

The U.P. Establishment of Manufactory Rules, 1997

UTTAR PRADESH

India

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Rule

THE-U-P-ESTABLISHMENT-OF-MANUFACTORY-RULES-1997 of 1997

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The U.P. Establishment of Manufactory Rules, 1997Published vide Notification No. 6111/P.A./97, dated September 1, 1997 published in U.P. Gazette (Extraordinary), dated 1st September, 1997In exercise of the powers conferred under Section 41 of the U.P. Excise Act, 1910 (U. P. Act No. IV of 1910), the Excise Commissioner, with the previous sanction of the State Government, makes the following rules relating to the establishment of the manufactory :

1. Short title and commencement.

(1)These rules may be called the Uttar Pradesh Establishment of Manufactory Rules, 1997.(2)They shall come into force from the date of their publication in the Gazette.

2. Definitions.

- In these rules, unless there is anything repugnant in the subject or context,-(a)"blending" means the mixing together of two or more liquors of different strength or different qualities;(b)"compounding" means the artificial preparation of foreign liquor by the addition to imported or to country made spirit, of flavouring or colouring matter or of both;(c)"maturation" means keeping the procured spirit in a specified wooden vessel or vats for such a period as may be prescribed by the Excise Commissioner so that the spirit may be matured by acquiring the colour and flavour of the specified wood;(d)"matured spirit" means the spirit, which has been matured in specified wooden vessel for a period not less than one year;(e)"reduction" means reduction of spirit or liquor from a higher strength to a lower strength by addition of distilled water;(f)"Officer-in-charge" means the excise inspector of the manufactory;(g)"warehouse" means a part of manufactory specified by the Excise Commissioner within the premises of the manufactory as bonded warehouse for storage and maturation of procured spirit brought thereunder bond for the

payment of duty when issued from such warehouse.

3. Establishment of manufactory.

(1) Any person desiring a licence to establish a manufactory shall submit an application in Form F.L.M.-1 to the Collector of the district in which he wishes to establish the manufactory and the Collector will forward the same for approval of the Excise Commissioner. (2) The application in Form F.L.M.-1 referred to in sub-rule (1) shall be accompanied by-(i) a project report of the proposed manufactory along with details regarding the plant and machinery and plans of the building in which he proposes to construct his manufactory. The plan shall be drawn to scale on tracing cloth showing the exact position and dimension of each warehouse, room and vessel to be used and course of all pipelines and bottling plant and machineries; (ii) any other certificate or authorisation or clearance required from the Central Government or a local body or Town and Country Planning Department or Uttar Pradesh Pollution Control Board or as required under any enactment or rules in force. (3) [If after such enquiry as he may deem necessary, the Excise Commissioner is satisfied that licence for the establishment of manufactory should be granted, he shall with previous approval of the State Government and. subject to such conditions as the State Government may deem fit to impose, grant a licence in Form F.L.M.-2 authorising the establishment of manufactory on payment of fee of rupees one lac :Provided that no licence shall be granted to a person who is a retail vendor of liquor.] [Substituted vide Notification No. 6121/P.A./97, dated September 3, 1997, published in U.P. Gazette (Extraordinary), dated 3rd September, 1997.] (4) [The Licence granted in sub-rule (3) shall be valid unless specially extended, for a period of one year from the date of issue, within which period the holder thereof shall arrange to secure land, building, plant, machinery and other equipments required for the establishment of the manufactory. The licence granted in sub-rule (3) shall not confer any right of privilege for the grant of the licence for manufacture of Indian Made Foreign Liquor from procured spirit and the said licence may be revoked or withdrawn at any time in public interest, after giving the holder of the said licence a notice to show cause against such action, and after hearing him, if he so desires. No compensation for damage or loss shall be payable when the said licence is revoked or withdrawn.] [Substituted vide Notification No. 6121/P.A./97, dated September 3, 1997, published in U.P. Gazette (Extraordinary), dated 3rd September, 1997.] (5) The applicant shall report to the Excise Commissioner the date on which the construction of building and erection of plant and machinery are completed. (6) When the Excise Commissioner is satisfied that the construction of building and erection of plant and machinery are completed in all respect he may with previous approval of the State Government, grant a licence in Form F.L.M.-3 for the period of one year on payment of licence fee,

