

The Bengal Excise Act, 1909

TRIPURA

India

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Act 5 of 1909

- Published on 1 January 1909
- Commenced on 1 January 1909
- [This is the version of this document from 1 January 1909.]
- [Note: The original publication document is not available and this content could not be verified.]

The Bengal Excise Act, 1909 Bengal Act 5 of 1909 Last Updated 18th February, 2020 Published in Part II, Section 3, sub-section (i) of the Gazette of India. [As extended to the Union Territory of Tripura] An Act to consolidate and amend the Excise law in Bengal Whereas it is expedient to consolidate and amend the law in Bengal relating to the import, export, transport, manufacture, possession and sale of alcoholic liquor and intoxicating drugs; And whereas, the Acts mentioned in Part I of the Schedule having been passed by the Governor-General of India in Council, the previous sanction of the Governor-General has been obtained, under Section 5 of the Indian Councils Act, 1892 (55 and 56 Vict, c. 14) to the passing of this Act; It is hereby enacted as follows:

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Bengal Excise Act, 1909. (2) It extends to the whole of the Union territory of Tripura. (3) It shall come into force on the 1st day of August, 1962.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, - (1) "beer" includes ale, stout, port and all other fermented liquor made from malt; (2) [****] (3) "bottle" means to transfer liquor from cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not, and includes re-bottling; (4) 'Chief Commissioner' means the Chief Commissioner of Tripura; (5) "Collector" means the Collector of the District and includes any officer appointed by the Chief Commissioner to exercise any of the powers and functions of the Collector under this Act; (6) "Denaturant" means any substance prescribed by the rules made in this behalf under Clause (3) of Section 86, for admixture with spirit in order to render the mixture unfit

for human consumption whether as a beverage, or internally as a medicine, or in any other way whatsoever;(6-a) to "denature" means to mix spirit with one or more denaturants in such manner as may be prescribed by the rules made in this behalf under Clause (3) of Section 86, and "denatured spirit" means spirit so mixed;(7)"excisable article" means-(a)any alcoholic liquor for human consumption ; or(b)any intoxicating drugs :(8)"excise duty" and "countervailing duty" mean such excise duty or countervailing duty, as the case may, be, as is mentioned in entry 51 of List II in the Seventh Schedule to the Constitution;(9)"Excise Commissioner" means the officer appointed under Section 7 (2), Clause (a);(9-a) "Excise Officer" means the Collector or any officer or other person appointed or invested with powers under Section 7;(10)"excise-revenue" means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs;(11)"export" means to take out of the Union territory of Tripura otherwise than across a customs frontier as defined by the Government;(12)"Import" (except in the phrase "import into India") means to bring into the Union territory of Tripura otherwise than across a customs frontier as defined by the Central Government;(12-ia) "India" means the territory of India excluding the State of Jammu and Kashmir;(12-a) "intoxicant" means-(i)any liquor, or(ii)any substance from which liquor may be distilled and which is declared by the Chief Commissioner by notification in the Tripura Gazette to be an intoxicant for the purpose of this Act, or(iii)any intoxicating drugs :(13)"intoxicating drug" means-(i)the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa* L), including all forms known as Bhang, Sidhi or ganja;(ii)charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;(iii)any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and(iv)any other intoxicating or narcotic substance or any fermenting agent which the Chief Commissioner may specify in this behalf by notification, such substance or agent not being opium, coco-leaf, or a manufactured drug, as defined in Section 2 of the Dangerous Drugs Act, 1930 (2 of 1930).(14)"liquor" means liquid consisting of or containing alcohol, and includes spirit of wine, spirit, wine, tari, pachwai, beer, and any substance which the Chief Commissioner may, by notification, declare to be liquor for the purposes of this Act;(15)"manufacture" includes-(i)every process, whether natural or artificial, by which any intoxicant is produced or prepared (including the tapping of tari-producing trees and the drawing of tari from trees) ;(ii)re-distillation; and(iii)every process for the rectification, flavouring, blending, or colouring of liquor, or for the reduction of liquor for sale;(15-a) "Notification" means notification in the Tripura Gazette;(16)"pachwai" means fermented rice, millet or other grain, whether mixed with any liquid or not, and any liquid obtained therefrom, whether diluted or undiluted, but does not include beer;(17)"place" includes building, house, shop, booth, vessel, raft, vehicle and tent;(18)expression referring "to sale" include any transfer otherwise than by way of gift;Explanation.-The supply of liquor by a club, mess, institute, society, lodge or other similar organisation by whatever name called to its members or their guests whether on payment of price or of any fee of subscription or not shall be deemed to be a sale within the meaning of this clause;(19)"spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not;(20)"Tari" means fermented or unfermented juice drawn from any coconut, palmyra, date or other kind of palm tree; and(21)"transport" means to remove from one place to another within the Union territory of Tripura.

3.

[Omitted].

4. Power to declare what shall be deemed to be "country liquor" and "foreign liquor" respectively.

- The Chief Commissioner may, by notification, declare what, for the purposes of this Act or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor", respectively.

5. Definition of "retail" and "wholesale".

(1)The Chief Commissioner may, by notification, declare with respect either to the whole of the Union territory of Tripura or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any intoxicant shall, for the purposes of this Act, be the limit of a retail sale(2)The sale of any intoxicant in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall be deemed to be a sale by wholesale.

6. Saving of certain Acts.

(1)Nothing contained in this Act shall affect the provisions of-(a)[***](b)[***](c)the Sea Customs Act, 1878 (8 of 1878), or(d)the Cantonments Act, 1924 (2 of 1924), or(e)the Indian Tariff, 1934 (32 of 1934).(2)[****]

Chapter II

Establishments, Control, Appeal and Revision

7. Establishments and delegation and withdrawal of powers.

(1)The administration of the Excise Department and the collection of the excise revenue within a district shall ordinarily be under the charge of the Collector.(2)The Chief Commissioner may, by notification applicable to the whole of the Union territory of Tripura or any specified local area,-(a)appoint an officer who shall, subject to such control as the Chief Commissioner may direct, have the control of the administration of the Excise Department and the collection of the excise revenue;(b)appoint any person to exercise all or any of the powers and to perform all or any of the duties, conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or to the exclusion of, the Collector and subject to such control as the Chief Commissioner may direct;(c)appoint officers of the Excise Department of such classes, and with such designations, powers and duties, as the Chief Commissioner may think fit;(d)order that all or any of the powers and duties assigned by or under this Act to any officer appointed under Clause (c) of this sub-section shall be exercised and performed by any servant of the Government or any other

person;(e)delegate to the Excise Commissioner all or any of powers conferred upon the Chief Commissioner by or under this Act, except the power conferred by Section 85 to make rules ;(f)withdraw from any officer or person all or any of the powers or duties conferred or imposed upon him by or under this Act; and(g)permit the delegation by the Excise Commissioner or the Collector, to any person or classes of persons specified in such notification, of any powers conferred or duties imposed upon him by or under this Act.

8. Control, appeal and revision.

(1)The Collector shall, in all proceedings under this Act, be subject to the control of the Excise Commissioner.(2)Orders passed under this Act or under any rule made hereunder shall be appealable in such cases, to such authorities and under such procedure as may be prescribed by rules made under Section 85, Clause (c).(3)The Chief Commissioner may revise any order passed by the Collector or the Excise Commissioner or by any officer exercising the powers of an appellate authority under any rules made under Section 85, Clause (c).

