

# The Bihar and Orissa Excise Act, 1915

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### Act 2 of 1915

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The Bihar and Orissa Excise Act, 1915(Act 2 of 1915)Object and Reasons. - The Excise Act may have more than one object, the benefit of Revenue, improvement of public health or morals by control of the liquor trade etc. It may be also presumed that it was the intention of the Legislature when enacting the Excise Act to include prohibition as well (See B. and O. Gazette, 1915 Part V Page 39.)Received the assent on 13th December 1915, and assented to by the Viceroy and Governor-General on the 31st December, 1915; Vide Bihar and Orissa Gazette, dated the 19th January 1916.An Act to Amend and Re-Enact the Excise Law in the Province of Bihar and OrissaWhereas it is expedient to amend and re-enact the law in the province of Bihar and Orissa relating to the import, export, transport, manufacture, possession and sale of certain kinds of liquor and intoxicating drugs;And whereas the previous sanction of the Governor-General has been obtained, under Section 5 of the Indian Councils Act, 1892, 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 Bihar and Orissa Excise Act, 1915;(2)It extends to the whole of the Province of Bihar and Orissa including the Santal praganas and the district of Angul; and(3)It shall [come into force] [[The Act came into force on the 1st April, 1916 so far as the district of Cuttack, Puri, Balasore, Sambalpur and Angul-Vide Notification No. 2494, F. dated the 23rd February, 1916 by the Government of Bihar and Orissa in the Financial Department, published on Page 384, Part II of the Bihar and Orissa Gazette dated the 1st March, 1916.It has been extended to the districts of Ganjam and Koraput from 1st February, 1937 by Regulation No. VI of 1937 (The Orissa Laws Amendment Regulation 1937).]] on such date as the State Government may, by notification, direct.

### 2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context;(1)"beer" include ale, stout, porter and all other fermented liquor made from malt;(2)"Board" means the Board of Revenue [\* \*

\*) [The words 'Bihar and Orissa' was omitted by the Government of India (Adaptation of Indian Laws) Order, 1957.](3)"to bottle" means to transfer liquor from a cask or other vessel to a bottle or other receptacle for the purpose of sale whether any process of rectification be employed or not, and includes rebottling;(4)[\* \* \*] [Sub-section (4) was omitted by the Dangerous Drugs Act 2 of 1930.](5)(a)"denaturant" means any substance prescribed by rule made in this behalf under Clause (3) of Section 90, 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;(b)"to denature" means to mix spirit with one or more denaturants in such manner as may be prescribed by rule made in this behalf under Clause (3) of Section 90, and 'denatured spirit' means spirit so mixed;(6)"excisable article" means -] [Substituted by the Adaptation of Indian Laws Order, 1950.](a)any alcoholic liquor for human consumption; or(b)any intoxicating drug;[(6-a) "excise duty" and "countervailing duty" means any such excise duty or countervailing duty, as the case may be, as mentioned in (Entry 51 of List II in the Seventh Schedule to the Constitution;] [Inserted by the Adaptation of Indian Laws Order, 1950.](7)"Excise Commissioner" means the Officer appointed under Section 7, Clause (a);(8)"Excise Officer" means the Collector or any officer or other person appointed or invested with powers under Section 7;(9)"Excise-revenue" means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) on confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs; [and includes any payment to be made to the State Government under Section 29] [Inserted by Act 17 of 1970.](10)"export" [Definition of 'Export' was substituted by Act 17 of 1970 for original Sub-section (10).] means to take out of the State otherwise than across a customs frontier as defined by the Central Government;(11)[\* \* \*] [Subs-Section (11) was omitted by the Dangerous Drugs Act 2 of 1980, Section 4 and Schedule II.](12)"Import" [Substituted by the Adaptation of Indian Laws Order, 1950.] [except in the phrase import into [all the State of India] means to bring into the State otherwise than across customs frontier as defined by the Central Government;(12-a) ["intoxicant" [Substituted by Act 36 of 1975.] means any liquor or intoxicating drug and includes mohua flower [and molasses] [Inserted by Orissa Act 2 of 1999.],(13)"intoxicating drug" [Substituted by the Dangerous Drugs Act, 11 of 1930.] 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, siddhi, or ganja;(ii)charas, that is the resin obtained from the 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 intoxicating drugs, or any drink prepared therefrom; and(iv)any other intoxicating or narcotic substance which the [State Government] [Substituted by A.L.O. 1950.] may by notification [decide to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug, as defined in Section 12 of the Dangerous Drugs Act, 11 of 1930;] [For Notification See L.S.R.& O., Volume I, Part VII.](14)"Liquor" includes all liquids consisting of or containing alcohol, such as spirits of wine, spirit wine, fermented tari, pachwai and beer, and also unfermented tari and also any other substance which the [State Government] [Substituted by A.L.O. 1950.] 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] [Substituted by A.L.O. 1937.] is produced or prepared (including the tapping of tari producing trees and the drawing of tari from trees);(ii)redistillation; and(iii)every process for the rectification, flavouring, blending, or colouring of liquor, or for the reduction of liquor for sale;(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 or tent;(18)expression referring to "sale" include any transfer otherwise than by way of gift;(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 [State.] [Substituted by A.L.O. 1950.]

### 3.

[\* \* \*] [(Provision supplemental to the definition of 'intoxicating drug') Repealed by Section 40 and Schedule II of the Dangerous Drugs Act 2 of 1930. (which has been repealed by Act No. 61 of 1985) Narcotic Drugs and Psychotropic Substances Act, 1985 w.e.f. 16.9.85.)]

### 4. Powers to declare what shall be deemed to be 'country liquor' and 'foreign liquor' respectively.

- The [State Government] [Substituted by A.L.O. 1950.] [\* \* \*] [The word 'with the previous sanction of the Government of India' where repealed by the Devolution Act, 38 of 1920.] 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,] [For a notification declaring what shall be deemed to be 'country liquor' and 'foreign liquor' respectively. See Orissa L.S.R. and O. Volume I, Part VII.] respectively.[\* \* \*] [This proviso was omitted by the Adaptation of Indian Laws Order, 1937.]

### 5. Definition of 'retail' and 'wholesale'.

(1)The Board may, by notification, declare, with respect either to the whole of the [State Government] [Substituted by A.L.O. 1950.] 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] [Substituted by the A.L.O. 1937 for 'excisable article'.] shall, for the purposes of this Act, be the limit of a retail sale.(2)The sale of any [intoxicant] [Substituted by the A.L.O. 1937 for 'excisable article'.] in any quantity in excess of the quantity declared in respect thereof under Sub-section (1) shall be deemed to be a wholesale sale.

### 6. Saving of certain Acts.

- Nothing contained in this Act shall affect the provisions of -(a)the Sea Customs Act, VIII of 1878, or(b)the Indian Tariff Act, VIII of 1894 [(except Section 6 thereof)] [Repealed and re-enacted in 1934 and known as Indian Tariff Act XXXII.], or(c)the Cantonments Act, XV of [(1910)] [See now the Cantonments Act 2 of 1924.].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 with a district shall ordinarily be under the charge of the Collector.(2)The [State Government] [Substituted for 'Province' or 'Provincial' by A.L.O. 1950.] may, by [notification] [For notifications under Sub-section (2) of Section 7, Orissa L.S.A.O. Volume I, Part VIII, pages, 50-55.] applicable to the whole of the [State] [Substituted by A.L.O. 1950.] or to any specified local area:(a)appoint any officer who shall, subject to such control as the [State Government] [Substituted for 'Servant of the Crown' by A.L.O.] 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, subject to such control as the [State Government] [Substituted for 'Servant of the Crown' by A.L.O.] may direct;(c)appoint officers of the Excise Department, of such classes and with such designations, powers and duties, as the [State Government] [Substituted for 'Servant of the Crown' by A.L.O.] 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 Section shall be exercised and performed any [Government Officer] [Substituted by Act 10 of 1971.] or any other person;(e)delegate to the Board, the Commissioner of a division [the Excise Commissioner or the Collector of a district] [Substituted for 'Province' or 'Provincial' A.L.O. 1950.] all or any of the powers conferred upon the [State Government] [Substituted for 'Servant of the Crown' by A.L.O.] by or under this Act, except the power conferred by Section 89 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 Board, the Commissioner of a division, the Excise Commissioner or the Collector, to any persons or classes of persons specified in such notification, of any powers conferred or duties imposed upon it or him by 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 and shall, in such matters as the [State Government] [Substituted for 'Servant of the Crown' by A.L.O.] may direct, be subject also to the control of the Commissioner of the division.(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 rule made under Section 89, Clause (c).(3)The Board may revise any order passed by Collector, the Excise Commissioner or the Commissioner of a division.

