THE RAJASTHAN EXCISE (AMENDMENT) ACT, 2007

1. Amendment of section 3, Rajasthan Act No. II of 1950. — In clause (19) of section 3 of the Rajasthan Excise Act, 1950 (Act No. II of 1950), hereinafter in this Act referred to as the principal Act, after the existing expression "boat, raft" and before the existing expression "and enclosure", the expression "vehicle" shall be inserted.

2. Amendment of section 9, Rajasthan Act No. II of 1950. — For the existing sub-section (1A) of section 9 of the principal Act, the following shall be substituted, namely:—

(1A) The State Government may also appoint such and so many other persons as it thinks fit and necessary to be—
(i) Director Enforcement, Special Director Enforcement, Additional Director Enforcement, Joint Director Enforcement, Zonal Director Enforcement,
(ii) Deputy Excise Commissioners,
(iii) District Excise Officers,
(iv) Other inferior Officers:—

3. Amendment of section 9A, Rajasthan Act No. II of 1950. — In section 9A of the principal Act—

(i) In clause (b) of sub-section (1), for the existing expression "to the Division Bench of the Board of Revenue established under the provisions of Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956)," the expression "to the Division Bench of the Rajasthan Tax Board constituted under section 83 of the Rajasthan Value Added Tax Act, 2003 (Act no. 4 of 2003)" shall be substituted;
(ii) In sub-section (3), for the existing expression "Board of Revenue", the expression "Rajasthan Tax Board" shall be substituted; and
(iii) In sub-section (4), for the existing expression "Board of Revenue", the expression "Rajasthan Tax Board" shall be substituted.

4. Insertion of section 10A, Rajasthan Act No. II of 1950. — After the existing section 10 of the principal Act, the following new section shall be inserted, namely:

"10 A. Establishment of check-post and Inspection of goods while in movement. — (1) The Excise Commissioner may, with a view to prevent or check evasion of excise duty, by notification in the Official Gazette, direct the setting up of check-posts at such places and for such periods as may be specified in the notification. Every person or official, who exercises his duties at such check-posts by way of inspection of documents produced and goods being moved, shall be its Incharge.

(2) Notwithstanding anything contained in sub-section (1), the Excise Commissioner may, by notification in the Official Gazette, declare any existing check-post established by any other department of the State Government to be the check-post for the purposes of this section and may appoint any officer or official to act as the Incharge of the check-post for the purpose of this section.

(3) The driver or person in charge of a vehicle or carrier carrying, excisable articles shall—

(a) Carry with him the permit, pass, bill and billy;

(b) Stop the vehicle or carrier at such check-post;
(c) Produce all documents for inspection of the inconvenience of the check-post; and
(d) Allow the inspection of goods / excisable articles.

Explanation. - For the purpose of this section "vehicle or carrier" shall include any means of transportation including an animal to carry goods from one point to another."

5. Amendment of section 48, Rajasthan Act No. II of 1950. - In proviso to section 48 of the principal Act, after the existing clause (iii), the following clause shall be added, namely:-
"(iv) The provisions of section 162 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) shall not apply to the investigations made under this Act."

6. Amendment of section 49, Rajasthan Act No. II of 1950. - For the existing section 49 of the principal Act, the following shall be substituted, namely:-
"49. Modified application of certain provisions of the Code. - (1) Section 167 of the Code shall apply to a case involving an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act subject to the modification that in sub-section (2) thereof the reference to "sixty days" and "ninety days" wherever they occur, shall be construed as reference to "one hundred twenty days" and "one hundred eighty days" respectively.
(2) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act.
(3) Notwithstanding anything contained in the Code, no person accused of an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act shall, if in custody, be released on bail or on his own bond, unless-
(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and
(b) where the Public Prosecutor opposes 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 such offence while on bail.
(4) The limitations on grant of bail specified in sub-section (3) are in addition to the limitations under the Code or any other law for the time being in force on the grant of bail.

Explanation. - In this section, the expression "the Code" means the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

7. Amendment of section 54, Rajasthan Act No. II of 1950. - In section 54 of the principal Act,-
(i) For the existing expression "be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twenty thousand rupees", the expression "be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine of twenty thousand rupees or five times the loss of excise duty, whichever is higher" shall be substituted;
(ii) for the existing first proviso shall be deleted; and
(iii) for the existing second proviso, the following shall be substituted, namely:-

Provided that if the quantity of liquor found at the time or in the course of detection of the offence under clause (a) of this section exceeds fifty bulk liters, the person guilty for such offence shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine of twenty thousand rupees or ten times the loss of excise duty, whichever is higher."


After the existing section 54A and before the existing section 55 of the principal Act, the following new sections shall be inserted, namely:-
"54B. Penalty for adulteration resulting in death etc. - (1) Whoever mixes or permits to be mixed with any liquor or intoxicating drug any noxious substance or any substance, which is likely to cause disability or grievous hurt or death to human beings, shall, on conviction, be punishable.-

(i) if, as a result of such an act, death is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees;

(ii) if, as a result of such an act, disability or grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh and fifty thousand rupees.

(2) Whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to cause disability or grievous hurt or death to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,-

(i) if, as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than One lakh rupees but which may extend to ten lakh rupees;

(ii) if, as a result of such omission, disability or grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh and fifty thousand rupees.

(3) Whoever possesses any liquor or intoxicating drug in which any substance referred to in sub-section (1) is present, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to one lakh rupees.

Explanation. - For the purpose of this section and section 54 C the expression "grievous hurt" shall have the same meaning as is in section 320 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

54C. Order to pay compensation. - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) the court when passing the judgment in a case falling under section 54B or 54C may, if it is satisfied that death of grievous hurt or disability or other injury has been caused to any person or persons
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by consumption of liquor or intoxicating drug sold in any place, order the person who sold the liquor or intoxicating drug, whether or not he is convicted of an offence under section 54B, to pay, by way of compensation, such amount as it thinks just to the legal representatives of the deceased or to the person or persons to whom grievous hurt or disability has been caused:

Provided that the amount of compensation ordered to be paid under this section shall not be less than three lakh rupees in case of death, two lakh rupees in case of grievous hurt or disability and twenty thousand rupees in other cases.

Provided further that, where the liquor or intoxicating drug is sold in a licensed shop, the liability to pay the compensation under this section shall be on the licensee.

2) Any Person aggrieved by an order under sub-section (1) may, within thirty days from the date of the order, prefer an appeal to the High Court.

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the court which passed such order.

Provided further that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

54D. Penalty for criminal conspiracy. — Whoever is a party to a criminal conspiracy to commit an offence punishable under this Act shall be punished in the same manner as if he had committed such offence.

Explanation. — For the purpose of the expression "criminal conspiracy" shall have the same meaning as in section 120-A of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

9. Amendment of section 56, Rajasthan Act No. I of 1950. — In section 56 of the principal Act:

(i) for the expression "which shall not be less than six months and may extend to three years and also with fine which shall not be less than rupees two hundred and may extend to one thousand rupees", the expression "which shall not be less than two years but which may extend to five years and with fine of two lakh rupees or five thousand rupees per bulk liter of denatured spirit or denatured spirituous preparation involved, whichever is higher" shall be substituted; and

(ii) after section 56, so amended, following explanation shall be added, namely—

"Explanation — For the purpose of this section it shall be presumed, unless and until the contrary is proved, that any spirit, which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants, is or contains or has been derived from denatured spirit."

10. Amendment of section 58, Rajasthan Act No. II of 1950. — In section 58 of the principal Act, for the expression "which may extend to five hundred rupees", the expression "of five thousand rupees" shall be substituted.

11. Insertion of section 58A, Rajasthan Act No. II of 1950. — After the existing section 58 of the principal Act, the following new section shall be inserted, namely—

"58A. Penalty for adulteration, etc., by licensed vendor or manufacturer. — Whoever being the holder of a license for the sale or manufacture of any intoxicant under this Act, or a person in the employment of such holder,

(a) mixes or permits to be mixed with intoxicating sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality, or any article prohibited by any rule made under this Act where such admixture does not amount to the offence of

the adulteration under section 272 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860); or

(b) sells or keeps or exposes for sale as foreign liquor, which he knows or has reason to believe to be Indian made foreign liquor; or

(c) marks any bottle or the cork of any bottle, case, packing or other receptacle containing Indian made foreign liquor, or uses any bottle, case, package or other receptacle, with any mark thereon or on the cork thereof, to contain Indian made foreign liquor with the intention for causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false property mark with intention to deceive or injure any person under section 452 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860); or

(d) sells or keeps or exposes for sale any Indian made foreign liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to be offence of selling goods marked with a counterfeit property mark under section 460 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860); or

(e) makes any block for the purpose of counterfeiting excise adhesives labels or holograms or prepares copies by any means of such labels or holograms for the purpose of counterfeiting such labels or holograms or counterfeits excise adhesives labels or holograms or makes any block for the purpose of counterfeiting corks or capsules to be used on bottles, cases, packing or other receptacles containing Indian made foreign liquor or foreign liquor or counterfeits such corks or capsules or is in possession of counterfeit excise adhesive labels, holograms, corks, capsules or blocks or any other material to be used for counterfeiting such labels, holograms, corks, capsules, shall, on conviction, be punished with imprisonment;

(i) in case of first offence, for a term which shall not be less than one year but which may extend to two years and with fine which shall not be less than ten thousand rupees but which may extend to three lakh rupees; and

(ii) in case of a second or subsequent offence, for a term which shall not be less than two years but which may extend to five years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Explanation. — For the purpose of this section, the expression "counterfeit" shall have the same meaning as is in section 28 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860)."

12. Insertion of section 61A, Rajasthan Act No. II of 1950. — After the existing section 61 and before section 62, the following new section shall be inserted, namely—

"61A. Penalty for certain acts and omissions by Excise Officers. — If any Excise Officer unlawfully releases or abets the escape of any person arrested under this Act or acts in any manner inconsistent with his duty for the purpose of enabling any person to do any thing whereby any of the provisions of this Act may be evaded or contravened or the excise revenue may be defrauded, he shall be punished with imprisonment for a term which shall not be less than three months but which may extend to one year;

Provided that no court shall take cognizance against any officer under this section without prior permission of the State Government."
after the existing sub-rule (3), the following new sub-rules shall be inserted:

namely:

(4) In respect of wholesale licences granted to Canteen Stores Department a privilege fee amounting to Rs. 30.00 lac shall be charged in addition to the annual wholesale licence fee prescribed for licences under rule 47(1)(b).

(5) A sum of Rs. 2500/- shall be charged from the commanding officer of the Armed Forces of the Union of India stationed in Rajasthan and Commander of the Border Security Force personnel for holding retail off licence.

3. Amendment of rule 69-B:- In the “Table” appearing below rule 69-B of the said rules:

(i) the existing S.No. 3 and entries thereto shall be deleted;

(ii) the existing expression “IMFL” appearing in column No. 2 against S. No. 4 shall be substituted by expression “Foreign Liquor (excluding beer)”;

(iii) the existing expression “Indian made bear” appearing in column No. 2 against S. No. 5 shall be substituted by the expression “Beer”.


(3)

In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so hereby exempts manufacturers of country liquor from payment of permit fee payable under rule 69-B of Rajasthan Excise Rules, 1956 for such quantity of rectified spirit extra neutral alcohol that was manufactured and utilized by the same manufacturer for manufacturing country liquor during the period of 17-9-2005 to 13-8-2007.


(4)

In exercise of the powers conferred by Section 28 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government hereby makes the following amendment in this Department’s Notification No. F.4(52)FD/Ex/96 dated 31-3-1997 (as amended from time to time) with immediate effect, namely:-

AMENDMENT

In the said notification,

1. Entries appearing at S. No. (i) under head “1. Excise Duty” shall be substituted respectively by the following entries

(i) Indian made foreign liquor/spirt (including heritage Excise Duty liquor) having price per carton of quart bottles (irrespective of whether the packing is in quarts, pints, nips or others) as declared by manufacturers and as accepted by Rajasthan State Beverages Corporation Limited:

(a) up to Rs. 400/-
Rs. 170/- per LPL
(b) above Rs. 400/- but up to Rs. 600/-
Rs. 210/- per LPL
(c) above Rs. 600/- but up to Rs. 900/-
Rs. 250/- per LPL
(d) above Rs. 900/- but up to Rs. 1500/-
Rs. 280/- per LPL
(e) above Rs. 1500/- but up to Rs. 3000/-
Rs. 350/- per LPL
(f) above Rs. 3000/- but up to Rs. 6000/-
Rs. 500/- per LPL
(g) above Rs. 6000/- but up to Rs. 10000/-
43% ad-valorem
(h) above Rs. 10000/-
50% ad-valorem

The Rajasthan Excise Act

Preamble

On Failure of the policy of Prohibition and due to heavy loss of revenue, the Rajasthan Prohibition Act, 1969 was repealed by Rajasthan Act No. 13 of 1981 w.e.f 11-8-1981 runs as under...

"4. Revival of the Rajasthan Excise Act, 1950—Upon the commencement of this Act, the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950) shall in relation to liquor, revive and extend to the whole of the State of Rajasthan"

The principle argument advanced by the State Government for bringing the Rajasthan Prohibition Act Repealing Act, 1981 was stated to be "Heavy losses in revenue of State. Thus the cause of public morality and health was defeated by revival of the Rajasthan the Statement of object & reasons of the Act of 1981 is being reproduced hereunder for ready reference:

3. The Object of the Act—(a) Statement of Object & Reasons—

[Rajasthan Prohibition Act Repealing Act 1981]

Total prohibition was imposed in the State with effect from 1st April 1980. Despite efforts, there was no perceptible change in the habit of drinking. Anti Social elements took to illicit distillation and bootlegging and the persons involved at the cost of health of the People addicted to drinking as also the State revenue. Hence the Rajasthan Prohibition Act, 1969 could not achieve the desired results. In these circumstances, it was decided to repeal the Rajasthan Prohibition Act, 1969 and to revive the Rajasthan Excise Act, 1950 in relation to liquor. For this purpose, the Rajasthan Prohibition Act Repealing Ordinance, 1981 (Ordinance No. 7 of 1981) was promulgated by the Government on the 1st day of August, 1981.

One of the purposes of the Act is to raise revenue. Revenue is collected by the grant of contracts to carry on trade in liquor. Therefore, the State has power to hold public auction for grant of such right or privilege & accept payment of a sum in consideration of grant of lease. These contracts are sold by auction. The granite is given licence on payment of auction price.

The preamble indicates the object of the Act as follows:

(a) to consolidate and amend the existing law,
(b) to regulate and to prohibit various activities and dealings with liquor.

The object behind this Act is mainly centred round the collection of excise duty to raise the revenue of the State.

The object of the Act as given in the preamble and its long title is to enact for Rajasthan a uniform law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs. Prior to the integration of the princely States in Rajasthan, the co-operating States had separate statutes and, therefore, the present Act was enacted to consolidate and amend the law relating to intoxicating liquor and drugs for the entire State. The purposes of the Act have to be understood in the light of the Constitution which mandates the State to endeavour to bring about prohibition of the consumption of intoxication drinks and drugs which are injurious to health. Seen in this light, the object is clear that the State has to proceed towards complete prohibition of the consumption of intoxication drinks and drugs. (Para 2)

For further details, see in S. 42 infra


Burraji Co. Ltd. v. Union of India AIR 1961 SC 954.
AIR 1958 SC 258.
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(b) Importance of the Objects and reasons of the Act—The intention of the statute is a particular evil or mischief which is presented in the form of the statement of objects and reasons given at the beginning of a bill which later on becomes law when passed by the appropriate legislature. The Statement of Objects and reasons is admissible as aid to the construction of a statute, but it can be referred to for limited purpose of ascertainment the conditions prevailing at the time which actuate the sponsor of the bill to introduce the same and the extent and urgency of the evil it sought to remedy. The primary duty of the Court is to give effect to the intention of the legislature as expressed in the words used by it and not outside consideration be called in to find that intention.

The statement of object and reasons can be referred to ascertain mischief sought to be remedied by the statute, but is not an aid to interpretation of the provision.

Reference to the statement of objects and reasons may be of great help to the Court where words and expressions in a statute are sought to be construed to mean different things than what emerges from a plain reading thereof.

Intention of Legislature and its Importance

Sections should ordinarily be interpreted as they stand without addition of any words which the language used by the legislature is the true repository of the legislature and the words used and phrases occurring in a statute are to be taken in an isolated or detached manner dissociated from the context. But are to be read together construed in the light of the purpose and object of the Act itself. To ascertain legislative intent, all the consistent parts of a statute are to be taken together and word for word or sentence is to be considered in the light of the general purpose of the Act itself.

Legislative proceedings can be looked into for the proper understanding of the intentions under which a particular Act or amendment is made and also for understanding the reason why the passing of that legislation. Legislative proceedings can be referred to for purpose of constructing an Act where clear indication is available. Such intention may be given effect to notwithstanding lucum in the language. Parliamentary proceedings as well as statement of objects & reasons be looked into for the construction of a statute. The court is not concerned with the movies of Parliament in judging the character of legislation enacted.


The New Picee Goods (Herat Co. Ltd v. CIT, Bombay AIR 1950 SC 165.


Nidhi v. Promote AIR 1953 Cal. 16.


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by it, but with what it has actually enacted. It is well established rule of interpretation that if the word used is clear and not ambiguous, the court is not to consider the object of the statute for which the legislative assembly passed it. It is a recognised rule of interpretation of the statute that the expression used therein should ordinarily be understood in the sense in which the best harmonise with the object of the statute and which effectuate the object of the legislature. If an expression is susceptible of a narrow or technical meaning, as well as a popular meaning the court would be justified in assuming that the Legislature used the expression in the sense which would carry out its objects and reject that which renders the exercise of its powers invalid.

If language is clear and explicit, the court must give effect to it. For in such case the words of the statute speak the intention of the Legislature (1852) 2 D & C 45; And is so doing it must bear in mind that its function is judge de creer non jus dare: the words of a statute must be given effect by the judges but the form of law must be left in the hands of Parliament [Champion v. Cameron (1868) 1 WLR 244 and (1868) 2 QB 932 followed].

It is the duty of the court to interpret a statute so as to promote the object and purpose of the Act. Where doing so it is open to the Court to depart from normal rule that plain words should be construed according to their plain meaning.

4. The Contents of Preamble—As the Preamble has been regarded as a key to the Act, it is worthwhile to examine it contents summarised as follows:

(a) to consolidate and amend the law, i.e uniform law for Rajasthan, and

(b) the law relating to:

(A) (1) impon, (2) expert, (3) transport, (4) manufacture, (5) sale and

4. to provide for certain other matters hereinafter appearing.

For meaning of these terms, please refer to commentary of section 3 infra.

5. Consolidating Statute: "An act to consolidate and amend the law: This clause means that the present Act not only codifies the law but also amends it.

In view of Wagon J, the very object of consolidation is to collect the statutory law bearing upon a particular subject and to bring it down to date, in order that it may form a useful code applicable to the circumstances existing at the time when the consolidating Act is passed.

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"To consolidate" means to reduce to a system of the statute law relating to the subject matter as illustrated by judicial decisions.

So the task of consolidation and codification of existing law was taken up and the law was also amended to suit the needs of the Union of Rajasthan.

In case of an Act which is amending as well as consolidating, beyond the reasonable pretation of its provisions there is no means of determining whether any particular one is intended to consolidate or to amend the previously existing law. The law did not consider to have been changed unless the words used by the legislature show this. In the consolidating Acts only statutes not expressly repealed should be held to continue in force without modification. The approval of the legislature particular construction put on the provisions of an Act on account of its making alteration in those provisions is presumed only when there had a consistent series asus putting a certain construction on certain provisions.

A consolidating statute is one which collects the statutory provisions relating particular topic, and enbodies them in a single Act of Parliament making only minor ndents and improvement.

In the construction of a Consolidation Act, the presumption that Parliament does intend to alter the existing law, applies with particular force. For object of the Act merely to 'reproduce the law as it stood before and there is a further perhaps less massive presumption that the words used in the consolidating Act bear the same ring as that which they had at the time the enactments consolidated were passed.