Chapter III

Import, Export and Transport

9. Restriction on import.

(1)No intoxicant shall be imported unless-(a)the Chief Commissioner has given permission, either general or special, for its import;(b)such conditions (if any) as the Chief Commissioner may impose have been satisfied; and(c)the duty (if any) payable under Chapter V has been paid, or a bond has been executed for the payment thereof.(2)Sub-section (1) shall not apply to any article which has been imported into India if-(i)the duty (if any) imposed on such importation the Indian Tariff Act, 1934 (32 of 1934), or the Sea Customs Act, 1878 (8 of 1878), has been paid, or(ii)a bond has been executed for the payment of such duty.(3)Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in India and declared under Section 4 to be foreign liquor.

10. Restriction on export or transport.

- No intoxicant shall be exported or transported unless-(a)the duty (if any) payable under Chapter V, or(b)if the article was previously imported, the duty (if any) imposed on its importation under the Indian Tariff Act, 1934, or to the Sea Customs Act, 1878,has been paid, or a bond has been executed for the payment thereof:Provided that the Chief Commissioner may, subject to such conditions (if any) as he thinks fit to impose, exempt any intoxicant from the provisions of this section.

11. Power to prohibit import, export or transport.

- The Chief Commissioner may, by notification,-(a)prohibit the import or export of any intoxicant into or from the Union territory of Tripura or any part thereof, or(b)prohibit the transport of any

intoxicant.

12. Passes for import, export or transport.

(1) No intoxicant exceeding such quantity as the Chief Commissioner may prescribe by notification either generally or for any specified local area, shall be imported or transported, except under a pass: Provided that, in the case of duty-paid foreign liquor other than denatured spirit, such passes shall be dispensed with unless the Chief Commissioner by notification otherwise directs with respect to any local area. (2) The passes required by sub-section (1) may be granted by the Collector. (3) Such passes may be either general for definite periods and particular kinds of intoxicants, or special for specified occasions and particular consignments only.

Chapter IV

Manufacture, Possession and Sale

13. Licence required for manufacture.

(a) No intoxicant shall be manufactured, (b) no hemp plant (*Cannabis Sativa L.*) shall be cultivated. (c) no portion of the hemp plant (*Cannabis Sativa L.*) from which an intoxicating drug can be manufactured or produced shall be collected, (d) no liquor shall be bottled for sale, (e) no distillery or brewery shall be worked, and (f) no person shall use, keep to have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector: Provided that any tari-producing tree may be tapped, and tari may be drawn from any tree, without a licence under this section by the person in possession of the tree—(i) for the purpose of being used in the manufacture of gur or molasses, or (ia) for the purpose of being used solely for the preparation of food for domestic consumption, and not—(I) as an intoxicant, or (II) for the preparation of any intoxicating article, or (III) for the preparation of any article for sale, or (ii) up to a limit of four seers, for the domestic consumption of the said person.

14. Drawing of Tari in notified areas.

(1) Notwithstanding anything contained in the proviso to Section 13,—(a) no Tari-producing tree shall be tapped, and (b) no Tari shall be drawn from any tree, in any local area specified in this behalf by the Chief Commissioner by notification, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector. (2) Provided that, when any exclusive privilege of manufacturing tari has been granted under Section 22, the Chief Commissioner may declare that the written permission given to the grantee to draw tari shall have the same force and effect as a licence granted by the Collector under Sub-section (1) of this section. (3) Provided also that, in any local area specified by notification under sub-section (1), the Chief Commissioner may, by notification, declare that sub-section (1) shall not apply to trees tapped or tari drawn under such special conditions as the Excise Commissioner may prescribe.

15. Establishment of distilleries, breweries or warehouses.

(1)The Excise Commissioner may,-(a)subject to restrictions imposed by the Chief Commissioner establish, or authorise the establishment of, distilleries or breweries, in which liquor may be manufactured under a licence granted under Section 13;(b)discontinue any such distillery or brewery;(c)establish, or authorise the establishment of, warehouses, wherein any intoxicant may be deposited and kept without payment of duty; and(d)discontinue any such warehouse.(2)No distillery, brewery or warehouse as aforesaid shall be established except by, or under the authority of, the Excise Commissioner.

16. Licence required for depositing or keeping intoxicant in warehouse or other place of storage.

- No person shall, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector, deposit or keep any intoxicant in any warehouse or other place of storage established, authorised or continued under this Act.

17. Payment of duty on removal from distillery, brewery, warehouse or other place of storage.

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

18. Possession of intoxicants not obtained from a licensed vendor.

(1)No person shall have in possession any intoxicant which has not been obtained from a licensed vendor of the same.(2)Sub-section (1) shall not apply to-(a)any intoxicant lawfully deposited or kept in a distillery, brewery, warehouse, or other place of storage licensed, established, authorised or continued under this Act, or(b)any intoxicant lawfully in the possession of a licensed vendor of the same, or(c)any intoxicant in the possession of a person who has lawfully imported it, or who is authorised by the Collector to possess it, or(d)any foreign liquor in the possession of any common carrier or warehouseman as such, or purchased at a sale authorised by Clause (a) of proviso (3) to Section 20, or(e)tari intended to be used in the manufacture of gur or molasses, or(f)tari intended to be used in the manufacture of bread by a person holding a permit to use tari for the purpose, or(ff)tari intended to be used solely for the preparation of food for domestic consumption, and not-(i)as an intoxicating article, or(ii)for the preparation of any intoxicating article, or(iii)for the preparation of any article for sale, or(g)tari, up to a limit of four seers, when in the possession of the person possessing the tree from which it was drawn and intended to be used for his domestic consumption, or(h)intoxicating drugs in the possession of any person licensed to cultivate or collect the plants from which such drugs were produced, when such possession is in accordance with the conditions of his licence.

19. Possession of intoxicants generally.

(1) No person not being licensed to manufacture, cultivate, collect or sell any intoxicant shall have in his possession any quantity of any intoxicant in excess of such quantity as the Chief Commissioner has, under Section 5, declared to be the limit of a retail sale except under a permit granted by the Collector in the behalf. (2) Sub-section (1) shall not apply to—(a) any foreign liquor (other than denatured spirit) which is in the possession of any common carrier or warehouseman as such, or (b) any foreign liquor which has been purchased by any person for his bond fide private consumption and not for sale, or (c) tari intended to be used in the manufacture of gur or molasses, or (d) tari intended to be used solely for the preparation of food for domestic consumption, and not—(i) as an intoxicating article, or (ii) for the preparation of any intoxicating article, or (iii) for the preparation of any article for sale. (3) A licensed vendor shall not have in his possession at any place other than that authorised by his licence any quantity of any intoxicant in excess of such quantity as the Chief Commissioner has, under Section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf. (4) Notwithstanding anything contained in the foregoing sub-sections, the Chief Commissioner may, by notification, prohibit the possession by any person or class of person, either in the Union Territory of Tripura or in any specified local area, of any intoxicant either absolutely or subject to such conditions as he may prescribe.