## 9. Restrictions on import.

- [(1) No intoxicant shall be imported unless-] [See Orissa Excise Rules, 1965 Chapter-II.](a)the [State Government] [Substituted by A.L.O., 1950.] has given permission, either general or special, for its import;(b)such conditions (if any) as the [State Government] [Substituted by A.L.O., 1950.] may impose, have been satisfied; and(c)the duty (if any) [payable under Chapter V] [Substituted by A.L.O., 1937.] 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] [Substituted by A.L.O., (3rd

Amendment) 1951.] and was liable, on such importation, to duty under the Indian Tariff Act, 1894 or the Sea Custom Act, 1878, if -(i)the duty as aforesaid 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] [Substituted by A.L.O., (3rd Amendment) 1951.] and declared under Section 4 to be foreign liquor.

## **10. Restrictions on export or transport.**

- No [intoxicant] [Substituted by A.L.O., 1937.] shall be exported or transported unless-(a)[ duty (if any) payable under Chapter V] [Substituted by A.L.O., 1937.];(b)[\* \* \*] [Omitted by A.L.O., 1937.] -has been paid or bond has been executed for the payment thereof:Provided that the Board may, subject to such conditions (if any) as it thinks fit to impose, exempt any [intoxicant] [Substituted by A.L.O., 1937.] from the provisions of this Section.

## **11. Power to prohibit, import, export or transport.**

- The [State Government] [Substituted by A.L.O., 1920.] may, by notification -(a)[\* \* \*] [Omitted by the Devolution Act, 1920.]prohibit the import or export of any [intoxicant] [Substituted by A.L.O., 1937.] into or from the [State] [Substituted by A.L.O., 1920.] or any part thereof; or(b)prohibit the transport of any [intoxicant] [Substituted by A.L.O., 1937.].[\* \* \*] [Omitted by A.L.O., 1937.]

## **12. Passes for import, export or transport.**

(1)No [intoxicant] [Substituted by A.L.O., 1937.] exceeding such quantity as the [State Government] [Substituted by A.L.O., 1920.] may prescribe by notification, either generally or for any specified local area, shall be imported, exported 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 [State Government] [Substituted by A.L.O., 1920.], 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 [intoxicant] [Substituted by A.L.O., 1937.] or special for specified occasions and particular consignments only.Chapter - IV Manufacture, Possession and Sale

## **13. Licence required for manufacture.**

(1)(a)No [intoxicant] [Substituted by A.L.O., 1937.] shall be manufactured;(b)no hemp plant [\* \* \*] [The words 'or any cocaine-yielding plant of the genus Erythroxylon' were repealed by the Dangerous Drugs Act 2 of 1933.] shall be cultivated;(c)no portion of the hemp plant [\* \* \*] [The words 'or any cocaine-yielding plant of the genus Erythroxylon' were repealed by the Dangerous Drugs Act 2 of 1933.] from which an intoxicating drug can be manufactured or produced shall be collected.(d)no liquor shall be bottled for sale;(e)no distillery or brewery shall be worked; and(f)no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing 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 (ii) for the purpose of being used solely for the preparation of food for a domestic consumption and not -(a) as an intoxicant; or (b) for the preparation of any intoxicating article; or (c) for the preparation of any article for sale; or (iii) 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 [State Government] [Substituted by A.L.O., 1950.] by notification except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector: Provided that, when any exclusive privilege of manufacturing tari has been granted under Section 22, the [State Government] [Substituted by A.L.O., 1950.] may declare that the written permission given by the grantee to draw tari shall have the same force and effect as a licence granted by the Collector under Subsection (1) of this Section: Provided also that, in any local area specified by notification under Sub-section (1) the [State Government] [Substituted by A.L.O., 1950.] may, by notification, declare that Sub-section (1) shall not apply to trees tapped or tari drawn under such special conditions as the Board may prescribe.

#### **15. Establishment of distilleries, breweries, or warehouse.**

(1) The Excise Commissioner may-(a) subject to any restriction imposed by the [State Government] [Substituted by A.L.O., 1950.], 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] [Substituted by A.L.O., 1937.] 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. Licensee 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] [Substituted by A.L.O., 1937.] 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] [Substituted by A.L.O., 1937.] shall be removed from any distillery, brewer, warehouse or other place of storage licensed, established, authorised or continued under this Act, unless the duty (if any) [payable under Chapter V] [Substituted by A.L.O., 1937.] has been paid or bond has been Executed for the payment thereof.

## **18. Possession of intoxicant not obtained from a licensed vendor.**

(1)No person shall have in his possession any [intoxicant] [Substituted by A.L.O., 1937.] which has not been obtained from a licensed vendor of the same.(2)Sub-section (1) shall not apply to -(a)any [intoxicant] [Substituted by A.L.O., 1937.] 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] [Substituted by A.L.O., 1937.] lawfully in the possession of a licensed vendor of the same; or(c)any [intoxicant] [Substituted by A.L.O., 1937.] 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 warehouse man as such, or purchased at a sale authorised by Clause (a) of proviso (4) to Section 20; or(e)tari intended to be used in the manufacture, of gur or molasses;or(f)tari intended to be 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(g)tari intended to be used in the manufacture of bread by a person holding, a permit to use tari for that purpose; or(h)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(i)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 this licence.

## **19. Possession of intoxicant generally.**

(1)No person not being licensed to manufacture, cultivate, collect or sell any [intoxicant] [Substituted by A.L.O., 1937.] shall have in his possession any quantity of any [intoxicant] [Substituted by A.L.O., 1937.] in excess of such quantity as the Board has, under Section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that 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 warehouse man as such; or(b)any foreign liquor which has been purchased by any person for his bona fide private consumption and not for sale or for use in the manufacture of any article for sale; or(c)tari intended to be used in the manufacture of gur or molasses;(d)tari intended to be 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.(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] [Substituted by A.L.O., 1937.] in excess of such quantity as the Board 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 [State Government] [Substituted by Bihar and Orissa Excise (Orissa Amendment) Act, XXV of 1947. This Act is extended to all the partially excluded areas-Notification. No. 5343 R, 14.7.1947.] may, by notification, prohibit the possession by any

person, or class of persons (or subject to such exceptions, if any, as may be specified in the notification, by all persons) either in the State of Orissa or in any specified local area, of any [intoxicant] [Substituted by A.L.O., 1937.] either absolutely, or subject to such conditions as it may prescribe.]

## **20. Licence required for sale.**

- No [intoxicant] [Substituted by A.L.O., 1937.] and no portion of the hemp plant 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; (2) a licence for sale granted under the excise law in force in any other [State] [Substituted by Bihar and Orissa Excise (Orissa Amendment) Act, XXV of 1947. This Act is extended to all the partially excluded areas-Notification. No. 5343 R, 14.7.1947.] may, on such conditions as may be determined by the Excise Commissioner, be deemed to be a licence granted under this Act. (3) a cultivator or owner of any hemp plant 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; (4) 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 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 (e) the sale in tari lawfully possessed, intended to be used in the manufacture of bread, to a person holding a permit to use tari for the purpose of making bread.

## **20A. [ Taking over of wholesale trade in foreign liquor and country liquor. [Substituted by O.A. 9 of 2000 vide O.G.E. No. 1409 dated 4.10.2000.]**

- Notwithstanding anything contained in this Act, the right to carry on wholesale trade and distribution of foreign liquor and country liquor in the State shall, on and from such date as the State Government may, by notification appoint, solely vest in the State Government and subject to such Rules as may be made in this behalf, an agency of the State Government as may be specified in the said notification or a Corporation established, or incorporated under the Companies Act, 1956 and wholly owned and controlled by the State Government for the purpose, shall have the exclusive right and privilege of importing, exporting and carrying on the wholesale trade and distribution of foreign liquor and country liquor in the State on behalf of the State Government for the whole of the State of Orissa, and no other person shall be entitled to any privilege or licence for importing, exporting and supplying the same in wholesale, or distributing the same for the whole or any part of



the State.]

## **21. Manufacture and sale of liquor in or near cantonments.**

- Within the limits of any military [cantonment] [See the Cantonment Act, (11 of 1924).], and within such instance from those limits as the [Central Government] [Substituted by A.L.O. 1937.] may in any case prescribe, no licence for the manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

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

(1)The [State Government] [Substituted by A.L.O. 1950.] may grant to any person, on such conditions and for such period as it may think fit, the exclusive privilege -(a)of manufacturing, or supplying wholesale; or(b)of manufacturing and supplying wholesale; or(c)of selling, wholesale or retail; or(d)of manufacturing or supplying wholesale and selling retail; or(e)of manufacturing and supplying wholesale and selling retail, any country liquor or intoxicating drug within any specified local area;[(1-a) The State Government may also grant to any person, on such conditions and for such period as it may think fit the exclusive privilege for retail sale of foreign liquor within any specified place.] [Inserted by Orissa Act 4 of 1971.]Provided that public notice shall be given of the intention to grant [any exclusive privilege under the preceding sub-section] [Substituted by Orissa Act 4 of 1971.] and that any objections may by any person residing within the area affected shall be considered before an exclusive privilege is granted.(2)No grantee of any privilege [under Sub-section (1) or Sub-section (1-a)] [Substituted by Orissa Act 4 of 1971.] shall exercise the same unless or until he has received a licence in that behalf from the Collector or the Excise Commissioner.