6. The Scheme of the Act & its Contents— The scheme of the Rajasthan Excise Act 1950 is to prohibit possession, import, export and transport of excisable articles out a valid permit or licence under section 5 of the Act.

The Scheme of the Act entails two fold objectives— (i) It is regulatory as well as prohibitory. It regulates the Collection of excise duty by means of issuing licences manufacture, sale, supply, export, import, possession, consumption and transportation of excisable drugs & liquors. So also it regulates the Sale, consumption, opening, closing retail liquor shops, whole Sale dealers, manufacturers, hotel & clubs under licence.

It prohibits manufacture, consumption, export, import, Sale and Supply, and possession illicit liquor and restricts these activities. It prevents offences and punishes the offenders, which regulate machinery of offices in the Excise Department has been created and named.

Rules framed by State Government (under S. 41)
4. The Foreign Liquor (Grant of whole sale Trade and Retail off Licences) Rules, 1982.

Rules framed by the Excise Commissioner (under S. 42 of the Act)
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7. The Rules regulating Stock taking and wastage of Liquor at Distilleries & Ware Houses, 1959.
8. The Rules regarding the wastage in transit, issue and storage of hemp drugs in a ware house, 1959
11. Terms & conditions for Registration of contractors.
12. Scheme of Bonded Ware House.

[For Text of these Rules, Please refer to Part II of the Book]

(2) Notifications—Various Notifications issued under the provisions of the Act & Rules framed thereunder are also very important part of the Law of Excise.

For importance of notification refer to note (5) of the Commentary of section 1.

We have reproduced the important statutory Notifications alongside with the commentary concerned section for useful reference. Other various Notification are being given in III-Notifications of the book for further reference. It is to be noted that these Notifications are liable to frequent changes, so the learned readers are being advised to consult the following sources from time to time as no book can be complete and date due to flood of changes-

(1) Rajasthan Rajprat (Gazette) (Govt. of Raj.)
(2) Rajasthan State Current Statutes (Jodhpur)
(3) Rajasthan Law Times (Jaipur)

8. Canons of Interpretation of a statute—Before we proceed to examine the provisions of Act, it would be worthwhile to recapitulate the canons or principles of the interpretation statute in brief—

(i) Marginal Notes or Head Notes—Marginal notes are important part of the section wherein. It is true that a marginal note cannot be used to qualify or govern the contents section but such a marginal note can be considered in arriving at a conclusion of the legislative intention manifested by means of such note. The marginal note of override the provisions of the enactment and can however be taken in to consideration if the enactment is ambiguous and is capable of more than one interpretation. Where there is ambiguity in the language and grammatical construction of a particular provision in statute they should receive the plain and natural meaning and no aid is to be had from the marginal or head notes or the statement or aims of object.

The marginal notes cannot control the meaning of the body of the section, if the usage employed therein is clear and unambiguous. Headings prefixed to section or of sections in some modern statute are regarded as preamble to those sections. The language and the object of the section is not open to doubt in the preamble of either restrict or extend the enacting part. It is only when there is any ambiguity


of the language of the section that the preamble can be invoked as an aid for the proper interpretation of the section. Marginal notes can afford no legitimate aid to construction and cannot be referred to for such purpose. Marginal note to section is not to control or interfere with interpretation of the section.

A heading to one group of sections cannot be used to interpret another group of section.

(ii) Section-General Principles—It is a well known principle of judicial interpretation that when the words of statute are themselves precise and unambiguous, then they should be understood as taken as best declaring the intention of the legislature.

The meaning of words is to be gathered from the language, the object and the context in which the expression occurs. The construction and legal import of the definition are to be found by reference to the language used and the object and the context of the Act where it occurs and it would be dangerous to rely upon the provisions of the other statutes where a similar expression has been defined for other purposes.

It is always unsafe and not at all desirable to just pick out a provision & try to understand it without reference to the scheme of the statute, the intention of the legislature and the context in which the particular provision occurs.

Where the language of statute is obscure, or it is open to more meanings than one, then it may be necessary to resort to extraneous aids such as the state of pre-existing law and the consideration of cognate provision and the like, but where that is not the case, then there can be hardly any necessity or justification for trying to seek the meaning of the provision elsewhere, except by putting the plain meaning on the words used by the legislature itself. It is legitimate rule of construction to construe words in an Act of Parliament, with reference to words found in immediate connection with them. When an expression is ambiguous, the meaning to be put on it should be one which should advance the remedy other than hamper it. When the language of the Act is clear, considerations of hardship and inconvenience have no relevance for purpose of interpretation. It is a rule of construction that where there are general words following the particular and specific words in a section the General words must be construed to change the same kind—(judicial genesis) as those specified. Government's interpretation of enactment is no guide to court in interpreting its language. Strict grammatical
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(3) It may be so embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor or color of the substantive enactment itself.

(4) It may be used merely to act as an optional addenda to the enactment with

the sole object of explaining the real intention of statutory provision.

These seem to be, by and large, the main purport and parameters of a proviso.

Both proviso and main provision should be read together harmoniously.

(iv) Explanation—An explanation to a section makes plain or intelligible or clear from obscurity something which may arise from the main section. The construction of an explanation like the construction of any other provision of statute mainly depends on the language used. The proper function of an explanation to a section in an Act is to explain and not to add or even alter. If there is something ambiguous in a provision it is made clear through an explanation. Generally it is by way of an exception to what is stated in the main section that an Explanation or proviso is added to a section. Sometimes an Explanation stresses upon a particular thing which ordinarily would not appear clearly from the provision in the main section.

- From a connotations of the authorities, it is manifest that the object of an Explanation to a statutory provision is:

(a) to explain the meaning and intention of the Act itself;

(b) where there is any obscurity or vagueness in the main enactment, to clarify the same as to make it consistent with the dominant object which it seems to subscribe;

(c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful;

(d) an Explanation cannot in any way interfere with a change of the enactment or add any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intention of the enactment, and

(e) it cannot, however, take away a statutory right which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same.

(v) Rule of Construction of Penal Laws—It is well-established canon of construction that the Court should read the section as it is and cannot rewrite it to suit its convenience; nor does any canon of construction permit the court to read the section in such manner as to

1. S. S. Phull v. V. R. Patilaharan AIR 1985 SC 582
2. S. S. Phull v. V. R. Patilaharan AIR 1985 (1) RLR 415 (SC from Mysore) (Para-12); 1985 (1) RCJ 267: 1985 (1) RCR 452 (SC)
3. CST. v. B. G. Patel, AIR 1995 SC 865
to render it to some extent otiose.\(^1\) Power given to do certain thing in certain way, it thing must be done in that way.\(^2\)

The statutes dealing with jurisdiction and procedure are, if they relate to the infliction of penalties, strictly construed. Compliance with procedural provisions will be stringently enforced against the person liable to be penalised, and if there any ambiguity or doubt it will as usual be resolved in his favour. This is so even if it may enable him to escape upon a technicality.\(^3\)

(vi) Analogy: — The construction on analogy (of some other enactment) is strictly possible\(^4\) it may prove to be the most dangerous of sources. Unless the fact and circumstances be identical, it is not safe to extend principles by analogy. Where there is one is exception in the other, the same principles may not hold.\(^5\) The rules of cedure cannot be extended by analogy or reference to preceeding to which they do expressly apply or could be said to apply by necessary implication.\(^6\)

(vii) Non-Obstante Clause: — A non-obstante clause is usually used in a provision to require that provision should prevail despite anything to the contrary in the provision deemed in such non-obstante clause. In case there is any inconsistency or a departure from the non-obstante clause and another provision one of the objects of such a use is to indicate that it is the non-obstante clause which would prevail over the other. It does not however necessarily mean that there must be repugnancy between two provision in all such cases.\(^7\)

(viii) Amendment: — The rule of construction with regard to the effect of amendment has a statute amended is to be understood in the same sense exactly as if it had from the beginning been amended.\(^8\) The rule, no doubt is that an amending statute is regarded as having been written in the statute. Book with the same pen and in the same manner the statute must therefore, be regarded as incorporating the amendment from the time which the Act was passed. But the rule applied only for the purpose of determining the meaning of any particular provision of the Act as amendment is, whether it is the amended part or the amended part.\(^9\)

(ix) Punctuation: — Though punctuation is not regarded in England as affording assistance in construction of a statute owing mainly to the historical reason that since when enacted do not contain any punctuation. In a country like India where statute when enacted by the legislature bears careful punctuation, it would not be to regard punctuation as a totally irrelevant consideration when the court is faced with the task of construing the statute.\(^10\)

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den in a mandatory sense does not necessarily mean that in every case of the words
if the statute are not punctually followed, the proceedings or the custom of proceeding
ought to be invalid. 1 Enactment which confers powers should be construed so as to
prevent any discretion from being given to the person on whom powers are conferred from abusing the same.
2 Use of the word 'shall'
Sd a penalty prescribed for breach of the provision, the provision is not necessarily
mandatory. 3 Where there is an obligation cast on an authority coupled with discretion,
the word 'may' amounts to a command and 'may' means 'shall' or 'must'.

There are no ready tests or invariable formulae to determine whether a particular
provision in a statute is mandatory or directory. The broad purpose of the statute is
important. The object of the particular provision must be considered. The link between
the two is most important. The weighing of the consequences of holding a provision
be mandatory or directory is vital and, more often than not, determinative of the
very section whether the provision is mandatory or directory. Where the design of the
statute is to avoid the occurrence of public mischief (a Food Adulteration Act in this case),
the enforcement of a particular provision literally to its letter will tend to defeat that
end, the provision must be held to be directory, so that proof of prejudice in addition
to non-compliance of the provision is necessary to invalidate the act complained of.

"Shall" Word "Shall" ought to be construed in the context in which it is used
for the purpose it seems to serve. Then it is to be construed as directory or mandatory.

Whether a provision is Mandatory or Directory?- Test for determination View

Crawford-"The question as to whether a statute is mandatory or directory depends
on the intent of the Legislature and not upon the language in which the act is clothed.
It is meaning and intention of the legislature that must govern and these are to be ascertained
only from the phrasing of the provision but also by considering its nature, its
sign, and the consequences which would follow from construing it the one way or
the other."

10. Interpretation of Statutes—Taxing Statutes—When and how excise duty can be
levied in Rajasthan.—(Constitution of India, Art. 265) Intention to tax should be by express
words in Notification. The levy of duty under the Act could not be in any other manner
casting the one provided by the Act. The excise duty could not be imposed other
means of a contract or by executive order or direction. It is a well settled proposition
law that intention to tax cannot be presumed to otherwise than by express words. If
the burden by way of tax is to be imposed it must be stated in plain language and

Raj 1703.
Vishrappag Rajappa Senger v. B.P. Dall 1977 Lab IC 65 (69) Bom.
Crawford on "Statutory Construction" (1940) Edn Art 261, Page 516.
Quoted in Gunned Lal Chagran Lal Padi v. Agricultural Produce Market Committee (Godhra
1976) 3 SCR 451; (1975) 2 SCC 482 (487-Para 13) Also refer to Guruswami Prasad Sahai Kesari

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direct reference however eminent the source, is not adequate to impose a tax. No tax
can be levied by inference or analogy.

11. Validity of the Act—Not hit by Articles 14,19 or 30A of the Constitution of
India—No person has an absolute right to sell liquor, and the purpose of this Act
is to control and restrict the consumption of intoxicating liquors. Such control and restrictions
over trade in liquor are obviously necessary for the preservation of public health and
morals and to raise revenue. State Government is within its rights to lay down conditions
regarding payment of initial fee for grant of retail sale licence relating to Indian made
foreign liquor and foreign liquor. The provisions of Articles 14,19 or 30A of the Constitution
are not attracted.

Constitutional Validity—Held, S.71(2) gives unregulated and unbridled power
to grant exemption—Hence is discriminatory & void—Consequently Notification dated 18-
7-1992 withdrawing concessions under S 71(2) is also void & inoperative.

No natural or Fundamental Right—Power of State—The State has the power to
prohibit trade (in liquor) which are injurious to the public health and welfare of the public.
It is understood that the existence of a liquor business that is prohibited has an absolute right to deal in liquor and that all forms of dealing have
from their inherent nature been treated as a class by itself all excluded. The contention that the citizen had acquired a natural or a fundamental right to carry
on trade of business in liquor has been repeatedly rejected by Supreme Court.

Reasonable restriction—Test thereof—Reasonableness of any restriction has to
be tested with reference to the object of the legislation and its object being total prohibition,
and issuance of liquor permits on ground of health etc. being an exemption to the general
Rule and such exemption cannot be claimed as of right always. Therefore restrictions and conditions imposed are valid and reasonable.

Note trade within meaning of Art 301—"Trade in liquor" has historically stood
on a different footing from other trade. Restrictions which are not permissible in other
trade are lawful and reasonable so far as the trade in liquor is concerned. That is
why even prohibition of the trade in liquor is not only permissible but also reasonable.
Reasons are public morality, public interest and harmful and dangerous character
of the liquor. 6 The citizens have no fundamental right to carry uncontrolled trade in liquor.
By virtue of entry 8 of List II of the Constitution the State Government can hold a public
auction to grant licence, the amount representing the consideration for the grant of
such right or privilege. 7 Regular dealings in Liquor cannot come within the meaning of the
term "trade" as contemplated under Article 301 of the Constitution.

No fundamental right or Inherent right to do trade or business dealing with intoxicants — Liquor is an intoxicant injurious to public health, morality and welfare. Under such circumstances the state has the power to prohibit the trade in liquor which is harmful to the public health. Morality and welfare and therefore, no person has an absolute right to deal in liquor. It cannot be safely contended that in not issuing renewal of license to the petitioner the Prohibition Commissioner has a violated the principle of equality before law and has in no way interfered with the provisions contained in Article 4 and 19(1) and (2) of the Constitution of India (Para 11).

Regulatory control of state — The state, under its regulatory powers, has the right to prohibit absolutely every form of activity in relation to intoxicants. This power if control is an incident of the society’s right to self-protection and it rests upon the right of the state to care for the health, morals and welfare of the people. Liquor traffic is a source of pauperism and crime (Para 13).

The state possesses the right of complete control over all aspects of intoxicants, i.e., manufacture, collection, sale, transport and consumption. The State has exclusive right to manufacture and sell liquor and to sell the said right in order to raise revenue (Para 12).

No fundamental right — Control of State — There is no fundamental right to trade in business or otherwise deal in intoxicating drugs and liquors. The state under its supervisory and regulatory powers has right to prohibit absolutely every form of activity in relation to intoxicants i.e., manufacture, storage, export, import, sale and possession. In all such manifestation is all such rights vested in the state. The power of control is an extent of the society’s right to self-protection and it rests upon the state as its welfare state’s duty to take care for the health, morals and well being of the people. The sale and consumption of liquor has been at all times considered as the proper subject of state regulation. A licence may be extracted and restrictions may be imposed as to sale, consumption etc. of the liquor. There may be absolute or relaxed prohibition in sale of liquor. The licences for sale of liquor have no inherent fundamental right to trade in liquor. The idea of prohibition is connected with the public health, moral and public well being as envisaged under Article 47 of the Constitution. An absolute prohibition if manufacture or sale of liquor is permissible and only exception can be for medical preparations.

Sale of liquor is not a fundamental right — The citizens cannot have fundamental right to trade in properties or rights belonging to the Government wit filed with oblique motive (Petition dismissed).


Anil Kumar Suds Kumar v. State, 1963 (1) WLN 313 (Raj).

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Trade in Liquors not a fundamental right — It is not trade or business but a privilege granted under a licence alone. Licence fee in fact is neither a tax nor a fee for services rendered, but a consideration for granting such privilege which forms part of excise revenue.

Excise duty on Rectified Spirit imported for Industrial Use invalid — [Constitution of India-Schedule VII—List III—Entry 31(a); Beyond Competence of State Legislature-Rectified Spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government under Entry 51 (a) of List II of the Seventh Schedule of the Constitution of India. It is invalid as beyond the competence of the State Legislature (Para 6). All writs allowed.

Validity-Botlling of Liquor—Affixation of adhesive label-Freedom of Trade — (Arts. 19(1)(g) or 30).

There is no fundamental right to trade in liquor. It is grant of a privilege and not a right. Not offending Arts. 19(1)(g) or 30 of the Constitution.

In Bottling of liquor affixing adhesive label is unreasonable or arbitrary but it is a recognised mode of safe guarding the interest of revenue and to prevent evasion of tax.

Leading Case (1) SYNTHETICS & CHEMICALS LTD.

STATE OF U.P.

[ AIR 1990 SC 1927]


The framers of the Constitution when they used the expression “alcoholic liquor for human consumption”, they meant in that time and still the expression means that liquor which as it is consumable in the sense capable of being taken by human being as such as beverage of drinks. Hence the expression under Entry 84, List I must be understood in that right. (Para 54).

Ethyl Alcohol (95%) is not alcoholic liquor for human consumption but can be used as raw material in put after processing and substantial dilution in the production of whiskey, Gin, Country Liquor etc. (Para 73).

Ethyl Alcohol (95%) is an industrial alcohol and is not fit for human consumption. It is not only non-potable but is highly toxic. (Para 73).

1 State v. Bhal 이것이 1974 WLN 167 (DB)
2 Parashur Bar & Restaurant v. Govt. of Andhra Pradesh (1977) 2 AndhPr WR 293.
3 M/S Hindustan Copper Ltd. v. State 1989 (1) KJR 632.
Held, there is no taxing provision permitting these in the lists in the field of industrial alcohol for the State to legislate. (Para 92)

(Relevant provisions of State Acts of U.P. A.P., Tamilnadu, Bombay declared illegal respectively. ) [AIR 1989 SC 614. Overruled ] Not to affect any regulating measure as such.

Leading Case (2)

M/s. CEETA ENTERPRISES

vs

STATE OF RAJASTHAN

[1993 (2) WLN 564; 1993 (1) RLW 308; 1994 (2) W.L.C. (Raj) 304]

[A] Excise Duty cannot be levied on Industrial Alcohol.

[B] Miseuse of Industrial Alcohol—Regulating Excisable articles not ultra vires.

[C] Powers of State Government examined.

[D] Concept of "quid pro quo" examined.


[A] Duty cannot be levied on Industrial Alcohol—

The State Government has no power to impose any tax or duty under S. 28 of the Act on industrial alcohol. The State Government has voluntarily stopped the levy of excise duty or countervailing duty on the industrial alcohol. However, the levy of excise duty on the alcohol other than industrial alcohol is concerned, the State Government has full power to do so and therefore, the provisions of S. 28 of the Act as such cannot be declared as ultra vires to the provision of Constitution.

The provisions of S. 28 of the Act are ultra vires of the Constitution only to the extent they authorise the State Government to levy excise duty and countervailing duty on the industrial alcohol, otherwise the section as such is not ultra vires of the Constitution.

[B] Miseuse of Industrial Alcohol—Regulating Excisable articles not ultra vires—(Ss.3(4) (i) and 28)

When the State Government has power to regulate and monitor the misuse of industrial alcohol and converting it to that of potable alcohol, the inclusion of the denatured spirit or the denatured spirituous preparation in the provisions of Section 3(4) 1) of the Act whereby the excisable article have been defined, cannot be held to be ultra vires of the Constitution.

Regulating the import, export, transport and possession of the excisable articles must be said to be ultra vires because in this case, framing of the Rules is within legislative competence of the State. Likewise prohibition of sale of any excisable article to any person or class of persons cannot be said to be a power which is against any 84 of the List II of Schedule VIII of the Constitution or against the provisions of Arts 245 and 246 of the Constitution.

* * * * *

to regulate production, supply and distribution of the industrial alcohol and regulation of production, supply and distribution of the industrial alcohol is a supervisory function.