20. Licence required for sale.

- No intoxicant, and no portion of the hemp plant (*Cannabis Sativa L*) from which an intoxicating drug can be manufactured or produced, shall be sold except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector: Provided as follows: (1) a licence for sale in more than one district shall be granted only by the Excise Commissioner or by a Collector specially authorised in that behalf by the Excise Commissioner; (1-a) a licence for sale granted under the Excise law in force in any other part of India may, on such conditions as may be determined by the Excise Commissioner, be deemed to be a licence granted under this Act; (2) a cultivator or owner to any hemp plant (*Cannabis Sativa L*) may sell, without a licence, those portions of the plant from which an intoxicating drug can be manufactured or produced, to any person licensed under this Act to deal in the same, or to any officer whom, the Excise Commissioner may authorise to purchase or receive the same; (3) no licence shall be required for any of the following sales, namely—(a) the sale of foreign liquor lawfully procured by any person for his private use—when such sale is made by such person himself or on his behalf upon his quitting a station, or on behalf of his representatives in interest after his decease; (b) the sale of tari, lawfully possessed by a person in possession of the tree from which it was drawn to a person licensed under this Act to manufacture or sell tari; (c) the sale of tari lawfully possessed and intended to be used in the manufacture of gur or molasses, or (d) the sale of tari lawfully possessed and intended to be used in the manufacture of bread to a person holding a permit to use tari for the purpose of making bread; or (e) the sale of tari lawfully possessed and intended to be used solely for the preparation of food for domestic consumption and not—(i) as an intoxicating article, or (ii) for the preparation of any intoxicating article, or (iii) for the preparation of any article for sale.

21.

[Omitted]

22. Grant of exclusive privilege of manufacture and sale of country liquor or intoxicating drugs.

(1)The Chief Commissioner may grant to any person, on such conditions and for such period as he may think fit the exclusive privilege-(a)of manufacturing, or supplying by wholesale, or(b)of manufacturing, and supplying by wholesale, or(c)of selling, by wholesale or retail, or(d)of manufacturing or supplying by wholesale and selling retail, or(e)of manufacturing and supplying by wholesale and selling retail, and any country liquor or intoxicating drug within any specified local area :Provided that public notice shall be given of the intention to grant any such exclusive privilege, and that objections made by any person residing within the area affected shall be considered before an exclusive privilege is granted.(2)No guarantee of any privilege under sub-section (1) shall exercise the same unless or until he has received a licence in that behalf from the Collector or the Excise Commissioner.

23. Transfer of exclusive privilege.

(1)A grantee of an exclusive privilege under Section 22 shall not let or assign the same or any portion thereof unless he is expressly authorized by a condition made under that section, to do so.(2)Such letting or assignment shall be made only to a person approved by the Collector or (if the letting or assignment extends to more than one district) the Excise Commissioner.(3)The lessee or assignee shall not exercise any rights as such unless and until the Collector has, upon his application, granted him a licence to do so.

24. Maintenance and use of measures, weights and instruments by licensed manufacturers and vendors.

- Every person who manufactures or sells any intoxicant under a licence granted under this Act-(a)shall supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe, and shall keep the same in good condition; and(b)When such measures, weights and instruments have been so prescribed, shall on the requisition of any Excise Officer duly empowered by the Collector in this behalf, weight or test any intoxicant in his possession, at such time and in such manner as such officer may require.

25. Employment of children or women by licensed vendors.

(1)No person who is licensed to sell foreign liquor or country spirit of consumption on his premises shall,-during the hours in which such premises are kept open for business,employ or permit to be employed, either with or without remuneration, any child under the age of fourteen years, in any part of such premises in which such liquor or spirit is consumed by the public.(2)No person who is

licensed to sell foreign liquor for consumption on his premises shall, without the previous written permission of the Excise Commissioner, during the hours in which such premises are kept open for business, employ or permit to be employed either with or without remuneration, any woman, in any part of such premises in which such liquor is consumed by the public. (3) The Chief Commissioner may, by notification, declare that sub-section (2) shall apply also, in any specific area to persons licensed to sell country spirit for consumption on their premises. (4) Every permission granted under sub-section (2) shall be endorsed on the licence, and may be modified, or withdrawn.

26. Power to close shops temporarily.

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

Chapter V

Duty

27. Power to impose duty on import, export, transport and manufacture.

(1) An excise duty or a countervailing duty, as the case may be, at such rate or rates as the Chief Commissioner may direct, may be imposed, either generally or for any specified local area, on—(a) any excisable article imported, or (b) any excisable article exported, or (c) any excisable article transported, or (d) any excisable article (other than tari) manufactured under any licence granted in respect of Clause (a) of Section 13, or (e) any hemp plant (*Cannabis Sativa L*) cultivated, or any portion of such plant collected, under any licence granted in respect of Clause (b) or Clause (c) of Section 13, or (f) any excisable article manufactured in any distillery or brewery licensed, established, authorized or continued under this Act. Explanation.—Duty may be imposed on any article under this sub-section at different rates according to the places to which such article is to be removed for consumption, or according to the varying strengths and quality of such article. (2) An excise duty or a countervailing duty, as the case may be, at such rate or rates as the Chief Commissioner may direct, may be imposed, either generally or for any specified local area, on any tari drawn under any licence granted under Section 14, sub-section (1). (3) Notwithstanding anything contained in sub-section (1),—(i) duty shall not be imposed thereunder on any article which has been imported into India, if—(a) the duty (if any) imposed on such importation under the Indian Tariff Act, 1934 (32 of 1934), or (b) the Sea Customs Act, 1878 (8 of 1878) has been paid, or (ii) a bond has been executed for the payment of such duty.

28. Ways of leaving such duty.

- Subject to any rules made under Section 86, Clause (12) any duty imposed under Section 27 may be levied in any of the following ways : (a) on an excisable article imported - (i) by payment (upon or before importation) in the Union territory of Tripura or in the State or territory from which the article is brought, or (ii) by payment upon issue for sale from a warehouse established, authorized or continued under this Act; (b) on an excisable article exported, - (i) by payment in the Union territory, or (ii) in the State or territory to which the article is sent; (c) on an excisable article transported, - (i) by payment in the district from which the article is sent, or (ii) by payment upon issue for sale from a warehouse established, authorized or continued under this Act; (d) on intoxicating drugs manufactured, cultivated or collected, - (i) by a rate charged upon the quantity manufactured under a licence granted in respect of the provisions of Section 13, Clause (a), or issued for sale from a warehouse established, authorized or continued under this Act, or (ii) by a rate assessed on the area covered by, or on the quantity or outturn of, the crop cultivated or collected, under a licence granted in respect of the provisions of Section 13, Clause (b) or Clause (c); (e) on spirit or beer manufactured in any distillery or brewery licensed, established, authorized or continued under this Act, - (i) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued for sale from a warehouse established, authorised or continued under this Act; or (ii) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Chief Commissioner may prescribe; and (f) on tari drawn under licence granted under Section 14, sub-section (1), - by a tax on each tree from which the drawing of tari is permitted: Provide that, where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from such warehouse : Provided also that no tax shall be levied in respect of any tree from which tari is drawn only for the manufacture of gur or molasses and under such special conditions as the Excise Commissioner may prescribe.

29. Payment for grant of exclusive privilege.

- Instead of, or in addition to, any duty leviable under this Act, the Chief Commissioner may accept payment of a sum in consideration of the grant of any exclusive privilege under Section 22.

29A. Saving for duties being levied at commencement of the Constitution.