## **22A. [ Exemption in certain cases. [Inserted videO. A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]**

- Notwithstanding anything contained in this Act, except the provisions of Section 26-A, it shall not be necessary for the State Government or an agency of State Government or a corporation established, or incorporated under the Companies Act, 1956 and wholly owned and controlled by the State Government, to take licence or permit under this Act for production, manufacture, possession, import, export, transport, sale or purchase of any liquor, but such activities shall be subject to such rules as may be made in this behalf.]

## **23. Transfer of exclusive privilege.**

(1)A grantee of an exclusive privilege under Section 22 cannot let or assign the same or any portion thereof unless he is expressly authorised, by a condition made under that Section, to do so.(2)Such lifting or assignment shall be made only to a person approved by a Collector or (if the letting or assignment extends to more than one district) one 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] [Substituted by A.L.O., 1937.] under a licence granted under this Act -(a)shall supply himself with such measures, weights and instruments as the Excise Commissioner may [prescribe] [See Orissa L.S.A. and O. Volume I Part VII.], 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, measure, weight or test any [intoxicant] [Substituted by A.L.O., 1937.] in his possession, at such time and in such manner as such offer may require.[24A] [Inserted by Orissa Act 11 of 1978.].  
Prohibition of advertisement.(1)No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter which-(a)commends, solicits the use of or offers any intoxicant or hemp; or(b)is calculated to encourage or incite any individual or class of individuals or the public generally, to commit an offence under this Act or to commit a breach of or to evade the provisions of any Rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorisation granted thereunder.(2)Save as otherwise provided in Sub-section (3), nothing in this Section shall apply to-(a)catalogues or price lists which may be generally or specially approved by the Excise Commissioner in this behalf;(b)any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the State; and(c)any other advertisement or matter which the State Government may, by notification, either generally or specially exempt from the operation of this section.(3)Notwithstanding anything contained in Sub-section (2), the State Government may, by notification, prohibit within the State the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the State which contains any advertisement or matter which-(a)commands, solicits the use of or offers any intoxicant or hemp; or(b)is calculated to encourage or incite any individual or class of individuals or the public generally, to commit any offence under this Act or to commit a breach of or to evade the provision of any Rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorisation granted thereunder.

## **25. Employment of children or women by licensed vendors.**

(1)No person who is licensed to sell foreign liquor [\* \* \*] [Repealed by the Bihar and Orissa Excise (Amendment) Act, 1 of 1928.] for consumption on his premises shall;during the hours in which such premises are kept open for business;employ or permit to be employed either with or without remuneration any [person] under the age of [eighteen] [Substituted by the Bihar and Orissa Excise (Amendment) Act, 1 of 1928.] years,in any part of such premises in which such liquor [\* \* \*] [Repealed by the Bihar and Orissa Excise (Amendment) Act, 1 of 1928.] is consumed by the public.[(1-a) No person who is licensed to sell country spirit or any intoxicating drug shall employ or permit to be employed, either with or without remuneration, any person under the age of eighteen

years, in any part of the premises in which such spirit or drug is sold, during the hours in which such premises are kept open for business.] [Inserted by the Bihar and Orissa Excise (Amendment) Act, 1 of 1928.](2)No person who is licensed to sell foreign liquor for consumption on his premises shall, without the previous written permission of the Board;during the hours in which such premises are kept open four 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 [State Government] [Substituted by A.L.O. 1950.] may, by notification, declare that Subsection (2) shall apply also, any specified 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, 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] [Substituted by. A.L.O. 1937.] is sold shall be closed at such times or for such period as he 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] [Substituted by. A.L.O. 1937.] 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 a direction is made by a Magistrate under Sub-section (1) or Sub-section (2) or by a Police Officer under Sub-section (2), such Magistrate or Police Officer shall forthwith inform the Collector of his action and of his reasons therefor.

## **26A. [ Restriction on grant of licence or exclusive privilege. [Inserted by Orissa Act 2 of 1999.]**

(1)Notwithstanding anything contained in this Chapter or elsewhere, in this Act, in the Scheduled Area(a)in no case there shall be granted under this Act any licence for manufacture, possession or sale, or any exclusive privilege for manufacture or sale, of any intoxicant, except with the prior approval of the concerned Grama Panchayat accorded with the concurrence of the Grama Sasan; and(b)no licence or exclusive privilege which is granted in contravention of Clause (a) shall have any effect for the purposes of this Act.(2)For the purposes of Clause (a) of Sub-Section (1)(i)the authority competent to grant licence for manufacture, possession or sale, or exclusive privilege of manufacture or sale, of any intoxicant shall, before granting any such license or exclusive privilege, refer every proposal therefor to the concerned Grama Panchayat for its decision within a period of thirty days from the date of receipt of such reference; and(ii)if the Grama Panchayat fails to communicate its decision within the period referred to in Clause (i), it shall be deemed that the concerned Grama Panchayat has accorded the required approval.Explanation - For the purposes of this Section,(i)"Grama Panchayat" and "Grama Sasan" shall respectively mean the Grama Panchayat and Grama Sasan as defined in the Orissa Grama Panchayats Act, 1964; and(ii)"Scheduled Areas" means the Scheduled Area as referred to in Clause (1) of Article 244 of the Constitution.]Chapter - V Duty

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

(1)[An excise duty or countervailing duty, as the case may be,] [Substituted by A.L.O. 1937.] at such rate or rates as the [State Government] [Substituted by A.L.O. of 1950.] 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 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, authorised or continued under this Act.Explanation - Duty may be imposed on any article under this subsection 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 articles.(2)An excise duty or countervailing duty, as the case may be, at such rate or rates as the [State Government] [Substituted by A.L.O., 1950.] may direct, may be imposed, either generally or for any specified local area, on any lari 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] [Substituted by A.L.O., 1951.] and was liable, on such importation, to duty under the Indian Tariff Act, VIII of 1894, or the Sea Customs Act, VIII of 1878, if(a)the duty as aforesaid has been already paid; or(b)a bond has been executed for the payment of such duty; and(ii)[\* \* \*] [Omitted by A.L.O., 1937.][27A] [Inserted by Orissa Act 15 of 1974.]. Imposition of luxury tax.(1)A luxury tax on the sale of foreign liquor may be imposed either generally or in respect of any local area specified in that behalf by the State Government.(2)The luxury tax shall be levied at such rates, not exceeding the rates specified below, and in such manner as the State Government may, by Rules, prescribe.

Description of the Liquor	Maximum rate per liter
1. Champagne and medicated wines issued by the ExciseCommissioner as sparkling wines, wines of all other kinds andliquor	Rs. 20.00
2. Beer, cider and fermented liquor.	Rs. 3.00

[Validation of collection made on account of gallonage fee or literage fee [Vide Section 3 of Act 15 of 1974.] - Any gallonage fee or literage fee imposed or purported to have been imposed under the principal Act or the Rules made thereunder prior to the date of commencement of this Act shall, for all intents and purposes, be deemed to be luxury tax imposed under the principal Act as amended by this Act and all collections made on account of any such fee and all arrears due to such account prior to the aforesaid date shall be deemed to be collections made and arrears due on account of such luxury tax; and the rate at which such collections have been made and such arrears have become due shall be deemed to be the rates prescribed under the principal Act as amended by this Act.]

## 28. Way of levying such duty.

- Subject to any Rules made under Section 90, Clause (12), any duty imposed under Section 27 may be levied in any of the following ways:(a)on any excisable article imported,(i)by payment (on or

before importation), in the [State] [Substituted by A.L.O., 1950.] [\* \* \*] [Omitted by A.L.O., 1950.] or in the [State] [Substituted by A.L.O., 1950.] or territory from which the article is brought, or(ii)by payment upon issue for sale from a warehouse established, authorised or continued under this Act;(b)on an excisable article exported by payment in the [State] [Substituted by A.L.O., 1950.] [\* \* \*] [Omitted by A.L.O., 1950.] or in the [State] [Substituted by A.L.O., 1950.] 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, authorised or continued under this Act;(d)on intoxicating,,drugs manufactured, cultivated or collected,(i)by a rate charged upon the quality manufactured under a licence granted in respect of the provisions of Section 13, Clause (a), or issued for sale from a warehouse established, authorised or continued under this Act, or(ii)by a rate assessed on the area covered by, or on the quantity or outturn of, the crop cultivated or collected under a 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, authorised or continued under this Act-(i)by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued for sale from a warehouse established, authorised or continued under this Act, 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 worth, as the case may be, as the [State Government] [Substituted by A.L.O. 1950.] may prescribe; and(f)on tari drawn under a licence granted under Section 24, Subsection (1) - by a tax on each tree from which the drawing of tari is permitted:Provided that, where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from such warehouse:Provided also that no tax shall be levied in respect of any tree from which tari is drawn only for the manufacture of gur or molasses and under such special conditions as the Board may prescribe.