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| (i) | in case of a manufactory having bottling capacity less than fifteen lacs reputed quart bottles per year. | Rupees five lacs per year or part thereof; |
| (ii) | in case of a manufactory having bottling capacity more than fifteen lacs but less than twenty five lacs reputed quart bottles per year. | Rupees ten lacs per year or part thereof; |
| (iii) | in case of a manufactory having bottling capacity more than twenty five lacs but not more than fifty lacs reputed quart bottles per year. | Rupees fifteen lacs per year or part thereof. |
- (7) Licence in Form F.L.M.-3 may be renewed every year on payment of the licence fee fixed in

sub-rule (6) subject to due observance of the provisions of the relevant rules on the subject.(8)The licensee shall furnish a security of rupees fifty thousand in form of Government Promissory Notes or other Government Securities of equivalent market value for fulfilment of all conditions of licence and for payment of all sums which may become due to Government by way of duty, rent, penalties, fines and taxes under any law or rules having the force of law or under any engagement or bond into which he may have entered. The notes or other securities shall on deposit, be endorsed to Collector of the district by designation. The licensee shall be allowed to draw, as it falls due, the interest accruing on them.(9)No alteration or addition shall be made, without the prior permission of the Excise Commissioner, in or to the building or the plant and machinery of the manufactory :Provided that the minor addition or alteration may be made by the licensee under intimation to the Excise Commissioner.(10)The licensee shall not hypothecate or sell, or mortgage or transfer or sub-lease the licence or enter into any partnership for the working of the licence.

4. Procurement of Spirit.

(1)The holder of the licence in Form F.L.M.-3 shall, procure specified spirit for manufacture of Indian Made Foreign Liquor by transporting it only from the distilleries producing potable alcohol situated in Uttar Pradesh in accordance with the procedure laid down in the rules regarding Import, Export and Transport of the Foreign Liquor (other than denatured spirit) contained in Section XXXVIII of Chapter VIII of Excise Manual, Volume I (1974 Edition) as per the allotments made by the Excise Commissioner from time to time, and will store it in his bonded warehouse in accordance with the said rules and conditions laid down by the Excise Commissioner in that behalf.(2)The spirit so procured for manufacturing the Indian Made Foreign Liquor shall be of such specification as laid down in paragraph 712 of the Excise Manual, Volume I (1974 Edition).

5. Maturation of spirit.

- Provisions of the Uttar Pradesh Maturation of Spirit for manufacturing Indian Made Foreign Liquor Rules, 1994, shall mutatis mutandis apply to the manufacturing of Indian made foreign liquor by a manufactory.

6. Manufacturing of Indian made foreign liquor.

(1)Provisions of the General Rules governing all distilleries contained in Section XLIII of Chapter IX of the Excise Manual, Volume I (1974 Edition) regarding the storage, safety, reduction, blending, flavouring and colouring of spirit for manufacture of Indian made foreign liquor and regarding its issue, wastage and stock taking, shall mutatis mutandis apply to a manufactory holding F.L.M.-3 licence and the holder of the said licence shall also maintain all registers and accounts as provided in the said rules.(2)Rules relating to wholesale vend of foreign liquor (other than denatured spirit) contained in Section XXXIX of Chapter VIII of the Excise Manual, Volume I (1974 Edition) shall mutatis mutandis apply to a manufactory holding the F.L.M.-3 licence and such manufactory shall be granted a licence in Form F.L.-1 for wholesale vend of Indian made foreign liquor.