(1) Until provision to the contrary is made by Parliament the Chief Commissioner may continue to levy any duty to which this section applies which he was lawfully levying immediately before the commencement of the Constitution. (2) The duties to which the section applies are - (a) any duty on intoxicants which are not excisable articles within the meaning of this Act; (b) any duty on an excisable article produced outside India and imported into the Union Territory of Tripura whether across a customs frontier as defined by the Central Government or not. (c) [Omitted.] (3) Nothing in this section shall authorise the levy by the Chief Commissioner of any duty which, as between goods manufactured or produced in the Union Territory of Tripura and similar goods not so manufactured or produced, discriminates in favour of the former, or which, in the case of goods manufactured or produced outside the Union Territory of Tripura discriminates between goods manufactured or

produced in one locality and similar goods manufactured or produced in another locality.

Chapter VI

Licences, Permits and Passes

30. Preparation of list of places for which it is proposed to grant licences for the retail sale of spirit.

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

31. Publication of such list.

(1)The Collector shall-(a)cause to be conspicuously affixed upon the site of each shop referred to in the said list a notice to the effect that it is proposed to grant a licence for the retail sale of spirit thereat, or in the vicinity, for the next period of settlement;(b)if any site referred to in the said list is not at the time used for the retail sale of spirit, cause a notice to the effect that it is proposed to grant a licence for the retail sale of spirit thereat, or in the vicinity, for the next period of settlement, to be proclaimed in the locality by beat of drum;(c)send to the Chairman or Administrator of each Municipality an extract reproducing so much of the said list as relates to shops in the Municipality; and(d)cause the said list, or any portion thereof, to be published in such other methods (if any) as may be prescribed by rules made under Section 85, Clause (j).(2)When an extract is sent to the Chairman or Administrator of any Municipality under Clause (c) of sub-section (1), he shall-(i)cause a copy of the extract to be conspicuously affixed at the central office of the Municipality concerned; and(ii)send to each member of each Ward Committee (if any), as copy of so much of the extract as relates to shops situated in his ward.

32. Time for preparation and publication of such list.

- The list mentioned in Section 30 shall be prepared and shall be published under Section 31, at such time as may be prescribed by rules made in this behalf under Section 85, Clause (j)-

33. Submission of objections and opinions to Collector.

(1)Objections to any proposal contained in any list prepared under Section 30 may be received, at any time prior to the date prescribed by the rules made in this behalf under Section 85, Clause (j), from-(a)persons paying municipal rates and residing in any Municipality to which such proposal relates, or, if any such Municipality is divided into wards, in the ward to which such proposal relates or in any ward adjoining such ward ; or(b)(in the case of shops not situated in any Municipality) persons owning or occupying land, or residing, in the vicinity of the shop to which such proposal

relates; or(c)the District Magistrate.(2)Such objections must be submitted to the Collector; provided that any Municipality they may, at the option of the objector, be submitted to the Chairman or Administrator of the Municipality.(3)Every Chairman or Administrator of a Municipality to whom an extract has been sent under Section 31, Clause (c), shall send to the Collector, by a date prescribed by rules made in this behalf under Section 85, Clause (j)-(i)all objections (if any) to proposals contained in the extract which may be received by the Chairman or the Administrator from persons paying municipal rates, before that date; and(ii)any opinion which the Chairman or the Administrator may wish to record on the said proposals.

34. Grant of licences by Collector, and submission of list, objections and opinions to Excise Commissioner.

(1)After the date prescribed for the receipt of objections and opinions submitted under Section 33. the Collector shall consider the same, and shall, if necessary revise the said list, and shall decide for what places licences for the retail sale of spirit shall be granted, and may, in his discretion, grant licences accordingly.(2)The Collector shall then forthwith submit the said list, as so revised, and the said objections and opinions, and his own opinion, to the Excise Commissioner.(a)[Omitted](b)[Omitted](3)[Omitted]

35. Finality of decision of Excise Commissioner or Chief Commissioner.

- The Excise Commissioner shall consider the list, objections and opinions so sent to him, and may modify or annul any order passed or licence granted by the Collector, and notwithstanding anything contained in Section 8, his orders shall be final.

35A.

[Omitted]

36. Application of Sections 30 to 35 to licences for retail sale of intoxicants other than spirit.

- The provisions of Sections 30 to 35 as to licences for the retail sale of spirit shall apply also in respect of licences for the retail sale, in any local area specified in any order made by the Chief Commissioner in this behalf, any other intoxicant specified in such order.

37. Exemption of certain licences from Sections 30 to 36.

- Sections 30 to 36 shall not apply in the case of any licence which it is proposed to grant-(a)to any person, for the retail sale of any intoxicant, during any period not exceeding six months; or(b)to any person, for the retail sale of any denatured spirit; or(c)to any person, for the retail sale of any intoxicant in substitution for a licence which has been cancelled or surrendered before the expiration of the period for which it was granted; or(d)to any medical practitioner, chemist,

druggist, apothecary or keeper of a dispensary, for the retail sale of any intoxicant for medicinal purposes.

38. Fees for terms, conditions and form of, and duration of licences, permits and passes.

(1) Every licence, permit or pass granted under this Act-(a) shall be granted-(i) on payment of such fees (if any), and (ii) subject to such restrictions and on such conditions, and (b) shall be in such form and contain such particulars as the Chief Commissioner may direct. (2) Every licence, permit or pass under this Act shall be granted for such period (if any) as may be prescribed by rules made by the Chief Commissioner under Section 85, Clause (e).

39.

[Omitted]

40. Counterpart agreement by licensee, and security or deposit.

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

41. Technical defects, irregularities and omissions.

(1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceedings taken prior to the grant thereof. (2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

42. Power to cancel or suspend licence, permit or pass.

(1) Subject to such restrictions as the Chief Commissioner may prescribe, the authority who granted any licence, permit or pass under this Act may cancel or suspend it-(a) if it is transferred or sub-let by the holder thereof without the permission of the said authority; or (b) if any duty or fee payable by the holder thereof be not duly paid; or (c) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof; or (d) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence punishable under the Dangerous Drugs Act, 1930 (2 of 1930), or under the Trade and Merchandise Marks Act, 1959 (43 of 1959), or under any section which has been introduced into the Indian Penal Code by Section 3 of that Act (Act 45 of 1860); or (e) if the holder thereof is punished for any offence referred to in Clause (8) of Section 167 of the Sea Customs Act, 1878 (8 of 1878); or (f) where a licence, permit or pass has been granted on the

application of the holder of an exclusive privilege granted under Section 22, on the requisition in writing of such holder; or (g) if the conditions of the licence, permit or pass provide for such cancellation or suspension at will. (2) When a licence, permit or pass held by any person is cancelled under Cl. (a), Cl. (b), Cl. (c), Cl. (d) or Cl. (e) of sub-section (1) the authority aforesaid may cancel any other licence, permit or pass granted to such person by, or by the authority of, the Chief Commissioner under this Act, or under the Opium Act, 1878 (1 of 1878). (3) The holder of a licence, permit or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof.

43. Power to withdraw licences.

(1) Whenever the authority who granted any licence under this Act considers that the licence should be withdrawn for any cause other than those specified in Section 42, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the licence either—(a) on the expiration of fifteen days' notice in writing of its intention to do so, or (b) forthwith, without notice. (2) If any licence be withdrawn under Clause (b) of sub-section (1), the said authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any), by way of compensation, as the Excise Commissioner may direct. (3) When a licence is withdrawn under sub-section (1), any fee paid in advance, or deposit made by the licensee in respect thereof, shall be refunded to him after deducting the amount (if any) due to the Government.