## 29. Payment for grant of exclusive privilege.

- [(1)] [Renumbered by Act 17 of 1970.] Instead of or in addition to, any duty leviable under this Act, the [State Government] [Substituted by A.L.O., 1950.] may accept payment of a sum in consideration of the grant of any exclusive privilege under Section 22.(2)[ The sum payable under Sub-section (1) shall be determined as follows:(a)by auction or by calling tenders or otherwise as the State Government may, in the interest of excise revenue, by general or special order, direct; and(b)by such authority and subject to such control as may be specified in such order.](3)The sum determined under Sub-section (2) shall be final and shall be binding on the party making the offer by way of tender, bid or otherwise once such offer is accepted by the authority referred to in Clause (b) of that sub-section.[29A] [Inserted by A.L.O., 1937.]. Saving for duties being levied at commencement of the Constitution.(1)United provision to the contrary is made by the [Parliament] [Substituted by A L.O., 1937.], the [State Government] [Substituted by A.L.O., 1950.] may continue to levy any duty to which this section applies which it was lawfully levying immediately before the commencement of the Constitution, under this Chapter as then in force.(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 [State] [Substituted by A.L.O., 1950.] whether across a customs frontier as defined, by the Central Government or not;(c)[ any duty on medicinal or toilet preparations containing alcohol.] [Inserted

by Act 10 of 1971.](3)Nothing in this Section shall authorise the levy by the [State Government] [Substituted by A.L.O., 1950.] or any duty which, as between goods manufactured or produced in the [State] [Substituted by A.L.O., 1950.], 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 [State] [Substituted by A.L.O., 1950.] 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 or tari are in force, the Collector shall prepare a list, in a form prescribed by the Board, showing what licences it is proposed to grant for the retail sale of spirit or tari for consumption on the vendor's 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 or tari 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 or tari, cause a notice, to the effect that it is proposed to grant a licence for the retail sale of spirit or tari thereat, or in the vicinity, for the next period of settlement, to be proclaimed in the locality by beat of drum;(c)send a copy of the said list to the Chairman of the District Board;(d)send to the Chairman of each municipality an extract reproducing so much of the said list as relates to shops in the municipality; and(e)cause the said list, or any portion thereof, to be published in such other methods (if any) as may be prescribed by Rule made under Section 89, Clause (j).(2)When a copy of the said list is sent to the Chairman of the District Board he shall send to each member of the District Board a copy thereof and to the Chairman of each local board an extract reproducing so much of the said list as relates to shops within the jurisdiction of the local board.(3)When an extract is sent to the Chairman of any municipality under Clause (d) of Sub-section (1), he shall-(i)cause a copy of the extract to be conspicuously affixed at the central office of the Municipality; and(ii)send to each Municipal Commissioner a copy of the extract.

### **32. Time for preparation and publication of such list.**

- The list mentioned in Section 30 shall be prepared and shall be published under Section 30, at such time as may be prescribed by Rule made in this behalf under Section 89, 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 Rule made in this behalf, under Section 89, 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 Board; or (d) the District Magistrate. (2) Such objections must be submitted to the Collector, or, in any municipality, either to the Chairman of the municipality or to the Collector. (3) Every Chairman of a District Board or Municipality to whom a copy or an extract has been sent under Section 31, Clause (c) or Clause (d), as the case may be, shall send to the Collector, by a date prescribed by Rule made in this behalf under Section 89, Clause (j)—(i) in the case of a municipality all objections (if any) to proposals contained in the extract which may be received by the Chairman, from persons paying municipal rates, before that date; and (ii) in the case of a District Board, all objections (if any) to proposals contained in the list which may be received by the Chairman from members of the District Board, or the Chairman of any Local Board; and (iii) any opinion which the Chairman or the member of the District Board or the Municipal Commissioners, as the case may be, 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 Commissioner of the Division who shall consider the same, and shall forward them with his own opinion and recommendations (if any) to the Excise Commissioner.

### **35. Finality of decision of Excise Commissioner or Board.**

- 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 order shall be final: Provided that, if there be any difference of opinion between the Excise Commissioner and the Commissioner of a Division, the matter shall be referred by the Excise Commissioner to the Board, whose decision shall be final.

### **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 retain sale, in any local area specified in any [order made by the Board in this behalf] [For notification under Sections 36 and 38 (a) See L.S.R. and O., Volume I, Part VII.], or any other [intoxicant] [Substituted by A.L.O., 1937.] 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] [Substituted by A.L.O., 1937.] 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] [Substituted by A.L.O., 1937.] 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] [Substituted by A.L.O., 1937.] for medicinal purposes; or(e)[ to any person, an exclusive privilege by the State Government under Section 22 in respect of any of the matters referred to in Clause (a) to (e) of Sub-section (1) [or in Sub-section (1-a)] [Inserted by Act 17 of 1970.]].

**4. [ Notwithstanding any judgement, decree or order of any Court. - (a) all licences granted for retail sale of foreign liquor in respect of any place during the period from 1st day of April, 1966 to the 30th day of September, i967 shall be deemed to be licences granted to the persons concerned conferring an exclusive privilege under Sub-section (1-a) of Section 22 of the Principal Act for retail sale of foreign liquor in such places; and**

(b)all amounts agreed to be paid through auction in respect of such licences shall be deemed to be sums paid or payable as the consideration for the grant of exclusive privilege.

### **5.**

(1)The Bihar and Orissa Excise (Second Amendment) Ordinance, 1970 is hereby repealed.(2)Notwithstanding such repeal any order made, any licence issued, anything done or any action taken under the said Ordinance shall be deemed to have been made, issued, done or taken as if this Act was in force on the date on which such order was made, such licence was issued, such thing was done or such auction was taken.] [Vide Act 4 of 1971.]

### **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 Board may [direct] [For notification under Sections 36 and 38



(a) See. L.R.S. and O. Volume I, Part VII.].(2)Every licence, permit or pass under this Act shall be granted for such period (if any) as may be prescribed by Rule made by the [State Government] [Substituted by A.L.O., 1950.] under Section 89, Clause (e).

### **39. Power of Board to reduce fees.**

- The Board may, if it thinks fit, at any time during the period for which any licence has been granted, order a reduction of the amount of fees payable in respect thereof during the unexpired portion of the grant.

### **40. Counterpart agreement by licences, [or exclusive privilege and security or deposit] [Inserted by Act 10 of 1971.].**

- Any authority granting a licence [or exclusive privilege] [Inserted by Act 10 of 1971.] under this Act may require the grantee to execute a counterpart agreement in conformity with the tender of his licence [or exclusive privilege] [Inserted by Act 10 of 1971.] 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 [or exclusive privilege] [Inserted by Act 10 of 1971.] granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence [or exclusive privilege] [Inserted by Act 10 of 1971.] or in any proceedings taken prior to the grant thereof.(2)The decision of the Excise Commissioner or (where a reference is made to the Board under Section 35) the Board, 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 [State Government] [Substituted by A.L.O. 1950.] may prescribe, [the authority who granted any exclusive privilege, licence] [Substituted by A.L.O. 1950.] permit or pass under this Act may cancel or suspend it -(a)if it is transferred or sublet by the holder thereof without the permission of the said authority; or(b)if any duty or fee payable by the holder thereof be not duly paid; or(c)In the event of any breach by the holder thereof, or by any of his servants, or by anyone 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 2 of 1930] [Inserted by the Dangerous Drugs Act 2 of 1930.], or [under the Merchandise Marks Act 4 of 1889] [Printed in the General Acts, 1887-97, Edn. 1928. Volume III., Page-337, as amended.], or under any Section which has been introduced into the Indian Penal Code, XLV of 1860 by Section 3 of the Act; or(e)if the holder thereof is punished for any offence referred to in Clause (8) of Section 167 of the [See Customs Act, VIII of 1878] [Printed in General Acts 1873-86, Edition 1928, Page 238 (as

amended) Repealed by the Customs Act, 1962.]; 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 exclusive privilege, licence] [Substituted by Act 10 of 1971.] permit or pass provide for such cancellation or suspension at will.(2)When [an exclusive privilege, licence] [Substituted by Act 10 of 1971.] permit or pass held by any person is cancelled under Clause (a), Clause (b), Clause (c), Clause (d), or Clause (e) of Sub-section (1), the authority aforesaid may cancel [any other exclusive privilege] [Substituted by Act 10 of 1971.], licence permit or pass granted to such person [by or by the authority of the State Government] [Inserted by A.L.O., 1937.] under this Act, or under any other law for the time being in force, relating to Excise, or under the Opium Act 1 of 1878.(3)The holder of [an exclusive privilege, licence] [Substituted by Act 10 of 1971.] permit or pass shall not be entitled to any compensation for its collection or suspension under this Section, or to the refund of [any fee or consideration money] [Substituted by Act 10 of 1971.] paid or deposit made in respect thereof.