7. Quality Control.

- Manufactory shall ensure following measures with respect to quality control of Indian made foreign liquor : (1) All spirit used in the manufacture of foreign liquor shall be fit for human consumption and all possible measures for good hygienic conditions will be evolved by the manufactory. (2) No ingredient noxious to health shall be added to the spirit stored. The colouring, flavouring, essencing or aromatic agents used for compounding the spirit shall be fit for human consumption. (3) The manufactory shall have to establish his own laboratory within the licensed premises. Such laboratory shall be well equipped, manned by qualified technical personnel and the expenditure incurred on it shall be borne by the manufactory. Sample of every batch of foreign liquor manufactured and ready for bottling shall be analysed in the laboratory before it is bottled. The issue of a batch shall be allowed only when the sample of foreign liquor is found fit for human consumption. An attested copy of every such chemical analysis or test report shall be provided to the officer-in-charge free of cost. The sample shall be drawn under the supervision of and in the presence of Officer-in-charge of the manufactory. (4) (a) Excise Commissioner may direct for taking of sample at random of bottled Indian made foreign liquor and the officer-in-charge shall draw such samples in accordance with the directions issued by the Excise Commissioner in this regard and send it to the departmental laboratory or other authorised laboratory for chemical analysis or test. (b) Spirit or Indian made foreign liquor, found sub-standard or unfit for human consumption on chemical analysis or test, shall be rejected, and destroyed or disposed of in such manner as may be directed by the Excise Commissioner in this behalf.

8. Bottling of Indian made foreign liquor.

- Provisions of the Uttar Pradesh Bottling of Foreign Liquor Rules, 1969, shall mutatis mutandis apply to bottling of Indian made foreign liquor in a manufactory holding F.L.M.-3 licence and the said manufactory shall be granted F.L.-3 licence to bottle the manufactured Indian made foreign liquor : Provided that the said manufactory shall not be allowed to assign its bottling privilege to others. F.L.M.-1 [See Rule 3 (1)] Application to establish a manufactory

1. (a) Name and address of the applicant/applicants.

(b) Whether public/private Ltd., or proprietary concern.

2. Capital Structure

(a) In case of Limited Company : (i) Authorised (ii) Issued (iii) Paid up (iv) Borrowings, if any (b) In case of others : (i) Capital (ii) Borrowings, if any (c) Details of Investments : I. Fixed Assets. (i) Land (ii) Building (iii) Plant and Machinery (iv) Others, if any. II. Working Capital.

3. Location.

4. Plant and Machinery :

(i)Value of Plant and Machinery to be imported or of imported origin.(ii)Value of Plant and Machinery of indigenous origin.

5. Raw material required for production.

6. Water and Power requirement :

(i)Particulars of requirements;(ii)Whether necessary permission has been secured.

7. Process :

(a)Brief process of manufacture.(b)Standard and quantity of products proposed to be manufactured.

8. Technical Assistance :

(i)Whether any foreign Collaboration or know how is envisaged and if so the foreign exchange involved.(ii)Indigenous.

9. Forecast of time factors :

(a)Time required to secure land, building and other accommodation after F.L.M. - 2 licence is issued.(b)Time required to erect machinery and start production after the licence is granted.

10. Items of Manufacture.

11. Employment Potential :

(i)Supervisory(ii)Skilled(iii)Unskilled

12. Details of the certificates or authorisation or clearance required :

(a)From Central Government.(b)From Local body, Town and Country Planning Department.(c)From U. P. Pollution Control Board.(d)From any other Department.

13. (a) Any special facilities required from the Government.

(b)Special features, if any, of the scheme.Signature of the applicant with date.F.L.M.-2[See Rule 3 (3)]Licence to establish the ManufactoryName of the licence holder(s)-Licence is hereby granted

to..... resident(s) of on payment of a licence fee of Rs. 1,00,000 (Rupees one lakh only) authorising him/them to establish a manufactory at in the district of..... subject to rules relating to manufactory and other relevant rules contained in the Excise Manual, Vol. I and to such other rules as may from time to time be made by the Excise Commissioner and the Government of Uttar Pradesh for the security of Excise revenue and for regulating the manufacture of Indian Made Foreign Liquor. The infraction of any of the rules hereinbefore enumerated shall involve forfeiture of the licence in addition to such other penalties as may be prescribed under the U. P. Excise Act, 1910. This licence shall be valid for the period one year from (the date of issue of this licence). The licence holder shall apply to the Excise Commissioner at least thirty days before the expiry of this licence for an extension of the term of the licence.