44. Surrender of licence.

(1) Any holder of a licence granted under this Act to sell an intoxicant may, unless his licence is liable to cancellation or suspension under Section 42, surrender the same on—(i) the expiration of one month's notice in writing given by him to the Collector of his intention to surrender it, and (ii) payment of the fees payable for the licence for the whole period for which it would have been current by for such surrender: Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence, he may remit to the holder thereof the sum so payable on surrender, and any fees paid in advance, or any portion of sum or fees. (2) Sub-section (1) shall not apply in the case of a licence for the sale of any country liquor or intoxicating drug in the exercise of an exclusive privilege granted under Section 22. Explanation.—The words "holder of licence", as used in this section, include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence.

44A. Bar to right of renewal and to compensation.

- No person to whom a licence has been granted under this Act shall have any claim to the renewal of such licence, or save as provided in Section 43, any claim to compensation on the determination thereof.

Chapter VII

Departmental Management or Transfer

45. Power of Collector to take grants under management, or to transfer them.

- If any holder of a licence granted under this Act, or any person to whom an exclusive privilege has been granted under Section 22, contravenes any provision of this Act or any rule made hereunder, or makes default in complying with any condition imposed upon him by such licence or privilege, or if any holder of a licence granted under this Act surrenders the same under Section 44, the Collector may (in the case of a licence, after the cancellation or surrender thereof, and, in the case of an exclusive privilege, at any time)-(a) take the grant under management, at the risk and loss of the person to whom it was made, or (b) transfer the unexpired portion of the grant, at the risk and loss of the said person, to any other person.

Chapter VIII

Offences and Penalties

46. Penalty of unlawful import, transport, manufacture, possession, sale, etc.

- If any person, in contravention of this Act, or of any rule, notification or order made, issued or given, or licence, permit or pass granted, under this Act, -(a) imports, exports, transports, manufactures, possesses or sells any intoxicant, or (b) cultivates any hemp plant (*Cannabis Sativa* L.), or (c) collects or sells any portion of the hemp plant (*Cannabis Sativa* L.) from which an intoxicating drug can be manufactured or produced, or (d) bottles any liquor for purposes of sale, or (e) works any distillery or brewery, or (f) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari, or (g) establishes any distillery, brewery or warehouse, or (h) removes any intoxicant from any distillery, brewery, warehouse or other place of storage licensed, established, authorized or continued under this Act, he shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both.

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

- In prosecution under Section 46, it may be presumed, unless and until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of-(a) any intoxicant, or (b) any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant other than tari, or (c) any materials which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured, for the possession of which he fails to account satisfactorily.

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

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

48A. Presumption as to offence under Section 48 in certain cases.

- In prosecutions under Section 48, when the accused person is proved to have been in possession of any spirit which is, or contains, or has been derived from denatured spirit, and in respect of which any such alteration or attempt as is referred to in Section 48 has been made, it may, from the mere fact of such possession, be presumed, unless and until the contrary is proved, that such person—(i) has himself made such alteration or attempt, or (ii) knows or has reason to believe that such alteration or attempt has been made.

48B. Presumption as to any spirit which contains any denaturant.

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

49. Penalty for adulteration by licensed manufacturer or vendor or his servant.

- If any licensed manufacturer or licensed vendor, or any person in his employ and acting on his behalf, mixes or permits to be mixed, with any intoxicant manufactured, sold or kept or exposed for sale by him, any noxious drug or any article prohibited by rule made under Section 86, Clause (9) sub-Clause (1) and such mixing does not amount to an offence punishable under Section 272 of the Indian Penal Code (Act 45 of 1860), or has in his possession any intoxicant in respect of which such admixture has been made, he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

50. Penalty for fraud by licensed manufacturer or vendor or his servant.

- If any licensed manufacturer or licensed vendor, or any person in his employ and acting on his behalf,—(a) sells or keeps or exposes for sale, as foreign liquor, any liquor which he knows or has reason to believe to be country liquor, and such sale does not amount to an offence punishable under Section 417 or Section 418 of the Indian Penal Code, or (b) marks any bottle, cask, package or other receptacle containing country liquor, or the cork of any such bottle, or deals with any bottle, cask, package or other receptacle containing country liquor, with the intention of causing it to be

believed that such bottle, cask, package or other receptacle contain foreign liquor, and such marking or dealing does not amount to an offence punishable under Section 482 of the said Indian Penal Code, he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

51. Penalty for certain unlawful acts of licensed vendors or their servants.

(1) If any licensed vendor, or any person in his employ, and acting on his behalf, - (a) in contravention of Section 25, employs or permits to be employed, in any part of his licensed premises referred to in that section any child or woman; or (b) sells any intoxicant to a person who is drunk or intoxicated; or (c) sells or delivers any spirit or intoxicating drug to any child apparently under the age of sixteen years, whether for consumption by such child or by any other person, and whether for consumption "on" or "off" the premises of such vendor; or (d) permits drunkenness, intoxication, disorderly conduct or gaming on the premises of such vendor; or (e) permits any person whom he knows, or has reason to believe, to have been convicted of any non-bailable offence, or who are reputed prostitutes, to meet, or any such person to remain, on the premises of such vendor, whether for purposes of crime or prostitution or not, he shall be liable to fine which may extend to five hundred rupees. (2) When any licensed vendor or any person in his employ and acting on his behalf, is charged with permitting drunkenness or intoxication on the premises of such vendor, and it is proved that any person was drunk or intoxicated on such premises, it shall lie on the person charged to prove that the vendor and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises.

52. Penalty for possession of intoxicant in respect of which an offence has been committed.

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

53. Penalty for consumption in chemist's shop, etc.

(1) If any chemist, druggist, apothecary or keeper of a dispensary allows any intoxicant which has not been bona fide medicated for medicinal purposes to be consumed on his business premises by any person not employed in business, he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both. (2) If any person not employed as aforesaid consumes any such intoxicant on such premises, he shall be liable to fine which may extend to two hundred rupees.

54. Penalty for certain acts by licensee or his servants.

- If any holder of a licence, permit or pass granted under this Act, or any person in his employ and acting on his behalf,-(a)fails to produce such licence, permit or pass on the demand of any officer empowered by the Chief Commissioner, by notification, to make such demand, or(b)in any case not provided for in Section 46 wilfully contravenes any rule made under Section 85 or Section 86, or(c)wilfully does any act, in breach of any of the conditions of the licence, permit or pass, for which a penalty is not prescribed elsewhere in this Act,he shall be liable, in case (a), to fine which may extend two hundred rupees, and in case (b) or case (c) to fine which may extend to five hundred rupees.

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

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

56. Criminal Liability of licensee for acts of servant.

- When an offence punishable under Section 46, Section 49, Section 50, Section 51, Section 52 or Section 54 is committed by any person in the employ and acting on behalf of the holder of a licence, permit or pass granted under this Act, such holder shall also be punishable as if he had himself committed the offence unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

57. Imprisonment under Section 55 or Section 56.

- No person other than the actual offender shall be punished under Section 55 or Section 56 with imprisonment, except in default of payment of a fine.

58. Penalty on Excise Officer making vexatious search, seizure, detention or arrest, or refusing duty, or being guilty of cowardice.

