

MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) RULES, 1956

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MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) RULES, 1956

In exercise of the powers conferred by Sec. 19 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955), the Central Government hereby makes the following Rules, namely:

CHAPTER 1 Preliminary

1. Short title :-

These rules may be called the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956.

2. Definitions :-

In these rules unless there is anything repugnant in the subject or context,

(i) "the Act" means the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;

(ii) "absolute alcohol" means alcohol conforming to the British Pharmacopoeial specification for dehydrated alcohol;

(iii) "bonded manufactory" means the premises or any part of the premises approved and licensed for the manufacture and storage of medicinal and toilet preparations containing alcohol, opium, Indian hemp and other narcotic drugs or narcotics on which duty has not

been paid;

(iv) "non-bonded manufactory" means the premises or any part of the premises approved and licensed for the manufacture and storage of medicinal and toilet preparations containing alcohol, opium, Indian hemp and other narcotic drugs or narcotics on which duty has been paid;

(v) "Chemical Examiner" means the Chemical Examiner to the State Government and includes such other officer whom the State Government or the Central Government may at any time appoint as Chemical Examiner:

(iv) "denatured spirit" or "denatured alcohol" means alcohol of any strength which has been rendered unfit for human consumption by the addition of substances approved by the Central Government or by the State Government with the approval of the Central Government;

(vii) "duty" means the duty of excise payable under Sec. 3 of the Act;

(iv) "Excise Commissioner" means the Head of the Excise administration of a State and includes a Prohibition Commissioner and also an officer designated in any State as Prohibition or Excise Director;

(ix) "finished store" means that portion of a non-bonded or bonded manufactory which is set apart for the storage of its finished preparations;

(x) "Form" means a Form appended to the rules;

(xi) "gauge" means to determine the quantity of alcohol or dutiable goods contained in, or taken from, any cask or receptacle or, to determine the capacity of any cask or receptacle;

(xii) "laboratory" means that part of a non-bonded or bonded manufactory in which the actual manufacture of dutiable goods takes place;

(xiii) "manufacturer" means a person to whom a licence has been granted for the manufacture of dutiable goods;

(xiv) "officer-in-charge" means an officer of the Excise Department of any State appointed by the collecting Government to supervise work in a bonded manufactory or a bonded warehouse and includes officers of any other Department similarly appointed;

(xv) "proper officer" means an Excise Officer in whose jurisdiction the premises of the manufacturer of any dutiable goods, or of any person engaged in the process of manufacture of, or trade in such goods or containers thereof, whether as manufacturer, wholesale dealer, or intended manufacturer or wholesale dealer, are situated;

- (xvi) "prove" means to test the strength of alcohol by hydrometer or other suitable instrument;
- (xvii) "quarter" means a period of three months beginning with 1st January, 1st April, 1st July or 1st October;
- (xviii) "rectified spirit" means plain undenatured alcohol of a strength not less than 50.0° over proof and includes absolute alcohol;
- (xix) "restricted preparation" means every medicinal preparation specified in the schedule and includes every preparation declared by the Central Government as restricted preparation under these rules;
- (xx) "unrestricted preparation" means any medicinal preparation containing alcohol but other than a restricted preparation or a spurious preparation;
- (xxi) "Schedule" means the schedule annexed to these rules;
- (xxii) "spirit store" means that portion of the bonded or non-bonded manufactory which is set apart for the storages of alcohol, opium, Indian hemp and other narcotic drugs or narcotic purchased free of duty or at prescribed rates of duty specified in the schedule to the Act:
- (xxiii) [****]
- (xxiii-a) "standard preparation" means a preparation other than a "sub-standard preparation";
- (xxiii-b) "State Government" in rules 4 (1) and (2), 19, 30, 38 (1), 50 58 (3), 60 (2), 80, 82 (ii), 96, 199, 112, 129 (2), 127 and 132 of these Rules shall, in relation to a Union territory, mean the Administrator thereof appointed under Art. 239 of the Constitution of India
- ;
- (xxiv) A "sub-standard preparation" is
- (a) a pharmacopoeial preparation in which the amount of any of the various ingredients is below the minimum that the pharmacopoeial composition would require, or
- (b) a proprietary medicine which does not conform to the formula or the list of ingredients disclosed on the label on the container or on the container;
- (xxv) "warehouse" means any place or premises licensed under rule 70.

3. Agent or owner of goods, manufactory or warehouse to be deemed owner for certain purposes :-

When any person is expressly or impliedly authorised by the owner of any dutiable goods, manufactory or warehouse to be his agent in respect of such goods, manufactory or warehouse such agent shall, for all purposes of the Act and these rules be deemed to be the owner of such goods, manufactory or warehouse.

CHAPTER 2 Appointment of Officers

4. Appointment of officers and delegation of powers to them

:-

(i) The State Government may appoint such number of Excise Officers as it thinks fit to exercise all or any of the powers conferred or to discharge all or any of the duties imposed by the Act or these rules and define the jurisdiction of every such officer.

(ii) Unless the State Government in any case otherwise directs, the Excise Commissioner may authorize any Excise Officer subordinate to him to exercise throughout his jurisdiction, or in any specified area therein, all or any of the powers conferred or to discharge all or any of the duties imposed on an Excise Commissioner under these rules.

5. Excise Commissioner may exercise the powers of any officer :-

The Excise Commissioner may perform all or any of the duties, or exercise all or any of the powers assigned to any Excise Officer under these rules.

CHAPTER 3 Levy and refund of, and exemption from duty

6. Recovery of duty :-

Every person who manufactures any dutiable goods, or who stores such goods in a warehouse, shall pay the duty or duties leviable on such goods under the Act, at such time and place and to such person as may be designated in, or under the authority of these rules, whether the payment of such duty or duties is secured by bond or otherwise. ;

7. Exemption from duty on medicinal preparation for Government and charitable institutions :-

1 (1) Except as provided in sub-rule (2) no duty shall be collected on medicinal preparation containing alcohol manufactured in India and supplied direct from a bonded manufactory or a warehouse to the following institutions:

(i) hospitals and dispensaries working under the supervision of the Central Government or a State Government;

(ii) hospitals and dispensaries subsidised by the Central Government or a State Government;

(iii) charitable hospitals and dispensaries under the administrative control and management of a local body,

(iv) Medical Store Depot, of the Central Government or a State Government; and

(v) every other institution certified by the principal Medical Officer of the district in which such institution is situated as supplying medicines free to the poor.

(2) If in the supply of any medicinal preparation made direct to all or any of the institutions referred to in sub-rule (1), any loss or shortage is detected at the destination, the manufacturer or the licensee of a warehouse, as the case may be, shall be liable to pay duty on such loss or shortage at the rate in force on the date on which such loss or shortage is detected made known to the proper officer:

Provided that if it is proved to the satisfaction of the Excise Commissioner that the loss or shortage was due to circumstances over which the manufacturer or licensee, as the case may be, had no control, the Excise Commissioner may remit the whole or part of the duty payable.]

1. Subs, for words and figures "purchased at the duty of Rs. 6.60 and Rs. 13.20 and Rs. 52.80 per litre" by Notif. No. 1 /89-Opium, dated 1st March 1989.

8. Power to exempt from duty in special cases :-

The Central Government may, by notification in the Official Gazette, exempt subject to such conditions as may be specified in the notification any dutiable goods from the whole or any part of the duty leviable on such goods if in the opinion of that Government it is necessary to grant such exemption in the interest of trade or in the public interest.

9. Time and manner of payment of duty :-

(1) No dutiable goods shall be removed from any place where they are manufactured or any premises appurtenant thereto, which may be specified by the Excise Commissioner in this behalf, whether for consumption, export or manufacture of any other commodity in or outside such place, until the excise duty leviable thereon has been paid at such place and in such manner as is prescribed in these rules or as the Excise Commissioner may require: Provided that such goods may be deposited without payment of duty in a warehouse or may be exported out of India under bond as provided in rule 97:

Provided further that the Excise Commissioner may, if he thinks fit, instead of requiring payment of duty in respect of each separate consignment of goods removed from the place or premises specified in this behalf, or from a warehouse kept with any person dealing in such goods an account-current of the duties payable thereon and such account shall be settled at intervals not exceeding three months, and the account-holder shall periodically deposit a sum therein sufficient in the opinion of the Excise Commissioner to cover the duty on the goods intended to be removed from the place of manufacture or storage.

(2) If any dutiable goods are, in contravention of sub-rule (1) deposited in, or removed from, any place specified therein the manufacturer thereof shall pay the duty leviable on such goods upon written demand made by the proper officer, whether such demand is delivered personally to him or is left at the manufactory or his dwelling-house, and he shall also be liable to a penalty to be determined by the Excise Commissioner which may extend to two thousand rupees, and such goods shall also be liable to confiscation.

10. Alteration of duty :-

The rate of duty applicable to goods cleared on payment of duty shall be the rate in force on the date on which duty is paid, or if the goods are cleared from a manufactory or warehouse, on the date of the actual removal of such goods from such manufactory or warehouse: PROVIDED THAT if the goods have previously been removed from a warehouse under bond to be re-warehoused and the duty is paid on such goods without their being re-warehoused, the rate applicable thereto shall be the rate in force on the date on which duty is paid, or if duty is paid through an account-current

maintained with the Excise Commissioner under Rule 9 on the date on which an application in Form A.R. 2 is delivered to the officer-in-charge of the warehouse from which the goods were removed.

11. Recovery of duties or charges short-levied or erroneously refunded :-

When duties or charges have been short-levied through inadvertence, error, collusion or mis-construction on the part of an Excise Officer, or through mis-statement as to the quantity or description of such goods on the part of the owner, or when any such duty or charge, after having been levied, has been, owing to any such cause erroneously refunded the person chargeable with the duty or charge, so short-levied, or to whom such refund has been erroneously made, shall pay the deficiency or repay the amount paid to him in excess, as the case may be, on written demand by the proper officer being made within six months from the date on which the duty or charge was paid or adjusted in the owners account-current, if any, or from the date of making the refund.

12. Residuary powers for recovery of sums due to Government :-

Where these rules do not make any specific provision for the collection of any duty, or of any deficiency in duty if the duty has for any reason been short-levied, or of any other sum of any kind payable to the collecting Government under the Act or these rules, such duty, deficiency in duty or sum shall, on written demand made by the proper officer, be paid to such person and at such time and place, as the proper officer may specify.

13. No refund of duties or charges erroneously paid, unless claimed within six months :-

No duties or charges which have been paid or have been adjusted in an account-current maintained with the Excise Commissioner under rule 9 and of which repayment wholly or in part is claimed in consequence of the same having been paid through inadvertence, error or misconstruction, shall be refunded unless a written claim is lodged with the proper officer within six months from the date of such payment or adjustment as the case may be.

14. Rebate of duty on goods exported :-

The collecting Government shall, subject to such safeguards, conditions and limitations as are specified in Chapter VII of these rules, grant rebate of duty on dutiable goods, if exported out of India.

15. Export under bond of goods on which duty has not been paid :-

Dutiable goods may be exported out of India, without payment of duty, from a warehouse or a bonded manufactory, provided that export is made in accordance with the procedure set out in the relevant provisions of Chapter VII of these rules and the owner enters into a bond in Form B-3 with such surety or sufficient security, and under such conditions as the Excise Commissioner approves, in a sum equal at least to the duty chargeable on the goods, for the due export thereof at the place of export, within the period that may be specified by the officer-in-charge under sub-rule (3) of rule 99 and such bond shall not be discharged unless the goods are duly exported out of India, to the satisfaction of the Excise Commissioner or are otherwise accounted for the satisfaction of such officer, nor until the full duty due upon any deficiency of goods not so accounted for, has been paid.