A similar view has been taken by their lordships of the Supreme Court in M/s Gujchem Distillers Ltd. v. State of Gujarat & Ors. [1992] 2 SCR 20], where it has been observed as under:

"In counting the submissions, it is argued on behalf of the State that
Synthetics and Chemicals Ltd. etc. (supra) dealt merely with the vend fees. That is
not the case here. The maintenance of the staff contemplated under S 58A of
the Act is primarily for the purpose of ensuring that while dealing with industrial
alcohol, no attempt shall be made to divert non-potable alcohol. Therefore, by
regulatory measures, the State sees to it that industrial alcohol is not diverted
for the use as potable alcohol. Such a regulatory measure is perfectly valid as
SC 1863]. This decision was noted with approval in Synthetics & Chemicals Ltd
etc. (supra). However, such a power was sustained though not on police power
but as a regulatory measure."

In that case, their lordships of the Supreme Court have also quoted with approval
para 88 of the Judgment in Synthetics & Chemicals Ltd. etc. (supra) [AIR 1990 SC 1927].

In para 14 of the Judgment in M/s Gujchem Distillers Ltd. case, it has been further observed as under:

"14. In dealing with U. Synthetics Chemicals (supra) case, the following observations
were made

----------. He referred to the observations of this Court in Coverage B. Bharracha
v. The Excise Commissioner Kend the Chief Commissioner Ajmer & Ors. [1954]
SCR 473, which quoted the passage from Crowley v. Christian. (1890) 34 Lawyers' Edn 620. Reference was also made to Har Shankar v. (supra) where this
Court quoted Vol 38 of the American Jurisprudence where it was stated that the
higher the fee is imposed for a licence, better is the regulation. Reference was also
placed on P.N. Krishnas case (supra). It was contended that it has been accepted
by this Court that the police power is exercisible for regulation of an activity
of a legislature within the permissible field or import as regulatory measure. It
may be valid though it may neither be fee nor a tax in the limited sense of the
term. See the observations of this Court in Southern Pharmaceuticals & Chemicals,
Trichur & Ors etc v. State of Kerala & Ors etc [1982] 1 SCR 519 at 537.

We must accept the position that the States have the power to regulate the use of alcohol and that power must include power to make provision to prevent
and/or check industrial alcohol being used as intoxicating or drinkable alcohol."

The State Government has no power to impose any duty on industrial alcohol
in the Supreme Court. The State Government has no powers to impose any tax or duty under S 28 of

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The imposition of excise duty or countervailing duty on the denatured spirit or the denatured spirituous preparation is declared to be illegal with effect from 25th October 1989. The State Government has voluntarily stopped its levy after pronouncement of the judgment by their lordships of the Supreme Court in Synthetics & Chemicals Ltd. v. State of U.P. [AIR 1990 SC 1927]. In other words, the respondents are restrained from enforcing the levy of excise duty or countervailing duty on the denatured spirit or the denatured spirituous preparation with effect from 25th October 1989 any further but the petitioners will not be liable for any refund of the excise duty or the countervailing duty which has been over collected or has become recoverable prior to 25th October 1989. However, it is declared that the State Government is free to levy permit fee on the industrial alcohol including denatured spirit or the denatured spirituous preparation as regards import and export in exercise of its regulatory functions; keeping in view the provisions of Entry 33, of List III of Schedule VII of the Constitution.

Consequently, it is declared that the provisions of S 28 of the Act are ultra vires of
the Constitution only to the extent they authorise the State Government to levy excise
duty and countervailing duty on the industrial alcohol, otherwise the section as such
is not ultra vires of the Constitution.

[D Concept of quid pro quo examined— The concept of quid pro quo has undergone
wherein it has been observed as under:

"The traditional view that there must be actual quid pro quo for a fee has undergone
a sea of change subsequent to decision in AIR 1980 SC 1048. Correlation between
the levy and the service rendered/expected is one of general character and not of mathematical
exactitude. All that is necessary is that there should be reasonable relationship
between the levy of the fee and the services rendered. Moreover, this is no generic difference
between a tax and a fee. Both are compulsory exactions of money by public authorities.
Compulsions lie in the fact that payment is enforceable by law against a person in spite
of his unwillingness or want of consent. A levy in the nature of a fee does not cease
to be of that character merely because there is an element of compulsion or corrosiveness
present in it. nor is it a postulate of a fee that it must have direct relation to the actual
service rendered by the authority to each individual who obtains the benefit of the service.
It is now increasingly realized that merely because the collection for the services rendered
or grant of a privilege of licence are taken to the consolidated fund of the State and
not separately appropriated towards the expenditure for rendering the service is not by
itself decisive."
"What do we learn from these precedents? We learn that there is no generic difference between a tax and a fee, though broadly a tax is a compulsory extraction as part of a common burden, without promise of any special advantages to classes of tax payers where as a fee is a payment for services rendered, benefit provided or privilege conferred. Compulsion is not the hallmark of the distinction between a tax and a fee. That the money collected does not go into a separate fund but goes into the consolidated fund does not also necessarily makes levy of a tax. Though, a fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere casual relation may be enough. Further neither the incidence of the fee nor the service rendered need be uniform. The others besides those paying the fees are also benefited does not detract from the character of the fee. In fact, the special benefit or advantage to the payers of the fees may even be secondary as compared with the primary motive of regulation in the public interest. Nor is the Court to assume the role of a cost accountant. It is neither necessary nor expedient to weigh too meticulously the cost of the services rendered etc. against the amount of fees collected so as to evenly balance the two. A broad correlationship is all that is necessary. Quod pro quo in the strict sense is not the one and only true index of a fee, nor is it necessarily absent in tax."

That was a case in which the Municipal Corporation of Delhi enhanced the slaughterhouse fee in respect of two categories of animals by eight fold and that was sustained

[E] Regulatory function of Government approved—Thus, keeping in view these authorities, it can safely be said that the State Government under its regulatory functions may levy the fee in pursuance of Entry 33 of List III of Schedule VII of the Constitution and if the permit fee which has been enhanced from Rs. 1/- per litre which was imposed in the year 1962 to Rs. 2/-per litre vide its Notification dated 26.3.1987, that cannot be said to be exorbitant keeping in view the price-rise in the intervening period. Thus, the levy of permit fee can neither be said to be unjust or unreasonable nor it can be said to be excessive.

* * * * *

The Latest View of the Supreme Court

Demand of Excise Duty—Not a regulatory measure—Power of State pointed out—
The power of State to demand excise duty is limited by the provisions of the Constitution and the Act. The demand for excise duty is not a regulatory measure. Held, the power of the State to levy excise duty cannot be expanded with reference to its power to regulate manufacture of liquor.

* * * * *

Rajasthan Prohibition Act—Constitutional Validity—Application of Prohibition Act

Stage by Stage—There is nothing wrong in applying the Act stage by stage and in light of experience gained it involves additional duties and expenditure to carry out trade or business in intoxicant is held not a fundamental right. Held, Act is valid.

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Constitution of India—Art. 14-S. 3 (1) not violative of Art. 14 and valid introduction of phased program of prohibition is matter of policy within plenary powers of State. Held, it cannot be challenged—valid licence can be cancelled as per law after following proper procedure.

Validity of the Act—Art. 14 and Rajasthan Prohibition Act—Against the phased programme for introducing the prohibition, the invoking of Art. 14 even if not protected by Art. 31C, was not available [1978 RLW 25 and 53 relied on Notification dated 31-3-79 held to be valid]

—Arts. 37 &47 and Rajasthan Prohibition Act, 1969—Scrapping out Prohibition by Ordinance in Rajasthan—Neither Article 47 is justiciable nor it is enforceable by Courts. True, if it, that it is the duty of the State under Art. 37 to treat it as fundamental (Writ dismissed).

Validity of Rules under the Excise Act—Rules published in Gazette without proper authentication—Held, such rules are invalid and ineffective.

[Also refer to Commentary of Sections 41-42]

12. Validity of delegation of Powers—"It is settled by the majority judgment in the... Constitution of India and Delhi Laws Act, 1912 etc. AIR 1951 S C 552 (B) that essential powers of legislation cannot be delegated. In other words the legislature cannot delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct"

"In the present case the Legislature has laid down such a principle and that principle is the maintenance or increase in supply of essential commodities and of securing equitable distribution and availability at fair price. The principle is clear and offers sufficient guidance to the Central Government in exercising its powers under Sec. 3. Delegation of the kind mentioned in Sec. 3 was upheld before the Constitution in a number of decision of their Lordships of the Privy Council vide- Russell vs. Reg. (1882) 7 AC 829 (C) Hodge vs. Reg. (1841) 9 AC 177 (D) and Shannon vs Lower Mainland Dairy Products Board 1948 AC 708 (D) and since the coming into force of the Constitution delegation of this character has been upheld in a number of decisions of this Court on Principles enunciated by the majority in other...AIR 1951 S C 552 (B)" As already pointed out, the preamble and the body of the sections sufficiently formulate the legislative policy and the ambit and character of the Act as such that the details of that policy can only be worked out by delegating them to subordinate authority within the framework of that policy." (Fbid)

This last mentioned case now sets all doubts at rest regarding delegation of powers to subordinate authorities so far as India is concerned. The principle has been laid down

that the Legislature must declare the policy of the law and the legal principles which are to control any given cases and must provide a standard to guide the officials or the body in power to execute the law. It further lays down that the essential legislative function consists in the determination or choice of the legislative policy and of formally enacting that policy into a binding rule of conduct.

13. Principles of Promissory Easement—Applicability—Notification is bad. When an exemption has been issued under rule 8 of the Central Excise Rules such exercise of powers cannot be equated with the legislative function and the promise held by the Central Government to grant exemption in given condition, Government is bound by it and the obligation cannot be released on the anvil of the argument that such exemption is in legislative exercise of its function.

The Notification being No. 159/85 CE is bad and in violation of the principles of promissory easement and same deserves to be quashed (Writ allowed).

Effect of Promise made by Government—Excise Act, Ss. 37 and 41—Validity of Notification dated 31-3-82 amending Rs. 6 & 7—The amendment of the Rules is a legislative function of delegated Legislature and the principles of natural justice or the right of hearing or opportunity to show cause cannot be extended to it. Rules cannot override the Act and therefore, in view of S. 37 whenever promise might have been made or impressions given to the license for renewal, no legal right is created and the respondents can certainly reject the prayer for renewal and go ahead with the auction proceedings according to the amendment of 31st, March 1982 (Five writ petitions dismissed summarily).

14. Principles of Natural Justice—Scope & Applicability to administrative action—Natural Justice is the basic concept of procedural law which provides the minimum standard required to be followed in the judicial proceedings where the procedure is not provided for. Later on, it was applied to the quasi-judicial proceedings and now it has been held to be applicable to all administrative proceedings even. This concept is based on the principles of equity, justice and good conscience.

Fair Hearing—Audi alteram partem (hear the other party)—
Natural Justice implies “fair hearing.” The concept of fair hearing implies two ideas—
(i) the authority deciding the dispute should be free from bias; and
(ii) it should follow the “audi alteram partem rule,” which means that a person affected by a decision has a right to be heard. Hearing involves many components like adequate notice, reasonable opportunity to present his case, legal representation, etc. The various components are not fixed but are flexible.

Aim of Natural Justice: The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in the areas not covered by any law validly made in other words, they do not supplant the law of land, but supplement it.

The rules of natural justice can be abrogated by Legislature or statutory body and these rules are to be read into the statutory provisions.

• Minimum requirements of natural justice—Right of hearing—Question of Prejudice—Held, proof of prejudice is not necessary.—Non-observance of natural justice is itself a prejudice to any man.

• Prejudice ruled out by Seven Judges Bench of the Supreme Court.—“No prejudice need be proved for enforcing the fundamental rights. Violation of a fundamental right itself renders the impugned action void. So also the violation of natural justice renders the act a nullity.” (Para 57).

Expectation case: Refusal of renewal of licence—Hearing to be given—The principles enshrined in the maxim “audi alteram partem” i.e. a right to be heard have been extended in recent times not only to the administrative Tribunal, but even to expectation cases. Lord Denning in case of “Regina v. Inland Revenue Commissioner—National Federation of Self-employed and Small Business Ltd.” extended the principles of natural justice to some legitimate expectations of which it would not be fair to deprive a person for hearing what he has to say. A person can have legitimate expectation of being heard in case a licence granted to a person is not renewed. It can be said that such a person has expectation of being heard in case of renewal of licence to be refused. In Restaurants v. Municipal Corporation of Delhi, their Lordships of the Supreme Court were dealing with the case where licence of running a restaurant was necessary. It was observed that when in order to carry on business a licence is required, obviously, refusal to give licence or cancellation or revocation of licence would be visited with both civil and pecuniary consequences and as the business cannot be carried on without licence it would also affect the livelihood of the person. In such a situation before either refusing to renew the licence or cancelling or revoking the same, the minimum principle of natural justice of notice and opportunity to present one’s case is a must. (Writ allowed).

Right of hearing a statutory requirement—Where the right of hearing has been included in the Statutory provision or rule, it is to be followed strictly as the principles of natural justice have been incorporated in that provision as statutory requirement.

Suspension of Licence—Non-Compliance of Principles of Natural Justice—Order Vitiilated—Show cause notice issued to petitioner after 30 days of suspension of licence. No opportunity of hearing was given before suspension of licence. Held, the order stands vitiated.

1. A.K. Kripal v. Union of India AIR 1970 SC 1311
2. Union of India v. J.N. Sinha, AIR 1971 SC 40
5. 1982 WLR (1) 582.
15. Use of Discretion—Discretionary Powers of Authorities—Limits of discretion

It is the implied condition of every discretionary power that the power will be exercised FAIRLY and HONESTLY and not capriciously or oppressively. 1

Rule of Law: (Art. 14)—Arbitrary Action violative of Article 14 of the Constitution—

The conduct of administrative authorities must be in accordance with law and not arbitrary. Arbitrary action would be void and violative of Article 14 of the Constitution. 2

Use of Discretion—The absence of arbitrary power is the first essential of the "Rule of Law" upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is an anathema of a decision taken in accordance with the rule of law. Discretion, as Lord Mansfield stated in classic terms in the case of John Wilkes (1891 AC 173) means sound discretion guided by law. It must be governed by rule, it must not be arbitrary, vague and fanciful. 3

Meaning of discretion—

(a) "Discretion" is a science of understanding to discern between futility and truth, between right and wrong, between shadow and substance between equality and colorable glasses and pretence, not to do according to will and personal affection. 4

(b) The discretionary authority does not carry any despotic power. There is nothing like absolute discretion bordering on arbitrariness and legal responsibility. Discretion does not permit procedural irregularity or high-handedness. The power entrusted to one authority should not be exercised even on the discretion of an official. It should also be not exercised wrongly, and for a bad motive or malafide. 5

(c) Where the discretion by and large vested in the Government and it was not shown that the administrative action was malafide or discrimination was conscious, held that a broader line case the Court would be reluctant to interfere. 6

Babulal Chauhan v. Emperor, AIR 1938 PC 130.


Babulal Chauhan v. Emperor, AIR 1938 PC 130.

Parsad v. Cane Commissioner, Bihar AIR 1971 SC 1896.


The Indian Administrative Law M.C.J. Kajal (1973) Pages 82-83.


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(d) The discretion, like other judicial discretion, must be exercised according to common sense and according to justice, and if there is a miscarriage in exercise of it, will be reviewed by the Courts. 1

(c) "When it is said that something is to be done without the discretion of the authorities that something is to be done according to rules of reason and justice, and not according to private opinion according to law and humour. It is to be not arbitrary, vague, fanciful, but legal and regular. 2

This discretion of the Excise Authorities under this Act and the rules thereunder must be regulated by the principles discussed above. Discretionary orders may be challenged on the grounds explained above in writ petition to get justice.

16. Remedy by way of Writ Petition—General Grounds—The writ petition under Article 226 or 227 of the Constitution may be filed in the High Court in appropriate cases. The basic concept and general grounds are being indicated herunder for ready reference in brief.

(A) According to Friedman 3

1. Concept of excess of power—(Ultravires)—i.e. examination of jurisdictional facts and wrong interpretation of facts constituting the jurisdiction.

2. Concept of Procedural defects—a denial of justice i.e. by insufficient opportunity for the aggrieved to be heard, failure to give due notice of an impending decision etc.

3. Concept of Error of law on the face of record.

4. Concept of "Substantial evidence"—When the findings of administrative bodies are not supported by "such relevant evidence as a reasonable mind might accept as adequate to support the conclusion". But on the whole, this review power has been exercised with considerable restraint.

5. Concept of Abuse of discretion (i.e arbitrary action).

(B) Ground for awarding "Certiorari" & "Prohibition"—According to Prof. S.A. de Smith 4

(a) Lack of jurisdiction
(b) Breach of the Rules of Natural Justice
(c) Error of Law on the face of record &
(d) Fraud or collusion

Now writ of certiorari can be issued even against purely administrative orders. 5

Nature of Error apparent on record—Not to require long reasoning. An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent.


Validity of Licence, when cannot be challenged by way of writ-petition—In the instant case, the petitioner worked under the licence for the full term and excluded his competitor. When non-compliance of the terms of such licence resulted in inconvenience, the petitioners could not challenge its validity.1

Contract for Grant of Licence for Liquor (S. 9-A & Constitution of India, Art. 226)—Where remedy by way of appeal not availed, the plea of alternative remedy can be raised as no fundamental right of trade in liquor is available. Mere admission of writ is not a sufficient ground to ignore such pleas.2

Writ held not maintainable (S. A and Raj. Public Demand Recovery Act, 1952)—There is weight in the contention that cancellation of licences on 13-1-1966, the respondents have the petitioners from lifting and selling liquor and thereby making up the guaranteed amount. But alternative remedy bars the writ jurisdiction under amended Art. 226 of the Constitution. (Writ dismissed).3

Appeal available under S. 9—Order under S.34 violating rules of natural justice—Writ lies, no bar.4

Writ lies when Action of State is arbitrary

(a) Alternative remedy when available—

The respondents have opposed the writ petition on various counts. Certain preliminary submissions have also been made regarding the maintainability of the writ petition. It has been submitted that under S. 9-A of the Act, the petitioner could have filed an appeal to the Divisional Commissioner from the order passed by the Excise Commissioner, and since the petitioner has not availed of this remedy, the writ petition deserves to be dismissed. It was next submitted that there is no fundamental right in a citizen to carry on trade or business in liquor. The respondent has provided that no one can claim renewal of licence as a matter of right and, therefore, the writ petition was barred by virtue of this provision. It was next pleaded that Excise Commissioner had full authority even to revoke, cancel or determine the licence in the event of infringement of any of the conditions of licence. In this case, the petitioner is not a bonded warehouse within the prescribed time, nor did the petitioners from the Excise Commissioner for construction. It was pleaded that the Excise Commissioner had, in fact, declined to renew the licence of the petitioner as back as 19-7-88 vide Annexure R.3. It is not before the District Excise Officer, Jodhpur, who had the same copy of the same to the petitioner vide endorsement dated 23-7-88. The Excise Inspector, Jodhpur, also brought in this fact to the notice of the petitioner vide a registered letter sent to the petitioner vide Annexure R.3 dated 25-8-88 the postal receipt whereof is Annexure R.3. B (Para 4)

(b) Complicated & disputed questions of facts—

It was next pleaded that the writ petition raises complicated and disputed questions of facts as to the performance of the conditions of the licence by the petitioner. It was
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Preliminary Objection to writ-petition—Contractual Obligation cannot be avoided, but petitioner can challenge Validity of Amendments in the Issue Price Rules—The foremost contention that requires consideration at the outset is the one advanced by the Additional Advocate General as a preliminary objection that the petitioners having voluntarily entered into a contract and having worked the licence for the entire term cannot now be allowed to challenge the validity of the same. Relying on (1) State of Rajasthan vs. Bal Mukund ILR 1974 (24) Raj. 510, (2) Panna Lal & Others et al. vs. State of Rajasthan and other AIR 1975 SC 2806, (3) Har Shanker & others vs. The Deputy Excise and Taxation Commissioner & others AIR 1975 SC 1121, (4) State of Haryana & others vs. Jag Ram & others AIR 1980 SC 2045, (5) Shamina Lal & others vs. State of Punjab & others AIR 1976 SC 2456, (6) State of Punjab & others vs. Apudhia Nath & another AIR 1981 SC 1374, (7) State of Haryana & others vs. Lal Chand & others AIR 1974 SC 1327 and (8) State of Punjab vs. Brij Chand Gom Chand & Co. AIR 1983 SC 743, the Additional Advocate General has contended that the petitioners are not entitled to invoke the jurisdiction of this Court to impugn or wriggle out of their contractual obligations under the licence. (Para 17)

In State of Rajasthan vs. Bal Mukund's case (ILR 1974 (24) Raj. 510) this court held—(Para 18 quoted)

In Panna Lal & Others vs. State of Rajasthan & Others (AIR 1975 SC 2806), Chief Justice A.N. Ray said:

"The licences in the present case are contracts between the parties. The licence voluntarily accepted the contracts. They fully exploited to their advantage the contracts to the exclusion of others. The High Court rightly and that it was not open to the appellants to resist from the contracts on the ground that the terms of payment were onerous. The reasons given by the High Court were that the licences accepted the licence by excluding their competitors and it would not be open to the licensees to challenge the terms either on the ground of inconvenience of terms or of hardship of terms." (Para 19)

In Har Shanker & others vs. The Deputy Excise and Taxation Commissioner & others et al. (AIR 1975 SC 1121), Chandrachud, J., as he then was delivering the judgment of the Constitution Bench of the Supreme Court held:

"Those who contract with open eyes must accept the burden of the contract along with its benefits. The powers of the Financial Commissioner to grant liquor licences by auction and to collect licence fees through the medium of auctions cannot be set aside by the petitioners be questioned by those who, had their venture succeeded, would have relied upon those very powers to found a legal claim. Reciprocal rights and obligations arising out of contract do not depend for their enforceability upon whether a contracting party finds it prudent to abide by the terms of the contract. By such a test no contract could ever have a binding force."