- If any Excise Officer,-(a)without reasonable grounds of suspicion searches or causes to be searched, any place, under colour of exercising any power conferred by this Act, or(b)vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any

article liable to confiscation under this Act, or(c)vexatiously and unnecessarily detains, searches or arrests any person, or(d)without lawful excuse, ceases or refuses or perform or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector or unless he has given to his immediate superior two months' notice in writing of his intention to do so, or(e)is guilty of cowardice,he shall be liable to imprisonment for a term which may extend to three months or to fine which may extended to five hundred, or to both.

59. Penalty for offences not otherwise punishable.

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

60. Penalty for contempt of Court.

- Every proceeding under this Act before a Collector, or before any officer, of such rank as the Chief Commissioner may by notification prescribe, who is exercising powers of a Collector, shall be deemed to be a judicial proceeding within the meaning of Section 228 of the Indian Penal Code (Act 45 of 1860).

61. Penalty for attempt to commit offences.

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

62. Enhanced punishment after previous conviction.

- If any person, after having previously been convicted of an offence punishable under Section 46, Section 48, Section 52 or Section 53 or under similar provisions in any enactment in force prior to the commencement of this Act,subsequently commits and is convicted of an offence punishable under any of those sections,he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:Provided that nothing in this section shall prevent any offence, which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898 (Act 5 of 1898), from being so tried.

63. What things are liable to confiscation.

(1)Whenever an offence has been committed which is punishable under this Act, the intoxicant materials, still, utensil, implement and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.(2)Any intoxicant lawfully imported, transported, manufactured, had in possession or sold along with or in addition to, any intoxicant which is liable to confiscation under sub-section (1),and the receptacles, packages and coverings in which any such intoxicant as aforesaid, is found,and the other contents, if any, of such receptacles or packages,and

the animals, carts, vessels, rafts or other conveyances use in carrying the same, shall likewise be liable to confiscation: provided that no animal, cart, vessel, raft or other conveyance as aforesaid shall be liable to confiscation unless the owner thereof is proved to have been implicated in the commission of the offence.

64. Confiscation by Magistrate or Collector.

(1) When, in any case tried by him, the Magistrate decides that anything is liable to confiscation under Section 63, he may either order confiscation or give the owner of such thing an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit. (2) Whenever anything is liable to confiscation under Section 63, and the offender or the person entitled to possession is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation: Provided that no such order shall be made until the expiration of two months from the date of seizing the thing intended to be confiscated or without hearing any person who may claim any right thereto and the evidence (if any) which he produces in support of his claim: Provided further, that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that its sale would be for the benefit of its owner, the Collector may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

65. Power to compound offences and to release property liable to confiscation.

(1) The Collector or any Excise Officer specially empowered by the Chief Commissioner in this behalf, not below the rank of Sub-Divisional Officer or Additional Sub-divisional Officer or Inspector of Excise, - (a) may accept from any person whose licence, permit or pass is liable to be cancelled or suspended under Clause (a), Clause (b) or Clause (c) of Section 42, or who is reasonably suspected of having committed an offence punishable under any section of this Act other than Section 58, payment of a sum of money, not exceeding two hundred rupees, in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be; and (b) in any case in which any property has been seized as being liable to confiscation under Section 63, may, at any time before the Magistrate has passed an order under Section 64, sub-section (1), release the property on payment of any sum not exceeding the value thereof as estimated by the Collector or such Excise Officer. (2) When the payments referred to in sub-section (1) have been duly made the accused person, if in custody, shall be discharged, and the property seized (if any) shall be released; and no further proceedings shall be taken against such person or property.

Chapter IX

Detection, Investigation and Trial of Offences and Procedure

66. Power to enter and inspect, and power to test and seize measures, etc.

- Any the following officers, namely,-(a)the Excise Commissioner, or(b)a Collector, or(c)any Excise Officer not below such rank as the Chief Commissioner may by notification prescribe, may, subject to any restrictions prescribed by the Chief Commissioner by rule made under Section 85 -(i)enter and inspect, at any time by day or night, any place in which any licensed manufacturer carries on the manufacture of, or stores, any intoxicant; and(ii)enter and inspect, at any time during which the same may be open, any place in which any intoxicant is kept for sale by any licensed person; and(ii-a) examine the accounts and registers maintained in any such place as aforesaid; and(iii)examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or intoxicant found in any such place as aforesaid; and(iv)examine or test and seize any measures, weights or testing instruments, found in any such place as aforesaid, which he has reason to believe to be false.

67. Power to arrest without warrant, to seize articles liable to confiscation, and to make searches.

- Any of the following persons, namely,-(a)any officer of the Excise and Salt, Police, Customs or Land-revenue Department, or(b)any person empowered by the Chief Commissioner in this behalf, by notification,may, subject to any restrictions prescribed by the Chief Commissioner by rule made under Section 85,-(i)arrest without warrant any person found committing an offence punishable under Section 46, Section 48, Section 52 or Section 53; and(ii)seize and detain any article which he has reason to believe to be liable to confiscation under this Act or other law for the time being in force relating to the excise- revenue; and(iii)detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be.

68. Power to issue warrant of arrest.

- The Collector, or any Magistrate empowered to try offences punishable under this Act, may issue a warrant for the arrest of any person whom he has reason to believe to have committed or abetted the commission of any offence punishable under Section 46, Section 48, Section 52 or Section 53.

69. Power to issue search warrant.

- If any Collector, or any Magistrate empowered to try offences punishable under this Act, upon information received, and after such enquiry (if any), as he thinks necessary, has reason to believe that any offence punishable under Section 46, Section 48, Section 52 or Section 53 has been, or is likely to be, committed or abetted.he may issue a warrant to search for-any document, material, still, utensil, implement or apparatus in respect of which the alleged offence has been, or is likely to be, committed or abetted; orany intoxicant which throws or is likely to throw any light on the alleged offence.

69A. Power of Collector or Magistrate to arrest or search without issuing a warrant.

- The Collector, or any Magistrate empowered to try offences punishable under this Act, may at any time-(a)arrest, or direct the arrest in his presence, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under Section 68, or(b)search, or direct a search to be made in his presence, of any place for the search of which he is competent to issue a search warrant under Section 69.

70. Power of Excise Officer to search without warrant.

- Whenever any Excise Officer not below such rank as the Chief Commissioner may, by notification, prescribe, has reason to believe that an offence punishable under Section 46, Section 48, Section 52 or Section 53 has been, is being, or is likely to be, committed or abetted, and that a search-warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence ;he may, after recording the grounds of his belief, at any time by day or night enter and search any place, and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search, and if he thinks proper, arrest any person found in such place whom he has reason to believe to have committed or abetted any such offence as aforesaid.

71. Information and aid to Excise Officers.

(1)Every Officer of the Police, Excise and Salt, Customs and Land-revenue Departments shall be bound, subject to any rules made under Section 85, Clause (i), to give immediate information to an Excise Officer of all breaches of any of the provisions of this Act which may come to his knowledge.(2)Every officer referred to in sub-section (1) and every village chaukidar, shall be bound, subject to any rules made under Section 85, Clause (i) to give reasonable aid to any Excise Officer in carrying out the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, upon request made by such Officer.

72. Duty of owners and occupiers of land and other persons to give notice of unlicensed manufacture.

- Whenever any intoxicant is manufactured, or any hemp plant (Cannabis Sativa) is cultivated or any portion of the hemp plant (Cannabis Satiim) from which an intoxicating drug can be manufactured or produced is collected, on any land, in contravention of this Act,all owners and occupiers of such land, and their agents, and all Panchavats and chaukidars of the village,shall, in the absence of reasonable excuse, be bound to give notice of the fact to a Magistrate or an officer of the Excise, Police or Land-revenue Department, as soon as the fact comes to their knowledge.