Allahabad Excise Commissioner,

Dated Uttar Pradesh

F.L.M.-3[See Rule 3 (6)]Licence to work a manufactoryLicence

No.....Date.....Licence is hereby granted to resident(s) of for a periodon payment of a licence fee of Rs.....authorising-(i)to manufacture Indian Made Foreign Liquor and bottle lacs reputed quarts bottles of Indian Made Foreign Liquor per year in a manufactory situated at(ii)to sell it as per rules laid down in the U. P. Excise Act, 1910 and rules made thereunder subject to following conditions :Conditions

1. The licence shall be subject to-

(i)rules relating to Import, Export and Transport of spirit contained in Chapter VIII of the Excise Manual, Vol. I;(ii)rules relating to manufacture of Indian Made Foreign Liquor contained in Chapter IX of the Excise Manual, Vol. I; and(iii)relevant provisions contained in U. P. Excise Act, 1910 and rule made thereunder and such other rules as may, from time to time, be made by the Excise Commissioner and the State Government under the said Act for the security of Excise revenue and for regulating the manufacture, sale, supply and prices of Indian made foreign liquor.

2. The licensee shall erect and maintain in proper order all permanent buildings, wells, water channels and drains necessary for manufactory.

3. The licensee shall, subject to the previous approval of the Excise Commissioner, supply and erect all plants and appliances necessary for the storage and transport of spirit and Indian made foreign liquor manufactured thereof.

4. No alterations in the buddings or fixed plant shall be made without the previous sanction of the Excise Commissioner.

- 5. The licensee shall be responsible for maintaining proper cleanliness within the premises of the manufactory and shall observe all the provisions of sub-section (1) of Section 11 of the Factories Act, 1948 and rules made and orders, if any, issued thereunder, unless specially exempted by the State Government from any of these provisions.**
- 6. The licensee shall make effective arrangements for the disposal of waste and effluents and shall make all such arrangements as prescribed by the State Government in this behalf under the provisions of sub-section (2) of Section 12 of the Factories Act, 1948.**
- 7. As security for the due fulfilment of the conditions of the licence, the licensee shall deposit with the Excise Commissioner rupees fifty thousand in form of Government Promissory Notes or other Government securities of equivalent market value or in such other form as the Excise Commissioner may approve.**
- 8. The licensee shall not hypothecate or sell or mortgage or transfer or sublease the licence or enter into any partnership for the working of the licence.**
- 9. The licensee, subject to the directions and guidelines issued by the Excise Commissioner, shall mature the spirit in manufactory.**
- 10. The licensee, subject of the directions and guidelines issued by the Excise Commissioner shall bottle the Indian made foreign liquor under a licence granted in Form F.L.-3 for this purpose.**
- 11. For the whole sale vend of manufactured Indian Made foreign liquor, a licence in Form F.L.-1 shall be granted to the licensee.**
- 12. The licensee shall maintain all registers and accounts regarding the stock of spirit, wastage, Indian made foreign liquor manufactured and bottled, issued, made and balance stocks, if any thereof, as per directions of the Excise Commissioner.**

13. Any contravention of the rules or conditions hereinbefore enumerated shall involve cancellation of the licence in addition to such other penalties as may be prescribed under the U. P. Excise Act, 1910.

Counterpart Agreement I the abovenamed licensee, for myself, hereby agree to all terms and conditions hereinbefore written and expressed. Date Witnesses :-

1.

2.

Excise Commissioner, Uttar Pradesh, Allahabad.