The licences, in a large measure, owe their existence and validity to the rules making power of the Financial Commissioner. One of the reliefs with the appellants ask for is that Rules 27-A, 30 and 31 be declared ultra vires and unconstitutional and consequently...
The Rajasthan Excise Act

he respondents be directed to refund the assessed fees already recovered. By attempting to exploit the licences without the burden of assessed fees originally attached to them under the rules framed by the Financial Commissioner the appellants are seeking to work the licences on such terms as they find convenient. The writ jurisdiction of High Courts under Article 226 of the Constitution is not intended to facilitate avoidance of obligations voluntarily incurred. That however, will not stop the appellants from contending that the amended Rules are not applicable as their licences were renewed before the amendments were made.

It is not necessary to multiply case on this point. Sufficient to say that the law so well settle the licensing having voluntarily entered into the contract and having enjoyed the licence to their benefit, could not be permitted to avoid their contractual obligations and the preliminary objection raised by the Additional Advocate General to be maintainability of the writ petition in so far as it seeks to challenge the conditions of the licence deserves to be accepted. The writ jurisdiction of the High Court under Article 226 of the Constitution is not intended to facilitate avoidance of contractual obligations. The petitioners, in the present group of writ petitions, voluntarily entered into the contract and enjoyed the privilege granted by the licence and worked the contract to their benefit. It is not open now to them to reside from the same and urge that the conditions incorporated in the said licence are void and not binding on them. The Additional Advocate General has further urged that the petitioners are also not entitled to challenge the validity of the Rules which they voluntarily accepted. The petitioners have been purchasing liquor at the prices fixed under the Issue Price Rules and, therefore, they cannot be permitted to challenge the same. True, the petitioners have been purchasing liquor at the price fixed under the Issue Price Rules and they also agreed to abide by the provisions of the Act, the Rules and the terms of the licence but for that reason they are not precluded from challenging the Amendment in the Issue Price Rules, brought about by the Notification dated 25th May 1985, issued by the Excise Commissioner in the exercise of this powers conferred by section 42 (c) of the Act. Whether the petitioners succeed in their challenge on merits or not is different but the writ petition challenging the constitutional validity of the amendments made in the Issue Price Rules, by the Notification dated May 25, 1980 cannot be thrown out, if the threshold on the preliminary objection raised by the Additional Advocate General, therefore, propose to examine the validity of the notification dated 25th May, 1985 in merits.

Civil suit as remedy—No writ, but suit as adequate & efficacious remedy where questions relating to location of liquor shop and short fall of liquor are questions of fact which cannot be gone into a writ jurisdiction.

Refund of security deposit—When demand of licence could not be met out, he is entitled to refund of deposit, but when interest was not claimed in notice under section 80 CPC. Held, plaintiff is not entitled to interest on amount of deposit.

Leena Raj v. State 1985 (1) WLJ 774; 1987 (1) RLR 661. [For further details, please refer to Commentary of Section 42 infra]

Bhagwan Singh v. State 1984 WLJ 551; 1986 RLR 362

Dhanraj v. State of Rajasthan 1996 WLJ (UC) 392

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Contract for Sale of liquor—Short Supply where not available at Ward house. Held, suit of plaintiff deserves to be decreed where State was responsible for short supply of liquor.

Sale of liquor—Where the liquor was not supplied instead of payment of full amount of price. Held, suit is liable to be decreed.

17. Latest Trend—Principles laid down by the Courts—

(1) No unjust enrichment—No refund of Excise Duty Collected—When in normal commercial transaction duty is passed on to the consumers, then the petitioner is not entitled to refund of excise duty. Not in order in writ-petition that the excise duty was not collected from the consumers. (Para 6) (Writ petition dismissed)

(2) All power necessary by implication—Framing of the said rules, the Government has not contravened any provisions of the Act, including Section 42. The State Government has power under S. 42 (d) to frame rules regarding permit fee also while framing rules for regulating the import, export, transport or possession of raw excisable article. This clause (d) is of very wide import. Held, grant of jurisdiction implies the grant of all powers necessary for its exercise. When statute confers power in general terms, all powers incident and necessary to make such law effective are included by implication.

(3) Validity of Amendment Act—Molasses—The operation of the Molasses Control Order and the operation of the Amendment Act have not occupied the said field and not run into collision courts. The Amendment Act was made by the State Legislature exercising the power under Entry 33 of the concurrent list read with Entry 24 of the State List as molasses is a bye product of a sugar industry covered by the Industrial Development & Regulation Act. The Amendment Act does not enter into the occupied field of the Molasses Control Order. There is no inconsistency in their operation and that therefore both the Amendment Act and the Molasses Control Order would harmoniously co-exist and operate in their respective fields. The State Legislature had thereby made the Amendment Act regulating import, export, transport or possession of molasses within the State of Rajasthan.

Important Case

RAM GOPAL V. STATE OF RAJASTHAN

[1995 (1) RLW (Raj) 609 : 1995 (3) WLC (Raj) 621.]

1. Cause of action, when not survived.
2. Question of short supply in supply of country liquor—Writ—petitioners failed to supply information.
3. No consideration given as no cause of action survives.
4. Legal position explained.

In State of Rajasthan v. NANDLAL & Bros it was held that the burden lies upon the licensee separately through documentary evidence to discharge the same and the

The Rajasthan Excise Act

Chapter [ 1 ]

Preliminary

1. Short title, extent and commencement—(1) This Act may be called the Rajasthan Excise Act, 1950.

(2) It extends to the whole of Rajasthan except the Abu area.

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint in that behalf.

2. [Omitted].

COMMENTS

SYNOPSIS

1. Purpose & meaning of Short title
   4. Commencement
2. Extent—whole of the State of Rajasthan
   5. Validity of Notification
3. “Abu area” of the State of Rajasthan

CHAPTER 1

1. Purpose & meaning of Short title—The title is the important part of the Act as it is known and referred to by this name. The meaning of the title gives an over all picture of the enactment. This shows that this Act is related to the Excise (duty on liquor) in the State of Rajasthan and it was enacted in the year 1950.

1. For Statement of Object and Reasons, for the amendments made by Rajasthan Act No. XXVIII of 1952. see Rajasthan Gazette. Part III. No 120 dated 7-11-1952.
3. Substituted by section 5 of Rajasthan Act No. 38 of 1957. published in the Rajasthan Gazette. Part IV-A, Extraordinary, dated 5th December, 1957. This Act now extends to the whole of the State of Rajasthan except the Abu area with effect from 1st February. 1978 i.e. the date of commencement of the Raj. Act No. 38 of 1957 vide Appendix ‘A’.
4. Substituted by section 4 of ibid.
5. Omitted by section 6 of ibid.
7. It extends to the Abu area from the date of commencement of the Rajasthan Excise (Amending and Extending) Ordinance, 1978. e.g. 1-9-1978 by section 3 of the Rajasthan Act No. 15 of 1978.

Section 1. The Rajasthan Excise Act

The title of the Act undoubtedly forms part of the Act and is a very important part of it. The policy and purpose of a given measure may be deduced from the long title and preamble thereof. It, no doubt, indicates the main portion of the Act, but it is not the obvious control the express operative portion of the Act.

Every Act of Parliament should have a short title, ending with the date of the year in which it is passed. The short title is given to the Act solely for the purpose of facility of reference. It is a statutory nickname to obviate the necessity of always referring to the Act under its full and descriptive title but the construction of a statute must be limited to its title.

2. Extent—"Whole of the State of Rajasthan"—The expression denotes and determines territorial jurisdiction and extent of territorial scope of the application of the Act. The expression "State of Rajasthan" has been defined in Sec. 32 of the Rajasthan General Clauses Act, 1955 as under:

(62) "Rajasthan" shall mean—
(i) as respects the period before the 1st day of November, 1956 the Pre-reorganisation State of Rajasthan, and
(ii) as respects the period on and from the said day, the new State of Rajasthan as formed by section 10 of the State Re-organisation Act, 1956 (Central Act 37 of 1956), but shall not include the former Rajasthan State:

(74-A) State used with reference to Rajasthan, shall mean the new State of Rajasthan formed by Section 10 of the State Re-organisation Act, 1956, which runs as under:

Section 10. Formation of a New Rajasthan State

(1) As from the appointed day, there shall be formed a new Part-A State to be known as the State of Rajasthan comprising the following territories, namely—
(a) the territories of the existing State of Rajasthan, except Sirohi sub-division of Sirohi District;
(b) the territories of existing State of Ajmer;
(c) the territories of existing State of Bharatpur;
(d) the territories of existing States of Mandsaur, Mandi, and Mandav, and
(e) the territories of existing States of Bundi and Jhalawar.

Section 2. The Rajasthan Excise Act

(2) The territories comprised in the existing State of Ajmer shall form a separate district to be known as Ajmer District, and the territories referred to in clause (c) and (d) of sub-section (1) shall be included and become part of Sirohi and Jhalawar districts, respectively, in the new State of Rajasthan.

Thus the whole of the State of Rajasthan has been defined in which this Act shall come into force throughout its territory.

3. Use of expression—"those parts of the State of Rajasthan to which this Act extends"—Now it is rendered useless. This expression was inserted by the Rajasthan Act No 38 of 1957 w.e.f. 5-12-1957 in clauses (6) (9), (B), & (25) of Section 3 and in Section 9, 19 (4), 20 (2), 24, & 71 (2) also. This expression was used when the Act was not made applicable to "Abu area" and as such the Act was not applicable to whole of the State of Rajasthan. Now the Act has been extended to Abu area also w.e.f. 1-8-1978. Hence this expression is now rendered useless as the Act is applicable to whole of the State of Rajasthan.

4. Commencement—The Act was brought into force by a notification issued by the Government in this behalf, which is reproduced hereunder.

NOTIFICATION

[No F. 49 (1) SR/50, dated 20.6.1950] In pursuance of sub-section (3) of section 1 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950), the Government of Rajasthan is pleased to direct that the said Act shall come into force with effect from the date of publication of this Notification in the Rajasthan Gazette.

[Published in Rajasthan Gazette, Part I No. 29 dated 1st July 1950]

Thus this Act came into force w.e.f. 1st July 1950.

5. Validity of Notification & Commencement of Act from future date—Notification in Gazette, held valid: printing mistake in notification as to Sec. 1(13) instead of 1(3), held not material and the Act is operative & valid.

Notification Validity of—
Two conditions are to be fulfilled:
(i) Its publication in the Gazette, and
(ii) Its publication under proper authority (Para 42)

Amending Act—Commencement of effect on Main Act—Strictly speaking an amending Act is not regarded as an "Independent Act" (construction of statutes by Crawford, 1940 Edition at page 745). The amending law becomes effective from the date it has come into force.

In the area in which the main Act is in force, the provisions of the main Act must be deemed to have been amended in accordance with amending Act. This means that in the entire area in which the main Act is in force, the provisions of the Amending Act come into force ipsofacto, and there is no need for a separate notification extending its

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1. See also Section 1 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950).
2. See also Section 2 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950).
visions in any local area by any notification to be issued by the State Government in cases where the whole or any part of the provisions of the main Act have come into force. No new notification is required to enforce and apply the amended Act.  

Validity examined—The expression "by notification in the official Gazette"—These words are significant and indicate the manner in which the State Government shall exercise power. A circular letter is not a notification at the instance it is published in the Rajasthan Gazette for knowledge of general public. Without such publication it cannot be held to be legal binding. 2 Administrative circular cannot be a notification and it cannot claim precedence over statutory provisions of law. 3

Publication of Rules & Notification (section 72)—Section 72 of the Act provides for commencement of the Rules or a notification in the following manner:

72. Publication of rules and notifications—All rules made and notifications issued under this Act shall be published in the official Gazette and shall thereupon have effect if enacted in this Act from the date of such publication or from such other date as may be specified in that behalf.

6. Operation of Excise Act when suspended during Prohibition but later revived—1969, the Rajasthan Prohibition Act, 1969 was enacted and policy of prohibition (of drinking) was adopted on Gandhian Principles in the State of Rajasthan consequentially operation of the Rajasthan Excise Act, 1950 was suspended and the Prohibition Act, s. prevailed over. But due to heavy loss of revenue the Rajasthan Prohibition Act, 1969 was repealed by the Raj. Act No. 13 of 1981 w.e.f. 11.X.1981 and the Rajasthan Excise Act, 1950 was then revived.

Section 4 of the Rajasthan Act No. 13 of 1981 provides—

4. Revival of the Rajasthan Excise Act, 1950—Upon the commencement of this Act, the Rajasthan Excise Act, 1950 (Raj. Act No. 2 of 1950) shall in relation to liquor extend to the whole of the State of Rajasthan.

For further details, please refer to Note 2—"Historical Background on Commentary Preamble. Supra."

3. Definitions—In this Act unless there is something repugnant in the subject or context -

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

(2) "Abu area" means the territory comprised inthe Abu Road taluka Banaskantha district in the State of Bombay as it existed immediately before first day of November, 1956;
(10) “Fermented liquor” means wine, Pachari (Pachawai) and fermented rice, and any other liquor that may from time to time be declared by the State Government to be fermented liquor:

(11) [X X X]

(12) [X X X]

(13) “Import” means to bring into those parts of the State of Rajasthan which this Act extends:

(14) “Intoxicating drug” means—

(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant (Cannabis Sativa) including all forms known as Bhang, Sidhi or Gaija,

(ii) Chars, that is, the resin obtained from the [X X X] hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport.

(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom, and

(iv) any other intoxicating or narcotic substance which the [State Government] may declare, by notification in the [Official Gazette], to be an intoxicating drug, such substance not being opium, cola leaf or a manufactured drug as defined in the [Dangerous Drugs Act, 1930 (Central Act II of 1930)];

(14-A) “Lanced Poppy heads” means the capsules of the opium poppy plant, whether in their original form or cut, crushed or powdered, from which juice has been extracted.

(15) “Liquor” means intoxicating liquor and includes spirit, heritage liquor. Wine, Tari, Pachari, Beer and all liquid consisting of, or containing alcohol, as also any substance which the [State Government] may from time to time by notification in the [Official Gazette] declare to be liquor for the purposes of this Act;

(16) “Magistrate” means any Magistrate of the first class;

(17) “Manufacture” includes every process, whether natural or artificial, by which any excisable article is produced or prepared wholly or partly and also distillation and every process for the rectification, reduction, flavouring, blending or colouring of liquor;

(17-A) “Molasves” means the mother liquor produced in the final stage of the manufacture of sugar or Khandsari sugar by the vacuum pan process or open pan process from sugar cane or gur.

(18) “Pachawai” means fermented rice, millet or other grain where mixed with any liquid or not and any liquid obtained therefrom whether diluted or undiluted;

(19) “Place” includes a house, building, shop, room, booth, tent, vessel, boat, raft and enclosure;

(20) “Sale” with its grammatical variations includes any transfer otherwise than by way of gift;

(21) “Spirit” means any liquor containing alcohol obtained by distillation, whether it is denatured or not;

(21-A) “State” or “State of Rajasthan” means the new State of Rajasthan as formed by section 10 of the States Reorganisation Act, 1956 (Central Act 37 of 1956);

(21-B) “Still” includes any part thereof, and any other apparatus for distillation or manufacture of spirit.

(22) “Tari” means fermented or unfermented juice drawn from any kind of palm tree.

(23) “To bottle” means to transfer from a cask or other vessel to a bottle, jar, flask or other receptacle, for the purpose of sale, whether any
of manufacture or rectification be employed or not, and bottling includes filling.

[(24)] "Tola" means a weigh of 180 grams troy or 11.638 grams.

(25) "Transport" means to move from one place to another within those of the State of Rajasthan to which this Act extends.

COMMENARY
SYNOPSIS

Scope of the Section
Rules of Interpretation of definitions.
Definitions in the Rules.
Use of expression.
Definitions classified.
Definitions explained.
Definitions relating to Excise Articles.
Excise Article (CL 14).
Selling Drugs (CL 13-A).
Jalpur (CL 15).
Sach (CL 15).
Measuring (CL 15).
Permitted Spirituous Preparations (15-A).
Permitted (Jalpur CL 15).
Sach Pariyad (CL 15)
Measius (CL 15-A).
Abheen (CL 18).
Sach (CL 18).
Sach (CL 21-A).

1. Scope of the Section—Section 3 provides for "definitions" in this interpretation acts of the act. The definitions of twenty-eight words or expressions have been given in Section 3. Before we venture to explain and examine these definitions we should elucidate the Rules of the Interpretation of Definitions, in brief, so as to make the definition worthwhile.

2. Rule of Interpretation of Definitions—Practically it is the common practice of legislative bodies to incorporate a definition clause or "interpretation clause" in the enactment as a valuable guide to resolve the question of the statutory meaning of the words, phrases etc. used in the statute. These definitions are generally of three kinds: Declarative which explains the meaning (I) inclusive, which enlarges the ordinary meaning by providing certain matters to be included in the meaning of the term, and exclusive which excludes something from the ordinary meaning or excludes some extraneous thing from the meaning of that term. The interpretation clause declares the intention of the legislature for using a particular words in a particular sense.

Substituted by section 2 (g) 1954

1. Rajasthan State Electricity Board v. Labour Court AIR 1959 Raj 54
2. Popathy Annatt v. Nallu Pillai AIR 1964 Mad 474 SC 241
5. Rana Singh v. S. P. Sethi AIR 1958 SC 951
6. Official Liquidator v. Jagd Kishore AIR 1951 All 1
The definition may be either restrictive or when the definition clause states a word 'mean' the definition is prima-facie restrictive and exhaustive. Whereas where the word defined is to 'include' the definition is exhaustive. The word used in an inclusive definition denotes extension and cannot be treated as restricted in any sense. Where the courts are dealing with an inclusive definition it would be appropriate to put restrictive interpretation upon terms of wider denotation.

It is well settled that when in the definition clause given in any statute the word means is used, what follows is intended to speak exhaustively. When the word means is used in a definition, it is hard and fast definition and no meaning other than that given in the definition can be assigned to the same in other words. The legislature intends exhaust the significance of the term defined. When the word includes is used a definition, the legislature intends that the definition should be exhaustive, but it exhausts. That is to say, the term defined, will retain its ordinary meaning, but its scope would be extended to bring within its matters which in its ordinary meaning or may not comprise.