### **43. Power to withdraw licences.**

(1)Whenever the authority who granted any licence [or exclusive privilege] [Inserted by Act 10 of 1971.] under this Act considers that the licence [or exclusive privilege] [Inserted by Act 10 of 1971.] 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 [or consideration money] [Inserted by Act 10 of 1971.] payable in respect thereof for fifteen days, and may withdraw the licence [or exclusive privilege] [Inserted by Act 10 of 1971.] 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 [or exclusive privilege] [Inserted by Act 10 of 1971.] be withdrawn under Clause (b) of Sub-section (1), the said authority shall, in addition to remitting sum as aforesaid, pay to the licensee [or grantee of an exclusive privilege] [Inserted by Act 10 of 1971.] such further sum (if any), by way of compensation as the Excise Commissioner may direct.(3)If any licence [or exclusive privilege] [Inserted by Act 10 of 1971.] be withdrawn under Clause (b) of Sub-section (1), the Excise Commissioner may, in special circumstances, direct the payment of such compensation as he may consider fit, in addition to the remission of the fee [or consideration money] [Substituted by A.L.O. 1950.] as aforesaid.(4)When a licence [or exclusive privilege] [Inserted by Act 10 of 1971.] is withdrawn under Subsection (1), any fee [or consideration money] [Inserted by Act 10 of 1971.] paid in advance, or deposit made, by the licensee [or grantee of an exclusive privilege] [Inserted by Act 10 of 1971.] in respect thereof shall be refunded to him, after deducting the amount (if any) due to the [State Government] [Substituted by A.L.O. 1950.].(5)[ For the purpose of calculating the amount due to the State Government mentioned in Sub-section (4), the amount of fee or consideration money payable on account of the licence or exclusive privilege, as the case may be, for the period during which it was in force shall be taken to be the sum bearing the same proportion to the total fee or consideration money, for the whole period for which the licence or exclusive privilege was settled, as the period during which the licence or exclusive privilege was in force bears to the full period for which the licence or exclusive privilege was settled or granted] [Substituted by Act 10 of 1971.].

#### **44. [ Surrender of licence. [Substituted by Act 10 of 1971.]**

- Any holder of a licence or exclusive privilege granted under this Act to manufacture and sell an intoxicant, may, unless his licence or exclusive privilege is liable to cancellation or suspension under Section 42, surrender the same-(a)on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender it; and(b)on payment of the fees payable for the licence or the consideration money due for the exclusive privilege for the whole period for which it would have been current but for such surrender:Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for the surrender of an exclusive privilege or licence, he may remit to the holder thereof the sum so payable on surrender and any fees or consideration money paid in advance or any portion of such sum or fees or consideration money.Explanation - The expression "holder of a licence" as used in this .section, includes a person, tender or bid offer for an exclusive privilege has been accepted although he may not actually have received the licence.] [Substituted by Act 10 of 1971.]

#### **45. Bar of right to renewal and to compensation.**

- No person to whom any licence [or exclusive privilege] [Inserted by Act 10 of 1971.] has been granted under this Act shall have any claim to the renewal of such licence [or exclusive privilege] [Inserted by Act 10 of 1971.] or save as provided in Section 43, any claim to compensation on the determination thereof.Chapter - VII Departmental Management or Transfer

#### **46. Power of Collector to take grants under management, or to transfer them.**

(1)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, the Collector may (in the case of licence after the cancellation 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.(2)If a licence [or exclusive privilege] [Inserted by Act 10 of 1971.] granted to any person under this Act is withdrawn under Section 43, or surrendered under Section 44, the Collector may, after the withdrawal or surrender thereof, take the grant under management, or transfer the unexpired portion of the grant to any other person.Chapter - VIII Offences and Penalties

#### **47. Penalty for unlawful import, export, transport, manufacture, possession, sale etc.**

- [If any person, in contravention of this Act, or of any Rule, notification or order made, issued or given, or of any licence, permit or pass granted under this Act-] [Substituted by Act 14 of 1976.](a)imports, exports, transports, manufactures, collects, possesses or sells [any intoxicant] [Substituted by Orissa Act No.2 of 1999 O.G.E. No. 303 dated 23.2.1999.];(b)cultivates any hemp

plant or collects or sells any portion of the hemp plant from which any intoxicating drug can be manufactured; or(c)taps or causes to be tapped, or draws or causes to be drawn, tari from any tari producing tree; or(d)bottles any liquor for purposes of sale; or(e)constructs or works any distillery or brewery or other manufacture in which liquor is manufactured; or(f)uses, keeps or has in his possession any materials, still, utensil implement instrument or apparatus whatsoever for the purpose of manufacturing any intoxicating drug or liquor, other than tari, or(g)removes any intoxicant from any distillery, brewery, warehouse or other place of storage, established, licenced or continued under this Act.(h)he shall, on conviction -(i)for the offence, other than any offence under Clause (c), be punishable with imprisonment for a term which shall not be less than [three years] [Substituted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] but may extend to [seven years] [Substituted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] and also with fine which shall not be less than [twenty thousand rupees] [Substituted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] but may extend to [fifty thousand rupees;] [Substituted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]-[Provided that where any such person collects, possesses or sells mohua flower, or possesses or sell tari or pachwai, he shall be liable to the punishment provided in Clause (ii);] [Substituted by Orissa Act No.2 of 1999 O.G.E. No. 303 dated 23.2.1999.] [\* \* \*] [Omitted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).][Provided further that where any person possesses or sells any outstill liquor manufactured out of Mahua flower from an authorised source not exceeding ten litres in contravention of this Act or any rule or order made thereunder, shall on conviction be punishable with imprisonment for a term which shall not be less than one year, but may extend to two years and with fine which shall not be less than rupees five thousand but may extend to rupees twenty thousand, and] [Inserted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).](ii)for an offence under Clause (c), be punishable with imprisonment for a term which may extend to [one year] [Substituted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] or with fine which may extend to [ten thousand rupees] [Substituted videO.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] or with both.

#### **48. Presumption as to offence where possession is not satisfactorily accounted for.**

- In prosecution under Section 47 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] [Substituted by A L.O., 1937 for 'excisable article.']; or(b)any still, utensil, implement or apparatus whatsoever for the manufacture of any [intoxicant] [Substituted by A L.O., 1937 for 'excisable article.'] other than tari; or(c)any materials which have undergone any process towards the manufacture of an [intoxicant] [Substituted by A L.O., 1937 for 'excisable article.'], or from which an [intoxicant] [Substituted by A L.O., 1937 for 'excisable article.'], has been manufactured for the possession of which he fails to account satisfactorily.

**48A. [ Penalty for contravention of Section 24-A. [Inserted by Act 11 of 1978.]**

- Whoever contravenes the provision of Section 24-A shall, on conviction, be punishable with imprisonment for a term which shall not be less than [two years] but may extend to [five years] [Substituted by Orissa Act 2 of 1999.] and also with fine which shall not be less than [five thousand rupees] [Substituted by Orissa Act 2 of 1999.] but may extend to [twenty thousand rupees] [Substituted by Orissa Act 2 of 1999.]].[\* \* \*] [Omitted by Orissa Act 2 of 1999.]

**49. [ Penalty for altering or attempting to alter any denatured spirit. [Substituted by Act 11 of 1978.]**

- If any person-](a)alters or attempts to alter any denatured spirit or methyl alcohol, whether manufactured in India, or not, or any preparation containing denatured spirit, with the intention that such spirit, alcohol or preparation may be used for human consumption whether as a beverage or internally as a medicine or in any other way whatsoever, by any method whatsoever; or(b)has in his possession any spirit, alcohol or preparation in respect of which he knows or has reasons to believe that any such alteration or attempt has been made.he shall be liable to imprisonment for a term [which shall not be less than [seven years] [Substituted by Orissa Act 2 of 1999 O.G.E. No. 303 dated 23.2.1999.] but may extend to ten years and also to fine which shall not be less than [twenty-five thousand rupees] [Substituted vide O.A No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (we.f. 1.6.2006).] but may extend to [one lakh rupees] [Substituted vide O.A No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (we.f. 1.6.2006).]].

**50. Presumption as to offence under Section 49 in certain cases.**

- In prosecutions under Section 49, 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 49 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.

