter into and search such place;

(b) Seize and carry away anything found therein which he has reason to believe to be liable to confiscation under this Act (Inserted by Assam Act II of 1933, s.4)(and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Indian Opium Act, 1878 or under the Dangerous Drugs Act, 1930), and (Act I of 1878 Act II of 1930)

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

#### **42. Power To Investigate :-**

(1) A Collector may, without the order of a Magistrate, investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of such Collector's jurisdiction would have power to inquire into or try under the provisions of Chapter XV of the Code of Criminal Procedure, 1898 relating to the place of inquiry or trial. (V of 1898)

(2) Any other Excise Officer when specially empowered in this behalf by the (State Government) (Substituted by the A.O. 1950 "Provincial Government") in respect of all or any specified class of 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 aforesaid provisions.

#### **43. Powers Of Investigating Officer :-**

(1) Any Collector or other officer empowered under the provisions of section 42, sub-section (2), having recorded in writing his reason for suspecting the commission of an offence which he is empowered to investigate, may exercise the powers conferred upon a Police Officer making an investigation or upon an officer-in-charge of police station by sections 160 to 171 of the Code of Criminal procedure, 1898, and, as regards offences punishable under sections 53, 54, 55, 56, 57 and 60 of this Act, the powers conferred upon such police officers, in respect of cognisable offences by the first clause of sub section (1) of section 54 and by section 56 of the said Code. (V of 1898)

( 2 ) Subject to such restrictions as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe, a Collector but not otherwise, any other officer specially empowered under section 42 may, without reference to a Magistrate and for reasons to be recorded by him writing stop further proceedings against any person concerned or supposed to be concerned in any offence which he has investigated.

(3) For the purposes of the provisions of the provisions of section 166 of the Code of Criminal Procedure 1898, the area to which an officer specially empowered under section 52, sub-section (2), is appointed shall be deemed to be a police station, and such officer the officer-in-charge of such station. (V of 1898)

( 4 ) As soon as an investigation under section 42 has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigating officer, when he does not proceed under sub-section (2) or under section 70 shall submit a report, which for the purposes of section 180 of the Code of Criminal procedure, 1898, shall be deemed to be a police report, in such form as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognisance of offences on police report.

#### **44. Production Of Persons Arrested Or Articles Seized :-**

(1) Articles seized and, unless security for their appearance before the Collector be taken, persons arrested under the warrant of a Collector shall be produced before such Collector.

(2) Articles seized under the provisions of section 38 and 41 and persons arrested under the said provisions by persons or officers not empowered to accept bail shall be produced before or forwarded to -

(a) The Collector or other officer empowered under section 42 to investigate the case, or

(b) An Excise Officer empowered under section 49 to accept bail, or

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

(g) When a person arrested is produced before an excise officer empowered under section 49 to accept bail, or before an officer-in-charge of a police station, such officer shall forward such person to, or take security for his appearance before, the Collector or other

officer empowered under section 42 to investigate the case.

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

#### **45. Police Custody Of Articles Seized :-**

(1) All officer-in-charge of police stations shall take charge of and keep in safe custody, pending the orders of a Collector, or other officer empowered under section 42 to investigate the case, all articles seized under this Act which may be delivered to them; and shall allow any Excise officer who may accompany such articles to the police station or may be deputed for the purpose by an official superior to affix his seal to such articles and to take samples of and from them.

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

#### **46. Reports Of Arrests, Seizures And Searches :-**

When any Excise Officer below the rank of Collector or the officer-in-charge of a police station makes or receives information of any arrest, seizure or search under this Act, he shall, within twenty four hours thereafter, make a full report of all the particulars of the arrest, seizure or search or of the information received to the Collector and to the other officer, if any, empowered under section 42, sub-section (2), within the local limits of whose jurisdiction the arrest, or search was made.

#### **47. Procedure In Executing Warrants & In Making Arrests & Searches :-**

(1) Save as in this Act otherwise expressly provided, the provision of the Code of Criminal procedure, 1898, relating to arrests, searches, warrants of arrest and search warrants shall apply, so far as may be to like warrants issued and to arrests and searches made under the provision of this Act. (V of 1898)

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

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

(4) Officers to whom a Collectors warrant is directed or endorsed,

and officers other than Collectors making arrests, searches and a seizures under section 38 or section 41 shall, for the purpose of the aforesaid provisions of the Code of Criminal Procedure be deemed to be police officers. (V of 1898)

#### **48. Maximum Period Of Detention :-**

No person arrested under this provisions of this Act shall be detained in custody for a longer period than under all the circumstances of the cases 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 other officer empowered under section 42 to investigate the case may be, and thence to the Court of a Magistrate having jurisdiction to inquire into or try the case.