73. Power to Collector and certain Excise Officers to investigate offences.

(1)A Collector may without the order of a Magistrate investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to inquire into or try under the provisions of Chapter XV of the Code of Criminal Procedure, 1898 (Act 5 of 1898), relating to the place of inquiry or trial.(2)Any other Excise Officer specially empowered in this behalf by the Chief Commissioner in respect of all or any specified class of offences punishable under this Act may, without the order of a Magistrate, investigate any such offence which a Court having jurisdiction over the local area to which such Officer is appointed would have power to inquire into or try under the aforesaid provisions.

74. Powers and duties of Collector and certain Excise Officers investigating offences.

(1)Any Collector or any Excise Officer empowered under Section 73, sub-section (2), may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise-(a)any of the powers conferred upon a Police Officer taking an investigation, or upon an officer in charge of a police-station, by Sections 160 to 171 of the Code of Criminal Procedure, 1898, and(b)as regards offences punishable under Section 46, Section 48, Section 52 or Section 53 of this Act-Any of the powers conferred upon Police Officers in respect of cognizable offences by clause first of sub-section (1), Section 45 and by Section 56 of the said Code;and the said portions of the said Code shall apply accordingly, subject to any restrictions or modifications prescribed by the Chief Commissioner, by rule made under Section 85, Clause, (o).(2)Subject to any restrictions prescribed by the Chief Commissioner a Collector, or an Excise Officer empowered under Section 73, sub-section (2), may without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned, in any offence which he or any Excise Officer subordinate to him has investigated.(3)For the purposes of Section 156 of the Code of Criminal Procedure, 1898, the area to which an Excise Officer empowered under Section 73, sub-section (2), is appointed shall be deemed to be a police-station and such Officer shall be deemed to be the officer in-charge of such station.(4)As soon as an investigation by a Collector- or by an Excise Officer empowered under Section 73, sub-section (2), has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigating officer, unless he proceeds under sub-section (2) of this section or under Section 65 of this Act, shall submit a report (which shall, for the purposes of Section 190 of the Code Criminal Procedure, 1898 (Act 5 of 1898), be deemed to be a police-report) to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police-reports.

75. Security and bail.

(1)Whenever a Collector issues a warrant under this Act for the arrest of any person,he shall direct, by endorsement on the warrant, that if such person executes a bond with sufficient sureties for his attendance, before the Collector or before an Excise Officer empowered under Section 73,

sub-section (2), to investigate the case, at a specified time and thereafter until otherwise directed by the Collector or an Excise Officer empowered as aforesaid, the officer to whom the warrant is directed shall take such security, and shall release such person from custody.(2)The endorsement shall state-(a)the number of sureties,(b)the amount in which they, and the person for whose arrest the warrant is issued, are respectively to be bound, and(c)the time at which such person is to attend as aforesaid.(3)Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Collector or to an Excise Officer empowered as aforesaid.(4)Whenever any person is arrested under this Act, otherwise than under a warrant, and is prepared to give bail, he shall be released on bail, or, at the discretion of the Officer releasing him, on his own bond.(5)Any Excise Officer not below such rank as the Chief Commissioner may, by notification prescribe, may release persons on bail or on their own bond.(6)Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear the Collector or an Excise Officer empowered under Section 73, sub- section (2), to investigate the case.(7)The provisions of Sections 498 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898, shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

76. Production of articles seized and persons arrested.

(1)Articles seized under the warrant of the Collector, and unless security for their appearance before the Collector be taken, persons arrested under such a warrant, shall be produced before the Collector.(2)Articles seized under Section 66, Section 67 or Section 69 and persons arrested under this Act by persons or officers not having authority to release arrested persons on bail or on own bond shall be produced before or forwarded to-(a)the Collector or an Excise Officer empowered under Section 73, sub-section (2), to investigate the case; or(b)the nearest Excise Officer who has authority to release arrested persons on bail or on their own bond; or(c)the officer in-charge of the nearest police-station,whoever is nearest.(3)When a person arrested is produced before an Excise Officer who has authority to release arrested persons on bail or on their own bond, or before an officer-in-charge of a police-station, such officer shall forward such person to or take security for his appearance before, the Collector or the Excise Officer empowered under Section 73, sub-section (2), to investigate the case.(4)When any article seized cannot conveniently be conveyed before an officer referred to in sub-section (1) or sub-section (2), as the case may be, the person making the seizure shall dispose of them in some place of safety and forthwith report the seizure to such an officer.

77. Custody by police of articles seized.

(1)All officers-in-charge of police-station shall take charge of and keep in safe custody, pending the orders of a Magistrate, or of the Collector, or of an Excise Officer empowered under Section 73, sub-section (2), to investigate the case, all articles seized under this Act which may be delivered to them; and shall allow any Excise Officer who may accompany such articles to the police-station, or who may be deputed for the purpose by an official superior, to affix his seal to such articles and to take samples of and from them.(2)All samples so taken shall be sealed with the seal of the officer-in-charge of the police-station.

78. Reports of arrests, seizures and searches.

- When any Excise Officer below the rank of Collector, or any officer-in-charge of a police-station, makes, or receives information of, any arrest, seizure and search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of arrest, seizure or search, or of the information received, to the Collector, and to the Excise Officer (if any) empowered under Section 73, sub-section (2), within the local limits of whose jurisdiction the arrest, seizure or search was made.

79. Execution of Collector's warrant.

- Any warrant issued by a Collector may be executed by any officer selected by the Collector for the purpose.

80. Maximum period of detention.

(1) No person arrested under this Act shall be detained in custody for a longer period than under all the circumstances of the case is reasonable; and such period shall not exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest, to the place where a Collector or an Excise Officer empowered under Section 73, sub-section (2), to investigate the case and thence to the Court of Magistrate having jurisdiction to inquire into or try the case. (2) A Magistrate to whom an accused person is forwarded under Section 167 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), by a Collector or an Excise Officer empowered under Section 73, Sub-section (2), may exercise the powers conferred upon a Magistrate by the said Section 167.

81. Application of certain provisions of the Code of Criminal Procedure, 1898.

(1) Save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898, relating to arrests, detentions in custody, searches, summonses, warrants of arrest, search-warrants and the production of persons arrested, shall apply, so far as may be, to arrests, detentions and searches made, summonses and warrants issued, and the production of persons arrested under this Act. (2) For the purposes of the said provisions of the said Code, a Collector shall be deemed to be a Court. (3) Officers to whom a Collector's warrant is directed or endorsed, and officers (other than Collectors) making arrests, searches or seizures under this Act, shall, for the purposes of the said provisions of the said Code, be deemed to be Police Officers.

82. Magistrates having jurisdiction to try offences.

- No Magistrate other than-(a) [*****] (b) a Magistrate whose powers are not less than those of a Magistrate of the second class; or (c) a Magistrate of the third class, specially empowered by the District Magistrate in this behalf, shall try any offence punishable under this Act.

83. Initiation of certain prosecutions.

- No Magistrate shall take cognizance of an offence referred to-(a)in Section 46, Section 48, Section 52 or Section 53, except on his own knowledge or suspicion or on the complaint or report of an Excise Officer or officer empowered in this behalf by the Chief Commissioner; or(b)in Section 54, Section 58, Clause (d) or Clause (e), or Section 59, except on the complaint or report of the Collector or an Excise Officer authorised by the Collector in this behalf.