**51. Presumption as to any spirit being, or containing or having been derived from, denatured spirit.**

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

**52. Penalty for adulteration by licensed manufacture 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] [Substituted by A.L.O., 1937 for 'excisable

article'.] manufactured, sold or kept or exposed for sale by him, any noxious drug or any article prohibited by Rule made under Section 90, Clause (9), Sub-clause (i) and such mixing does not amount to an offence punishable under Section 272 of the Indian Penal Code, XLV of 1860; or has in his possession any [intoxicant] [Substituted by A.L.O., 1937 for 'excisable article'.] in respect of which such admixture has been made; he shall be liable to imprisonment for a term [which shall not be less than [seven years] [Substituted by Orissa Act 2 of 1999 O.G.E. No. 303 dated 23.2.1999.] but may extend to [ten years] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] and also to fine which shall not be less than [fifty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] but may extend to [one lakh rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]].

## **52A. [ Penalty for mixing noxious substance with liquor. [Inserted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]**

- Whoever mixes or permits to be mixed with any liquor sold or manufactured or possessed by him any noxious drug or any foreign ingredient likely to cause grievous hurt or death to human beings, shall, on conviction, be punishable -(a) if as a result of such an act, death is caused to any person, with imprisonment for life and shall also be liable to fine which may extend to ten lakh rupees; (b) if as a result of such an act, grievous hurt is caused to any person, with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine which may extend to five lakh rupees. (c) if as a result of such an act, any other consequential injury is caused to any person, with imprisonment for a term of one year and shall also be liable to fine which may extend to two lakh fifty thousand rupees; and (d) if as a result of such an act, no injury is caused to any person, with imprisonment for a term of six months and shall also be liable to fine which may extend to one lakh rupees or 5 times the value of liquor whichever is higher. Explanation - For the purpose of this section the expression "grievous hurt" shall have the same meaning as in Section 320 of the Indian Penal Code, 1860.]

## **53. 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, XLV of 1860; or (b) marks any bottle, case, package or other receptacle containing country liquor, or the cork of any such bottle, or deals with any bottle, case, package or other receptacle containing country liquor; with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor; and such marking or dealing does not amount to an offence punishable under Section 482 of the said Indian Penal Code, XLV of 1860; he shall be liable to imprisonment for a term [which shall not be less than [three years] [Substituted by Orissa Act 2 of 1999 O.G.E. No. 303 dated 23.2.1999.] but may extend to [five years] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006)]] and also to fine which shall not be less than [twenty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006)]] but may

extend to [fifty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006)].]

#### **54. 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 person under the age of eighteen years or any woman] [Substituted for 'any child woman' by the Bihar and Orissa Excise (Amendment) Act, 1 of 1928.]; or (b) sells any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable articles.'] to a person who is drunk or intoxicated; or (c) sells or delivers any spirit or intoxicating drug to any [person] [Substituted for the word 'child' by Bihar and Orissa Excise (Amendment) Act 8 of 1928; Section 6(a).] apparently under the age of [twenty-one years] [Substituted by Act 41 of 1976, for 'eighteen'.]; whether for consumption by such [person] [Substituted for the word 'child' by Bihar and Orissa Excise (Amendment) Act 8 of 1928; Section 6(a).] 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 persons 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 the purposes of crime or prostitution or not, he shall be liable to fine which may extend to [twenty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006)]. (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 persons employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises.

#### **55. 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] [Substituted by A.L.O. 1937, for 'excisable articles'.], knowing, or having reason to believe, the same to have been unlawfully imported, transported or manufactured, or knowing; or having reason to believe that the prescribed duty has not been paid thereon, he shall be liable to imprisonment for a term which may extend to [three years] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], or to fine which may extend to [twenty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], or to both.

#### **56. Penalty for consumption in chemist's shop, etc.**

(1) If any chemist, druggist, apothecary, or keeper of dispensary allows any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable articles'.] which has not been bona fide medicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, he

shall be liable to imprisonment for a term which may extend to [three years] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], or to fine which may extend to [twenty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], or to both.(2)If any person not employed as aforesaid consumes any such [intoxicant] [Substituted by A.L.O. 1937, for 'excisable articles'.] on such premises, he shall be liable to fine which may extend to two hundred rupees.

## **57. Penalty for certain acts by licensee or his servant.**

- 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 [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government'.] by notification, to make such demand; or(b)in any case not provided for in Section 47, wilfully contravenes any Rule made under Section 89 or Section 90; 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 to [twenty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], and in case (b) or case (c) to fine which may extend to [fifty thousand rupees] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).].

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

(1)When any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable articles'.] 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, as his account the article shall, for the purposes of this Act, be deemed to have imported, exported, transported, manufactured or sold by or to be in the possession of such other person.(2)Nothing in Sub-section (1) shall absolve any person who imports, exports, transports, manufactures, sells or has possession of an [intoxicant] [Substituted by A.L.O. 1937, for 'excisable articles'.] 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.

## **59. Criminal liability or licensee for acts of servant.**

- When any offence punishable under Section 47, Section 52; Section 53, Section 54, Section 55 or Section 56 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.



## **60. Imprisonment under Section 58 or Section 59.**

- No person on whose account an [intoxicant] [Substituted by A.L.O. 1937, for 'excisable articles.']\* [\*] [The words 'other cocaine' were repealed by the Dangerous Drugs Act 2 of 1930.] has been illegally imported, exported, transported, manufactured, sold or held in possession within the meaning of Section 58, and no holder of a licence, permit or pass who may be punishable under Section 59, shall, on conviction, be punished with imprisonment, except in default of payment of fine.

## **61. Penalty on Excise Officer making vexatious search, seizure detention or arrest, or refusing duty or 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 to perform, or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector or unless he has given to his immediate superior two months' notice in writing of his intention to do so; or(e)is guilty of cowardice;he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

## **62. 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.

## **63. Penalty for contempt of Court.**

- Every proceeding under this Act before a Collector, or before any Officer, or such rank as the [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government.']\* may, by notification, prescribe, who is exercising powers of a Collector, shall be deemed to be a Judicial proceeding, within the meaning of Section 228 of the Indian Penal Code, XLV of 1860.

## **64. Penalty for attempt to commit offence.**

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

## **65. Enhanced punishment after previous conviction.**

- If any person, after having previously been convicted of an offence punishable under Section 47, [Section 48-A, Section 49, Section 52] [Substituted by Orissa Act 2 of 1999.] Section 55, or Section 56, or under similar provisions in the [Bengal Excise Act, V of 1909,] [Printed in the Bengal Code, Volume III, 1913; 15 Edn. Page 625.] or in any previous enactment repealed thereby, 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, V of 1898, from being so tried.

## **66. What things are liable to confiscation.**

(1) Whenever an offence has been committed which is punishable under this Act, the [intoxicant] [Substituted by A.L.O. 1950 for 'excisable article.'], 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] [Substituted by A.L.O. 1950 for 'excisable article.'], wilfully imported, transported, manufactured in possession or sold along with, or in addition to; any [intoxicant] [Substituted by A.L.O. 1950 for 'excisable article.'], which is liable to confiscation under Sub-section (1); and the receptacles, packages and covering in which any such [intoxicant] [Substituted by A.L.O. 1950 for 'excisable article.'], as first aforesaid, or any such materials, still, utensil, implement or apparatus as aforesaid, is found; and the other contents, if any, of such receptacles or packages; and the animals, carts, vessels, rafts or other conveyances used in carrying the same; shall 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.

## **67. Confiscation by Magistrate or Collector.**

(1) When, in any case tried by him, the Magistrate decides that anything is liable to confiscation under Section 66, he may either order confiscation or give the owner of such thing an option to pay, in lieu of confiscation, such fines as the Magistrate think fit. (2) Whenever anything is liable to confiscation under Section 66, 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 one month 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.

## **68. Power to compound offences and to release property liable to confiscation.**

(1)The Collector or any Excise Officer specially empowered by the [State Government] [Substituted by A. L.O., 1950. for 'Provincial Government'.] in this behalf, not below the rank of Deputy Collector or Superintendent of Excise -(i)may, subject to any restrictions imposed by any Rules made under Clause (k) of Section 89, accept from any person whose [exclusive privilege] [Inserted by Act 10 of 1971.], 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 61, 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(ii)in any case in which any property has been seized as being liable to confiscation under Section 66, may, at any time before the Magistrate has passed an order under Section 67, 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

## **69. Powers to enter and inspect, and power to test and seize measures etc.**

- Any of the following officers, namely:(a)the Excise Commissioner; or(b)a Collector; or(c)any Excise Officer not below such rank as the [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government'.] may, by [notification, prescribe] [For notification under Section 69 (c), Section 74 and Section 79(5) declaring that any Excise Officer not below the rank of Sub-Inspector may exercise the powers-See L.S.R. and O. Volume I, Part VII.],may, subject to any restriction prescribed by the [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government'.] by Rule made under Section 89;(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] [Substituted by A.L.O., 1937, for 'excisable article.']; and(ii)enter and inspect, at any time during which the same may be open, any place in which any [intoxicant] [Substituted by A.L.O., 1937, for 'excisable article.'] is kept for place as aforesaid; and(iii)examine the accounts and registers maintained in any such place as aforesaid; and(iv)examine, test, measure or weigh any materials, stills, utensils, implements, or [intoxicant] [Substituted by A.L.O., 1937, for 'excisable article.'] found in any such place as aforesaid; and(v)examine or test and seize any measures, weights or testing instruments, found in any such place as aforesaid, which he has reason to believe to be false.