Words 'means and includes' are used generally to enlarge scope and not to restrict

Meaning of 'includes' & its effect - Definition, whether exhaustive - Test laid down by the Supreme Court. A definition is ordinarily expected to be exhaustive. Its very terms, however, show that it is not meant to be exhaustive. For example, a purported definition may say that the term 'includes' what it specifies, but in that case, the definition itself is not complete.

A case where the definition uses the word 'includes' the same cannot be exhaustive of that its meaning has to be understood in the light of the context and the purposes the provision in connection with which the same has been used.

"Includes" - Meaning of - When an interpretation act clause states that in certain term includes certain specified, it implies that the expression relates to that type of meaning and ments. It does not curtail its natural content of the expression. Further, a definition to any other word in the Statute has to be understood having regard to the context of the enactment.

The interpretation circulated by the State Government on behalf of the legal advisers not to guide the Courts at it is not the advice of the legislature. The technical words may not be interpreted in their plain non-technical sense.

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The meaning of definition should be ascertained only from the words given in the definition, but the set up and the context are also relevant for ascertaining what exactly was meant to be conveyed by the terminology employed. The definition clause must be read in the context of the subject matter and scheme of the Act and consistently with the object and other provisions of the Act.

(iii) Definition - Rule of Construction - The frame of any definition more often than not, is capable of being made flexible. But the precision and certainty in law requires that it should not be made loose or kept tight as far as possible.

Definition in statute has to be followed - Decisions under different Acts - Value of - Where a piece of Legislation gives a statutory definition for a word or expression while interpreting it, the meaning assigned to it by the definition or interpretation clause must be given unless otherwise indicated by the subject or context. Cases decided different Acts or coming from states where the provisions of law are not similar cannot be taken as a safe guide.

It is not a sound principle of construction to interpret expressions used in one Act, with reference to their use in another Act and decisions rendered with reference to construction of one Act cannot apply with reference to the provisions of another Act, unless the two Acts are in pari materia. Further, when there is no ambiguity in the statute, it may not be permissible to refer to, for purposes of its construction, any previous legislation or decisions rendered thereon. The word defined in the Act should be given only the meaning assigned to it by the definition. Presumed intention of Legislature cannot be looked for to the purpose.

Construction of undefined word - Where the definition of a word has not been given it must be construed in its popular sense if it is a word of every day use. Popular sense means that sense which conversant with the subject matter with which the statute is dealing would attribute to it.

(iv) Dictionary meaning of word - The appropriate dictionary meaning of words has not to be arbitrarily selected and mechanically applied. Dictionary meaning, cannot control where the scheme of the Statute clearly conveys a some what different shade of meaning.

Dictionary meaning not binding - It is cardinal principle of a matured and developed jurisprudence that one should not make a fortress of the dictionary. Statutes have always some purpose and object to accomplish, whose sympathetic & imaginative discovery is the surest guide to their meaning.

VI & G Insurance Co v Fraser & Ross AIR 1960 SC 971 (754-75).
AIR 1961 SC 610 (614).
Jain Brothers & Co. v. Credit & Co. SC 653 (RLW 645).

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in which the rule is placed, the purpose for which it is expected and the object of which it is required to subservire and the authority by which the rule is framed (in the relevant ease- Provisions of S. 21. Act and Rules thereunder were considered).

(viii) Rule of "Equidistant Genera"—It is well-known canon of construction that equidistant genera rule is one to be applied with caution and not pushed too far. Normally every word in a statute ought to be construed in its primary and natural sense unless secondary or more limited sense is required by the subject or context. Ultimately the principle of law generally known as equidistant genera rule is a principle of assumed expansions of the statute.

The true scope of the rule of equidistant genera is that words of a general nature following specific and particular words should be construed as limited to things which are of the same nature as those specified and not as reverse that specific words which precede are controlled by general words which follow. Where there are general words following particular and specific words in a section, the general words must be confined to things of same kind as those specified. General words following particular words should be presumed to belong to same genus.

(ix) Importance of "Context"—The opening clause—All definitions so given are ordinarily qualified by the words "unless there is anything repugnant to the subject or context" or "unless the context otherwise requires." Even in the absence of such an expression such a qualification is always implied. But when a word is defined to bear a number of inclusive meanings the sense in which the word is used in a particular provision must be ascertained from the context of the scheme of the Act itself.

The presence of the clause warns not to make out an absolute meaning of a word or phrase that cannot fit in the context wherein it is used. The words used in an Act of Parliament are presumed to have been used correctly and exactly. The burden of proving that this rule has been broken lies heavily on those who make such an assertion. A definition does not necessarily apply to all possible contexts in which the word may be found in a particular statute. Sometimes a strict adherence to the definition may lead to an anomaly or even repugnancy. All statutory definitions must be read subject to the qualifying words "unless the context otherwise requires." Even though the definition clause does not contain those words.

6. Prayer Board of Godowns v. Godowns 1970 (2) SCR 141; 142; 143.
Meaning of words and expression defined under the definition clause ought to be assigned its meaning in accordance with its definition under the Act. No different meaning can be given unless subject or context otherwise requires.

Unless the context otherwise requires—Meaning—While interpreting a definition, has to be borne in mind that the interpretation placed on it should not only not repugnant the context, it should also be such as would aid to achievement of the purpose which sought to be served by the Act.

Special Act v. General Act—A special enactment would prevail over a general enactment, if both operate technically in the same field.

3. Definitions in the Rules—In Rajasthan Excise Rules, 1956, definitions of ten expressions have been given under rule (2) viz. (1) the Act, (2) Bonded warehouse, (3) Country liquor, (4) Foreign liquor, (5) Indian Made Foreign Liquor (6) Issued on Bond Liquor, (7) Licensed Poppy Heads, (8) Section & (16) Words & expressions.

These definitions are to be read with the definitions given in section 3 of the Act being discussed hereinafter.

There are 22 sets of Rules relating to Excise matter (see in part II of the Book), which provide definitions of the specific words or expressions used in the Rules concerned. These definitions are also to be read with reference to context.

4. Use of expression—"those parts of the State of Rajasthan to which this Act extends"—Now it is rendered useless—This expression was inserted by the Rajasthan Act No. 38 of 1957 w.e.f. 5-12-1957 in Clauses (6),(9) (13) & (25) of section 3 and in sections 9, 19 (4), 20 (2), 24 and 71 (2) also. This expression was used when the Act was or made applicable to "Abu Area" and as such the Act was not applicable to "whole of the State of Rajasthan". Now the Act has been extended to "Abu Area" also w.e.f. 5-12-1957. Hence these expressions "Abu area" and "those parts of the State of Rajasthan to which this Act extends" have been rendered useless as the Act is made applicable to "whole of the State of Rajasthan" in 1978.

5. Definitions Classified—There are 28 definitions in this section in alphabetical order. For the purpose of study and proper understanding, we now classify these definitions into groups as detailed below.

(a) relating to excisable articles—There are thirteen definitions in this group, viz.—

(1) Beer
(2) Denatured
(3A) Denatured Spirituous Preparations
(4) Excisable Article
(10) Fermented liquor
(14) Intoxicating drug

(b) relating to Excise—There are three definition in this group, viz.—

(6) Excise duty
(8) Excise revenue
(4) Excisable Article

(c) relating to activities relating to movement & transactions in excisable article—There are six definitions in the group, viz.—

(9) Export
(15) Import
(17) Manufacture
(20) Sale
(23) to bottle
(25) Transport

(d) relating to officers, places & others—There are seven definitions in this group, viz.—

(5) Excise Commissioner
(7) Excise Officer
(16) Magistrate

(2) Abu Area

6. Definitions explained—Now we venture to examine and explain the important definitions hereinafter as classified:

(A) Definitions relating to Excisable Articles

1. Excisable Article (clause (4))

(a) Definition analysed—means & includes—

(i) Spirit (defined in clause 21)
—fermented liquor, or (defined in clause (10))
—any alcoholic liquor for human consumption, or (liquor defined in clause (15))
—denatured spirit (defined in clause (3))
—denatured spirituous preparation or (defined in clause (3))

(ii) any intoxicating drug, or (defined in clause (14))

(iii) Stills, or (defined in clause (21-B))
Other appliances for distillation, or

(iv) Fermented wash or other material for distillation, or

(v) Any other article, which the State Government may, from time to time, declare to be an excisable article for the purposes of this Act.

The definition, as defined above, is exhaustive as well as cumulative. It mentions the various items which are excisable articles under this Act. It includes various articles which have been defined in various clauses of this section. References to clauses have been given above for ready reference to definition.

Sub-clause (v) empowers the State Government to declare certain articles to be excisable article for the purpose of this Act. A few notifications issued under S.3 (v) are being reproduced hereunder:

(b) Rule of ejusdem generis—It is to be noted that the State Government cannot and should not declare an article to be deemed to be an excisable article, if it does
not fall in the categories of articles mentioned above in the definition. The doctrine of "ejusdem generis" is to be applied here in full swing.

(C) NOTIFICATIONS

(i) Methyl Alcohol
In exercise of the powers conferred by clause (v) of sub-section (4) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) the Government of Rajasthan is pleased to order that Methyl alcohol shall be deemed to be an excisable article.
[Published in Raj. Gaz., Part I(B) dated 28-2-1957]

(ii) Lanced Poppy Heads
[No. F. 1(3) FD/EX/85, S.O. 172, January 24, 1986]
In exercise of the powers conferred by clause (v) of sub-section (4) of section 3 of the Rajasthan Excise Act, 1950 (Raj. Act II of 1950), the Government of Rajasthan is pleased to order that Lanced Poppy Heads shall be deemed to be an excisable article w.e.f. 14th August.

(iii) Molasses
[No. F. 1 (1) FD/EX/81, S.O. 155, October 15, 1980]
In exercise of the powers conferred by clause (v) of sub-section (4) of section 3 of the Rajasthan Excise Act, 1950 (Raj. Act II of 1950) the Government of Rajasthan is pleased to order that Molasses shall be deemed to be an excisable article w.e.f. 4-5-1985.
[Published in Raj. Gaz. 4(Ga) dated 30-10-86, Page 177]

(iv) Heritage Liquor
S.O.112—In exercise of the powers conferred by sub-clause (v) of clause (4) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950) the State Government hereby declares the heritage liquor as an excisable article for the purposes of the said Act.
[No.F.4(10)FD/EX/98 dated 9-7-98, Pub. in Raj. Gaz.-EO-4(Ga) dated 9-7-98 Page 165(12)]

(d) Excise duty cannot be imposed on Methyl Alcohol Methanol—Not meant for human consumption—Methyl Alcohol or Methanol is poison not meant for human consumption, in no case it be considered a beverage meant for human consumption. It is true that in small quantity if consumed by a human being, it is a beverage fit for human consumption.

As the methyl alcohol is a poison not fit for human consumption thus in view of List I Entry 84 of Seventh Schedule of the Constitution, the State Government is not competent to impose excise duty on such goods. Any notification imposing levy of excise duty by the State Government is thus ultra vires the Constitution.


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(e) Constitutional Provisions examined—
In Schedule VII List I Union List
(i) Entry No. 84—Duties of excise on tobacco and other goods manufactured or produced in India, except—
(a) alcoholic liquors for human consumption
(b) Opium, Indian hemp and other narcotic drugs and narcotics.
But including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry

**

List II—State List—Entry No.8—Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

Entry No. 51—Duties of excise on the following goods manufactured or produced in the State and corresponding duties at the same or lower rates on similar goods manufactured or produced elsewhere in India—
(a) alcoholic liquors for human consumption;
(b) opium, Indian hemp and other narcotic drugs and narcotics, but not including—
—medicinal and toilet preparations containing alcohol or
—any substance included in sub-paragraph (b) of this entry.

List III—Concurrent List

Entry No. 19—Drugs and poisons, subject to the provisions of Entry 89 of List I with respect to Opium.

**

It is to be noted here that the Union Parliament has no power to enact any law relating to "(a) alcoholic liquors for human Consumption," as it has been excluded from Entry No. 84 above. This entry does bar the State Legislature to impose excise duty on such goods but allowed by entry No. 51 of List II and Entry No. 8 of List I refers to "Intoxicating Liquors" only for which State Legislature is competent to enact a law. It is also to be noted that term "Intoxication" has nowhere been defined, but it is to be implied or referred to intoxication to human being and not to animals & others. Hence a law not fit for human consumption, cannot be the subject matter of enacting statute by State Legislature, when these entries are read together.

The question, therefore, arises whether the State Legislature or its delegate State Government can impose excise duty or can control the transactions and dealings of an article which is not covered in the abovementioned entries i.e., "alcoholic liquors for human consumption or intoxicating liquors which imply alcohol", the plain answer would be in negative, as also held by the Rajasthan High Court in M/s. Synthetic's case (1976 WLN 277) and the M/s. Hindustan Copper Ltd's State of Raj. 1975-(2) Raj LR 612.

Thus the articles which do contain "alcohol" and are "not meant for human consumption" are out of the purview of Entries No. 8 & 51 of the State List and also the exception (a) carved out in Entry No. 84 of Union List and included in Entry...
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(f) Unfit for human consumption—This expression has not been used in the definition of word "liquor" in clause (15), but only mean ingredient of intoxicating liquor is the presence of "ALCOHOL" in any liquid or spirit etc.

The expression "human consumption" has been used in clause (5) of subsection (2) of Section 3 as follows:

(i) Spirit, fermented liquor or any alcoholic liquor for human consumption.

After considering this provision, the High Court held that - the expression "for human consumption" qualifies only alcoholic liquor and not spirits etc. even if unfit for human consumption, its possession is an offence under S. 57 of the Act as it is not an excisable article under clause (4) (i) of 53 of the Act.

The different view has been taken in later case, which we reproduce hereunder in full for ready reference.

[1989 (1) RLR 632 (DB)]

RIFIED SPIRIT—

NOT EXCISABLE ARTICLE

[Not fit for human consumption, but for purely Industrial Purpose]

Ss. 3(4) & 28- Excise duty on Rectified Spirit invalid being beyond the Competence of State Legislature-Entry 51 of 1st List (State List) of the Seventh Schedule—Rectified spirit not alcoholic liquor for human consumption-Does not fall within expression "Excisable article" under Section 3(4) of the Act.

The litigation in the above four writ petitions is between the same parties, namely M/s Hindustan Copper Ltd, Khed Copper Complex, Khed Nagar (Shingaon) (the short petitioner company) and the State of Rajasthan and others and a question in each of them is as to whether any excise duty can be charged on the rectified spirit imported by the petitioner company. Therefore, all the above four writ petitions are being disposed of by this common order.

2. The Government of India Ministry of Industry, Department of Chemicals and Petrochemicals has been making ad hoc inter-State allocation of Alcohol for potable and industrial use from year to year and the petitioner company has imported rectified spirit from year to year for industrial use. The non-petitioner No. 3 is demanding excise duty on the imported rectified spirit on the ground that it is an excisable article within the meaning of Section 3(4) of the Rajasthan Excise Act, 1950 (the short, the Act) and though in the above writ petitions the period of allocation is different but as stated earlier the issue involved in all the above four writ petitions is identical whether any excise duty under the provisions of the Act can be charged on rectified spirit imported for industrial use. It will be convenient to give facts of the first of the four writ petitions.

Suresh W. Bhatia, 1609/84. The petitioner company is engaged in the mining operations.

had the occasion to examine this question and there is unanimity amongst the courts that so far as rectified spirit is concerned. It is not an alcoholic liquor for human consumption and therefore the State Legislature is not competent to impose and levy any excise duty on it. In this connection, a reference is made to the case of (1) J.K. Synthetics Ltd. v. State of Rajasthan 1976 (RLW) 338. In that case the court was dealing with methyl alcohol. The court said that methyl alcohol or methanol is a poison and in no case it can be considered a beverage meant for human consumption. At the stage of its manufacture it is poison and therefore the State legislature has no right to impose any excise duty notwithstanding the fact that by some process the methyl alcohol can be turned into an alcoholic liquor consumable by human beings. In the case of (2) M/s Soni Distilleries Ltd. v. Excise Commissioner Rajasthan and another 1984 (RLW) 373 though the court was dealing with another controversy but in para 16 referring to the aforesaid case of M/s J.K. Synthetics, the court said that:

"All that this court decided in the cited case is that methanol or methyl alcohol is not an alcoholic liquor for human consumption and therefore it is not an excisable article on which excise duty may be lawfully levied under Section 28 of the Act. Relying on this authority and the unreported Bench decision of the Allahabad High Court mentioned above, one may be prepared to accept that rectified spirit undergoing further process of manufacture under the Act, the Rules and the Distillery Rules, is not an alcoholic liquor for human consumption and therefore no excise duty may be lawfully levied on such spirit under Section 28 of the Act."

Allahabad High Court in the case of (3) D.C. & G.M. Co. v. Excise Commissioner, Allahabad was dealing with the rectified spirit and said that it is not an alcoholic liquor for human consumption and is not an excisable article under the U.P. Excise Act. In No excise duty could be legally imposed on rectified spirit. The court said that:

"It is true that rectified spirit is capable of being converted into potable liquors. Such are fit for human consumption. But we do not think that the State is competent to impose any excise duty on such spirit."

The court went on to say that the alcoholic liquor for human consumption and is not an excisable article meant for human consumption. When it is converted, then the converted spirit will be the alcoholic liquor for human consumption and will be liable to excise duty at the stage of conversion. Before conversion it cannot be said to be an alcoholic liquor for human consumption"

The court referred to the aforesaid case to the case of (4) Surjecta Laboratories v. State of M.P. 1972 TLR 2058 where also similar view was taken that the State legislature has no right to impose any excise duty thereon. In the case of (5) M/s Mohan Malcom Distillers Ltd. v. Excise Commissioner, Allahabad and another V. State of Uttar Pradesh 1977 TLR 362 (Allahabad) and the Bench of the Allahabad High Court took a similar view that rectified spirit is not an alcoholic liquor for human consumption & State legislature has no competence to impose excise duty on rectified spirit. In the case of (6) M/s Aayush Distilleries Rajpura v. State of U.P. and another 1980 TLR 324, the Division Bench of the Allahabad High Court has taken the similar view that the Excise duties under the U.P. Excise Act cannot be imposed at any prior stage of the process. The court was dealing with the case of rum and said that once the process of manufacture of rum is complete till caramel is added to the spirit duty is attracted only when rum is manufactured and not any
the excise duty can be and is leviable and only such rectified spirit which is alcoholic liquor fit for human consumption, can be excisable within the expression of Section 3(4) of the Act and the State legislature can only be competent to impose and levy duty under Section 28 of the Act in view of entry 51 (a) of List II (State List) of the Seventh Schedule to the Constitution of India and it may be stated that rectified spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government under the aforesaid entry of List II (State List) of the Seventh Schedule of the Constitution of India and it is beyond the competence of the State Legislature. (Page 6).

[Note: allowed-excise duty on rectified spirit quantified-refused to be made]

[Editorial Note: Impact of Entry 8-List II 'Excise Liquors' has not been considered in the above judgment, please note.]

[Latest Trend (Case-Law)]

Misuse of Industrial Alcohol- Regulating excisable articles not ultra vires [Ss.3(4) (i) and 28]

When the State Government has power to regulate and monitor the misuse of the industrial alcohol and converting it to that of potable alcohol, the inclusion of the denatured spirit in the denatured spirit regulations preparation in the provisions of Section 3(4) (i) of the Act, whereby the excisable article have been defined, cannot be held to be ultra vires of the Constitution.

Regulating the import, export, transport and possession of the excisable articles cannot be said to be ultra vires because in this case, framing of the Rules is within the legislative competence of the State. Likewise, prohibition of sale of any excisable article to any person or class of persons cannot be said to be a power, which is against Entry 84 of the List II Schedule VII of the Constitution or against the provisions of Arts. 245 and 246 of the Constitution.