84. Bar to transfer or trial on application of accused.

- The provisions of Section 191 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), shall not apply in any case in which a Magistrate (not being the Collector) takes cognizance of an offence under this Act on the report of any officer referred to in Clause (a) or Clause (b) of Section 83.

Chapter X

Miscellaneous

85. Power of Chief Commissioner to make rules.

(1)The Chief Commissioner may make rules to carry out the objects of this Act.(2)In particular, and without prejudice to the generality of the foregoing provisions, the Chief Commissioner may make rules-(a)for prescribing the powers and duties of officers of the Excise Department;(b)for regulating the delegation of any powers by the Excise Commissioner or Collector under Clause (g) of sub-section (2) of Section 7 ;(c)for declaring in what cases or classes of cases and to what authorities appeals shall lie from orders whether original or appellate, passed under this Act or under any rule made hereunder, and for prescribing the time and manner for presenting, and the procedure for dealing with such appeals;(d)for regulating the import, export or transport of any intoxicant;(e)for regulating the periods for which licences for the wholesale or retail vend of any intoxicant may be granted, and the number of such licences which may be granted for any local area;(f)for prohibiting the grant of licences for the retail sale of any intoxicant at any place or within any local area described in the rules, or for defining the places in the vicinity of which shops for the retail sale of any intoxicant shall not ordinarily be licensed;(g)for prohibiting the grant to specified classes of persons licences for the retail sale of any intoxicant;(h)for declaring, either, generally, or in respect of areas described in the rules, the persons or classes of persons to whom any intoxicant may or may not be sold;(i)[***](j)for regulating the procedure to be followed and prescribing the matters to be ascertained before any licence for the wholesale or retail vend of any intoxicant is granted for any locality;(k)for restricting the exercise of any of the powers conferred by Section 65, Clause (a), and Sections 66 and 67;(l)for declaring the Excise Officers to whom, and the manner in which, information or aid should be given under Section 71;(m)for the grant of expenses to witnesses;(n)for the grant of compensation for loss of time to persons released by any Excise Officer under this Act on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences punishable under this Act and subsequently acquitted; and(o)for prescribing restrictions or modifications in the application to Excise Officers of the provisions of the Code of

Criminal Procedure, 1898 (Act 5 of 1898); relating to powers of Police Officers which are referred to in Section 74, sub-section (1) of this Act.(3)The powers conferred by this section for making rules are subject to the conditions that the rules be made after previous publication :Provided that any such rules may be made without previous publication if the Chief Commissioner considers that they should be brought into force at once.

86. Further power of Chief Commissioner to make rules.

- The Chief Commissioner may make rules-(1)for regulating the manufacture, supply or storage of any intoxicant, and in particular and without prejudice to the generality of this provision, may make rules for regulating-(a)the establishment, inspection, management and control of any place for the manufacture, supply or storage of any intoxicant, and the provision and maintenance of fittings, implements and apparatus therein;(b)the bottling of liquor for purposes of sale;(c)the cultivation of the hemp plant (*Cannabis Sativa*);(d)the collection of portions of the hemp plant (*Cannabis Sativa*) from which intoxicating drugs can be manufactured or produced, and the manufacture or production of intoxicating drugs therefrom;(e)the trapping of tan-producing trees and the drawing of tari from trees;(f)the marking of tan-producing trees in areas notified under Section 14, sub-section (1), and the maintenance of such marks;(2)for fixing the strength, price or quantity in excess of or below which any intoxicant shall not be supplied or sold, and the quantity in excess of which denatured spirit shall not be possessed, and for prescribing a standard of quality for any intoxicant;(3)for declaring how spirit manufactured in India shall be denatured;(4)for causing spirit so manufactured to be denatured through the agency or under the supervision of servants of the Government;(5)for ascertaining whether any spirit so manufactured has been denatured;(6)for regulating the deposit of any intoxicant in a warehouse established, authorised or contained under this Act, and the removal of any intoxicant from any such warehouse or from any distillery or brewery;(7)for prescribing the scale of fees or the manner of fixing the fees payable in respect of any exclusive privilege granted under Section 22 or any licence, permit or pass granted under this Act, or in respect of the storing of any intoxicant;(8)for regulating the time, place and manner of payment of such fees;(9)for prescribing the restrictions under which or the conditions on which any licence, permit or pass may be granted, and in particular and without prejudice to the generality of this provision, may make rules for-(i)prohibiting the admixture with any intoxicant of any article deemed to be noxious or objectionable;(ii)regulating or prohibiting the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength ;(iii)prescribing the nature and regulating the arrangement of the premises in which any intoxicant may be sold and prescribing the notices to be exposed at such premises ;(iv)prohibiting or regulating the employment by the licensee, of any person or class of persons to assist him in his business;(v)prohibiting the sale of any intoxicant except for cash ;(vi)prescribing the days and hours during which any licensed premises may or may not be kept open, and providing for the closing of such premises on special occasions ;(vii)prescribing the accounts to be maintained and the returns to be submitted by licensees ; and(viii)regulating the transfer of licences ;(10)for prescribing the particulars to be contained in licences, permits or passes granted under this Act ;(11)for the payment of compensation to licensees whose premises are closed under Section 26 or under any rule made under sub-Clause (vi) of Clause (9) of this section ;(12)for prescribing the time, place and manner of levying duty on intoxicant ;(13)for providing for the destruction or other disposal of any intoxicant

deemed to be unfit for use ; and(14)for regulating the disposal of things confiscated under this Act.Explanation.-Fees may be prescribed under Clause (7) of this section, at different rates for different classes of exclusive privileges, licences, permits, passes for storage, and for different areas.

87.

[Omitted]

88. Publication and effect of rules and notifications.

- All rules made, and notifications issued under this Act shall be published in the Tripura Gazette and on such publication shall have effect as if enacted in this Act.

89. Recovery of dues.

(1)The following moneys, namely,-(a)all excise-revenue;(b)any loss that may accrue when a grant has been taken under management by the Collector or transferred by him under Section 45 ; and(c)all amounts due to the Government by any person on account of any contract relating to the excise-revenue,may be recovered from the person primarily liable to pay the same,or from his surety (if any), by distress and sale of his movable property, or by the process prescribed for the recovery of arrears of revenue.(2)When a grant has been taken under management by the Collector, or has been transferred by him, under Section 45, the Collector may recover, in any manner authorised by sub-section (1), any money due to the grantee by any lessee or assignee.(3)When any money is due, in respect of an exclusive privilege, to a grantee referred to in Section 23, from any person holding under him,such grantee may apply to the Collector, and the Collector may recover such money on his behalf in either of the ways provided by sub-section (1):Provided that nothing in this sub-section shall affect the right of any such grantee to recover any such money by civil suit.

90. Power of Chief Commissioner to exempt intoxicants from provisions of the Act.

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

91. Bar to certain suits.

- No suit lie in any Civil Court against the Government, Chief Commissioner or any Excise Officer for damages for any act in good faith done or ordered to be done in pursuance of this Act or of any other law for the time being in force relating to the excise-revenue.

92. Limitation of suits and prosecutions.

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

92A.

[Omitted]

93.

[Omitted] The Schedule [Repealed by Section 3 of, and the Second Schedule to, the Bengal Repealing and Amending Act, 1938 (Beng. Act 1 of 1939)].