16. General bond by an exporter :-

The Excise Commissioner may permit any licensed person desirous of exporting from his State, in the manner provided in the foregoing rules, dutiable goods on which duty has not been paid, to enter into a general bond in Form B-3 with such surety or sufficient security, in such amount, and under such conditions, as the Excise Commissioner approves, for the export, from time to time, of such dutiable goods within the period prescribed for the goods exported under sub-rule(3) of rule 99:

Provided that in the event of death, insolvency or insufficiency of the surety, the Excise Commissioner may, in his discretion demand a fresh bond and may, if the bond is with security, demand at any time he considers it fit to do, additional security.

17. Penalty for failure to furnish proof of export within the prescribed period :-

When any person authorized to export dutiable goods in bond in

accordance with the provisions of Chapter VII of these rules fails to furnish proof of such export to the satisfaction of the Excise Commissioner, he shall upon a written demand being made by the officer-in-charge forthwith pay the duty leviable on such goods, and shall also be liable to a penalty which may, subject to a maximum of two thousand rupees, extend to twice the amount of duty and until such duty and penalty are paid, the Excise Commissioner may in his discretion refuse to permit such person to make further exports of dutiable goods in bond.

CHAPTER 4 Manufacture

18. Supply of rectified spirit for manufacture of medicinal and toilet preparations :-

Rectified spirit shall ordinarily be supplied to a manufacturer from a distillery or a spirit warehouse of the State in which the manufactory is situated. The manufacturer, however, is not precluded from obtaining his requirements of rectified spirit from sources situated outside the State.

19. Wastage in transit of rectified spirit :-

If, in any particular case it is proved to the satisfaction of the Excise Commissioner that the loss is bona fide and not due to negligence or connivance on the part of the manufacturer, the duty payable in respect of such loss may be waived in full or in part according to the merits of the case. Except with the prior sanction of the State Government the concession in this rule shall not be applicable to issues of rectified spirit made to non-bonded manufactories.

20. Mode of manufacture :-

Manufacture of medicinal and toilet preparations containing alcohol shall be permitted in bond without payment of duty as well as outside bond. In the case of manufacture in bond alcohol on which duty has not been paid shall be used under excise supervision; and in the case of manufacture outside bond, only alcohol on which duty has already been paid shall be used.

21. Issue of rectified spirit without payment of duty :-

Rectified spirit shall be issued without previous payment of duty for

the manufacture of medicinal and toilet preparations containing alcohol subject to the condition that the manufacturer enters into a bond in Form B-1 with sufficient security, as laid down in rule 96, towards due payment of duty and observance of the rules.

22. Entry into and exit from a bonded manufactory :-

Unless otherwise ordered by the State Government there shall be only one entrance to the bonded manufactory and one door to each of its compartments. All the doors shall be secured with excise ticket locks during the absence of the officer-in-charge.

23. Essentials of a bonded manufactory :-

- (1) A bonded manufactory shall make provision for the following:
- (i) one plain spirit store unless the manufactory is attached to a distillery or a rectified spirit warehouse from which rectified spirit is made available as and when necessary;
 - (ii) at least one large room for manufacturing medicinal preparations;
 - (iii) one or more rooms for storing finished medicinal preparations;
 - (iv) separate arrangement for manufacture of toilet preparations;
 - (v) the storage of finished toilet preparations;
 - (vi) accommodation with necessary furniture near the bonded premises for the officer-in-charge;
 - (vii) malleable iron rods not less than 19 mm. in thickness, set not more than 102 mm. apart, embodied in brick work up to a depth of at least 51 mm. and covered on the inside with strong wire netting or expanded metal of a mesh not exceeding 25 mm. in diameter of length in every window of the bonded premises;
 - (viii) a board on which the name of the room and a serial number, if any, are legibly painted in oil colour on the outside of every such room in the manufactory;
 - (ix) all pipes from sinks or wash-basins inside manufactory premises discharging into drains forming part of the general drainage system of the premises;
 - (x) all gas and electric connections with the licensed premises so fixed as to admit of the supply of gas or electricity being cut off and all the regulators or switches being securely locked at the end of the days work.
- (2) The Central Government may in special cases relax any of the provisions of Cls. (i) to (x) of sub-rule (1).

24. No additions or alterations to be made without orders :-

No addition or alteration shall be made in the bonded premises or in respect of the permanent fixtures therein without the previous orders of the Excise Commissioner. Plans, in triplicate showing each addition or alteration shall be submitted with the application for the necessary permission and copies disposed of in the same manner as copies of the original plans of the bonded manufactory as provided in rule 95.

25. Arrangement of receptacles in a bonded manufactory :-

(1) The permanent vessels for the storage of alcohol, opium, Indian hemp and other narcotic drugs and narcotics received under bond and all the finished preparation on which duty has not been paid shall be secured with excise ticket locks.

(2) All vessels intended to hold alcohol and liquid preparations shall be gauged by the officer-in-charge. They shall each bear a distinctive serial number and their full capacities distinctly and indelibly marked on them. A record of these details shall be kept in Form R.G.-I.

(3) Table shall be computed to show contents at an inch and tenth of an inch of the depth of each such vessel.

26. Indent for rectified spirit :-

Rectified spirit required for manufacturing medicinal and toilet preparations shall be obtained on an indent in Form I.D.-1 countersigned by the officer-in-charge, from any distillery or spirit warehouse approved by the Excise Commissioner, the original being sent by the licensee of the bonded manufactory to the distiller the duplicate sent through the officer-in-charge to the distillery or spirit warehouse officer and the triplicate retained as office copy. The cost price of such rectified spirit shall be paid by the licensee of the bonded manufactory to the distiller. If the distillery or warehouse officer has received from the officer-in-charge of the bonded manufactory the duplicate of the indent, he shall issue the spirit required under bond, under the appropriate permit in the Form in vogue in the State for transport of rectified spirit and send the advice portion of such permit to the officer-in-charge.

27. Verification of rectified spirit received :-

Consignments of rectified spirit received under bond shall be verified in volume and strength and the receipt of such supply shall be entered in register in Form R. G.-2. Subject to the provision of rule 19 duty at the rate levied by the State Government on alcoholic liquors on all wastages shall be paid by the licensee of the bonded manufactory into a Government treasury on receipt of a demand from the officer-in-charge and a copy of the treasury receipt shall be sent to the distillery officer who shall thereupon make the necessary adjustment in his register.

28. Storage of rectified spirit :-

(1) After the rectified spirit received has been verified, it shall be stored in one or more vessels in the spirit store.

(2) If, in any particular case, it is proved to the satisfaction of the Excise Commissioner that the loss is bona fide and not due to negligence or connivance on the part of the manufacturer, the duty payable in respect of such loss may be waived in full or in part according to the merits of the case.

29. Issues of rectified spirit from the spirit store :-

(1) Rectified spirit shall be issued from the spirit store to the laboratory of the manufactory on a requisition of the licensee, which shall be made in Form R.Q-1, but only in such quantities as are in conformity with the formulae laid down in the relevant pharmacopoeia or the formula of the patent and proprietary medicines displayed on the label of the container in the manner prescribed in the Drugs Rules, 1945, for the time being in force, for the particular preparation for which the alcohol is required. In the case of medicinal preparation manufactured from concentrated tinctures the exact quantity of spirit to be added to them shall be calculated after ascertaining the proof-spirit content of the concentrated tinctures by analysis by the Chemical Examiner. For this purpose two samples of not less than 142 ml. each shall be taken from each concentrated tincture, one of which shall be sent to the said Chemical Examiner for ascertaining the proof-spirit content while the other shall be retained by the officer-in-charge of the bonded manufactory until the result of analysis is known, after which it may be added to the concentrated tincture from which it

was originally taken. All rectified spirit so issued shall, in the presence of the officer-in-charge, be added without delay to the other materials for the preparation specified in the application. Rectified spirit shall not be issued for any purpose other than the manufacture of medicinal and toilet preparations in the laboratory.

(2) Finished medicinal or toilet preparations may be transferred from the finished store to the laboratory of the manufactory, for addition to raw materials for the preparation of the same or any other kind of preparation on written requisition from the licensee. Such transfers shall be shown in the respective registers maintained and the alcohol contents shall be adjusted correctly.

30. Indent for opium, Indian hemp and other narcotic drugs and narcotics, their storage and issue for manufacture :-

Indent for opium shall be made to the nearest sub- treasury or the Government Opium Factory, Ghazipur or to the warehouse or to the place of storage approved by the State Government, in Form I.D.- 1. The supply of Indian hemp and other narcotics shall also be indented for from the nearest Government warehouse in the same Form. The supply of opium, Indian hemp, narcotic drugs and other narcotics shall be made under permit as prescribed in rule 26. On their receipt in the bonded manufactory they shall be verified and accounted for in the register in Form R. G-2 as in the case of alcohol. Opium, Indian hemp, narcotic drugs and other narcotic obtained by the licensee free of duty shall be stored separately in the spirit store and secured by excise ticket locks. They shall be issued for the manufacture of medicinal preparations only on a requisition in Form R. Q.-1 by the licensee as in the case of alcohol.

31. Manufactured dutiable goods :-

Each preparation manufactured shall be registered and shall bear a distinctive serial number, which shall be known as its batch number in the register in Form R. G.-3. This Register shall also show the receipt and disposal of all alcohol issued to the laboratory from the spirit store and the quantity of finished medicinal preparation manufactured therefrom. As soon as a preparation is manufactured, it shall be removed to the finished store where, after it has been carefully measured, it shall be stored in vessels provided for the purpose and accounted for in the register inform R. G.-4. The issue of opium, Indian hemp, narcotic drugs and other narcotics shall be made under the appropriate permit and the advice portion of such

permit shall be sent to the officer-in-charge.

32. Manufacturing vessels to bear labels :-

Every time the percolator, or other vessel intended for alcohol is charged there shall be attached to it a label showing the following particulars:

- (a) the name and batch number of the preparation;
- (b) the description and quantity of alcohol placed in it from time to time; and
- (c) the date of removal of the preparation and the quantity of such preparation removed.

33. Sample to be taken :-

(i) On completion of production of a medicinal or toilet preparation, the officer-in-charge shall permit the licensee to take free sample of 227 ml. or such quantity of the preparation as the officer-in-charge considers necessary for analysis in his own laboratory and declaration of the strength of alcohol and medicaments.

(ii) Any quantity left over after analysis shall be destroyed by the licensee in his laboratory in the presence of the officer-in-charge of the laboratory.

(iii) A separate account of the quantity used by the licensee for analysis shall be maintained.

(iv) The alcoholic strength of a preparation as declared by the licensee shall be entered by the licensee in the register in Form R. G.-3.

(v) Immediately after declaration by the licensee of the alcoholic strength of a finished preparation and before such preparation is removed to the store, the licensee shall make proper entries in the register in Form R. G.-3.

(iv) The officer-in-charge shall check the entries and if they are found in order, he shall check the contents of as many as he thinks necessary of the vessels in which the preparation is being stored. He shall then initial on the relevant entries of the Register in Form R. G.-3 and take two samples from each batch of such finished preparation for analysis and report by the Chemical Examiner.

(vii) One set of samples shall be sent at once to such Chemical Examiner and a note to the effect shall be made in the register in Form R. G.-3. The report of the Chemical Examiner, when received, shall be shown to the licensee.

(viii) The duplicate sample of a preparation which is intended exclusively for replacement of the original sample or repetition of its analysis, when necessary, shall be kept under excise ticket lock, and shall be returned to the finished store immediately on receipt of the report of the Chemical Examiner.

(ix) All such samples sent shall be sealed by the officer-in-charge and the licensee of the manufactory.

(x) The duplicate sample shall not be returned to the finished store in any case where

(a) the alcohol strength of a preparation from which the sample was taken, is declared by the Chemical Examiner to be beyond the margin of 3% unless the Excise Commissioner permit standardization of such sub-standard preparation; and

(b) the preparation is declared to be a spurious preparation under these rules.

(xi) All samples required for analysis under these rules shall be supplied free of cost by the licensee and all expenses in connection with packing and despatch of the samples shall be borne by him. Samples of medicinal or toilet preparation may also be taken at any time by the officer-in-charge or other superior officer and such samples shall be sent to the Chemical Examiner for analysis and check.