#### **49. Bail :-**

(1) When a Collector issues a warrant for the arrest of any person under this Act, he shall in every such case direct in the manner provided in section 76 of the Code of Criminal Procedure, 1898, that such person shall be released from custody on bail or, if the Collector thinks fit, on his own bond (V of 1899) -

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

(3) All Excise officers, not below such rank as the (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may prescribe, shall be empowered to accept bail.

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

(a) The nearest Excise officer empowered to accept bail, or

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

(5) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before a Collector or other officer empowered under section 42 to investigate the case.

(6) The provisions of sections 498 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898, shall apply, so far as may be, in

every case in which bail is accepted or a bond taken under this section. (V of 1898)

**50. Information And Aid To Excise Officers :-**

Subject to such conditions (if any) as the (State Government) (Substituted by the A.O. 1950 "Provincial Government") may, by notification, prescribe, every officer employed in the Police, salt and Customs Departments, every officer employed by a body of Port Commissioner, every village chawkidar, and within such areas as the (State Government) (Substituted by the A.O., 1950 "Provincial Government") may, by notification, direct such officers of the Land Revenue Department as may be specified in such notification, shall be bound-

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

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

**51. Obligation On Land Holders And Others To Give Information In Certain Cases :-**

In such areas as the (State Government) (Substituted by the A.O., 1950 "Provincial Government") may, by notification direct, and subject to such conditions and exceptions (if any) as it may, by notification prescribe, whenever any (intoxicant) (Substituted by the A.O., 1937 for "excisable article") is manufactured, or any hemp plant is cultivated or collected, on any land, or in any place or village, in contravention of the provisions of this Act, all owners or occupiers of such land or place, and their agents, and all members of Panchayats, village headmen, mauzadars, mandals, patwaris and village recorders in such village, as the case may be, shall, in the absence of reasonable excuse, be bound to give information of the fact to a Collector, to a Magistrate or to an officer of the Excise or Police Department as soon as such fact may come to their knowledge.

**52. The Closing Of Retail Shops For Preservation Of The Public Peace :-**

(1) The District or Subdivisional Magistrate may, by notice in writing to the licensee, require that any shop in which any

(intoxicant) (Substituted by the A.O. 1937 "Excisable articles") is sold by retail shall be closed at such times or for such periods as such magistrate may deem necessary for the preservation of the public peace.

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

Provided that no shop shall be kept closed under this sub-section for a longer period than 48 hours without the order of a Magistrate.

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

(4) The ["State Government"] (Substituted by Assam Act.III of 1974) may grant to the licensee of a shop kept closed under sub-section (1) or (2) such compensation as ["it"] (Substituted by Assam Act. III of 1974) may think fit.

#### CHAPTER 9

#### PENALTIES AND PROCEDURE

### **53. Section 53 :-**

(1) Whoever, in contravention of this Act or of any rule, notification or order made or issued under this Act, or of any license, permit or pass granted under this Act,

(a) Imports, exports, transports, manufactures possesses or sells any intoxicant other than tari and pachwai; or

(b) Cultivates, collects, or sells the hemp plant (Cannabis Sativa); or

(c) Constructs or works, any distillery or brewery; or

(d) Uses, keeps or has in his possession any materials, steel, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari and pachwai; or

(b) Bottles any liquor other than tari and pachwai for purposes of sale,

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

sentenced.

(2) Whoever as aforesaid -

(a) Taps or draws tari from any tari producing tree; or

(b) Bottles any tari or pachwai for purposes of sale; or

(c) Imports, exports, transports, manufactures, possesses or sells any tari or pachwai:

Shall be punished with imprisonment which may extend to six months or with fine or with both] [Substituted by Assam Excise (Amendment) Act 1952 (Act XV of 1952)]

#### **54. Unlawful Possession In Certain Cases :-**

Whoever without lawful authority has in his possession any quantity of any (intoxicant) (Substituted by the A.O., 1937 for "excisable article") knowing the same to have been unlawfully imported transported or manufactured, or knowing that the prescribed duty has not been paid thereon, (Substituted by Assam Act II of 1933 s.5) (shall be punished with imprisonment for a term which may extend to two years, or with a fine, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender so imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.)