Whether the tax can be levied on the rectified spirit by the State Government —

This question came up for consideration before the High Court in M/s Geeta Enterprises vs. State of Rajasthan [1993(2) RLR 183 - 1994 (3) WLC (Raj) 304 (DB)] In this case the levy of excise duty on the industrial alcohol was declared illegal in view of the judgment of the Supreme Court in Synthetics & Chemicals Ltd. v. State of U.P. (AIR 1990 SC 1292) and the State was restrained from enforcing the levy of excise duty and counter-levying duty on the product produced after 25.10.1989, but it was also held that the petitioner will not be liable for any refund of the excise duty due to counter-levying duty which had already been recovered from him or has become recoverable prior to 25.10.89.

In the present case, the excise duty charged from the petitioners-appellants relates to the period earlier than 25.10.89 and, therefore, the demands raised by the District Excise Office, Udaipur, for the levy of excise duty of rectified spirit, were in accordance with law and are recoverable from it. (Para 10) (Special appeals dismissed)

The Rajasthan Excise Act

(Rajasthan High Court (DB))

UDAIJUR DISTILLERY CO. LTD.

V/S

STATE OF RAJASTHAN & ORS.

[1996 (2) WLC (Raj) 419 (DB)]


[B] Bottling is a process of sale.

[C] Levy of Bottling fee not unconstitutional.

[D] Production of Alcoholic Liquor for Human consumption - Power of State to make rules.

Validity of Section 16 and Section 24 Upheld - Not unconstitutional.

The State legislature has power to regulate and control the production, manufacture, sale, and transportation of the alcoholic or intoxicating liquors mean for human consumption and, therefore, the provisions of S. 16 (1) (a) and S. 16 (1) (d) of the Act cannot be said to be ultra vires of the Constitution or the Industries (Development & Regulation) Act, 1951. (Para 19).

No fault can be found with S. 24 of the Act, which pertains to grant of exclusive privilege for manufacture and supply of any country liquor foreign liquor or intoxicating ugs within any local area and therefore the validity of S. 24 of the Act is upheld.

“Bottling” is a process of sale.

Section 16(1)(a) and (d) of the Act says that no excisable article (intoxicating liquor) all must be manufactured and no liquor shall be bottled for sale, except under the authority to the terms and conditions of a licence granted in that behalf by the Excise commissioner or by an Excise Officer duly empowered in that behalf, and, therefore, the power has to be bottled under a licence and such a licence has been obtained by the tanners for the purpose of sale of liquor mean for human consumption, whereby has been prescribed what will be the strength of a particular quality of liquor and what will be its colour and is quantity, it will be sold and what will be its price. The Distilleries Rules, 1976, under which licence has been granted to petitioners also provide at in what conditions, the liquor is to be sold. (Para 21)

Levy of Bottling Fee not unconstitutional.

Rule 91(3) of the Distilleries Rules, 1976 says that the Excise Commissioner may certify wherever possible that mechanical arrangements may be made for all operations at the stage of bottling and may also lay down that bottling operation must be carried on under proper supervision in conformity with high standard of hygiene and the product could not be touched by human hand at this stage. Thus, certain conditions are prescribed to how the liquor is to be bottled. So that the liquor may not become hazardous to the public. These services, thus, are being rendered by the State Government, and, therefore, it cannot be said that the levy of bottling fee is unconstitutional because no services are being rendered by the State. (Para 22)

Alcoholic Liquor for human Consumption - Bottling Fee held not unconstitutional.

After noticing Entry 84 of List I and Entry No. 51 of Schedule VII of the Constitution, the Supreme Court in Synthetics and Chemicals Ltd. v. State of U.P. has observed as under:

“A comparison of the language of these two entries clearly demonstrates that the powers of taxation on alcoholic liquors have been based on the way in which they are used as admittedly alcoholic liquor is a very wide term and may include varieties of types of alcoholic liquors but our Constitution-makers distribution them into two heads:

(a) for human consumption;
(b) other than for human consumption.

‘Alcoholic liquors which are for human consumption were put in Entry 51. List-II authorising the State legislature to levy tax on them whereas other entries other than for human consumption have been left to the Central legislature under Entry 84 for levy of duty on excise. This scheme of these two entries in Lists I and II is clear enough to indicate the line of demarcation for purposes of taxation of alcoholic liquors. What has been excluded in Entry 84 has specially been put within the authority of the State for purposes of taxation’.

After noticing Entry No. 8 of List II of Schedule VII of the Constitution, it has been further observed in para 100 of the judgment as under:

“This entry talks of intoxicating liquors and further on refers to production, manufacture, possession, transport, purchase and sale of these liquors. It appears that the State has levied some kind of duties in various names at each of these stages and in this entry, that is, production, manufacture possession, transport, purchase and sale. But from the scheme of entries in the three lists, it is clear that taxing entries have been specially enacted conferring powers of taxation whereas other entries pertain to the authority of the legislature to enact laws for purposes of regulation. If we compare Entry No. 8 in List II with entry 51, it is clear that Entry 51 authorises the State Legislature to levy tax and duties on alcoholic liquors falling in Entry 51. Entry 8 confers authority on the State legislature to enact laws for regulation. Similarly are entries in List I.”

Their lordships further noticed Entry 52 of List I of Schedule VII of the Constitution and thereafter, observed in para 100 of the judgment as under:

“Such a declaration is made by the Parliament and this industry that is industry based on fermentation and alcohol has been declared to be an industry under that Act and therefore, is directly under the control of the Centre and therefore even in respect of regulation, the authority of the State legislature in Entry 8 List II could only be subject to the Industries Development and Regulation Act or rules made by the Centre.

Under these circumstances, it is clear that the State Legislature had no authority to levy duty or tax on alcohol which is not for human consumption as that could only be levied by the Centre.”

Thus, it is clear from this authority that the State Legislature has power to regulate and control the production, manufacture, purchase, sale and transportation of the alcoholic or intoxicating liquors meant for human consumption and therefore, the provisions of S. 76(1)(a) and 16(1)(e) of the Act cannot be said to be ultra vires of the Constitution or the Industries (Development & Regulation) Act, 1951.


Licence was granted to petitioner under the Excise Act and Rules therewith condition No. 33 of the Licence provided for levy of excise duty on wastage of IMFL as per rules. Nature of contract is held to be statutory and petitioner having accepted licence cannot wriggle out from contractual obligations arising out of the conditions of licence. Held, the State is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of contract. Rules of 1959 held not applicable in the instant case. Hence enquiry under R.5(5) was out of question and contractual obligation alone is to prevail (Special Appellate dismissed).1

1 The Latest view of the Supreme Court- Scope of power of State as to regulatory measure- Demand of Excise duty.- The power of State to demand excise duty is limited by the provisions of the Constitution and the Act. Demand for excise duty is not a regulatory measure. Held, the power of the State to levy excise duty cannot be expanded with reference to its power to regulate manufacture of liquor.2

“Alcoholic liquor” Meaning of—It is clear that alcoholic liquor is a beverage containing alcohol. It is further clear that liquids containing alcohol which are not intended to be used as intoxicating beverage are not alcoholic liquors.3

Liquor-Proof thereof—Mere smell not sufficient to prove alcoholic contents- Expert opinion is held necessary.4

Limited Use of expression “for human consumption” - It qualifies only alcoholic liquor and not spirits etc.- Held, spirit even if unfit for human consumption, it possession is an offence under S.57.5

Excisable Article—Illicit liquor seized from house- No plea that it is medical preparation- found intoxicating liquor- Held, conviction was right.6

Use of word “and” means “or”- In S.3(4) (iii) Possession of any one appliance for distillation has been made punishable- Having regard to the Rajasthan Excise Act and the provisions of Section 16(g) and Section 54 (d) of the Act the word “and” appearing in Section 3(4) (iii) of the Act has to be read as “or” so that the possession of a still or any other appliance for distillation as well as the possession of fermented wash or similar other material for distillation would fall within the mischief of Clause (d) of Section 54 of the Act and would be an offence. [1937 I KB 305, Ref on 7]

Nature of French Police—“French Police” is excisable article. It is mode of denatured spirit, so it is a “denatured spirituous preparation” under clause 3A.8

6 Sasedingos v. State 1960 KL.W 600

Section 3

Not excisable article but medicine-“Mt. Santiswari Sudha” is an Ayurvedic medicinal preparation. Held, it is not an excisable article as such not liable to excise duty.2

“Malathion Technical”— is not excisable article as it is insecticide.3

2 Intoxicating drugs [clause(13)]
(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant (Cannabis Sativa) including all forms known as Bhang, Sidi or Ganja
(ii) Chasas 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 natural materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom, and
(iv) any other intoxicating or narcotic substance which the State Government may declare, by notification in the Official Gazette, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in the Dangerous Drugs Act, 1930 (Central Act 11 of 1930).

This is an important definition which deals with one of the subject-matters of the Act i.e. “Intoxicating drugs”.

This definition is exhaustive, but word “Intoxicating” has not been defined in this Act and the Rules made thereunder. Let us examine the meaning from dictionary—

Meaning of “Intoxicating”-examined—The dictionary meaning is as follows:
(a) Intoxicant-Intoxicating (liquor).

Intoxicating v. t Make drink: excite, exhilarate, beyond self-control (intoxicated with or by) hence

intoxicating - poison F.L. Laxicomic Toxic 4

— intoxicating- नाश करे ताज, ताजक : producing or fitted to produce intoxication.

— intoxicating drink पानी देय- [Art 47, Constitution]

intoxication, state of: the quality or state of being drunk. [S.85, IPC] (प्यानी की होना)

— intoxication, the state of being intoxicated. [S. 85, IPC] (प्यानी)

From legal Glossary – धारा अद्वितीय (Govt of India) (Page 179)

The expression “intoxication” etymologically means condition produced, on brain or nervous system of human being, by excessive use of alcoholic stimulants. The term has been defined to be a poisoning whether by drug or liquor or other toxic substances and hence the condition of the mind and nervous system produced by excessive drinking of alcohol. In the absence of any statutory definition of the term, it is applied only to the excessive use of intoxicating liquor or drugs.5

1 महात्मा गांधी संदर्भ मुद्दा
2 Mathur’s Shudh Aushadhi Dukan (Pvt) Ltd. v. Union of India 1963 (3) SCR 957 AIR 1963 SC 622
3 Mt. Peethika India v. State of Rajasthan 1994 (1) W.L.N 238; 1993 (3) W.L.C 582
5 A Narayan Nar v. State AIR 1952 TC 239; 53 Cr. LI 1095.
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Word “intoxicating” has been prefixed with “liquor” thus does not mean that word “liquor” without prefix means “not intoxicating substance”. The term “intoxicating liquor” has been used in entry 31 (Sec-Entry) of List II of the Seventh Schedule of the Constitution of India.

(d) Three ingredients of Liquor—From the perusal of the definition of liquor in clause (15), it is clear that there are three ingredients or elements of liquor, i.e.

(1) Intoxication, as effect of the use of liquor and

(2) Alcoholic contents of liquor affecting brain & nervous system of human being consuming it.

(3) For human consumption—as used in Entry 51 of List II of the Seventh Schedule of the Constitution.

[Please refer to Note (c) in Commentary of clause (4) of “Excisable Article” for further details, on “for human consumption”]

(e) Inclusive Definition—Second Part of definition enumerates seven kinds of substances and liquids which are “liquors”. It is important to note that all liquids consisting of or containing “Alcohol” are liquor or intoxicating liquor within meaning of this clause.

The definition includes all liquids consisting of or contain alcohol includes at the same time the toilet and medicinal preparation etc. containing alcohol but not for human consumption.

It is thus clear that alcoholic liquor is a beverage containing alcohol. It is further clear that liquids containing of or contain alcohol will not be considered as intoxicating beverage are not alcoholic liquor.

(f) Declaratory Provision—“declared to be liquor” is the inclusive definition of “liquor”, the point [B] shown in analysis given above is very important Declaratory provision which is to be read with Section 4 of the Act which empowers the State Government to declare what is to be deemed to be “liquor” and also to be deemed to “Country liquor” and “foreign liquor”. For such declaration a notification in the official Gazette is necessary.

[Please refer to the Commentary of section 4, infra for further details]

(g) NOTIFICATIONS

(1) Tonics & Medicinal wines

[Notification No. F.4998/51/3 dated 15-2-1957]

In exercise of the powers conferred by sub-section (15) of section 3 and sub-section (1) of section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act. II of 1950) the Government of Rajasthan is pleased to order that tonic and medicated wines over 1 degree proof spirit shall be regarded as liquor for the purposes of that Act.

[Pub. in Raj. Gaz. Part I (B), dated 25-2-1957]
Section 3

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Whether (i) as a beverage or (ii) medicine or (iii) in any other way.

Thus "denatured" means mixed preparation of spirit which is not fit for human use.

6. Denatured Spirituous Preparation (Clause 3-A)—It is in two parts

(I) means—any preparation of (i) denatured spirit or (ii) Alcohol and

(II) includes—(I) Liquors—(i) French Polish and—

(iii) Varnish prepared out of such (i.e. denatured) spirit or alcohol

"French polish" is an excisable article.

7. Fermented Liquor [Clause(10)]—means—

(i) Wine, Pachhari (Pachawat) [as defined in Cl. 21(18)] and fermented Fars [as defined in Cl. 22)]. AND

(ii) Any other liquor that may from time to time be declared by the State Government to be fermented liquor.

[Also refer to definition of "Liquor" in clause (15).

8. Lance Poppy Heads [Clause (14-A)]—means—

—capsules of the opium poppy plant—

—whether in their original form or cut, crushed or powdered—

—from which juice has been extracted.

The lance poppy head is the residuary bye-product of opium poppy heads devoid of juice used for preparing opium. It may be in any of the three forms—(a) Original poppy, or (b) cut-in, or (c) crushed-in Sem-powdered stuff or (d) powdered-in Form of powder. In all its forms, it is covered by this definition. It should not contain juice or it. This clause was inserted w.e.f. 10.2.1986 in this Section.

Statement of Objects & Reasons

(Act No. 1 of 1986)


The earlier enactment, namely, the Opium Act, 1857, the Opium Acts 1876 and the Narcotic Drugs Act, 1930 have been repealed by S. 81 of the said Central Act 162 of 1985. After the repeal of the aforesaid Acts, various rules made by the State Government under these Acts were also rendered ineffective and, therefore, it became necessary to enact new rules under the new Central Act and also to empower the State Government to frame rules regarding lance poppy heads under the Rajasthan Excise Act 1950. Further, lance poppy heads were being dealt with under the Rajasthan Opium Rules, 1949.


4. 1985 (Central Act 162 of 1985)
LANCED POPPY HEADS—EXCISE DUTY

NOTIFICATION

[No.F 4(1) FD/EX/85, S.O. 120, Nov. 14, 1985]

In exercise of the powers conferred by section 28 of the Rajasthan Excise Act, 1950, (Raj. Act II of 1950), the State Government hereby imposes, with the immediate effect, excise duty on lanced poppy heads at the rates specified below:

<table>
<thead>
<tr>
<th>Excise Duty</th>
<th>Rate (per kg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>Rs. 1.25</td>
</tr>
<tr>
<td>1985</td>
<td>2.00</td>
</tr>
<tr>
<td>1999</td>
<td>5.00</td>
</tr>
<tr>
<td>2001</td>
<td>15.00</td>
</tr>
<tr>
<td>2001</td>
<td>35.00</td>
</tr>
</tbody>
</table>

(a) When consumed in the State
(b) When imported into the State
(c) When exported outside the State

9. Molasses (Clause 17-A)—

Means:

— the mother liquor
— produced in the final stage of the manufacturer of sugar or Khandasari sugar
— by (a) the vacuum pan process or
(b) open pan process
— from sugar cane or gur.

Statement of Objects & Reasons

(Raj. Act No. 8 of 1985)

Molasses is the mother liquor produced in the final stage of the manufacture of sugar. The Central Government has made Molasses Control Order, 1961, with regard to molasses. The Rajasthan Excise Act, 1950 does not however contain any provision in respect of molasses. It appeared necessary to check unauthorised use of molasses, to prevent its loss in transit and storage and to control the production of spirit.

In view of the above, it appeared necessary to define the expression “Molasses” by adding a new clause (17-A) in Section 3 and to empower the State Government to take rules by inserting the expression “molasses” in clause (d) of sub-section (2) of section 41 of the Rajasthan Excise Act, 1950.

NOTIFICATION

[No. F 3(15) FD/EX/74, S.O. 261, March 15, 1989]

In exercise of the powers conferred by Section 28 of the Rajasthan Excise Act, 950 (Rajasthan Act II of 1950), the State Govt. hereby imposes, with effect from 1.4.1969 at the rate of Rs. 2.00 per quintal on import of molasses for the purpose of manufacture of spirit.


Section 3] The Rajasthan Excise Act

Validity of Amendment Act. (Rajasthan Act 8 of 1985)—The operation of the Molasses control order and the operation of the Amendment Act have not occupied the same field nor run into collision course. The Amendment Act was made by the State Legislature exercising the power under Entry 33 (a) of the concurrent list read with Entry 24 of the State List as molasses is a by-product of a sugar industry covered by the Industrial Development & Regulation Act. The Amendment Act does not enter into the occupied field of the Molasses control order. There is no inconsistency in their operation and that therefore both the Amendment Act and the Molasses control order would harmoniously co-exist and operate in their respective fields. The State Legislature had thereby made the Amendment Act regulating import, export, transport or possession of molasses within the State of Rajasthan.

Similarly, the Molasses Rules are held to be intravene.

10. Pachawai [clause (18)]—

Means:

— fermented rice, millet or other grain—
— whether mixed with any liquid or not AND
— Any liquid obtained therefrom—
— whether diluted or undiluted

Thus it is preparation made out of food grains by process of fermentation and may be in liquid or solid form.

11. Spirit [clause (21)]—

Means:

— Any "liquor" containing alcohol—
— Obtained by distillation—
— Whether it is denatured or not—

"Alcohol" is the main content of spirit which is obtained by process of distillation and not by other process. Re-distillation is also distillation. Spirit is of two kinds—

a. Pure Spirit (i.e. not denatured) and (b) denatured as defined in clauses (3) and (3A).

[Please refer to definition of “liqour” under clause (15). Supra also]

12. Still [Clause (21B)]—

— Includes any part thereof,

and

— Any other apparatus for—
— a. distillation, or
— b. manufacture of Spirit

An inclusive definition. "Still" is an apparatus used for purposes of distillation of spirit. All parts of still are to be treated as still when recovered in an offence. Any other apparatus which is used in preparation of spirit is also covered by word “still” under clause.
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13. Tariff (Clause (22))

means—

— fermented or unfermented
— juice drawn from any kind of Palm Tree

There is a set of Rules called "Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960"— See at S No. 9 of Rules, infra.

(b) Definitions relating to Excise

14. Excise Duty [clause (6)]—

means—

— Any duty of excise imposed by or under this Act—
— on excisable articles
— manufactured or produced
— in those parts of the State of Rajasthan to which this Act extends.

(a) Meaning of "Excise"—The word "excise" has not been defined anywhere in the Act and Rules, but according to Concise Oxford Dictionary, the word "excise" means "duty or tax levied on goods and commodities produced or sold within the country and on various licences".

(b) Excise duty—Nature of—The Excise duty is an indirect tax capable of being passed over to the consumer as it is included in the sale price of the commodity. It is in nature of tax. The Excise duty may be construed as a duty leviable upon the manufacturers or producers of excisable articles or at least at the stage of or in connection with manufacture thereof (AIR 1963 SC 721, AIR 1939 F.C.I. AIR 1942 E.C. 33, AIR 1943 P.C. 98, AIR 1952 SC 1281 and AIR 1967 SC 1512 relied on). A duty of excise is a tax levied on a manufacturer or producer. It is a tax on goods and not on sales.

(c) Meaning of "duty"—Generally a duty is a levy in the nature of a tax charged from the manufacturer or producer while manufacturing or producing any commodity chargeable to such duty, for example, excise duty on cloth, sugar by Central Government and on the liquor, tobacco or other intoxicating herbs is levied by the respective State Government.

(d) Excisable Articles—The excise duty under this Act is imposed on excisable articles as defined in clause (4) of Section 3 of the Act, which are manufactured or produced in the State of Rajasthan.