## **70. 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, Police, Salt, Customs or Land Revenue Department; or(b)any person empowered by the [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government'.] in this behalf, by notification;may, subject to any

restrictions prescribed by the [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government'.] by Rule made under Section 89-(i) arrest without warrant any person found committing an offence punishable under Section 47, Section 49, Section 55, or Section 56; and (ii) seize and detain any article which he has reason to believe to be liable to confiscation, under this Act or any other law for the time being in force relating to the excise-revenue; and (iii) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be.

## **71. Power of Collector 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 any offence punishable under Section 47, Section 49, Section 55, or Section 56.

## **72. 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 inquiry (if any) as he thinks necessary, has reason to believe that any offence punishable under Section 47, Section 49, Section 55, or Section 56 has been, or is likely to be; committed or abetted; he may issue a warrant to search for any [intoxicant] [Substituted by A.L.O., 1937, for 'excisable article.'], materials, still, utensil, implement or apparatus in respect of which the alleged offence has been, or is likely to be committed, or any document which throws or is likely to throw any light on the alleged offence.

## **73. Power of Collector or Magistrate to arrest or search without issue of warrant.**

- The Collector or any Sub-divisional Magistrate or Magistrate of the first class 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 71; 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 search-warrant under Section 72.

## **74. Power to search without a warrant.**

- Whenever any Excise Officer not below such rank as the [State Government] [Substituted by A.L.O., 1950, for 'Provincial Government.'] may, by [notification] [See Orissa L.S.A. and Volume I, Page VII.] prescribe, has reason to believe that an offence punishable under Section 47, Section 49, Section 55, or Section 56 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, may arrest, any person found in such place whom he has reason, to believe to have committed or abetted any such offence aforesaid.

## **75. Information and aid to Excise Officers.**

(1) Every officer of the Police Salt, Customs and Land-Revenue Department, shall be bound, subject to any Rule made under Section 89, Clause (1), 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 and dafadar, shall be bound, subject to any Rules made under Section 89, Clause (1), 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.

## **76. Duty of owners and occupiers of land and other person to give notice of unlicensed manufacture.**

- Whenever any [intoxicant] [Substituted by A.L.O' 1937, for 'excisable article'.] is manufactured on any land or premises, or any hemp plant is cultivated, or any portion of the hemp plant 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 or premises, and their agents, and all panchayats, village-headmen, patwaris, sarbarakars, chaukidars and dafadars 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.

## **77. What Excise Officers may 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, V of 1898, relating to the place of inquiry or trial. (2) Any other Excise Officer specially [empowered] [For a notification under Section 77 (2) or Section 78 (a) See L.S.R. and O. Volume I, Page VII.] in this behalf by the [State Government] [Substituted by A.L.O. 1950, for 'Provincial Government'.] in respect of all or any specified class of offences punishable under this Act may, without the order of a Magistrate, investigate any such offence which a Court having jurisdiction over the local area to which such officer is appointed would have power to inquire into or try under the aforesaid provisions.

## **78. Powers and duties of Excise Officers investigating offences.**

- [(1) The Collector or any Excise Officer empowered under Sub-section (2) of Section 77, may, after recording in writing the reason for suspecting the commission of an offence under this Act which he is empowered to investigate, exercise -(a) any of the powers conferred upon a Police Officer making an investigation or upon an Officer-in-charge of a Police Station, by Sections 160 to 171 of the Code

of Criminal Procedure, 1973, and (b) any of the powers conferred upon such Police Officer in respect of cognizable offences by Clause (a) of Sub-section (1) of Section 41 and by Section 55 of the said Code, relating to the offences punishable under Sections 47, 49, 52, Clauses (a) and (b) of Section 52-A, Sections 53, 55 and 56 of this Act, and the said provisions of the said Code shall apply accordingly, subject to any restriction or modifications prescribed by the State Government by the rules made under Clause (n) of Section 89 of this Act.] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).] (2) Subject to any restrictions prescribed by [State Government] [Substituted by A.L.O. 1950, for 'Provincial Government'.], a Collector or an Excise Officer empowered under Section 77, Sub-section (2), may, without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned, in any offence which he or any Excise Officer subordinate to him has investigated. (3) For the purpose of Section 156 of [the Code of Criminal Procedure, 1973] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], the area to which an Excise Officer empowered under Section 77, 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 70, 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 68 of this Act, shall submit a report (which shall, for the purposes of Section 190 of [the Code of Criminal Procedure, 1973] [Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).], 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.

## 79.

[\* \* \*] [Section 79 omitted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006)]

## 80. 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 69, Section 70, or Section 72 and persons arrested under this Act by persons or officers not having authority to release arrested persons on bail or on their own bond, shall be produced before or forwarded to - (a) the Collector or an Excise Officer empowered under Section 77, Sub-section (2), to investigate the case; or (b) the nearest Excise Officer who has authority to release arrested persons on bail or on their own bond; or (c) the officer-in-charge of the nearest police station, whoever is nearer. (3) When a person arrested is produced before an Excise Officer who has authority to release arrested persons on bail or on their own bond, or before an officer-in-charge of a police station, such officer shall forward such person to, or take security for his appearance before, the Collector or the Excise Officer empowered under Section 77, 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.

### **81. Custody by police of articles seized.**

(1) All officers-in-charge of police stations shall take charge of and keep in safe custody; pending the orders of a Magistrate, or the Collector, or of an Excise Officer empowered under Section 77, 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.

### **82. Reports of arrests, seizures and searches.**

- When any Excise Officer below the rank of Collector, or any officer-in-charge of a police station makes, or receives information of any arrest, seizure, or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure, or search, or of the information received, to the Collector and to the Excise Officer (if any) empowered under Section 77, Sub-section (2), within the local limits of whose jurisdiction the arrest, seizure, or search was made.

### **83. Execution of Collector's warrant.**

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

### **84. [ Maximum period of detention-intimation on grounds of arrest. [Substituted by A.L.O. 1951 (3rd Amendment).]**

- Any person arrested for an offence under this Act shall be informed as soon as may be the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate], (2) A Magistrate to whom an accused person is forwarded under Section 167 of the Code of Criminal Procedure, V of 1898, by a Collector or an Excise Officer empowered under Section 77, Sub-section (2), may exercise the powers conferred upon a Magistrate by the said Section 167.

### **85. Application of certain provisions of the Code of Criminal Procedure, 1898.**

- [(1) Except otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure Code, 1973 relating to arrests, detention in custody, searches, summonses, warrants or

arrest, search warrants, the production of persons arrested, enquiry and trial of offences shall apply, so far as may be, to arrests, detention in custody, searches, summons, warrants of arrests, search warrants, the production of persons arrested, enquiry and trial of offences under this Act.]

[Substituted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).](2)For the purpose of the said provisions of the said Code, a Collector shall be deemed to be a Court.(3)Officers to whom a Collector's warrant is directed or endorsed, and officers (other than Collectors) making arrests, searches or seizures under this Act, shall for the purpose of the said provisions of the said Code, be deemed to be Police Officers.

### **85A. [ Procedure for releasing on bail. [Inserted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]**

- The provision of Chapter XXXIII of the Code of Criminal Procedure, 1973, shall apply to bail and bonds :Provided that no person accused of an offence punishable for a term of imprisonment of seven years or more under this Act shall be released on bail or on his own bond unless -(i)the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, has been given an opportunity to oppose the application for such release, and(ii)where the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, oppose the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.]