#### **55. Penalty For Altering Or Attempting To After Any Denatured Spirit :-**

(Substituted for the original section by Assam Act I of 1918) If any person alters or attempts to alter any denatured spirit, whether manufactured in \*\*\* (The word "British" Omitted by the A.O. 1950) India or not, with the intention that such spirit may be used for human consumption whether as a beverage, or, internally, as 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 extent to three months, or to fine which may extend to one thousand rupees, or with both.

#### **56. Adulteration Etc :-**

Whoever, being the holder of a license permit or pass granted

under this Act, or being in the employ of such holder wilfully contravenes any rule made under section 36(2) (I), (i), (ii) and (iii) (Substituted by Assam Act II of 1933 s.5) (Shall be punished with imprisonment which may extend to two years, or with fine, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced).

### **57. Fraud By Licenses Of His Servant :-**

Whoever being the holder of a license, permit or pass granted under this Act or being in the employ of such holder, -

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

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

Shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

### **58. Breach Of Rule Or Condition Of License :-**

Whoever being the holder of a license, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf, -

(a) Fails to produce such license, permit or pass on the demand of any Excise Officer or of any other officer duly empowered to make such demand; or

(b) In any case not otherwise provided for in this Act wilfully contravenes any rule made under section 36 or wilfully does or omits to do anything in breach of any of the conditions of such license, permit or pass

shall be punished in case (a) with fine which may extend to fifty rupees, and in case (b) with fine which may extend to five hundred rupees.

### **59. Liability Of Licenses For Offence Committed By His Agent :-**

The holder of a license, permit or pass granted under this Act shall be punishable as well as the actual offender, for any offence punishable under sections 53, 54, 55, 56, 57, or 58 committed by any person in his employ and acting on his behalf, as if he had himself committed such offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

**59A. Import, Export, Transport, Manufacture, Sale Or Possession By One Person On Account Of Another :-**

(Inserted by Assam Act II of 1933 s.6) (1) When any (intoxicant)(Substituted by the A.O., 1937 "excisable article") has been imported exported, transported, manufactured or sold or is possessed by any person, on account of any other person, and such other person knows or has reason to believe that such import, export, transport, manufacture or sale was, or that such possession is on his account, the article shall for the purposes of this act, be deemed to have been imported, exported transported, manufactured or sold by, or to be in the possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person who imports, exports, transports, manufactures, sells or has possession of any (intoxicant) (Substituted by the A.O., 1937 for "excisable article") 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.

**60. Consumption Of Intoxicants In Druggists Shop :-**

(1) If any chemist, druggist, apothecary or keeper of a dispensary allows any (intoxicant) (Substituted by the A.O., 1937 for "excisable article") which has not been bonafide medicated, to be consumed on his business premises by any person not employed in his business, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person not employed as aforesaid consumes any such (intoxicant) (Substituted by the A.O., 1937 for "excisable article") on such premises, he shall be punished with fine which may extend to two hundred rupees.

**61. Vexatious Search, Seizure, Detention Or Arrest Or Refusal Of Duty Or Cowardice On Part Of Excise Officer :-**

Whoever, being an Excise Officer -

(a) Without reasonable grounds of suspicion, searches or causes to

be searched any place, under colour of exercising any power conferred by this Act, or

(b) Vexatiously and unnecessarily seizes any property of any person on the 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 excuse ceases or refuses so perform or withdraws himself from the duties of his office, unless expressly and in writing allowed to do so by the Collector, or unless he shall have given to his immediate superior two months notice in writing of his intention to do so; or

(e) Is guilty of cowardice,

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

### **61A. Punishment For Allowing Premises To Be Used For The Commission Of An Offence :-**

(Inserted by Assam Act II of 1933, s.7) Whoever, being the owner or occupier having the use of any house, room, enclosure, space, vessel, vehicle or place, knowingly permits it to be used for the commission by any other person of an offence punishable under section 53, section 54, or section 55, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

### **62. Offences Not Specifically Provided For :-**

Whoever, in any case not otherwise provided for under this Act. Wilfully contravenes any of the provisions of this Act or of any rule, notification or order made or issued thereunder shall be punished with fine which may extend to two hundred rupees.