1. British India Corporation Ltd v Collector Central Excise AIR 1963 SC 104, 1963 (3) SCR 182
2. Coverage B Thakar v Excise Commissioner Ajmer AIR 1964 SC 873
5. Union of India v. Jaffa Cloth & General Mills AIR 1961 SC 761
7. Mehta Kunjram v. Dewji Palitraj & Sons AIR 1942 SC 33 (1942) 1 FCR 90

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The State was not entitled to raise demands under guarantee system or the exclusive privilege system because it was in essence, realization of excise duty on undrawn liquor.1

(d) Exclusive Privilege of Sale of Country Liquor - Section 24 read with section 30 authorizes the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under S. 30 instead of or in addition to any duty leviable under this Chapter. Excise Commissioner may accept payment of a sum in consideration of the grant of the licence for exclusive privilege under S. 24 Contract is bound to pay guaranteed amount even when liquor is not sold in agreed quantity.

Similarly because the issue prices had a component of excise duty it will be wrong to say that demand for guaranteed amount or deficiency therein was a demand for excise duty [ILR (1972) 22 Raj 84 reversed].

Constitution of India Act. 47 - Contracts to sale liquor not void being opposed to Directive Principles of State Policy contained in Art. 47.

Rule when held invalid - A rule which enables the State to recover excise duty as a part of the price in case of undrawn liquor is invalid and ultra vires the provisions of the Act.

Licence Fee & Excise duty - By licence fee or fixed fee is meant the price or consideration which the Government charges to the licensees for granting the privilege or consideration in granting them to the licensees. As the State can carry on the trade or business, such a charge is the nominal incident of a trading or business transacted. The licence fees or fixed fees in instant case does not have to conform to one of the three elements i.e., reasonable relationship with the services rendered to the licensees. Sometime high licence fees are exacted to discourage trade in liquor.

Leading Case

PANNALAL V.
STATE OF RAJASTHAN

1) Guarantee & Exclusive Privilege System - Grant of licence thereunder for country liquor - Liability of Licensee to pay stipulated sum - Enforcing payment of guaranteed sum not recovery of Excise duty - The license fee stipulated to be paid by contractors is the price or consideration or rental charges - Neither a tax nor an excise duty [AIR 1975 SC 560; 1975 SC 1121 & ILR (1969) 2 ker 71 fol].

These licenses are contracts and lumpsum amount voluntarily agreed to pay to the State are not levies of excise duty, but are in the nature of licence money or rental or lumpsum amount for exclusive privilege of retail sales granted by the State to the


important Case

ANIL KUMAR SUNIL KUMAR V.
STATE OF RAJASTHAN
[1993 (1) WLN 313]

— Grant of Exclusive Privilege

*No fundamental right of a citizen—Privilege of selling Liquor—Formalities completed after tender contract stood concluded—Neither unjust, nor unfair, nor arbitrary, nor malafide, nor against public interest held, it does not contravene Art. 14 of the Constitution—Scope of judicial scrutiny in the matter of Government policy held, limited.*

In M/s Jagadale & Sons v State of Karnataka (AIR 1990 Karnataka 251 (DB)), the creation of monopoly in a Government agency in the matter of distribution of liquor was challenged on ground of possibility of misuse of power of exclusive privilege by Governmental instrumentality as modalities of the functioning of distributor were not enumerated. This challenge was repelled and it was held that there is a strong presumption that such instrumentality of the state would act fairly, reasonably and reasonably. It was further held that possibility of the abuse of the power of the privilege is not a ground to nullify the entrustment of powers and privileges to a Governmental agency. It was further held that

Every kind of dealing in liquor is the exclusive privilege of the State, that retaining such a privilege in itself and withdrawal of the provisions which earlier enabled the grant of such privilege to other do not require any explanation by the State and that creation of a State agency to exercise any aspect of the dealing in liquor by the State and thus retaining a monopoly in that aspect (such as exclusiveness of the distributorship) cannot be attached as arbitrary and monopolistic.

It was further held that it was a case where the State had reverted to its exclusive privilege of taking liquor as a distributor by withdrawing the provision regarding the grant of distributorship to others. It was also held that though the rules which make the State or its instrumentality an exclusive distributor, are liable to be tested by reference to Art. 14 of the Constitution but the Court should be slow to interfere with the policy laid down by the State for grant of licences for manufacture and sale of liquor by a State agency unless such State policy is unreasonable, arbitrary or against fair play.

In the case in hand, the channelisation of business of sale of country liquor through the Govt agency like the G.S.M., which is a Govt Undertaking at Abu Road and Mount Abu, is in conformity with the State's declared policy of saving population of tribal/scheduled area from exploitation at the hands of private contractors, who are free to fix any rate of country liquor, unlike the G.S.M., who sells country liquor by retail in these areas on fixed price, which is obviously much lower. The policy decision of the State Government of 1981 for granting such licence for exclusive privilege for sale of country liquor in respect of the shops at Abu Road and Mount Abu in favour of the G.S.M. is fully covered by Sub-R. 3 of R. 67-I of the Rules 1956. At the cost of the repetition, it is worthwhile to mention that since 1982, this policy is being consistently

uninterruptedly and continuously followed and the licence for the sale of country liquor for the shops at Mount Abu and Abu Road have been regularly renewed in favour of the G.S.M. There is no prohibition in the Act or in the Rules 1956 against the grant of licence for exclusive privilege to a Govt. Company without inviting tenders from other private persons. The aforesaid policy decision of the State Government pertains to its economic policy as well as the social reforms covered by Art. 47 of the Constitution.

In Nandlal's case (supra), the pre-dominant purpose of the State policy decision dt. 30-12-84 was to ensure construction and setting up of new distilleries with major technologically-advanced plant and machinery at new sites, where there would be no possibility of air and water pollution. In achieving this purpose, the State Government considered the offers of the existing contractors and negotiated with them and ultimately decided to grant them the licences for construction of new distilleries on terms and conditions set out in the recommendations of the Cabinet Sub-committee. The Apex Court upheld the said State policy, held that it was not at all necessary for it to have invited and advertised offers for setting up such industries and that the State Government was entitled to negotiate with those who had come with an offer to set up such industry. The Hon'ble Supreme Court therefore, set aside the judgment of the M.P. High Court.

In M/s Kathyalal Laxman Reddy v State of Jammu & Kashmir (AIR 1980 SC 1992), it was observed that when the Govt is dealing with the public whether by way of giving shops or entering into contracts or granting other forms of licences, it cannot act arbitrarily or capriciously. The Apex Court reasoned that even activity of the Govt has a public element in it and it must, therefore, be informed with reason and guided by the public interest. If the Govt. awards a contract or leases out or otherwise deals with its property or grants any other largesse, it would be liable to be tested for the validity of the dealings on the touchstone of the reasonableness and public interest and if it fails to satisfy either test, it would be unconstitutional and invalid. The Apex Court however emphasized that one basic principle which must guide the Court in arriving at its determination about the State action is that there is always a presumption that the Govt. action is reasonable and in public interest and it is for the party challenging its validity to show that it is wanting in reasonableness or is not informed with public interest. It has been further emphasized by the Apex Court that such burden is a heavy one and it has to be discharged to the satisfaction of the Court by proper and adequate material. Thus the Court cannot lightly assume that the State policy in this regard is unreasonable and not in public interest. In my considered opinion, the State exercise policy as envisaged in Annexure R. 1/4-A, B.R. 1/5 & R. 1/6, which is continued in operation since 1982 by granting licences in favour of G.S.M. for such scheduled area is neither unreasonable, nor arbitrary nor against the public interest. In M/s Shree Sita Ram Sugar Co. Ltd. v. Union of India (AIR 1990 SC 1277), it has been stressed that the judicial review is not concerned with matters of economic policy, that the Court does not substitute its judgment for that of the legislature or its agents and that the Court does not supplant the feel of
the expert. In that case, the price of levy sugar fixed by the Central Govt. by grouping of sugar factories on the basis of their geographical analysis, was not interfered with.

In Md. Jafdar's case (supra) surveying the case law, it has been held that the scope of judicial scrutiny in the matter of Govt. policy is limited.

The State policy for granting exclusive privilege of vending country liquor by retail in Abu Road Tehsil including the areas of Mount Abu and Abu Road in favour of the G.S.M. is neither unjust, nor unfair, nor arbitrary, nor malafide, nor unreasonable, nor against the public interest. On the other hand, it is conductive in protecting the weaker sections of the Society from exploitation at the hands of the private contractors, who are at liberty to fix the sale price of the country liquor according to their whims.

The State Policy for granting/renewing licence in favour of the G.S.M. for vending the country liquor in the Abu Road Tehsil does not violate, offend or contravene the equality clause enshrined in Art. 14 of the Constitution. The State action in renewing the licence in question in favour of the G.S.M. for Mount Abu and Abu Road areas for the financial years 1991-92 and 1992-93 is also not illegal or unauthorised.  

15. Excise Revenue (clause (8))-means "Revenue derived, or derivable— from

(i) any payment,
(ii) duty,
(iii) fee
(iv) tax
(v) fine (other than a fine imposed by a court of law) or
(vi) confiscation.

imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to liquor or intoxicating drugs.

There are six type of excise revenue, under this definition, as enumerated in points (i) to (vi) above. Whatever amount or payment received under legal sanction under the Act, is cumulatively termed as "excise revenue" which is part of the "General Revenue" of the State.

Meaning of "Excise Revenue"—The expression "excise revenue" is generic of which excise duty is the specific. Excise revenue includes the expression duty in addition to the other sources of income such as duty i.e. (excise duty) fee, fine, confiscation imposed or ordered relating to liquor or intoxicating drugs under any law in force and includes any tax also.

The expression "any payment" is so comprehensive that it includes all residuary sources income known or unknown for the present. The expression any payment includes the sum of money consideration derived through auction of licence. The grantee is given licence on payment of auction price. Auction price represent the consideration for lease or privilege.  

Licence fee or Fixed Fee- Excise Revenue- By licence fee or fixed fee is meant the price or consideration which the Government charges to the licensees for putting

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with the privilege or consideration in granting them to the licensees. As the State can carry on the trade or business, such a charge is the nominal incident of a trading or business transaction. The licence fee or fixed fee in instant case does not have to conform to one of the three elements is reasonable relationship with the services rendered to the licensee. Some times high licence fee are excused to discourage trade in liquor.

Auction System-Meaning of "Fixed Fee" (case from U.P.)—The term 'fixed fee' is a fee determined by the Excise Commissioner in lieu of 'licence fee'.

Fee or Tax- Auction Price of Licences—Auction of licences is neither fee nor the tax, the highest bid for licence is a consideration for the licence. The State has the exclusive right or privilege in the matter of manufacture or sale of liquor which can be granted as a right or privilege to the citizens, by public auction. The granter is given the licence on payment of auction price.

Recovery of loss from Licencee—The licencee is bound to comply with the terms & conditions of bond and cannot back out from the responsibility and liability thereof. The provisions requiring licencee to pay an amount by way of charge divided in equal installment in a year are binding. Any default in such payment of installments, state is justified to recover the same together with resulting loss if any from the defaulters. Such charge is not an excise duty or tax, even part of the liquor not lifted or purchased can be validly charged and the amount is recoverable from the licencee.

Recovery of Excise duties as arrears of land revenue—The Excise duties are recoverable as an arrears of land revenue under section 256 of the Rajasthan Land Revenue Act. The Rajasthan Public Demand Recovery Act is not applicable.

Part of Excise Revenue- Trade in Liquors not a fundamental right—It is not trade or business but a privilege granted under a licence alone. Licence fee in fact is neither a tax nor a fee for services rendered, but a consideration for granting such privilege which forms part of excise revenue.

Meaning of words "any payments" therein—Wide enough to include payments under these licences and held that State Government is perfectly justified in recovering such payments in accordance with the terms of contract. (See S 40; also)

Fee v. Tax-Distinction pointed out—It is now well settled that it is not an essential element of fee that it has to be credited to a separate fund and not to the Consolidated fund of the State or mixed with the general revenue of the local body concerned. It is also now well established that the element of quid pro quo in the strict sense is not

1. Anil Kumar Sanil Kumar v. State of Rajasthan, 1993 (1) WIH 113
always a sine qua non for the validity of charging a fee and that fee cannot be construed in a rigid narrow sense. The charging of fee may not lead to the conferment of a special advantage on the person from whom the fee is charged as the primary motive of charging a fee may be regulated in public interest or rendering service to the specified area or class of persons.3

(C) Definitions relating to movement & transactions in Excisable Articles.

16. Export [Clause (9)]—means to take out of those parts of the state of which this Act Rajasthan to which this Act extends.

17. Import [Clause (13)]—means to bring into those parts of the State to which this Act extends.

“Export” means taking out of the State of Rajasthan while “Import” means bringing into the State of Rajasthan and “transport” means moving within the State.

“Import, Export & Transport” have been dealt with in Chapter III of the Act read with the Rajasthan Excise Rules, 1956.

Expression “those parts of the State of Rajasthan to which this Act extends” used in this section—rendered useless. This expression was inserted in 1957. Thereafter the Act has been extended to whole State of Rajasthan w.e.f. 1-9-78, but this expression was not omitted, may be due to oversight.

18. Transport [Clause 25]—means—

— to move from one place to another—
— within [those parts of the State of Rajasthan to which this Act extends.]

This is movement of excisable articles “within the State of Rajasthan”. Now the Act is applicable to whole State of Rajasthan. Thus “Transport” does not include import or export as discussed above.

“To move from one place to another”—means movement by any means of transportation i.e. vehicles and it includes movement on foot or animals also.

Transportation includes element of possession in it.2 While two drivers found in possession of liquor without licence in the jeep held they were transporting liquor and were in possession of such liquor within their knowledge.3

19. Manufacture [Clause (17)]—Definition analysed—

(a) includes—

— every process—
— whether natural or artificial—
— by which any EXCISABLE ARTICLE
— is produced or | wholly or
— prepared | partly,

AND

(b) includes also—

(i) distillation, and
(ii) every process for
1. rectification,
2. reduction
3. flavouring of Liquor
4. blending or
5. colouring

The word “manufacture” itself has not been defined, but an inclusive definition has been given. It includes every process of production or preparation of an excisable article, as defined in clause (4) above. Such process may be either natural or even artificial but it must result in production of an excisable article. It also includes distillation and other processes mentioned above (from 1 to 5) which are used in production of different preparations of liquor, as defined in clause (15) of section 3 of the Act.5

20. To bottle [Clause (23)]—

means—

— to transfer from a cask or other vessel to a bottle, jar, flask or other receptacle—
— For the purpose of sale, whether any process of manufacture or rectification be employed or not, and
— bottling includes rebottling.

Section 16 read with section 21 prohibits “bottling” of liquor without licence and Section 54 (a) makes it an offence. Forms of Licences have been appended to the Rajasthan Excise Rules 1956 at S. Nos. 9 and 10 of the List. Also refer to Rule 68 (11), 69 (12) & 92 & 93 of these rules for details.

Bottling of Liquor—Affixation of adhesive label—Freedom of Trade—(Arts. 19 (1) & 301)—

No fundamental right to trade in liquor. It is grant of a privilege and not a right. Not offending Arts. 19(1)(g) or 301 of the Constitution.

In Bottling of liquor affixing adhesive label is not unreasonable or arbitrary, but it is a recognised mode of safeguarding the interest of revenue and to prevent evasion of tax.

“Bottling” is a process of sale—

Section 16(1)(b) and (d) of the Act that no excisable article (intoxicating liquor) shall be manufactured and no liquor shall be bottled for sale, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner or by an Excise Officer duly empowered in that behalf, and, therefore, the liquor has to be bottled under a licence and such a licence has been obtained by the petitioners for the purpose of sale of liquor meant for human consumption, whereas it has been prescribed what will be the strength of a particular quality of wine and what

1. Ranchh Chand v. State 1981 (JLR) 45
3. State v. Uttam Chand 1981 Cr JLR (Raj) 717
4. The Rajasthan Excise Act 1956
will be its colour and in what quantity it will be sold and what will be its price. The Distilleries Rules, 1976, under which license has been granted to petitioner also provide that in what conditions, the liquor is to be sold. (Para 21)

Alcoholic Liquor for human consumption

Bottling Fee—Not unconstitutional—

The concept of "quid pro quo" has undergone a definite change in Sreenivasan General Traders v. State of AP (AIR 1983 SC 1246). It was held that it is now increasingly realized that merely because the collection for services rendered or grant of a privilege to licensor are taken to the consolidated fund of the state and not separately appropriate towards the expenditure for rendering the services it is not by itself decisive. Before the liquor becomes marketable, it must be salable i.e., it must be fit for human consumption and that has to be ensured by the Excise authorities and, therefore, the levy of bottling fee cannot be said to be Ultravires of the Constitution or the Act and the Rules. (Para 28)

Cases followed—:

2. M/s India Cable Co. Ltd. v. Collector, Central Excise, AIR 1995 SC 64.

21. Sale [Clause (20)]—

—With its grammatical variations
—includes—
—any transfer
—otherwise than by way of gift.

Transfer by way of sale involves exchange of price-money of the article concerned; a case where bottle of liquor were given in lieu of wages held it was not a sale. Malarly supply of liquor without profit motive is also held not to be a sale. The expression otherwise than by way of gift indicates that gift of excisable article is not a sale.

(d) Definitions relating to Officers, Places & others

22. Excise Commissioner [Clause (5)]—means—"The Excise Commissioner appointed the State Government under this act.

In Chapter II of the Act, under Section 8, the control of the administration of the Excise Department vests in the Excise Commissioner who is appointed by the State Government under S. 9 of the Act. State Government shall prescribe the duties and powers the Excise Commissioner and may delegate its power under the Act to the Excise Commissioner.
23. Excise Officer: [Clause (7)]—means-
(i) any officer or person appointed under Section 9, or
(ii) invested with powers of an excise officer under this Act
Excise Commissioner has been excluded by this definition.

References to Provisions of the Act—
(a) For Appointment of Excise Officer— (Refer to Section 9)
(b) For empowering to perform acts & duties under chapter VIII (S.10)
(c) Powers & Duties of officer— [Chapter VIII of the Act]
(1) Power to enter and inspect place of manufacture and sale (under S. 43)
(2) Power to investigate offences under the Act— (S.44)
(3) Power to arrest, seizure & detention— (S.45)
(4) Power of Excise Officer to search without warrant (S.47)
(5) Power to file a complaint or report before Magistrate - (S.67 (1) (a))
(6) Power to compound offences— (S.70)

(d) Powers of officers under the Rules— (Chapter XIII of the Rajasthan Excise Rules, 1956).

Rule 86- Powers under S 43, 44 & 47— All Excise Officers of the Government of Rajasthan not below the rank of Excise Inspector and Patrolling Officers in the Excise Preventive Force may exercise the powers referred to in Ss. 43, 44, and 47.

Rule 89- Power under S. 45— i.e. Power of arrest, seizure & detention— All Excise Officers of the Government of Rajasthan including Excise Guards may exercise the powers mentioned in Section 45:

Provided that when power is exercised by an Excise Officer other than an Excise Inspector of the circle concerned, such officer shall immediately hand over the person arrested and the articles seized to the Excise Inspector of the Circle concerned.

Rule 90- Powers conferred by Notification under S. 10— All Excise officers may exercise the powers conferred upon them by any notification under 10 for the time being.

Rule 91- Powers Conferred by Notification under S. 9— All Excise officers may exercise the powers conferred upon them by any notification under S. 9 or by any order issued under such notification, for the time being in force.

Meaning of expression "Excise Officer"—Excise Inspectors are Excise Officers within meaning of S 3(7) read with Rs. 88 and 89 and Notification No. 3. They are competent to make complaint or report under S. 67 (1) (a) to the Magistrate.

Excise Officer—Inspectors of Excise Department have been invested with the powers of Excise Officer within meaning of S. 3(7) of the Act. As such they are competent to make a complaint or report for offence under S.67 (1) (a) of the Act to the Magistrate.

In this case, held that the acquittal was not proper and was set aside, but as the case was more than ten years old, the charge sheet was closed. Another case was eleven years old as such acquittal of accused was not set aside. [1979 Cr. LR (Raj).]