### **86.**

[\* \* \*] [Omitted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]

### **87.**

[\* \* \*] [Omitted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]

### **88.**

[\* \* \*] [Omitted vide O.A. No. 10 of 2006, O.G.E. No. 1261 dated 8.9.2006 (w.e.f. 1.6.2006).]Chapter - X Miscellaneous

### **89. Power of State Government to make rules.**

(1)The [State Government] [Substituted by A.L.O. 1950, for 'Provincial Government'.] may make [rules] [For rules See L.S.R. and O. Volume I, Part VII.] to carry out the objects; of this Act or any other law for the time being in force relating to the excise-revenue.(2)In particular, and without prejudice to the generality of the foregoing provisions, the [State Government] [Substituted by A.L.O. 1950, for 'Provincial Government'.] 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 Board, the Commissioner of a Division, the Excise Commissioner or Collectors under Section 7, Clause



(8);(c)for declaring in what cases or classes of cases and to what authorities appeal 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] [Substituted by A.L.O. 1937, for 'excisable article'.];(e)for regulating the periods for which licences for the wholesale or retail vend of any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] may be granted, and the number of such licence which may be granted for any local area;(f)for prohibiting the grant of licences for the retail sale of any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] at any place or within any focal area described in the rules or for defining the places in the vicinity of which shops for the retail [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] shall not ordinarily be licensed;(g)for prohibiting the grant to specified classes of persons of licences for the retail sale of any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.];(h)for declaring, either generally, or in respect of areas described in the rules, the persons or classes of persons to whom any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] may or may not be sold;(i)(I)for regulating the procedure to be followed and prescribing the matters to be ascertained before any licence for the wholesale or retail vend or any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] is granted for any locality; .(II)[ for regulating the time, place and manner of payment of the sum payable under Section 29] [Inserted by Act 10 of 1971.];(j)for restricting the exercise of any of the powers conferred by Clause (a) of Sub-section (1) of Section 68 and by Sections 69 and 70.;(k)for declaring the Excise Officer to whom, and the manner in which information or aid should be given under Section 75;(l)for the grant of expenses to witnesses;(m)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(n)for prescribing restriction or modifications in the applications to Excise Officer of the provisions of the Code of Criminal Procedure, V of 1898, relating to powers of Police Officers which are referred ^o in Section 78, Sub-section (1) of this Act.(3)The powers conferred by this Section for making rules are subject to the condition that the rules be made after [previous] [As to procedure for previous publication. See Section 26 of Bihar and Orissa General Clauses Act, 1 of 1937.] publication;Provided that any such rules may be made without previous publication if the [State Government] [Substituted by A.L.O. 1950, for 'Provincial Government'.] considers that they should be brought into force at once.

## 90. Power of Board to make rules.

- The Board may make [rules] [For the rules made, See the Board's Excise Rule, 1965.];(1)for regulating the manufacture, supply, or storage of any [intoxicant] [Substituted by A.L.O. 1937 for 'excisable article;'.], and in particular, and with prejudice to the generality of this provision may make rules for regulating -(a)the establishment, inspection, supervision, management and control of any place for the manufacture, supply or storage of any [intoxicant] [Substituted by A.L.O. 1937 for 'excisable article;'.], and the provision maintenance of fittings, implements and apparatus therein;(b)the bottling of liquor for purposes of sale;(c)the cultivation of the hemp plant;(d)the collection of portions of the hemp plant from which intoxicating drugs can be manufactured or produced, and the manufacture or production of intoxicating drugs therefrom;(e)the tapping of tari-producing trees and the drawing of tari from trees;(f)the making of tari-producing trees in areas

notified under Section 14, Sub-section (1), and the maintenance of such marks;(2)for fixing the strength, price of quantity in excess of or below which any [intoxicant] [Substituted by A.L.O. 1937 for 'excisable article;'.] 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] [Substituted by A.L.O. 1937 for 'excisable article;'.];(3)for declaring how spirit manufactured in [India] [Substituted by A.L.O. 1951 (3rd Amendment).] shall be denatured;(4)for causing spirit manufactured to be denatured through the agency or under the supervision of [Government Officers] [Substituted by A.L.O. 1950, for 'all the Provinces of India'.];(5)for ascertaining whether any spirit so manufactured has been denatured;(6)for regulating the deposit of any [intoxicant] [Substituted by A.L.O. 1937 for 'excisable article;'.] in a warehouse established, authorised or continued under this Act, and the removal of any [intoxicant] [Substituted by A.L.O. 1937 for 'excisable article;'.] 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 [\* \* \*] [Omitted by Act 17 of 1970.] any licence, permit or pass granted under this Act, or in respect of the storing of any [intoxicant] [Substituted by A.L.O. 1937 for 'excisable article;'.];(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] [Substituted by A.L.O. 1937, for 'excisable article'.] 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] [Substituted by A.L.O. 1937, for 'excisable article'.] may be sold, and prescribing the notices to be exposed at such premises;(iv)prohibiting or regulating the employment by the licensee or any person or class of persons to assist him in his business;(v)prohibiting the sale of any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] except for cash;(vi)prescribing the days and hours during which any licensed premises mayor may not be kept open, and providing for 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] [Substituted by A.L.O. 1937, for 'excisable article'.];(13)for providing for the destruction or other disposal of any [intoxicant] [Substituted by A.L.O. 1937, for 'excisable article'.] 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 [\* \* \*] [Omitted by Act 17 of 1970.] licences, permits passes or storage, and for different areas.[Validation of certain actions [Vide Act 17 of 1970 and Act 10 of 1971.] - Notwithstanding any judgement, decree, or order of any Court -(a)all grants made by way of licences for manufacture and retail sale of country liquor and for retail sale or intoxicating drug in respect of any place on or after the 7th day of August, 1965 shall be deemed to be licences granted to the persons concerned conferring an exclusive privilege under Section 22 of the Principal Act, for manufacture and retail sale of country liquor and, as the case may be, for retail sale of intoxicating drug at such place; and(b)all amounts paid or payable in respect of such grants shall be deemed to be sums paid or

payable under Section 29 of that Act in consideration of the grant of exclusive privilege.][Repeal [Vide Orissa Act No. 10 of 1971.] - The Bihar and Orissa Excise (Orissa Amendment) Act, 1970 is hereby repealed.]

## **91. Powers of Board exercisable from time to time.**

- Any power conferred by this Act on the Board may be exercised from time to time as occasion requires.

## **92. Publication and effect of rules and notification.**

- All rules made, and notifications issued, under this Act shall be published in the [Official Gazette] [Substituted by A.L.O. 1937, 'excisable article'.], and on such publication shall have effect as is enacted in this Act.

## **93. 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 46; and(c)all amounts due to the [State Government] [Substituted by A.L.O. for 1950, 'Provincial Government'.] by any person on account of any contract relating to the excise-revenue, may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his movable property, or by the process prescribed for the [recovery of arrear of land revenue] [Substituted by Act No. 17 of 1980.].(2)When a grant has been taken under management by the Collector, or has been transferred by him under Section 46, 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 Subsection (1) :Provided that nothing in this sub-section shall affect the right of any such grantee to recover any such money by civil suit..

## **94. Power of State Government to exempt intoxicants from provisions of the Act.**

- [State Government] [The Substituted by A.L.O. for 1950, 'Provincial Government'.] may, by notification, either wholly or partially, and subject to such conditions (if any), as it may think fit to prescribe, exempt any [intoxicant] [Substituted by A.L.O. 1937, 'excisable article'.] from all or any of the provisions of this Act, either throughout the [State of Orissa] [The Substituted by A.L.O. for 1950, 'Provincial Government'.] in or any special local area, or for any specified period or occasion, or as regards any specified class of persons.

## **95. Bar of certain suits.**

- No suit shall lie in any Civil Court against the [Government] [The Substituted by A.L.O. for 1950, 'Provincial Government'.] or any Excise Officer for damages for any act in good faith done or ordered to be done in pursuance of this Act of any other law for the time being in force relating to the excise revenue.

## **96. Limitation of suits and prosecutions.**

- No Civil Court shall try any suit against the [Government] [The Substituted by A.L.O. for 1950, 'Provincial 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 [State Government] [The Substituted by A.L.O. for 1950, 'Provincial Government'.], no Magistrate shall take cognizance of any charge made against any Excise Officer under this Act or any other law relating to the excise revenue, or made against any other person under this Act; unless the suit or prosecution is instituted within six months after the date of the act complained of.

## **97. Bar to application of Section 261 of the Bengal Municipal Act, 1884.**

- Section 261 of the [Bengal Municipal Act, III of 1884] [Repealed and re-enacted by the Municipal Act, 1950.], shall not apply to -(a) any distillery, brewery, warehouse, or other place of storage licensed, established, authorised or continued under this Act; or (b) the premises used for the manufacture or sale of any [intoxicant] [Substituted by A.L.O. 1937, 'excisable article'.] by the holder of a licence granted under this Act for such manufacture or sale.

## **98. Bengal Act, V of 1909 to cease to be in force, but orders rules etc., made and licences, etc. granted thereunder to continue.**

(1) On and from the commencement of the Act, the [Bengal Excise Act V of 1909,] [Printed in the Bengal Code, Edn. 1913. 15 Volume III.] shall cease to be in the [State of Orissa] [Substituted by A.L.O. 1950, 'Provincial Government'.] and, for the purpose of Section 5 of the [Bengal General Clauses Act, 1899, shall be deemed to have been repealed in the said State and to be re-enacted by this Act.] [See the Bihar and Orissa General Clauses Act, 1971.](2) Every licence, permit or pass which was granted under any Section of the [Bengal Excise Act, of 1909,] [Printed in the Bengal Code, Edn. 1913. 15 Volume III.] and is in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of this Act, and shall (unless previously cancelled, suspended, withdrawn, or surrendered under Chapter VI of this Act) remain in force for the period for which it was granted.