34. Storage of finished products :-

(i) Medicinal and toilet preparation shall on completion of production be stored in bulk in jars or bottles each containing not less than 2,273 ml.

(ii) Such preparations ready for issue may be filled in bottles or containers of not less than 57 ml. content: PROVIDED THAT the Excise Commissioner may by an order in writing specify that any such preparation may be filled in bottles or containers of smaller capacity.

(iii) Every container of a finished preparation shall bear a label showing the name of the preparation, its batch number, its alcoholic strength and the name of the manufacturer.

(iv) The label of each container of a preparation stored in bulk shall, in addition, indicate the actual contents in litres, its alcoholic strength and the date of storage.

(v) The containers shall be kept so arranged in suitable racks as to allow ready identification of each batch.

(vi) Any goods stored may be left in the store room for a period of three years or for such extended period as the Excise Commissioner may, in each case, allow. The owner of the bonded laboratory shall, before the expiry of the period of three years or the extended period, if any, clear the same for consumption in the State on payment of excise duty or for removal in bond to a bonded warehouse or for exportation.

35. Deficiency noticed in the finished store :-

(1) A record shall be kept of all deficiencies in bulk content of any finished medicinal or toilet preparation in store by the officer-in-charge in Form R. G.-4, and a report of all such deficiencies, shall be submitted by him at the end of each quarter to the Excise Commissioner.

(2) All such loss in the absence of a satisfactory explanation from the licensee shall be subject to levy of duty on the quantity so lost at penal rates which shall not be more than double the rates prescribed.

(3) If the Excise Commissioner is satisfied that the deficiency reported under sub-rule (1) was due to natural or unavoidable causes, and if he is satisfied that the alcoholic preparation has not gone into consumption, he may remit the duty.

36. Disposal of sub-standard preparations :-

(1) A finished medicinal or toilet preparation which is or is suspected to have deteriorated in quality may, if the manufacturer so desires, be destroyed with the permission of the Excise Commissioner in the presence of the officer-in-charge and relevant entries made in the register in Form R.G.-4.

(2) The Excise Commissioner may, on an application made to him by the manufacturer, allow him to re-process a sub-standard preparation.

(3) Excise duty shall not be levied on the preparation so destroyed provided the Excise Commissioner is satisfied that the deterioration of the preparation, or in the alternative its improper manufacture, was due to reasons beyond the control of the licensee.

37. Disposal of recovered alcohol :-

(1) Alcohol recovered in the course of production of a medicinal or toilet preparation or distilled separately from the mark of such preparation may be used for subsequent production of the same preparation provided such alcohol is collected separately and accounted for separately.

(2) In cases where the alcohol recovered from a preparation liable to duty at the lower rate is sought to be used in the manufacture of a preparation subject to higher rate of duty, the duty on the preparation so manufactured shall be collected or made leviable on determination of the spirit strength of the preparation.

(3) An account of recovered alcohol in a recovered alcohol vat shall be maintained by the officer-in-charge in Form R. G.-2.

(4) Recovered alcohol declared by the licensee to be unfit for use shall be destroyed by him in the presence of the officer-in-charge on submission of written application. No rebate of duty shall be allowed on recovered alcohol so destroyed.

38. Wastage in manufacture :-

(1) The State Government may, from time to time, fix the percentage of wastage in the production of a. particular medicinal or toilet preparation. Any wastage that exceeds the allowable limit and is not properly accounted for shall be charged with the duty together with such penalty not exceeding the duty leviable thereon as the Excise Commissioner may deem fit. If the alcohol in strength of a preparation is found by the Chemical Examiner to exceed the highest allowable limit by more than 3 proof degrees or to be below the lowest allowable limit, its issue from the bonded manufactory, shall be withheld.

(2) The licensee may be allowed to adjust the alcoholic strength or the medicaments or the ingredients of such a batch of preparation in a suitable manner with the previous approval of the Excise Commissioner provided the process employed does not impair the therapeutic or toilet properties of the preparation in any way.

(3) A sample of the preparation shall be sent to the Chemical Examiner for analysis after adjusting the spirit or medicaments or other ingredients, and issue of the adjusted batch of such preparation shall be allowed only when the Chemical Examiners report has been found to be satisfactory.

(4) When an excess of more than 20 proof degrees over the

strength declared by the licensee of any batch of preparation is round by the Chemical Examiner, the true strength, as ascertained by the Chemical Examiner, shall be entered in the batch account in Form R. G.-3., and the reason for this alteration shall be briefly noted in the remarks column, and the excess duty due from the licensee or any quantity issued from the batch on payment of such duty to the credit of the Central Government (in the case of Union territories) or the State Government prior to the receipt of the Chemical Examiners report, shall be realized by the officer-in-charge with the previous sanction of the Excise Commissioner.

(5) No refund or abatement of excess duty shall be allowed on any quantity of a batch of preparation issued on payment of such duty and prior to the receipt of the Chemical Examiners report, if the strength is found to be lower than that declared by the licensee.

39. Remission of duty in case of loss due to accident :-

In case of any accidental loss of alcohol in a bonded manufactory, otherwise than by theft, the officer-in-charge shall institute necessary enquiries without delay to ascertain the cause of such loss. If such loss is found to be beyond the control of the licensee the duty on the alcohol so lost shall be remitted with the approval of the Excise Commissioner or may Exercise Office subordinate to, the Excise Commissioner specially empowered by him in this behalf.

40. Issue from a bonded manufactory :-

(1) Issues of alcoholic preparations and preparations containing opium, Indian hemp or other narcotic drugs and narcotics shall be made from a bonded manufactory on payment of duty. The licensee shall present before the officer-in-charge an application in Form A. R.-2 signed by him or by his authorized representative. The officer-in-charge shall, after checking the entries and realizing the duty payable, allow the required quantities to be removed after issuing a permit: Provided that issues to another bonded warehouse shall be made without payment of duty under proper security governed by the rules in Chapters VII and VIII.

(2) If the licensee is also an account-holder as provided for in rule 9, duty leviable on alcohol preparations and preparations containing opium, Indian hemp or other narcotic drugs and narcotics to be issued from a bonded manufactory shall be debited in the account-current before the preparations are removed from the bonded

premises.

41. Licensee to maintain proper accounts, etc :-

(1) The licensee shall maintain accounts in proper forms and registers as prescribed in the Appendix to these rules.

(2) The licensee shall deliver to the officer-in-charge, by the 5th of each month, a return of transactions of business in respect of the preceding month in Form R.T.-1.

42. Size of establishment :-

It shall be open to the Excise Commissioner to determine the size of the supervisory staff in consultation with the licensee.

43. Accounts :-

The officer-in-charge shall maintain accounts in the prescribed form and shall take steps to ensure that the licensee also maintains accounts. Separate account shall be written up daily by the officer-in-charge and the licensee or by any person authorized by him and shall be compared and reconciled before the manufactory is closed at the end of the days transactions.

44. Collection of duty :-

The officer-in-charge shall be responsible for correct collection of duty and penalty, if any, at the prescribed rate before any medicinal or toilet preparation containing alcohol are allowed to be removed from the premises except in the case of exports or removal under bond or under such conditions as may be permitted by the Excise Commissioner.

45. Scope of duties :-

(1) The officer-in-charge shall exercise such supervision as is required to ensure that alcohol issued for a certain preparation added to the materials which go to make that preparation and that no portion of such alcohol is diverted to the other purposes.

(2) Agents, clerks, compounders and other person, who have been duly authorized in this behalf by the licensee, and approved by the officer-in-charge, may enter into and carry out their work in

connection with the manufacture during the working hours of the manufactory.

(3) Any person duly authorized in this behalf by the licensee may sign all applications and indents for the issue of rectified spirit or finished preparations.

(4) Excise Officer specially empowered in this behalf by the Excise Commissioner, shall inspect the manufactory in accordance with the instructions prescribed herein and shall submit the notes of their inspection to the officer specified by the Excise Commissioner. They shall also be responsible for the correct maintenance of accounts and collection of duty by the office-in-charge.

46. Opening and closing hours :-

The work of manufacture and sale in the non-bonded manufactory shall be conducted between the hours of sunrise and sunset and on such days and hours as may be fixed by the Excise Commissioner. The premises shall remain closed from the hours of sunset to sunrise each day.

47. Building arrangements :-

Arrangement of the building shall be as under:

(i) The portion of the non-bonded manufactory used as "laboratory" shall be separated from that used for other purpose.

(ii) The windows of the "spirit store", "laboratory" and "finished store" shall be fitted with malleable iron bars not less than 19 mm. in thickness, set not more than 102 mm. apart and fixed in the brick-work to a depth of at least 51 mm. at each end. On the inside of each window there shall be securely fastened to the bars stout wire-netting the aperture of which shall not exceed 25 mm. in diameter.

(iii) There shall be only one entrance to the non-bonded manufactory and one door each to the "laboratory", "spirit", "store", and "finished store".

(iv) All pipes from sinks and wash-basins inside the manufactory premises shall discharge into closed drains forming part of the general drainage system of the premises.

(v) All electric and gas connections with the licensed premises shall be so fixed as to admit of the supply of electricity or gas being cut off and the regulators or switches being securely locked out at the end of days work.

(iv) There shall be separate "spirit store" for the rectified spirit ¹

[purchased at the duty of Rs. 10 and Rs. 20 and Rs. 80 per litre.]

(vii) There shall be separate finished stores for medicinal and toilet preparations falling under each item of the Schedule to the Act.

(viii) All alterations in arrangement of building and plants shall be made only with the previous sanction of the Excise Commissioner.

(ix) The State Government may relax all or any of the provisions of Cls. (i) to (viii) in the case of small manufacturers whose annual consumption of alcohol does not exceed 500 litres and also in the case of those who prepare medicinal preparation for dispensing to their patients only and not for sale.

1. Subs, for words and figures "purchased at the duty of Rs. 6.60 and Rs. 13.20 and Rs. 52.80 per litre" by Notif. No. 1 /89-Opium, dated 1st March 1989.

48. Receptacles :-

(i) The permanent vessels for the storage of alcohol and finished preparations containing alcohol in the non-bonded manufactory shall be gauged accurately and tables shall be computed to show the contents of every 20 mm. and 2 mm. of its depth.

(ii) The receptacles for the storage of finished preparations in the finished store shall be of metal, porcelain or glass as may be convenient and necessary.

(iii) Each permanent vessel shall bear a distinctive serial number, its full capacity, and the purpose for which it is to be used, distinctly and indelibly marked on it. A record of these details shall be kept in the register in the Form R. G.-1

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(iv) All receptacles containing alcohol, tinctures, liquid extracts or other alcoholic medicinal or toilet preparations, in the laboratory shall have affixed to them labels signed by the manufacturer or his authorized representative showing the batch number, the name of the preparations and the quantity of alcohol added in the receptacles during the course of manufacture.

(v) Labels placed on macerators and percolators or carboys shall show the quantity of proof-spirit contained in them on each occasion and shall be destroyed when they are emptied and cleaned.

(vi) Labels on bottles filled for removal shall show among other details, which the manufacturer may require, the alcoholic contents in proof-strength and the average percentage of absolute alcohol it

contains.