### **63. Attempts :-**

Whoever attempts to commit any offence punishable under this Act shall be liable to the punishment provided for such offence.

### **63A. Abetments :-**

(Inserted by Assam Act II of 1933, s.8) Whoever abets an offence punishable under this Chapter shall, whether such offence be or be no committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for the offence. (Act XLV of 1860)

### **64. Enhanced Punishment After Previous Conviction :-**

If any person, after having been previously convicted of an offence punishable under sections 53, 54, 55 or 60 or under the similar provisions in any enactment repealed by 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:

Provided that nothing in this section shall prevent any offence, which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898, from being so tried.  
(V of 1898)

#### **64A. Security For Abstaining From Commission Of Certain Offences :-**

(1) (Inserted by Assam Act II of 1933, s.9) Whenever any person is convicted of an offence punishable under section 53, section 54, section 55, section 56 or section 60 and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections the Court may at the time of passing sentence on such persons, order him to execute a bond for a sum proportionate to his means with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years as it thinks fit to fix.

(2) (Inserted by Assam Act II of 1933 s.9) The bond shall be in form contained in the second schedule and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond or with the non-execution thereof as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

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

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

#### **65. Initiation Of Prosecution :-**

(1) No magistrate shall take cognisance of an offence punishable.

(a) Under sections 53, 54 or 55 or 60 except on his own knowledge or suspicion, or on the complaint or report of an Excise Officer;

(b) Under sections 56, 57, 58 or 62 except on the complaint or report of a Collector or other officer empowered under section 42, sub section (2) to investigate the case; or

(c) Under clauses (d) and (e) of section 61, except with the sanction of the District Collector.

(2) Except with the special sanction of the (State Government) (Substituted by the A.O. 1950 for "Provisional Government") no Magistrate shall take cognisance of any offence punishable under this Act, unless the prosecution is instituted within six months after

the commission of the offence.

## **66. Magistrate Empowered To Try Cases Under This Act :-**

Offences under this Act shall be triable only by Magistrates exercising powers not less than those of a Magistrate of second class.

## **67. Presumptions :-**

(1) When in any prosecutions under this Act or in any proceedings taken under section 69, sub-section (3), the question arises whether an offence punishable under the Act has been committed in respect of -

(a) Any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") or hemp plant (*Cannabis Sativa*),

\*\*\* [The words "or any cocaine-yielding plant of the genus *Erythroxylon*" were repealed by, s.40 of the Dangerous Drugs Act, 1930 (II of 1930)]

(b) Any steel, utensil, implement or apparatus whatsoever for the manufacture of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") other than tari, or

(c) Any materials such as are ordinarily used in the manufacture of any (intoxicant) (Substituted by the A.O. 1937 for "excisable article")

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

(2) When in any prosecution under section 58 any licensed vendor is charged with permitting drunkenness or intoxication in his shop or in any public room of his business premises, and it is proved that any person was drunk or intoxicated in such shop or room, it shall lie on such vendor to prove that he and the person employed by him took all reasonable steps for preventing drunkenness or intoxication in such shop or room.

## **67A. Presumption As To Offence Under Section 55 In Certain Cases :-**

(Inserted by Assam Act I of 1918 as. 3 and 4) In prosecutions under section 55, when the accused person is proved to have been in possession of any spirit which is, or contains or has been derived from, denatured spirit and in respect of which any such alteration or attempt as is referred to in section 55, 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 attempts has been made.

### **67B. Presumption As To Any Spirit Which Contains Any Denaturant :-**

(Inserted by Assam Act I of 1918, as, 3 and 4) In any prosecution under this Act, it may be presumed unless and until and contrary is proved, that any spirit which contains any quantity of any denaturant is, or has been derived from denatured spirit.

### **68. Liability To Confiscation :-**

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

(a) The (intoxicant) (Substituted by the A.O. 1937 for "excisable article") hemp plant (Cannabis Sativa), \*\*\* [The words "cocaine-yielding plant of the genus Erythroxyton" were repealed by s, 40 of the Dangerous Drugs Act, 1930 (II of 1930)] still, utensil, implement, apparatus or materials in respect of or by means of which such offence has been committed.