49. Indent for rectified spirit-duty paid :-

(1) Rectified spirit required for manufacturing medicinal and toilet preparations shall be obtained on an indent prepared in triplicate, Form I.D.-1, from any distillery or spirit warehouse approved by the Excise Commissioner, the original being sent by the licensee of the manufactory to the distiller or spirit warehouse- keeper, the duplicate to the officer-in-charge of the distillery or spirit warehouse through the proper officer and the triplicate retained by the licensee as office copy. The cost of such rectified spirit shall be paid by the licensee of the manufactory to the distiller or spirit warehouse-keeper. The licensee shall credit the duty payable on the spirit indented for into a Government treasury of the collecting Government and enclose the chalan in token of such payment, to the duplicate copy of the indent. The treasury officer shall send an advice of such payment to the officer-in-charge of the distillery or spirit warehouse. The officer-in-charge of the distillery or spirit warehouse, after satisfying himself that the correct amount of duty has been paid, as evidenced by the chalan enclosed by the licensee and the advice of such payment received, from the treasury officer, shall order the issue of rectified spirit required. The rectified spirit shall be brought from the distillery or spirit warehouse to the manufactory covered by a permit issued by the officer-in-charge of the distillery or spirit warehouse. All such permits shall be filed along with respective indents. The rectified spirit so brought into the non-bonded manufactory shall be immediately transferred to the spirit store and the necessary accounts written up then and there in the register in Form R. G-2. Accounts of all transactions in respect of rectified spirit ¹ [purchased] paying the duty of Rs. 10 and Rs.20 and Rs. 80 per litre] shall be maintained separately.

(2) Where the manufactory as well as the warehouse from which rectified spirit is to be obtained are located within the same State, the licensee may authorize the owner of the distillery or warehouse to pay the duty on his behalf before the issue of rectified spirit. On such authorization the owner of the distillery or warehouse shall pay the amount of duty into a Government treasury to the credit of the collecting Government or in such manner as may be prescribed by the Excise Commissioner.

1. Subs, for words and figures "purchased paying the duty of Rs. 6.60 and Rs. 13.20 and Rs. 52.80 per litre "by Notif. No. 1/89

opium, dated 1st March, 1989 (w.e.f 1st March, 1989.).

50. Indent for opium, Indian hemp and other narcotic drugs and narcotics, their storage and issue for manufacture :-

Indent for opium shall be made to the nearest sub-treasury or to the Government Opium Factory, Ghazipur, or to the warehouse or place of storage approved by the State Government in Form I.D-1. The supply of Indian hemp, narcotic drugs and other narcotics shall be indented for from the nearest Government warehouse or place of storage approved by the State Government in the same form. The supply of opium, Indian hemp and other narcotic drugs and narcotics shall be made under permit as prescribed in rule 49. On their receipt in the non-bonded manufactory they shall be verified and accounted for in the register in Form R.G-2. Opium, Indian hemp and other narcotic drugs and narcotics obtained by the licensee free of duty shall be stored separately in the spirit store. Every time opium, Indian hemp other narcotic drugs and narcotics are issued from the spirit store of the laboratory, such issues shall be accounted for in the register in Form R.G-2.

51. Restrictions on manufacture :-

(1) The manufacturer shall not sell or transfer the rectified spirit obtained by him to any other person.

(2) Medicinal preparations, containing alcohol, which are capable of being consumed as ordinary alcoholic beverages falling under item No. 1 (ii) (C) for of the Schedule to the Act shall not be manufactured from rectified spirit on which only the duty of ¹[Rs.10] per London Proof Litre has been paid and such preparations shall be manufactured only from rectified spirit on which a duty of ²[Rs. 20] per London Proof Litre has been paid and the rectified spirit obtained after payment of the aforesaid duty of Rs. 3.85 paise shall be accounted for separately.

(2-A) Medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages falling under either item No. 1 (ii) (b) or item No. 2 (iii) of the Schedule to the Act shall not be manufactured from rectified spirit on which only the duty of ³[Rs. 10] or ⁴[Rs. 20] per London Proof Litre has been paid and such preparations shall be manufactured only from rectified spirit on which duty of [Rs. 80] paise per London Proof Litre has been, paid and the rectified spirit obtained after payment

of the aforesaid duty of ⁵ [Rs. 80] shall be accounted for separately.

(3) In no case shall the quantity of rectified spirit in the possession of the manufacturer exceed the limit fixed by the licensing authority.

1. Subs, for words and figures "Rs. 6.60" by Notif. No. 1/89 opium, dated 1st March, 1989 (w.e.f. 1st March, 1989).

2. Subs, for words and figures "Rs 13.20" by ibid.

3. Subs, for word and figures "Rs. 6.60" by Notif. No. 1/89 opium, dated 1st March, 1989 (w.e.f. 1st March, 1989).

4. Subs, for words and figures "Rs. 13.20" by ibid.

5. Subs, for words and figures "Rs. 52.80" by ibid.

52. Manufacture, storage and sale to be carried on only in the licensed premises of the non-bonded manufactory :-

(1) The manufacture and storage of all preparations shall be carried on in the licensed premises only.

(2) Each preparation manufactured shall be registered and shall bear a distinctive serial number, which shall be known as its batch number in the register in Form R.G.-3. This register shall also show the receipt and disposal of all rectified spirit, opium, Indian hemp and other narcotic drugs and narcotics drawn from the spirit store and the quantity of finished preparation manufactured therefrom.

(3) All finished preparations shall be transferred from the "laboratory" to the "finished store" and shall be so arranged that the checking of stock of every batch of preparation from the accounts register in Form R.G.- 4 is facilitated.

(4) Finished preparations made from rectified spirit obtained at different rates of duty shall be kept separately in the finished store.

(5) Every preparation stored in bulk shall be measured into the storage vessel to the nearest fluid ounce by the manufacturer and sealed.

(6) When any of the contents of a vessel, in which the preparations are stored in bulk are removed, the manufacturer shall enter on the stock card attached thereto the quantity taken out and the manner of disposal with his signature and date.

53. Samples to be taken by the Excise Officer at least once

a month for analysis :-

(i) The Excise Officer, in whose jurisdiction the manufactory is situated, shall, without previous notice to the manufacturer, take samples of not less than 13 per cent and not more than 15 per cent (save in exceptional circumstances) of the total number of the medicinal and toilet preparations containing alcohol from the finished stocks at least once every month and forward them to the Chemical Examiner for analysis and report whether the alcoholic contents thereof tally with the percentage of alcohol shown on the labels affixed to the bottles.

(ii) If the proof strength reported by the Chemical Examiner is more than 3 per cent proof spirit than the strength declared by the manufacturer on the labels pasted on such bottles, the manufacturer is liable to a penalty at the rate of 10 times the difference in duty in the quantity so manufactured but not exceeding Rs. 2,000.

(iii) If such differences are found to occur frequently, the Excise Commissioner may order the cancellation of the licence held by the manufacturer.

(iv) Samples of finished products may also be taken at any time by the Excise Commissioner, and such other Excise Officer authorized by the Excise Commissioner in this behalf.

(v) All such samples shall be taken by the officer personally and in the presence of the manufacturer or his authorized agent.

54. Procedure to be followed in taking samples :-

(i) A sample shall be of 227 ml. or such quantity as may be fixed by the Excise Commissioner.

(ii) Every sample shall be taken in duplicate.

(iii) The cork of every bottle in which sample is kept shall be fixed with the officers personal seal or the official seal and the name of the preparations and batch number shall be stated on label axed to each such bottle.

(iv) The label of the bottle shall be signed by the officer taking the sample.

(v) The manufacturer, if he so desires, shall be allowed to affix his own seal and sign the labels.

(vi) The duplicate samples shall be kept securely under lock and

key in an almirah (to be provided by the manufacturer) until the result of the analysis has been reported, save in the case in which the Chemical Examiner has asked for another sample either to replace the previous sample despatched to him or to repeat the analysis. Duplicate samples, to which no further reference is needed, shall be promptly returned to the manufacturer.

(vii) The samples to be sent for examination shall be carefully placed in a case and securely fastened with tape or wire to be supplied by the manufacturer and shall be sealed by the officer taking the samples, with the personal seal or the official seal, and despatched without delay, at the expense of the manufacturer, to the Chemical Examiner.

(viii) A letter advising the despatch of the sample shall be sent to the Chemical Examiner in duplicate. The letter shall contain besides other information a facsimile of the seal used. The Chemical Examiner shall acknowledge the receipt of the sample in the duplicate copy to the despatching officer.

55. No compensation to manufacturer of samples taken for analysis :-

The manufacturer shall not be entitled to any compensation for the samples taken for the purpose of analysis under these rules.

56. Correct and up-to-date accounts in prescribed printed registers to be maintained :-

(i) The manufacturer shall maintain up-to-date, correct and proper accounts in the relevant register and deliver to the proper officer, by the 5th of each month, a monthly return of transactions of business.

(ii) The manufacturer shall also furnish such statements as may be required by the Excise Commissioner or by any officer empowered by him in this behalf.

(iii) All the account registers shall be obtained by the manufacturer at his cost from the respective Taluq office or Excise Office or such other office authorized to sell such registers.

57. Employees :-

(i) The manufacturer shall furnish to the Excise Commissioner and

the proper officer a list containing the names of the manager or assistant manager employed by him and of all other employees whose duties require them to another non-bonded manufactory.

(ii) He shall promptly inform the Excise Commissioner and the proper officer of any changes which he may choose to make in the list from time to time.

(iii) No person other than the person whose name is contained in the list shall enter the manufactory without the special permission of the proper officer.

58. Inspection :-

(1) The non-bonded manufactory shall at all reasonable times be open to inspection by the Excise Commissioner and other Excise Officer having jurisdiction over the area in which the manufactory is situated.

(2) The proper officer shall inspect the non-bonded manufactory at least once every month.

(3) The State Government may authorize any officer of the prohibition, land revenue, medical and public health department to inspect the non-bonded manufactory.

59. Allopathic preparations :-

¹ Allopathic preparations are medicinal preparations made according to the modern system of medicines and all under either of the following two categories, namely:

(a) Official allopathic preparations that is to say, those preparations which are made in accordance with the formulae given in the latest editions of the following pharmacopoeias and official compendia of drugs standards of formularies, namely:-

(i) Indian Pharmacopoeia;

(ii) official pharmacopoeia of any other country to which the drug claims to comply;

(iii) in the case of the preparations for which the formulae are not included in the latest edition of the official pharmacopoeia of any country, such preparations as may be included in the latest editions of the official compendia of drug standards or formularies, namely, the British Pharmaceutical Codex or the National Formulary of the United States, the British Veterinary Codex, the National Formulary of Indian, the Dental Formulary of U.S.A. to which the preparation claims to comply:

Provided that where the formularies are not specified either in the latest edition of the Indian Pharmacopoeia or the official pharmacopoeia of any country or the official compendia of drug standards of the formularies specified above, but are specified in the edition immediately preceding the latest edition of the said pharmacopoeia or official compendia, as the case may be, the preparations made in accordance with

(b) non-official allopathic preparations (that is to say, preparations other than the official allopathic preparations) made according to the modern system of medicine and conforming to the formulae displayed on the label.]

1. Subs, by G.S.R. 1030, dated 7th November. 1986 (w.e.f. 29th November, 1986).

60. Maintenance of restricted list of preparations :-

(1) A list of medicinal preparations which are considered as capable of being misused as ordinary alcoholic beverage, hereinafter referred to as restricted preparations, is given in the Schedule. All other medicinal preparations being manufactured from a date prior to 1st April, 1957, shall be considered to be not capable of being misused as ordinary alcohol beverages (hereinafter referred to as unrestricted preparations).

(2) If, however, a preparation falling in the unrestricted category is found to be widely used as ordinary alcoholic beverage, Central Government may, on the request of a State Government or suo motu, refer the matter to the Standing Committee referred to in rule 68. The Central Government shall, if so advised by the said Committee, declare the preparation as a restricted preparation and the item or sub-item or both in the Schedule to the Act under which the preparation falls, and thereupon include the said preparation in the Schedule.