(b) Any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") lawfully imported, transported, manufactured, had in possession or sold along with any (intoxicant) (Substituted by the A.O. 1937 for "excisable article") liable to confiscation as aforesaid -

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

(d) The animals, carts, vessels, rafts or other conveyances used in carrying anything referred to in the foregoing clauses;

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

### **69. Procedure In Regards To Article Liable To Confiscation**

:-

(1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 68, he shall order such thing to be confiscated and placed at the disposal of the

collector.

(2) When in any other case in which anything has been seized under this Act an investigating officer proceeds under section 43, sub-section (2) or the Collector, upon an investigation made, whether by the Collector or other officer under section 42, is of opinion that the thing seized is not liable to confiscation under section 68, such investigating officer or the Collector, as the case may be, shall order the delivery of such thing to the person from whose possession it was taken.

(3) When upon an investigation made as aforesaid it appears to the Collector that an offence under this Act has been committed, and that anything seized under this Act is liable to be confiscated and it further appears that the offender is not known or cannot be found, the Collector shall inquire into and determine the case, and if he finds that the thing is liable to confiscation under section 68 shall order such confiscation:

Provided that no such order shall be made until the expiration of two months from the date of seizing the thing intended to be confiscated or without hearing any person who may appear within that period and claim any right to such thing, 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 and of sub-section (2) shall, as nearly as may be practicable, apply to the net proceeds of such sale.

## **70. Power To Compound Offences :-**

(1) When any license, permit or pass is liable to be cancelled or suspended under clause (a) or clause (b) of section 29, sub-section (1), or when any person is reasonably suspected of having committed of offence under this Act other than an offence under section 61, the Excise Commissioner, or a Collector instead of enforcing such cancellation or suspension or instituting a prosecution in respect of such offence, may accept from the holder of such license, permit or pass or from such person a sum of money not exceeding (Substituted by the Assam Act II of 1933, s.10 for the words "two hundred rupees") (five hundred rupees), and thereupon such holder or person, if in custody, shall be discharged, and no further proceedings in respect of such liability or offence

shall be taken against him.

And if in any such case any property has been seized as liable to confiscation under this Act, the excise Commissioner or the Collector may release the same on receiving payment of the value thereof as estimated by him, or of such smaller sum as he may think fit.

(2) The Excise Commissioner or Collector may also after the institution against any person of a prosecution in respect of any offence under this Act other than an offence under section 61, compound the offence on payment by such person of a sum of money not exceeding (Substituted by Assam Act II of 1933, S.10 for the words "two hundred rupees.") (five hundred rupees).

["(3) Notwithstanding anything contained in this section an Excise officer not below the rank of an Inspector of Excise may, at any time, compound an offence under this Act in respect of manufacture and possession of pachwai exceeding the quantity that may be exempted under section 73 but not exceeding five seers, on payment by the person manufacturing or possessing such pachwai of a sum not exceeding twenty-five rupees"] (Inserted by Assam Act. X of 1963)

### **71. Contempt Of Court :-**

Every proceeding under this Act before a Collector shall be deemed to be a judicial proceeding within the meaning of section 228, of the Indian Penal Code, and the Collector engaged in such proceeding shall be deemed to be a Revenue Court within the meaning of section 480 of the Code of Criminal Procedure, 1898. [(XLV of 1860) (V of 1898)]

#### CHAPTER 10

#### MISCELLANEOUS

### **72. Exception Of Medicated Article :-**

The foregoing provisions of this Act shall not apply to import, manufacture, possession, supply or sale of any bonafide medicated article for medicinal purposes by medical practitioners, chemists druggists, apothecaries or keepers of dispensaries, except in so far as the (State Government) (Substituted by the A.O. 1950 for "Provincial Govt."), may by notification so direct.

### **73. Power Of State Government To Exempt Intoxicants From The Provisions Of This Act :-**

The (State Government) (Substituted by the A.O. 1950 for "Provincial Government") may by notification, either wholly or partially and subject to such conditions as it may think fit to prescribe, except any (intoxicant) (Substituted for "Government Gazette" - See Act VII of 1912, S.3 and Sch.D., Pt. III, as adopted by the A.O. 1937) from all or any of the provisions of this Act either throughout the territories to which this Act applies or in any specified area comprised therein or for any specified period or occasion or as regards any specified class of persons.