(3) Medicinal preparation other than official allopathic preparations which are manufactured in India for first time on and subsequent to 1st April, 1957, shall be presumed to be restricted preparations unless declared to the contrary by Central Government on the advice of the Standing Committee. Any manufacturer, intending to produce a new alcohol preparation other than an official allopathic preparation, shall submit two samples of such preparation with the receipt to the State Government. The State Government shall

forward such request with receipt to the Central Government for a decision. The Central Government shall refer the matter to the Standing Committee and in accordance with the advice tendered by it declare the category in which the preparation should be placed and the item or sub-item or both in the Schedule to the Act under which the preparation falls. The decision of the Central Government shall be communicated to all State Governments. In case the preparation is declared to be a restricted preparation it shall be included in the Schedule of restricted preparations and if the preparation is declared to be an unrestricted preparation it shall be included in the schedule on unrestricted preparations. The advice of the Standing Committee shall be communicated within a reasonable time and in no case later than six months from the date of submission of sample to the Committee.

61. Mode of manufacture :-

American, British and general pharmacopoeias that are in vogue at present in the various States, shall be recognized as standard pharmacopoeia or for homoeopathic preparation for the purpose of these rules until such time as the Central Government evolves its own pharmacopoeia.

62. . :-

[x \ \x \x \x \x]

63. Preparations containing opium, Indian hemp and other narcotic drugs and narcotics :-

The rules in respect of alcoholic medicinal and toilet preparations shall, as far as may be. apply to preparations containing opium, Indian hemp, and other narcotic drugs and narcotics.

64. Types of preparations :-

Asavas and Aristas are the principal types of Ayurvedic preparations in which alcoholic contents is self-generated and not added to such.

65. Pharmacopoeia for Ayurvedic preparations :-

Until a standard Ayurvedic pharmacopoeia has been evolved by the Central Government, the pharmacopoeias that are in the various States shall be recognized as standard Ayurvedic pharmacopoeias.

66. Classification of preparation containing self-generated alcohol for purposes of levy of duty :-

No duty shall be levied on Ayurvedic preparations containing self-generated alcohol in which the alcoholic content does not exceed 2 per cent proof spirit. Where the percentage of proof spirit is in excess of 2 per cent duty will be leviable under item 2 (ii) or 2 (i) of the Schedule to the Act according as the preparations are capable of being consumed as ordinary alcoholic beverage or not:

Provided that Ayurvedic practitioner registered under any law for the time being in force in any State where there is no such registration of Ayurvedic practitioners, such practitioners, as are proved to satisfaction of the Excise Commissioner to be of good standing, shall be allowed to manufacture and dispense Ayurvedic preparations, excepting those prepared by distillation or by addition of alcohol as such during the process of manufacture or to the finished product, free of duty subject to the following conditions:

- (a) Practitioners shall take out licence on payment of fee of Re. 1 in the manner hereinafter stated;
- (b) such preparations shall be used only for the patients of the practitioners and shall not be for sale to the general public;
- (c) the practitioner shall allow drawing of samples by Excise Officer to ensure that the preparations contain only self-generated alcohol; and
- (d) daily account shall be maintained of all the preparations manufactured and dispensed giving particulars of names and addresses of the patients of the practitioners.

67. Levy of duty on Ayurvedic preparations made by distillation or to which alcohol is added at any stage of manufacture :-

For purpose of duty Ayurvedic preparations, made by distillation or to which alcohol is added at any stage of manufacture, shall be treated as alcoholic preparations capable of being used as ordinary alcoholic beverages.

67A. . :-

[*****]

68. Standing Committee and its functions :-

(1) ¹[The Standing Committee referred to in rule 60 shall consist of the following as its members:]

(i) The Drugs Controller of the Government of India;

(ii) the Chief Chemist, Central Revenues Control Laboratory;

(iii) one pharmacologist to be nominated by the Central Government;

(iv) the Adviser in Indigenous systems of Medicine, Ministry of Health, Family Planning and Urban Development:

²[Provided that the Drugs Controller, the Chief Chemist or the Adviser may, for reasons to be recorded by him in writing, depute the Deputy Drugs Controller, [Deputy Chief Chemist] the Deputy Adviser in Indigenous System of Medicines, as the case may be, to attend any meeting of the Committee on his behalf.] The Committee shall advise the Central Government on all matters connected with the technical aspects of the administration of the Act and their rules and, in particular, on the question whether

(i) a particular preparation is entitled to be treated, or to continue to be treated, as a genuine medicinal or toilet preparation for the purposes of the Act;

(ii) and if so, whether it should be treated, or continue to be treated, as a restricted or an unrestricted preparation.

(2) The Committee may tender such advice, on the motion of the Central Government and may make such investigation as it or the Central Government considers necessary, and the Central Government may take, on such advice, such decision as that Government thinks fit.

(3) For the purpose of such investigation, four samples of 227 ml. each or such other quantity of the preparation as may be considered necessary shall be taken.

(4) ³ The Standing Committee shall before declaring under sub-rule (2) of rule 60 a preparation as a restricted preparation, grant, if the person concerned so desires, on opportunity of being heard in the matter.

(5) Where a member of the Standing Committee is unable for any reason to, attend the meeting of that committee, he may nominate an officer subordinate to him attend the meeting on his behalf.]

1. Subs, by G.S.R. 604, dated the 27th April, 1978.

2. Ins. by G.S.R. 530 (E), dated the 5th September, 1979.

3. Ins. by G.S.R. 604, dated the 27th April, 1978.

CHAPTER 5 Warehousing

69. Establishment of bonded warehouses :-

The manufacturers or dealers in dutiable goods may establish bonded warehouses anywhere in India. No duty paid goods and no goods other than dutiable goods shall be deposited in such bonded warehouses.

70. Licensing of warehouses :-

The Excise Commissioner shall license a private warehouse for the storage of dutiable goods on which duty has not been paid and may direct in what manner and on what terms such goods shall be stored and how and in what manner such warehouse shall be secured by locks or fastenings.

71. Licensee to enter into a bond :-

The Excise Commissioner shall require the licensee to furnish a bond in Form B-2 with such surety or sufficient security, in such amount and under such conditions, as the Excise Commissioner approves binding the licensee to pay duty on the goods deposited therein and for the due and safe removal of such goods to another warehouse and for the due observance of the terms, conditions and requirements of the Act, these rules and any other rule made hereunder in respect of the same:

Provided that on the revocation of any licence by the Excise Commissioner all such goods warehoused therein shall be removed as the Excise Commissioner directs and no abatement of duty or allowance shall be made in respect of any such goods for deficiency of quantity, strength or quality after due notice of such revocation has been given to the licensee:

Provided further that in the event of death, insolvency or insufficiency of the surety, the Excise Commissioner may, in his discretion, demand a fresh bond; and may, if the bond is with security, demand at any time he considers it fit to do so, additional security.

72. Receipt of goods at warehouse :-

All goods brought for warehousing shall be produced to the officer-in-charge of the warehouse, if any, or the proper officer, together with the relative transport and shall be weighed, gauged and

proved, wherever necessary, in his presence and assessed to duty prior to entry into the warehouse and the quantity and description of the goods, the marks and numbers of the packages, the number and date of the permit and the amount of duty leviable thereon shall be noted in the warehouse register in Form R. G-5. All goods received into the warehouse shall be kept separate from other goods until the receipt account has been taken by the officer-in-charge or the proper officer, as the case may be.

73. Owners power to deal with warehoused goods :-

With the sanction of the officer-in-charge or the proper officer, as the case may be, and in accordance with such instructions as the Excise Commissioner may, from time to time, issue in writing in this behalf, any owner of goods lodged in a warehouse may sort, separate, pack and re-pack the goods and make such alterations therein as may be necessary for the preservation, sale or disposal thereof. After the goods have been so separated and repacked in such manner as may be ordered by the Excise Commissioner, the officer-in-charge or the proper officer, as the case may be, may, at the owners request, cause or permit any damaged goods remaining after such repacking to be destroyed subject to such limitations as the Excise Commissioner may, from time to time, impose and may remit the duty assessed thereon.

74. Goods not to be taken out of warehouse except as provided by these rules :-

No goods shall be removed from any warehouse except on payment of duty or for removal to any other warehouse or for export and on presentation of a written application prescribed in rule 81 or rule 98, as the case may be.

75. Periods for which goods may remain in warehouse under bond :-

Any goods warehoused may be left in the warehouse in which they are deposited for a period of three years or such extended period as the Excise Commissioner in each case allow. The owner of any such goods remaining in the warehouse shall, before the expiry of the period mentioned above, clear the same for consumption in the State after payment of duty or for removal in bond to another bonded warehouse or for exportation.

76. Mode for calculating quantity of goods warehoused :-

The quantity of goods contained in any package warehoused may be calculated by weight, measure, gauge, proof strength, or in such other manner as the Excise Commissioner may direct.

77. Power to remit duty on warehoused goods lost or destroyed :-

If any goods lodged in a warehouse are lost or destroyed by unavoidable accident, the Excise Commissioner may remit the duty thereon:

Provided that if any goods are so lost or destroyed, notice thereof shall be given to the officer-in-charge of the warehouse or the proper officer immediately on discovery of such loss or destruction.

78. Responsibility of the licensee of the warehouse :-

The licensee of the warehouse in respect of goods lodged therein, shall be responsible for their due reception therein and delivery therefrom and for their safe custody while deposited therein, according to the quantity or weight reported by the officer who has assessed the goods.

79. Offences with respect to warehousing :-

If the owner of goods warehoused, by himself or by any person in his employ, or by any other person with his connivance commits any of the following offences, namely:

(a) opens any of the locks or doors of the warehouse, which is required by these rules, or by any general or special order of the Excise Commissioner, to be locked or makes or obtains access into such a warehouse except in the presence of an officer acting in his duty as such; or

(b) after the approval of a warehouse, makes any alteration therein or addition thereto without the previous consent of the Excise Commissioner; or

(c) warehouses goods in, or removes goods from, a warehouse otherwise than as provided by these rules; or

(d) privately removes or conceals any goods either before or after they are warehoused; he shall be liable to a penalty which may extend to two thousand rupees, and all goods warehoused, removed, or concealed in contravention of this rule shall be liable to

confiscation.

80. Monthly returns :-

Within seven days after the close of each month, every licensee shall submit to the Excise Commissioner a monthly return showing the quantity of dutiable goods received, the quantity transferred to another warehouse under bond, the quantity removed on payment of duty and such other particulars as the State Government may by general or special order require.

81. Clearance on payment of duty :-

When the licensee desires to remove goods on payment of duty, he shall make an application in Form A.R.-2, in triplicate, to the officer-in-charge or the proper officer, as the case may be, at least twelve hours before he is intended to remove the goods. The officer shall, thereupon, assess the amount of duty leviable on the goods and on production of evidence that the sum has been paid into a treasury or the sum has been debited to the account-current, as the case may be, shall allow the goods to be cleared.

CHAPTER 6 Licensing

82. Procedure for obtaining licence :-

(1) Every person desiring to engage in operations requiring the possession of a licence shall apply in writing every year for a licence or for renewal thereof to the licensing authority who shall be

(i) the Excise Commissioner in the case of a bonded manufactory or warehouse;

(ii) in other cases such officer as the State Government may authorize in this behalf.

(2) If any person desires to have more than one kind of licence he shall submit a separate application for every such licence.

(3) Where the applicant has more than one place of business he shall obtain a separate licence in respect of each such place of business.

83. Form of application :-

(1) Every application for a licence under these rules shall be in such

one of the proper forms of application as may be appropriate to the case, shall clearly describe the premises, if any, in which the applicant intends to conduct his business, and shall be submitted so as to reach the licensing authority at least two months before the proposed date of commencement of the working of the licence. In case of renewal such application shall be submitted at least one month before the commencement of the year for which it is required.

(2) Every such application for grant or renewal of licence shall, where a fee is prescribed in the sub-joined table, be accompanied by a treasury challan showing payment of such fee: Provided that where an application for the renewal of licence is not made within the period prescribed by sub-rule (1), it shall be accompanied by an additional fee, payable in the same manner, equivalent to twenty-five per cent such fee or rupee one, whichever is higher.

84. Grant of a licence :-

(1) On receipt of the application, the licensing authority may make such inquiries for verification of the details stated in the application and also such other inquiries as it deems necessary. If the authority is satisfied that the conditions for the grant of the licence applied for have been complied with, it shall grant the applicant an appropriate licence.

(2) In fixing the quantity of alcohol while issuing the license under sub-rule (1) to any manufacturer, licensing authority shall satisfy itself about the requirements of alcohol of that manufacturer and if that authority is of the opinion, that the quantity of alcohol asked for is not in conformity with the bona fide needs of the manufacturer, it shall either reduce or refix the quantity of alcohol as it may deem fit.

85. Form of licence Limitations :-

(1) Every licence granted or renewed under these rules shall be in such one of the proper forms of licence as may be appropriate, shall have reference only to the premises, if any, described in the licence, and shall be for a period not exceeding one year but in no case shall such period extend beyond 31st March next following the date of commencement of the licence.

(2) Every licence shall be deemed to have been granted or renewed

personally to the licensee and no licence shall be sold or transferred.

(3) Where a licensee sells or transfers his business to another person, the purchaser or the transferee shall obtain a fresh licence under these rules but it shall be granted free of fee for the residue of the period covered by the original licence.

(4) If the holder of a licence wishes to enter into partnership in regard to the business covered by the licence he shall do so after obtaining the previous sanction of the licensing authority and his licence shall thereafter be suitably amended. Where a partnership is entered into, the partner as well as the original holder of the licence shall be bound by the conditions of that licence.

(5) If a partnership is dissolved, every person who was a partner immediately before such dissolution shall send a report of the dissolution to the licensing authority within ten days thereof.

(6) If during the currency of a licence the licensee desires to transfer his business to new premises he shall intimate his intention to the licensing authority at least fifteen days in advance, specifying the address of the new premises, and get his licence suitably amended. The licence shall, thereupon, hold good in respect of the new premises.

86. Alteration or substitution of licence :-

The licensing authority may, at any time, call for any licence and may amend or alter it or may tender to the licensee a new licence in accordance with any further conditions which may be prescribed. No correction in the licence shall be valid unless ordered and attested by the licensing authority.

87. Revocation and suspension of licence :-

(1) Any licence granted under these rules may be revoked or suspended by the licensing authority if the holder, or any person in his employ, is found to have committed a breach of the conditions thereof or of any of the provisions of the Act or these rules or has been convicted of an offence under Sec. 161, read with Sec. 139 or with Sec. 116 of the Indian Penal Code (45 of 1860):

Provided that such revocation or suspension shall be made until the holder of the licence has been given a reasonable opportunity of showing cause against the action proposed to be taken.

(2) Every such order shall be in writing and shall specify the

reasons for the suspension or revocation and shall be communicated to the licensee.

(3) Where a licence is revoked or suspended under this rule the holder of the licence shall not be entitled to claim from the Central or State Government any compensation or refund of licence-fee for such cancellation or suspension.

88. Refund of licence-fee :-

(1) If the licence applied for is refused, the licence-fee paid, if any, with the application shall be refunded.

(2) If the applicant surrenders his licence at any time either before the commencement of the licence or during the currency of the licence, he shall forfeit any claim for refund of such licence-fee in full or in proportion to the period not availed of.

89. Licence to be exhibited :-

Every licensee shall exhibit his licence (or a copy thereof, certified by the proper officer) in a conspicuous part of the licensed premises.

90. Regulation of business of licensee :-

(1) The licensee shall conduct his business under the licence either personally or by an agent authorized in writing by him in this behalf.

(2) The licensed premises and all the goods licensed to be dealt with shall at all times be opened to inspection by the Excise Commissioner and any other officer empowered by him in this behalf subject to the provisions of rule 58.

(3) The licensee shall, when so required by the Excise Commissioner or by an officer empowered by him in this behalf, give an explanation in writing regarding any irregularity detected at his licensed premises and shall furnish any information regarding the management of the said premises. He shall answer all questions put to him to the best of his knowledge and belief. He shall also, if so required, allow any officer duly empowered by the Excise Commissioner to take samples of any of the goods he is licensed to deal in for analysis.

(4) The licensee shall provide a visit-book paged and stamped by

any officer empowered by the Excise Commissioner in this behalf, in which the visiting officer may record in remarks when inspecting the licensed premises. The licensee shall, on the termination of the period of the licence, deliver the visit-book, the accounts and the licence to such officer as directed by the licensing authority.

(5) The licensee shall preserve invoices, each memoranda, permits and other documents relating to the consignments received and dealt with by him for a period of one year after the year to which they relate.

91. Additional rules specially applicable for applying for a licence to manufacture medicinal and toilet preparations in a bonded/non-bonded manufactory :-

In addition to the particulars required in rule 83, a person desiring to obtain a licence to establish a bonded or non-bonded manufactory shall in his application for licence furnish the following particulars:

(i) the name or names, and the address or addresses of the person or persons applying; if the applicant is a firm, the name and address of every partner of the firm; and if a company, the registered name and address thereof, the names of the Directors, Managers and Managing Agents, and if there is a Managing Director, the name of such Director;

(ii) the amount of capital proposed to be invested in the venture;

(iii) the name of the place, and the site on which the building or buildings housing the bonded or non-bonded manufactory is/are situated or to be constructed;

(iv) the approximate date from which the applicant desires to commence working the manufactory in case the required licence is granted;

(v) the number and full description of the vats, stills and other permanent apparatus and machinery which the applicant wishes to set up or work.

(vi)¹the maximum quantities in London-proof litres of alcohol and alcoholic content in unfinished and finished preparations and the maximum quantities by weight of opium, Indian hemp or other narcotic drugs and their content in unfinished and finished preparations, which are likely to remain in the manufactory at one time;

(vii) whether the proposed bonded manufactory will require the service of a whole-time or part-time Excise Officer;

(viii) the kind and number of each licence under the [Drugs and Cosmetics Act, 1940 (23 of 1940)] held by the applicant; and
(ix)¹ a list of all preparations which the licensee proposes to manufacture in his manufactory showing the percentage or proportion of alcohol in terms of London-proof litres contained in each such preparation containing alcohol, or of opium, Indian hemp or other narcotic drug or a narcotic, in terms of weight in preparations containing those substances, quoting the authority (pharmacopoeia) under which such preparations are proposed to be manufactured.

1. Subs. by G.S.R. 941, dated 24th July, 1975.

92. Plan of the manufactory to accompany the application :-

The applicant shall enclose with the application site and elevation plans of the rooms therein with doors and windows and also similar plans of the quarters in the case of a bonded manufactory, if the licensee is required to provide quarters for the excise staff to be posted to the bonded manufactory: Provided that the State Government may relax the provisions of this rule in the case of hakims and vaidyas who prepare medical preparations for dispensing to their patients only and not for sale.

93. In case of a firm certain particulars to accompany the application :-

In the case of a firm of a true copy of the partnership deed and if a company, a list of the Directors and Managers, as certified by the Registrar of Joint Stock Companies, together with copies of Memorandum of Association, Articles of Association and the latest balance-sheet shall be submitted with the application.

94. The applicant to be in possession of the requisite licence under the Drugs and Cosmetics Act, 1940 :-

No licence for the manufacture of medicinal and toilet preparations or renewal of such licence shall be granted to an applicant unless he holds the requisite licence under that Act for the manufacture of the said medicinal preparations.

95. Disposal of application for licence to manufacture medicinal and toilet preparations in a bonded/non-bonded

manufactory by the licensing authority :-

(1) On receipt of an application, licensing authority shall cause such enquiries to be made as it may deem necessary including enquiries into the following:

- (i) the qualifications and previous experience of technical personnel engaged in the manufacturing operation;
- (ii) the equipment of the bonded and non-bonded manufactory;
- (iii) soundness of the applicants financial position; and
- (iv) suitability of the proposed building for the establishment of manufactory.

(2) If the licensing authority is satisfied that the applicant is a fit party whom a licence for the manufacture of medicinal and toilet preparations in a bonded or non-bonded manufactory may be granted, it shall issue a licence, approve the plans submitted. If they are in order, and direct the applicant to contract or establish, as the case may be, and equip the manufactory as per approved plans. The applicant shall modify the plans in such manner as the licensing authority may direct at any time before or after the approval of the plans. After the completion of construction and equipment of the manufactory the licensing authority shall cause a verification of the plans; the applicant then shall submit blue prints of the plans, in triplicate, for approval of the licensing authority. One copy of the same shall be retained in the office of the licensing authority, one shall be sent to the officer-in-charge or the local Excise Officer as the case may be, for record in his office and one shall be with the licensee.

96. Security :-

Before granting the licence the licensing authority shall in cases where security is required to be furnished by or under these Rules, fix the amount of such security. This security shall be furnished either in cash or in interest-bearing securities viz. Government Promissory Notes, National Savings Certificate, Post Office Savings Bank Pass-Books or Post Office Cash Certificate or in Fixed Deposit Receipts of the State Bank of India, or any other Bank duly approved by the State Government. This security is liable to be increased or decreased by the licensing authority at any time, should it consider, for any reason, that the amount so fixed is inadequate, excessive or unsuitable.

CHAPTER 7 Export under claim for Rebate of Duty or under Bond

97. Method of export :-

Duty-paid goods shall be exported under claim for rebate of duty. Goods under bond for payment of duty shall be sent to the place of export under bond for their due export.

98. Application to be submitted :-

The exporter shall present to the officer-in-charge or the proper officer, as the case may be, an application in triplicate in Form A.R.-3 if the goods are to be exported by land and in Form A. R.-4 if the goods are to be exported by sea or air or by parcel post. The officer-in-charge or the proper officer shall send the original to the customs officer or the border examiner or the postmaster, as the case may be, at the place of export, deliver the duplicate to the consignor and retain the triplicate as office copy. A separate application shall be submitted in respect of each consignment.

99. Examination of goods prior to despatch :-

(1) Goods under bond. When goods from a bonded manufactory or warehouse are to be exported, the cases or packages, in which such goods are packed, shall be legibly marked in ink or oil colour (or in such other durable manner as the Excise Commissioner may in any particular case allow), with a progressive number commencing with No. 1 for each year, with the owners name and special mark, if any, the total quantity of dutiable goods with their alcoholic contents in London-proof litres.

(2) Duty paid goods. The owner of a non-bonded manufactory or a wholesale dealer, who wants to export duty paid goods shall give 48 hours notice to the proper officer, for supervising packing of the goods to be exported. The manufacturer or wholesale dealer shall present the entire consignment to be exported to the proper officer. The said officer shall take samples from each kind of dutiable goods to be exported and shall allow the despatch of the goods subject to fulfilling further conditions laid down in sub-rule

(3). Thereafter he shall send the samples to the Chemical Examiner for analysis. On receipt of the analysis report of the Chemical Examiner, the proper officer shall enter the alcoholic content in London-proof litres of the goods packed as ascertained by analysis

in the duplicate copy of the application which the owner shall present to him before its presentation to the Excise Commissioner for claiming rebate of excise duty as laid down in rule 103:

Provided that the process of determining alcoholic content by chemical analysis shall be dispensed with in the case of goods sent out from a bonded manufactory or warehouse if the owner of such goods chooses to pay the duty on goods to be exported in lieu of entering into a bond for due transport of goods to the place of report and in which case the procedure laid down in sub-rule (1) shall apply.

(3) After verifying the particulars entered in the application, and, in the case of duty-paid goods, after satisfying himself that the goods are identifiable as the goods, in respect of which the payment of duty cited in the application was made, the officer-in-charge or the proper officer, as the case may be, shall get the following particulars noted in the body of each package:

(a) name and address of the consignee.

(b) description of the goods.

(c) total quantity of the goods packed.

(d) alcoholic content of the goods in London-proof litres as declared by the manufacturer.

(e) gross weight of the package.

100. Examination at the place of export :-

On arrival at the place of export by post have been sealed, the exporter shall present the duplicate application, together with the packet or packets to which it refers, to the postmaster at the office of booking.