#### **74. Certain Provisions Of Municipal Acts Not To Apply :-**

Nothing contained in section 261 of the Bengal Municipal Act 1884 (The Bengal Acts III of 1884 and V of 1876 have been repealed by Assam Act I of 1923 Act I of 1923 has been repealed by Act XV of 1957) or in section 285 of the Bengal Municipal Act. 1876, (The Bengal Acts III of 1884 and V of 1876 have been repealed by Assam Act I of 1923 Act I of 1923 has been repealed by Act XV of 1957) shall apply to any brewery, distillery or warehouse established or licensed under this Act, or to the premises used for the manufacture or sale any (intoxicant) (Substituted by the A.O. 1937, for "excisable article") by the holder of a license granted under this Act for such manufacture or sale. (Ben. Act III of 1884. Ben. Act V of 1876)

#### **75. Publication Of Rules And Notification :-**

All rules made and notifications issued under this Act shall be published in the (official Gazette) (Substituted for "Government Gazette" - See Act VII of 1912, S.3 and Sch.D., Pt. III, as adopted by the A.O. 1937) and, on such publication, shall have effect as if enacted in this Act.

#### **76. Bar Of Certain Suits :-**

No suit shall lie against the (Government) (Substituted by the A.O. 1950 for "Crown") or against any Excise officer in respect of anything done, or in good faith purporting to be done in pursuance of this Act or of any other law for the time being in force relating to the excise revenue.

#### **77. Limitation Of Suits And Proceedings :-**

No suit, prosecution or other proceeding against the (Government) (Substituted by the A.O. 1950 for "Crown") or against any Excise officer in respect of anything done or alleged to have been done in pursuance of this Act or of any other law for the time being in force relating to the excise revenue, shall except as provided in section 65, sub-section (2), be entertained in any Court unless the suit, prosecution or other proceeding is instituted within six months from the date of act complained of.

**SCHEDULE 1**

First Schedule

Enactments repealed

(See Section 2)

<b>Number and year</b>	<b>Short title</b>	<b>Extent of repeal</b>
Part I	Acts of the Governor General in Council	
XVI of 1863	The Excise (Spirits) Act, 1863	Somuch as has not been repealed
IX of 1885	The Excise and Sea Customs Law Amendment Act, 1885	In the title the words and figures "The Bengal Excise Act 1878- And"  In the preamble, the Words and figures "Section 18 of the Bengal Excise Act, 1878, and"  Section 3
XIII of 1890	The Excise (Malt Liquors Act, 1890	In the title, the word and figures "The Bengal Excise Act, 187 and"  Sections 6, 7 and 8 and the heading prefixed thereto.
VIII of 1894	The Indian Tariff Act. 1897	Section 6.
V of 1897	The Amending Act, 1897	So much of the Second Schedule as relates to Bengal Act I, 1883.
VII of 1878	The Bengal Excise and Licensing Act, 1878	So much as has not been repealed.
IV of 1881	The Bengal Excise Act, Amendment Act, 1881	Ditto
I of 1883	The Bengal Excise (Amendment) Act. 1883.	Ditto

First Schedule - concluded.

Enactments repealed - concluded.

Part II - Bengal Acts

<b>Number and year</b>	<b>Short title</b>	<b>Extent of repeal</b>
I of 1895 (Bengal Act I of 1895 was	The Public	In section 7. clause (d).

never extended to Assam. It has been repealed in Bengal by Bengal Act III of 1913, and Bihar and Orissa by B.&O. Act IV of 1914)	Demands Recovery Act, 1895	the words and figures "is recoverable under ... section 36 of the Bengal Excise Act, 1878, or which".
II of 1903	The Bengal Excise and Licensing (Amendment) Act, 1903	The whole.

## SCHEDULE 2

### Second Schedule

Bond to Abstain from the Commission of Offences under the

(See Section 64A)

Whereas I (name),

Inhabitant of (place),

Have been

Called upon to enter into a bond to abstain from the commission of offences under Section 53, Section 54, Section 55, Section 56, and Section 60 of the Eastern Bengal and Assam Excise Act, 1910, for the term of ...

I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to the (State Government) (Substituted by the A.O 1950 for "His Majesty the King, Emperor of India".) the sum of rupees ...

Dated this

Day of

19...

(Signature)

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

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offences under section 53, Section 54, Section 55, Section 56 and Section 60 of the Eastern Bengal and Assam Excise Act, 1910, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to (the State Government) (Substituted by the A.O. 1950 for "His Majesty the King Emperor of India."), the sum of rupees

Dated this

Day of

19...

(Signature)