101. Examination at the place of export :-

On arrival at the place of export, the goods shall be presented, together with the duplicate application, to the Customs Collector, Border Examiner, or any officer, of customs or land customs duly appointed for the purpose. The consignment shall be carefully examined and check-weighed and if the seals are intact and the case or the packages correspond with the description given in the application, and the particulars stated in the duplicate application and the original received from the officer at the place of despatch agree in all respects, the Customs Collector, Border Examiner, or any such officer of customs shall allow export and shall then certify on the duplicate application that the goods have been duly

exported (citing in the case of exports by sea or air, the shipping bill number and date and other particulars of export) and return it to the exporter.

102. Further procedure in respect of goods exported by parcel post :-

Where the goods are exported by post, the postmaster of the post office of final despatch from India shall certify on the duplicate application that the goods covered by the application have been duly exported out of India and shall return it, through the postmaster at the post office of booking, to the exporter. The original application shall be returned to the officer-in-charge of the proper officer with the certificate of export.

Presentation of claim for rebate. Further procedure in respect of goods exported by parcel post :-

CHAPTER 8 Inter-State Movement of Medicinal and Toilet Preparations containing Alcohol, Opium, Indian Hemp and other Narcotic Drugs and Narcotics

104. Mode of Inter-State movement :-

Dutiable goods manufactured under bond or stored in a bonded warehouse in any State, unless exempted from payment of duty under rules 7 and 8, may be removed from such State to any other State:

- (i) after payment of duty in the first mentioned State in the manner laid down in rule 40 or rule 81, as the case may be, or
- (ii) in bond, in the manner hereinafter prescribed for movement from one bonded warehouse to another.

105. Bond for due arrival and re-warehousing :-

(1) When warehouse goods are to be removed from one warehouse to another, the consignor or the consignee of the goods shall, before the goods are removed, enter into a bond in Form B-4 with such surety or sufficient security as the Excise Commissioner may prescribe, for a sum equal, at least, to double the duty chargeable on such goods for the due arrival and re-warehousing there of at the warehouse of destination within such time as the officer-in-

charge of the warehouse of removal directs. Such bond shall be furnished to the officer-in-charge of the warehouse of removal, or of the warehouse of destination according as the bond is executed by the consignor or the consignee.

(2) Such bond shall not be discharged until, such goods are produced to the officer at the warehouse of destination and are duly re-warehoused or are otherwise accounted for to the satisfaction of the State Excise Officer having jurisdiction over the executor of the bond, nor until the full duty due upon any deficiency on such goods not so accounted for has been paid.

(3) For purposes of such a discharge, if the bond has been furnished by the consignor, an essential condition shall be the prior receipt by the officer-in-charge of the warehouse of removal, of the duplicate application from the officer-in-charge of the warehouse of destination with his re-warehousing certificate recorded therein as hereinafter provided.

106. Remover may enter into a general bond :-

The Excise Commissioner may permit any person, to remove warehoused goods from one warehouse to another, by entering into a general bond in Form B-4, with such surety or sufficient security in such amount and under such condition, as the Excise Commissioner approves for the removal, from time to time, of any goods from one warehouse to another and for the due arrival and re-warehousing thereof at the warehouse of destination within such time as the officer-in-charge of the warehouse of removal directs:

Provided that in the event of death, insolvency or insufficiency of the surety, or where the amount of bond is inadequate the Excise Commissioner may, in his discretion, demand a fresh bond and may, if the bond is with security, demand at any time he considers fit to do so, additional security.

107. Procedure in respect of goods removed from one warehouse to another :-

(1) The application for removal of goods from one warehouse to another in triplicate shall be presented by the consignor to the officer-in-charge of the warehouse of removal at least 24 hours before the intended removal together with such other information as the Excise Commissioner may, by general or special rules or order,

require.

(2) Such officer shall then take account of the goods, and after completing the removal certificate on all the copies of the application, shall send the duplicate to the officer-in-charge of the warehouse of destination, and hand over the triplicate to the consignor for despatch to the consignee. He shall also over-deliver to the consignor a transport permit.

(3) On arrival of the goods at the warehouse of destination, the consignee shall present them together with the triplicate application and the transport permit to the officer-in-charge of such warehouse, who shall, after taking account of the goods, complete the re-warehousing certificate on the duplicate and the triplicate application and return the duplicate to the officer-in-charge of the warehouse of removal, and the triplicate to the consignee for despatch to the consignor.

(4) The consignor shall present the triplicate application duly endorsed with such certificate to the officer-in-charge of the warehouse of removal within ninety days of the date of issue of the transport permit.

108. Failure to present triplicate application :-

(1) If the consignor fails to present the triplicate application to the officer-in-charge of the warehouse of removal in the manner laid down above, and the duplicate application endorsed with the re-warehousing certificate has also not been received by such officer, from the officer-in-charge of the warehouse of destination, the consignor shall, upon a written demand being made by the former officer, pay the duty leviable on such goods within ten days of the notice of demand and if the duty is not so paid, he shall not be permitted to make fresh removals of any warehoused goods from one warehouse to another until the duty is paid or until the triplicate application is so presented or the duplicate application is so received.

(2) Where such duty has been paid, it shall be retunded to the consignor, either on his presentation of his triplicate application to, or on the receipt of the duplicate application by the officer at the warehouse of removal, duly endorsed as provided above, with a certificate by the officer-in-charge of the warehouse of destination that the goods covered by the application have been satisfactorily re-warehoused.

109. Procedure on failure to pay duty :-

(1) If the owner fails to pay any sum demanded under any of the preceding rules, the officer authorized in this behalf by the State Government may forthwith either proceed upon the bond executed by the owner of such goods, or cause such portion as he thinks fit of such goods (if any) in the warehouse, on account of which the money is due, to be detained with a view to recovering the demand; and if the demand is not discharged within ten days from the date of such detention, due notice thereof being given to the owner, the goods so detained may be sold by public auction duly advertised in the Official Gazette, or in such other manner as the Excise Commissioner may, in any particular case direct.

(2) The net proceeds of the sales of any goods so detained shall be adjusted against the amount due under the bond and the effect of such adjustment shall be recorded and if there is any surplus remaining after such adjustment, the surplus shall be paid to the owner of the goods:

Provided that application for the payment of such surplus is made within six months from the date of sale unless the period is extended by the Excise Commissioner on sufficient cause being shown.

CHAPTER 9 Entry, Search, Seizure and Investigation

110. Authorized officers to have free access to premises, equipment, stocks and accounts of dealers in dutiable goods :-

Any officer authorized in writing by the Excise Commissioner in this behalf, shall have free access at all reasonable times to any premises licensed under these rules and to any place where dutiable goods are manufactured, stored or kept for sale, and may, with or without notice to the owner, inspect the building, the plant, the machinery, the stocks and the accounts, and may at any time check the records made of the goods stocked in, or removed from the manufactory, warehouse or place of their transfer within a manufactory to that part of the premises, if any, in which they are to be used for the manufacture of any other commodity, whether for the purpose of testing the accuracy of any return submitted under these rules, or of informing himself as to any particulars regarding which information is required for the purpose of the Act

or these rules.

111. Penalty for obstruction or for giving false or misleading information :-

If any person by himself or by any person in his employ,

(i) voluntarily obstructs or offers any resistance to or impedes, or otherwise interferes with: or

(ii) wilfully gives false or misleading information to the officer duly appointed under rule 110, who is acting in accordance with his duty thereunder;

such person shall be liable to a penalty which may extend to five hundred rupees.

112. Power to detain person and examine goods :-

Any Excise Officer duly empowered by the State Government may stop and detain any person found carrying or removing any dutiable goods for the transport of which a permit or other transport document is required by these rules, and may examine the goods and may require the production of a permit or other document authorizing the removal thereof. If a permit or other prescribed document is produced agreeing with the goods in all respects, the officer may endorse thereon the time and place of his examination thereof.

113. Power to stop, enter and search :-

Any Excise Officer not below the rank of a sub-inspector of excise may stop and search any vessel, car or other means of conveyance for dutiable goods, and enter and search at any time by day or by night any land, building, any enclosed place, premises, vessel, conveyance or other place upon or in which he has reason to believe that dutiable goods are stored, manufactured or carried or in contravention of the provisions of the Act or these rules, and in case of resistance break open any door and remove any other obstacle to his entry, open and search into such land, building and closed places, premises, vessel, conveyance or other place.

114. Seizure :-

Any Excise Officer not below the rank of a sub-inspector of excise may seize and remove or detain any goods in respect of which, it appears to him, the duty should have been, but has not been,

levied or that contravention of the provisions of the Act or these rules has occurred. He may also seize and remove or detain any receptacle, packages or coverings, in which such goods or articles are contained, and animals, vehicles, vessels or other conveyances used in carrying such goods or articles and any implements and machinery used in the manufacture of such goods.

115. Power to require access to place, vessel or conveyance for inspection or examination of goods :-

Any officer not below the rank of a sub-inspector of excise may require any person who has the immediate possession, control or use of any land, building, enclosed place, premises, vessel, conveyance or other place which he desires to search under these rules, or of any dutiable goods, stored manufactured or carried thereupon or therein, to open or allow access to inspect or examine such place or conveyance or to open, unload, unpack or allow the inspection or examination of such articles.

116. Police to take charge of articles seized :-

All officers-in charge of police stations shall take charge of and keep in safe custody, pending the orders of the Magistrate or of the adjudicating Excise Officer, all things seized under the Act or these rules which may be delivered to them, and shall allow any officer who may accompany such goods to the police or who may be deputed for the purpose by his superior officer, to affix his seal to such things or to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

117. Summons and notices: Manner of service :-

(1) Any Excise Officer not below the rank of a sub-inspector of excise may summon any person whose attendance he considers necessary either to give evidence or to produce documents or any other things, in any enquiry which such officer is making for any of the purposes of the Act or the rules.

(2) Every summon or notice issued under the Act or the rules shall be in writing in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and shall also bear his official seal, if he has any; and shall be served by

tendering a copy of it to the person summoned, or if he cannot be found, by affixing a copy of it to some conspicuous part of the house in which he is known to have last resided, or carried on business or personally worked for gain.

118. Service of notice: Notice not void for error :-

. No notice shall be deemed void on account of an error in the name or designation of any person referred to therein, unless such error has produced a material misconception of the intended intimation.

119. Disposal of things seized :-

(1) The owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and if he fails to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale.

(2) When anything is seized an order for its release is subsequently passed and owner does not, within a period of one month, appear to claim such thing and tender the duties, penalties and charge (if any) due in respect thereof, it may be sold by public auction; and such duties, penalties, and charges will be defrayed from the proceeds of the sale.

(3) Surplus proceeds of a sale under these rules shall, if not claimed by the owner of the things seized within a period of three months from the date of such sale be forfeited, to the collecting Government.

120. Prosecution :-

No prosecutions under the Act. shall be instituted except by an Excise Officer not below the rank of a sub-inspector of excise.

121. Arrests :-

Any Excise Officer not below the rank of a sub-inspector of excise may arrest any person whom he has reason to believe to be liable to punishment under the Act or any person who, on demand by him refuse to give his name and residence, or who gives his name and address which such officer has reason to believe to be false.

122. Provisions of arrests and seizures to be in conformity with the Act :-

All arrests and seizures made under these rules shall be in conformity with the provisions of the Act and the rules.

CHAPTER 10 Penalties, Confiscations and Appeals

123. Power of adjudication of confiscation and penalty :-

(1) Where by these rules anything is liable to confiscation or any person is liable to penalty such confiscation or penalty shall be adjudged by the Excise Commissioner.

(2) The State Government may confer on any Excise Officer the power to adjudge confiscation or penalty and may prescribe the limit within which such power may be exercised.

124. General penalty :-

A breach of these rules shall, where no other penalty is provided herein, be punishable with a penalty which may extend to one thousand rupees and with confiscation of the goods in respect of which such breach is committed.

125. Composition of offences :-

The Excise Commissioner, or any Excise Officer specially empowered by him in this behalf, may accept from any person whose property is liable to confiscation under this Act or these rules or who is reasonably suspected of having committed an offence under the Act a sum of money not exceeding two thousand rupees in lieu of confiscation of goods or of punishment for breach of any provisions of the Act or of the rules.

126. Confiscation :-

(1) When any goods or articles are liable to confiscation for breach of any of the provisions of the Act or these rules, any alcohol, drugs or materials by means of which the breach has been committed and of any receptacle, packages or coverings in which such goods or articles are contained and the animals, vehicles, vessels or other conveyances used in carrying such goods or articles and any

implements or machinery used in the manufacture of such goods shall be liable to confiscation.

(2) When anything is confiscated under these rules, such thing shall thereupon vest in the collecting Government.

(3) The officer adjudging confiscation shall take and hold possession of the things confiscated, and every officer of police, on the requisition of such officer, shall assist him in taking and holding such possession.

127. Appeals :-

(i) An appeal against an order of an officer other than an Excise Commissioner made in exercise of the powers conferred on him by the Act or these rules shall lie to the Excise Commissioner of the State concerned:

Provided that an appeal against an order passed by the Excise Commissioner shall lie to the State Government:

Provided further that if, between the date of the order or decision appealed against and the date of the hearing of the appeal, the officer who passed the order or decision is promoted to be the officer to hear such appeal, such appeal shall be heard by an officer superior in rank to such officer

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(ii) Every appeal under this rule should be filed within three months of the date of the decision or order appealed against an order passed in appeal under this rule shall, subject to the power of revision conferred by rule 129, be final.

128. Revision petitions :-

(1) The Central Government may, on the application of any person aggrieved by any decision or order passed under the Act or these rules, and from which no appeal lies, reverse or modify such decision or order

.

(2) Every application under sub-rule (1) shall be filed within six months of the date of the decision or order appealed against.

129. Appeal and application for revision to be accompanied by copy of decision or order appealed against :-

Every appeal or application for revision shall be accompanied by a copy of the decision or order by which the appellant, or applicant as the case may be, is aggrieved.

CHAPTER 11 Miscellaneous

130. Excise Commissioner may require a fresh declaration

:-

If the Excise Commissioner at any time requires a new declaration to be made in any case, he shall cause a written notice, addressed to the person who signed the existing declaration, to be delivered at the declared premises, and at the expiration of fourteen days from the delivery of the notice the existing declaration shall, without prejudice to any liability incurred, be void and the licence granted to the owner in respect of the premises shall be suspended.

131. Stocks of dutiable goods to be stored in an orderly manner :-

(i) All dutiable goods stored in the premises of a person licensed under Chapter VI of these rules or in a private warehouse, whether without or after payment of duty, shall be stacked in an orderly manner, so as to permit of actual counting and, if the Excise Commissioner so requires, packages containing goods of the same kind and with the same quality in each shall be kept together in separate lots and the goods shall be arranged in separate rows each row containing, the same number of packages of uniform size of volume or strength. The Excise Commissioner may also require the licensed person or keeper of the warehouse, to maintain stock cards in respect of the separate lots and to leave an accessible passage free of packages in the middle of the warehouse or other place of storage and a similar passage along the walls of such warehouse or other place of storage at right angles to the aforesaid passage, so as to facilitate counting, and may require that each separate lot or consignment shall be clearly marked with the number and date of the document under which the goods were admitted to the place of storage, the number of the relevant record in stock card, account or warehouse register and such other identifying particulars as he may direct.

(ii) Breach of this shall be punishable with a penalty which may

extend to one thousand rupees.

132. Account of stock of goods in a manufactory or warehouse to be taken and balance to be struck :-

As often as the Excise Commissioner may deem it necessary or proper, and at least once in every year, the stock of dutiable goods remaining in a manufactory or warehouse or store-room licensed or approved for the storage of such goods shall be counted, weighed, measured, proved, gauged or otherwise ascertained in the presence of the proper officer or the officer-in-charge, as the case may be, and if the quantity so ascertained is less than the quantity which ought to be found in such premises, (after taking into account receipts and deliveries, and making such allowance for wastage by evaporation or other natural causes, as the proper officer or the officer-in-charge, as the case may be, may consider reasonable and as may be in accordance with any order issued by the State Government) the owner of such goods shall, unless the deficiency be accounted for to the satisfaction of such officer, be liable to pay the duty leviable on such deficiency; and shall also be liable to a penalty which may extend to ten times the duty chargeable on such goods as are found deficient or a sum of Rs. 2,000 whichever is less.

133. Restriction of removal of goods :-

Dutiable goods shall not be delivered from a bonded manufactory or a bonded warehouse licensed under these rules before six o'clock in the forenoon or after six o'clock in the afternoon, nor at any hour on Sundays and closed holidays, except with the permission of the Excise Commissioner and under such conditions, as the Commissioner may, by general or special order, direct.

134. Licensees liability for removal of goods by any person :-

If any dutiable goods are, in contravention of any condition prescribed in these rules, removed by any person from the place where they are manufactured or warehoused, the manufacturer or the licensee or keeper of the warehouse shall be held responsible for such removal, and shall be liable to be dealt with according to the provisions of the Act or the rules as if he had removed the goods himself.

135. How registers and stock accounts to be maintained :-

(1) Where any person is required by these rules to maintain any register or a stock account in respect of goods manufactured or stored by him, he shall

(i) at the time of making any entry, insert the date when the entry is made;

(ii) correctly keep such account or register in the manner required and shall not cancel, obliterate, or alter any entry therein, except for correction of any errors, with the sanction and in the presence of the proper officer or the officer-in-charge, as the case may be, and shall not make any entry therein which is untrue in any particulars;

(iii) keep the account or Register at all times ready for the inspection of the Excise Officers, and shall permit any such officer to inspect it and make any such minute therein or any extract therefrom, as the officer thinks fit, and shall, at any time, if demanded, send that minute or extract to that officer.

(2) Any person who fails to enter the required particulars within the time prescribed in the relevant rules, or who fails to keep such account or Register, as the case may be, or to deliver it up to the Excise Officer on demand or who obstructs or hinders such officer in making any minute therein or extract therefrom, or conveys away or conceals it, or destroys or tears out any leaf therefrom, or makes any false entry therein or fraudulently alters any entry therein, shall be liable to a penalty which may extend to two thousand rupees and all the goods of which due entry has not been made in such account or register shall be liable to confiscation.

136. Provision and maintenance of weighing and measuring apparatus :-

{1) Every person licensed to deal in dutiable goods shall render all necessary assistance to Excise Officers in taking account of such goods in his possession, and shall, where so required by the Excise Commissioner by written order, provide sufficient and just scales and weights, or a correct weighing machine, capable of weighing the largest and smallest package of such goods which may be packed on his premises, and, where necessary, a set of standard measures and instruments for the purpose of weighing, measuring,

gauging, proving and taking an account of the goods in his warehouse, stock or possession, and of any vessels used for the purpose of containing any such goods.

(2) The weights, measures, and gauging and proving instruments shall be of the denominations as may be specified by the Excise Commissioner by general or special order.

(3) The dealer shall maintain and keep the scales, weights, measures, and gauging and proving instruments in such proper and convenient place in his manufactory, warehouse, or other premises as the proper officer or the officer-in-charge approves, so that they shall be at all times ready for the use of officers.

(4) The dealer shall permit every officer specified in sub-rule (1) to the scales, weights, measures, and gauging and proving instruments for the purpose aforesaid and shall, with his servants and workmen whenever required by such officer, weigh or measure, or assist him in weighing, measuring and gauging, as he requires, and in taking account of any such goods as aforesaid.

(5) For any refusal or neglect on the part of a licensee to comply with any of the provisions of this rule, he shall be liable to a penalty which may extend to one thousand rupees.

137. Provision and maintenance of locks :-

(1) Where any warehouse, room, place, vessel, or fitting belonging to any person licensed to deal in dutiable goods is by these rules, or by any general or special order of the Excise Commissioner, directed to be secured or locked, the licensee shall, to the satisfaction of the proper officer-in-charge, as the case may be, provide, affix, repair and renew all fastenings requisite for the purpose of enabling officers to affix locks thereto or otherwise to secure them.

(2) If the licensee or warehouse-keeper fails so to do, the proper officer may provide, affix, repair or renew the fastenings, and the expense thereof shall be paid on demand by the licensee or warehouse-keeper, as the case may be.

(3) All requisite excise ticket or keys shall be provided by the collecting Government.

(4) If any licensee or warehouse-keeper fails on demand to pay the expenses of providing, affixing, repairing or renewing, fastenings, as prescribed in sub-rule (2) or if any licensee or warehouse-keeper, or his servant or workman, wilfully destroys or damages

any such fastening, or any lock-label, or improperly obtains access into any warehouse, room, place, vessel or fitting, or has any fastening vessel or fitting so constructed, that the security intended to be obtained by any lock or fastening may be defeated, the licensee or warehouse-keeper shall be liable to a penalty which may extend to two thousand rupees.

137A. Duplicates of documents may be granted on payment of fees :-

The proper officer may, on application, grant a duplicate of any certificate, licence, transport permit or other document issued to any person on payment of a fee of rupee one, and subject to such other conditions as may be imposed by the proper officer, if he is satisfied that no fraud has been committed or is intended by the applicant.

138. Goods, plant and machinery chargeable with duty not paid :-

When the duty leviable on any goods is owing from or by any person carrying on trade or business, whether as a manufacturer or as dealer in such goods, all dutiable goods, and all materials and preparations from which any such goods are made and all plants, machinery, vessels, utensils, implements, any articles for making or manufacturing any such goods, or preparing any materials or by which the trade or business is carried on, in the custody or possession of the person carrying on such trade or business or in the custody or possession of any agent other person in trust for or for the use of the person carrying on such trade or business, may be detained for the purpose of exacting such duty; and any officer duly authorized by general or special order of the Excise Commissioner may detain such goods, materials, preparations, plant, machinery, vessels, utensils, and articles until such duties or any sums recoverable in lieu thereof are paid or recovered; and such direction shall have effect notwithstanding any change in the ownership of the trade or business.

139. Dutiable goods not to be sold except in prescribed containers bearing a label :-

If any dutiable goods are found in the possession of any dealer in or retailer of such goods, not being wrapped or labelled as

hereinbefore prescribed or of which the wrapper or label is out or torn, or the wrapper or other container bears any other mark or appearance of having been opened or tampered with, such goods shall be liable to confiscation and such dealer or retailer shall be liable to a penalty which may extend to one thousand rupees.

140. Officer not to disclose information learned in his official capacity :-

If any officer except in the discharge in good faith of his duty as such officer discloses any particulars learned by him in his official capacity in respect of any goods, he shall be liable to a penalty not exceeding one thousand rupees.

141. Provisions of lodgings for the excise staff posted to the bonded manufactory or warehouse :-

The licensee of a bonded manufactory or warehouse shall, where so required by the Excise Commissioner, provide the officer and the staff posted to the manufactory or bonded warehouse with suitable lodgings conveniently situated to the factory or bonded warehouse premises at a rent not exceeding ten per cent, of the pay of each officer so accommodated. If for any reason the licensee is not able to provide such accommodation he shall provide suitable accommodation to the satisfaction of the Excise Commissioner near the factory or bonded warehouse recovering only ten per cent, of the pay of the occupant.

Explanation. The expression "pay" shall not be deemed to include dearness allowance and other allowances.

142. Power to issue supplementary instructions :-

The Excise Commissioner may issue written instructions providing for any supplemental matters arising out of these rules.

143. Cancellation of former rules, orders and notifications :-

All rules made under any law corresponding to this Act in force in any State are hereby repealed except as respects things done or omitted to be done before such repeal and every licence granted under any such rules shall be deemed to have been granted in accordance with the provisions of these rules.