2. State v. Narain 1987 RCC '78

Section 3

Section 159 was reversed by D.B. in 1980 WLN 433 - AIR 1971 SC 1725 and 1978 SC 933 relied on.

Powers to file complaint in Court- Excise Officer—Excise Inspector is invested with powers of Excise Officer under the Act and as such he is competent to file complaint. Excise Officer—Powers not invested on Incharge Railway Police Station, Jodhpur— Held, cognizance on his report cannot be taken by Special Railway Magistrate.

Excise Inspector in Excise Officer—He can submit charge sheet and Magistrate can take cognizance of offence on it. View in Bhagwan v. State was followed, whereas D.B. decision in State v. Lachman took different view. (Case remanded for fresh trial).

Excise Officer under S.67 (1) (a)—An Excise Inspector was an Excise Officer for the purposes of filing a complaint or a report under S.67 (1) (a) of the Excise Act. [1980 WLN 433 (DB) followed]. Held that in the instant case the complaint was competent (Acquittal set aside. Case sent back for trial).

Filing of Complaint under—Excise Inspector held competent to file a complaint or challan under the Excise Act. In the instant case, the trial Court has wrongly acquitted the accused on this ground (Appeal accepted).

24. Magistrate [Clause (16)]—

"Means any Magistrate of the first class, under section (3) (a) of Pt. P.C. 1973, any reference in any enactment to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class.

A Judicial Magistrate of first class therefore shall try all criminal cases of excise offences mentioned in Chapter IX of the Act.

[Please refer to Commentary of Chapter IX, supra.]

25. "Abu Area" (Clause 12)—This definition was included in the Act when the Act was not made applicable to "Abu area" in 1957. Now with effect from 1-1-1978, the Rajasthan Excise Act, 1950 has been extended to Abu area also by Rajasthan Amending & Extending Act, 1978 (Act No. 15 of 1978) and as such this definition is now redundant. This Act was not applicable to Abu Area 1-11-55 to 31-12-78. The Abu Area was comprised of the Abu Road Taluka of Baranakot District of the State of Rajasthan on 1st November 1956.

[Please refer to Commentary of S 1 Notes (2) & (3) for details]


Section 10 is reproduced hereunder for ready reference—

2. State v. Rama 1986 WLN 433 (DB)
10. "Formation of a new Rajasthan State... (1) As from the appointed day there shall be formed a new Part A State to be known as the State of Rajasthan comprising the following territories, namely—

(a) the territories of the existing State of Rajasthan, except Sirsi and sub-division of Jodhpur District;
(b) the territories of existing State of Ajmer;
(c) Abu Road Taluka of Baran District in the existing State of Bombay, and
(d) Sundar Tappa of Bhupura tehsil of Mandore District in the existing State of Madhya Bharat, and thereupon the said territories shall cease to form part of the said State of Rajasthan, Ajmer, Bombay and Madhya Bharat, respectively.

(2) The territories comprised in the existing State of Rajasthan shall form a separate district to be known as Ajmer District, and the territories referred to in clause (c) and (d) of sub-section (1) shall be included in and become part of Sirsi and Jodhpur Districts, respectively, in the new State of Rajasthan."

[Please refer to the Commentary of section 1 for details.]

27. Place (Clause 19)—

Includes—

(i) a house, (ii) building, (iii) Shop, (iv) room (v) booth, (v) tent, (vi) vessel, (vii) boat, (viii) raft and (ix) enclosure.

This definition is exhaustive which includes all kinds of places and even enclosures and means of transportation (i.e. vessel, boat & raft) used in relation to the executable articles under this Act.

Place & Location of Shop to be decided by Licensing Authority (District Excise Officer)—The Excise Commissioner is not authorized to interfere with the decision of the District Excise unless there are exceptional circumstances. Any interference by the Excise Commissioner in absence of such exceptional circumstances is arbitrary and liable to set aside.

28. Tola (Clause 24)—

—Means a weight of 180 grains or 11.338 grams.

This is the old measurement of weighing things. Now "grains" are being used in new decimal system of weighing.

4. Power of the State Government to declare what is to be deemed "liquor"—(1) The State Government may, by notification in the Official Gazette declare any substance to be "liquor" for the purposes of this Act or any portion thereof.

(2) The State Government may, in like manner and for the like purposes, declare what shall be deemed to "country liquor" and "foreign liquor" respectively.

Section 4 ] The Rajasthan Excise Act

COMMENTS

SYNOPSIS

1. Scope
2. Procedure
3. Validity of Notification
4. Meaning of "State Government"
5. Act of the State Government

1. Scope—This section is an enabling provision which empowers the State Government to declare any substance to be "liquor" for the purpose of this Act and to declare any substance to be deemed to be—

(i) Country liquor &
(ii) Foreign liquor.

2. Procedure—Such declaration is to be made by a notification published in the Official Gazette i.e. Rajasthan Gazette (Rajprat) for the purposes of this Act or any portion of the Act.

3. Validity of a Notification—(a) The term "notification" has to be considered in the light of the statutory dictionary of words provided by the Rajasthan General Clauses Act and a Government order will, in law, become a notification when it fulfills the two requisite conditions namely—

(i) its publication in the Gazette, and
(ii) its publication under proper authority.

These conditions can be fulfilled only when the notification published and not when it is drafted and approved in the Secretariat. Further, it is to be noted that the date of notification should be taken to be the date when it was published in the gazette for the first time.

(b) Notification v. Circular—Validity examined—The expression "by notification in the official Gazette"—These words are significant and they indicate the manner in which the State Government shall exercise its powers. A circular letter is not a notification at all unless it is published in Rajasthan Gazette for knowledge of general public. Without such publication it cannot be held legally binding.

(c) Publication of Rules & Notification—Section 72 of the Act provides the rule for commencement in the following manner—

"72. Publication of rules and notifications—All rules made and notifications issued under this Act shall be published in the Official Gazette and shall thereupon have effect as if enacted in this Act from the date of such other date as may be specified in that behalf."

3. AIR 1957 SC 271.
4. Meaning of "State Government"—The term is often used in the Act but not defined in it and its meaning should, therefore, be understood in its true legal sense. The term "State Government" has been defined under the Rajasthan General Clauses Act, 1955 as follows:

Section 32 clause (33):"Government" shall include both the Central Government and any State Government.

Section 32 clause (75): "State Government" shall mean in relation to anything done or to be done (i) on and from the commencement of the Constitution until the first day of November, 1956, the "Rajpramukh", and (ii) on and from the first day of November, 1956, to the Governor.

Clause (65): Rajpramukh shall as respects any period before the first day of November 1956, mean the person who is for the time being the Rajpramukh of Rajasthan.

Clause (34): "Governor" means as respects the periods on or after the first November 1956, the Governor of Rajasthan.

From the above definitions it is clear that the State Government means "Governor of the State" w.e.f. 1st November, 1956 and onwards. So all powers of the State Government vests in the Governor. The Ministers and the Chief Minister are de jure not the State Government, but they are advisers to the Governor who is the State Government under the Business Rules, the powers of the State Government i.e. Governor are delegated to the ministers or officers concerned and they carry out the administration "in the name of" or "By the order of" the Governor.

The legislatures in a State does not include the Government of the State. So also it does not include a District Board or a local authority.

5. An Act of the State Government—The Constitution requires that in order to make an act of the State Government, the action must be taken by the authority concerned in the name of the Governor. It is not till this formality is observed that the action can be regarded as that of the state Constitutionally speaking the minister is no more than an advisor and that the head of the State, the Governor is to act with the aid and advice is accepted by the Governor whenever the Minister or the Council of Ministers may say in regard to a particular matter doesn’t become the action of the State until the advice of the Council of Minister is accepted or deemed to be accepted by the Head of the State. The decision of any minister under the rules of Business made under Art. 77 of the Constitution is the decision of President (or Governor). Any reference to the President under any rule made under the Constitution must be read to be the President as the Constitutional head, as envisaged in the Constitution acting with aid and advice of the Council of Minister.

6. Liquor-Means of—The word Liquor has been defined under S. 1 (15) and is to be notified by the State Government under S. 4 (1) of the Act.

"Country Liquor" and "Foreign liquor" are to be also declared by the Government under S. 4 (2) of the Act.

The word "Liquor" covers not only beverages, but also all liquids containing "alcohol".

Effect of intoxication is an ingredient of liquor.

"Intoxication" generally means effect of alcoholic stimulants on brain or nervous system of human being. As the term has not been defined in the Act, it refers only to the excessive use of intoxicating drugs or liquor.

Licence for Beer Bar, when Illegal—(S. 441 and Rule 75 (2) Notification dated 15.2.57) Licence for Beer Bar granted. Beer is included in foreign liquor. There is prohibition under R. 75 (2) for running a retail shop of country or foreign liquor without area of 2000 square meters of offices or institutions. Held grant of licence for Beer Bar was illegal and was, therefore, quashed.

"Charas" & "Ganja"—"Charas" is a cannabis plant, but it is not obtained therefore, whereas "Ganja" is flowering or fruiting tops of cannabis plant excluding seeds and leaves when not accompanied by tops. (Para 7)

7. Power to declare any substance to be "liquor"—Rule of ejusdem generis—Clause (15) of Section 3 and Section 4—Not to be arbitrary in its exercise—The last part of clause (15) of section 3 reads: "... as also any substance which the State Government from time to time by notification in the official Gazette declare to be liquor for the purpose of this Act". This provision along with section 4 (1) empowers the State Government to declare any substance as liquor.

This provision is very wide, but cannot be applied arbitrarily to declare any substance to be liquor which is not having the attributes of liquor. There must be "alcoholic contents" in the liquid or substance which has effect of intoxication. Thus a substance which is similar to liquor can only be declared to be liquor for the purpose of the Act.

8. Notification issued—(a) Spirituous Preparations

No. F. 1(2) FD/Ex/89/5 D. 25—dated 8.5.1990

In exercise of the powers conferred by subsection (15) of section 3 and subsection (1) of section 4 of the Rajasthan Excise Act, 1950 (Raj. Act No. 2 of 1950), read with rule 3 (g) of the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, Possession and Sales Rules, 1989 and in continuation of Notification No. F. 49(8) SR 55 dated 15.2.57, ROGI (B) dated 28.2.57, the State Government is pleased to declare all medicinal and toilet preparations and other spirituous preparations containing more than 20% proof alcohol to be liquor for the purpose of the said Act and Rules.

Published in Raj. Gaz. EO 4 (G) dated 8.5.1990 Page 29(2).

[1990(1) RLTA 213]

5. Ramnath v. State AIR 1959 All 101 (F.B.)
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[b]Section 4[/b]

that for the purposes of the said Act, the variety of country liquor hitherto known or termed as "Jagmohan" shall be deemed to be Indian made foreign liquor.

[Published in Raj. Gaz. - EO-Part IV-C, dated 11-11-65]

(a) Malta

[Notification No. F.1(114) FD/Ex/5, dated 15-5-1967]

In exercise of the powers conferred by subsection (2) of section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government is pleased to declare that for the purpose of the said Act new variety of liquor termed as "Malta" liquor of the strength of 25% based on rectified spirit shall be deemed to be country liquor.

[Published in Raj. Gaz. - EO-IV-C, dated 15-5-67]

(b) Sont and Pineapple

[Notification No. F.1(20) FD/Ex/6, dated 29-5-67]

In exercise of the powers conferred by subsection (2) of section 4 of the Rajasthan Excise Act, 1950, the State Government is pleased to declare that, for the purpose of the said Act, two new varieties of liquor known as "Sont" liquor on garlic base and "Pineapple" liquor on rectified spirit base with the strength of 30% and 45% respectively shall be deemed to be country liquors.

[Published in Raj. Gaz. - EO-IV-C, dated 2-5-1957, page 185]

(f) Heritage Liquor declared as Excisable Article

S.O.112: In exercise of the powers conferred by sub-clause (v) of clause (a) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government hereby declares the heritage liquor as an excisable article for the purpose of the said Act.

[No. F.4(30) FD/Ex/98 dated 9-7-98, Published in Raj. Gaz. EO-I(GII), dated 9-7-98, page 165(123)]

S.O.113: In exercise of the powers conferred by clause (15) of section 3 and subsection (1) of Section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government hereby declares the heritage liquor to be liquor for the purpose of the said Act.


9. References to Rules—In the following rules the provisions for different liquors have been made-

(1) Rajasthan Excise Rules, 1956—

(a) Country Liquor—

1. Import, Export, Transport & possession of Country Liquor—[See-Chapter II]
2. Licences for [See-Chapter VI]

(b) Foreign Liquor—

1. Import and Export of Indian-made foreign liquor, foreign liquor and Beer—[See-Chapter III]
2. Licences—[See-Chapter V]
Section 5 ]

The Rajasthan Excise Act

(c) as regards any occasion (e.g., any festival or function).
(d) The quantity of excisable articles (defined in clause (4) of S. 3 of the Act) is also to be fixed accordingly.

Thus the limit of sale by retail may be fixed area-wise or place-wise, person (purchaser) wise or class wise, article wise and occasion wise, as the State Govt. deem proper.

5. Excess of limit of sale to be treated as whole sale [sub-section (2)] — Where sale of any excisable article in retail exceeds the prescribed limit under sub-section (1), it shall be treated as sale by whole sale. This will amount to breach of provision of the Act and condition of licence and shall be also punishable.

6. Limit of Retail Sale declared by Notifications—

(1) For All Purchasers

[Notification No. F. 1 (87) E & T/59, J dated 30-11-1961]

In exercise of the powers conferred by sub-section (1) of section 5 of the Rajasthan Excise Act, 1950 (2 of 1950), and in supersession of this Department Notification No. F. 1 (58) E & T/51/1, dated the 23rd January, 1959 (published in the Rajasthan Rajpatra, Part IV-C, dated the 12th February, 1959), the State Government hereby declares with respect to all the territories of the State of Rajasthan to which the said Act extends and to all purchasers that the limit of sale by retail of the following excisable articles shall for the purpose of the said Act be, as specified against each, namely:

(1) Country Liquor—3 litres

(a) Foreign Liquor other than Beer, fermented liquor and rectified spirit—26 litres.

(b) Beer and fermented liquor—9 litres.


[Published in Raj. Gaz. IVC dated 28-12-1961]

(2) For Foreign Tourists

[Notification No. F. 3 (2) SR/54-I (Pl.II), dated 30-10-1962]

In exercise of the powers conferred by sub-section (1) of section 5 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950), and in partial modification of the Excise and Taxation Department Notification No. F. 1 (81) E & T/59-1 dated the 30th November, 1961, the State Government hereby declares that with respect to all the territories of the State of Rajasthan to which the said Act extends and as regards the purchasers who are foreign tourist holding all India liquor permits issued by the Indian Missions abroad or by the Directors/Assistant Directors in the Governments of Indian tourists offices abroad or by the Director or Assistant Director of the Government of India tourists Office, Bombay, Calcutta, Delhi or Madras (six) units of liquor a month shall for purpose of the said Act be the limit of sale by retail subject to the condition that the sale during any one week shall not exceed [one and half] units.

Note—One unit of liquor for purpose of this notification shall be construed as equal to any of the following or to metric equivalents thereof, namely:

2. Substituted vide Notification No. F.1 (20)R/57, dated 1-4-2003, for “3” litres.

Substituted S.4 (b), (d).
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(i) One quart bottle of spirit, or  
(ii) Two quart bottles of wines, or  
(iii) Nine quart bottles of fermented liquors of a strength exceeding two percent alcohol by volume, or  
(iv) Twenty-seven quart bottles of fermented liquors of a strength not exceeding two percent of alcohol by volume.  

[Published in Raj. Gaz. EO-IV-C dated 31-10-1962 and as amended by Notification dated 7-1-1965]  

[3] Denatured Spirit to All Purchasers  
[Notification S.O. 27, dated, March 22, 1971]  

In exercise of the powers conferred by sub-section (1) of section 5 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950), the State Government hereby declares with respect to all the territories of the State of Rajasthan which the said Act extends to all purchasers, that the limit of sale by retail of denatured spirit shall, for the purpose of the said Act, be three litres.  

[Pub. in Raj Gaz. 4 (Ga) (1), dated 20-4-71 Page 38].  

7. Latest limits given in Licence Forms:  

The State Government has issued the latest forms for various licences in which the limit of sale by retail has been mentioned as a condition, as follows:  

1. Country Liquor- 4 bottles - (Condition No. 6.8)  
2. Foreign Liquor- 8 bottles or 6 liters (Condition No. 5.9)  
3. Beer- Not more than 9 Liters (Condition No. 5.9)  

[Please refer to the Forms of Licences in the Rules]  

6. Possession by wife, clerk or servant—When any excisable article in the possession of a person's wife, clerk or servant on account of that person, it shall, for the purpose of this Act, be deemed to be in the possession of that person.  

Explanation:- A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.  

COMMENTARY  

1. Scope- Possession of Excisable Articles- Doctrine of Constructive Possession incorporated—This section deals with the possession of excisable articles "on account of a person" by his wife, clerk or servant. The excisable article when found in possession of his wife or clerk or servant, shall be deemed to be in possession of such person himself and he shall be liable to prosecution or other consequences. This deeming provision is based on the Doctrine of Constructive or Implied Possession, and Vicarious liability of Master.  

Similar provision is there in Section 27 of the Indian Penal Code also.  

2. Temporary/Occasional employee—Even if the clerk or servant has been employed by any person on temporary basis or only for a particular time or occasion, he shall be treated as clerk or servant of that person within meaning of this section and the possession of excisable article on behalf of that person by such clerk or servant shall be treated as possession of that person.  

3. Possession must be conscious—A rickshaw driver carried Regst. No. 2 in his rickshaw. On search, some balloons containing illicit liquor in the bag were found from the passenger in the Rickshaw. As the closed bag containing balloon of illicit liquor was not so clearly visible as to lead to the inference that the rickshaw driver has knowledge tantamounting to conscious knowledge of contraband goods. The appellant was merely Rickshaw driver, he cannot be imputed with the knowledge of the possession of the articles in the dicky (Conviction set aside and acquitted accused).  

4. Possession to be exclusive—Recovery of contraband goods was made from open varanda which was accessible to every one including the accused person too. Such recovery cannot be held to be one from the exclusive possession of an accused person. Held that the case is doubtful (Revision allowed and accused acquitted)  

5. Responsibility of Licence Holder—Certain incriminating excisable articles were recovery from the Shop of licence holder while his servant was incharge of the Shop and the licence-holder was absent. Held, it would render the licence holder responsible for it.  

7. Saving of enactment relating to customs—Nothing contained in this Act shall affect the provisions of any law relating to customs for the time being in force or any rule or order to be made thereunder.  

COMMENTARY  

The law relating to Customs was kept in view from effect of this Act which was prevalent in the various princely states at the time of enactment of the Excise Act. The Central custom law is also not to be affected by this Act as it operates in the different field altogether.  

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2. Kumar Ram vs. State of Rajasthan, 1979 RCR 156  
3. 1962 AIR 547 (RS)
Chapter II

Control And Establishment

Introductory Note

This Chapter is very important for its statutory provisions relating to administrative control and establishment of machinery for carrying out the purpose of the Act. There are five sections in this Chapter dealing with:
1. Section 8: Control of Excise Department
2. Section 9: Appointment of Commissioner and Excise Officer
3. Section 9A: Appeals and Revision
4. Section 9B: Bar of Jurisdiction of Civil Courts
5. Section 10: Appointment of officers and conferring powers

This Chapter is the source of power, authority, functions, duties etc. of the officers of the Excise Department and for this purpose proper appointment by proper notification necessary.

Notifications—The latest notifications under these section have been compiled in Part III of the book—NOTIFICATIONS.

8. Control of the Excise Department—(1) The control of the administration of the Excise Department shall, subject to the directions of the Government of Rajasthan as in the Excise Commissioner.

9. Appointment of Commissioner and Excise Officers—[(1) The State Government] shall appoint an Excise Commissioner and may appoint as many to Additional Excise Commissioners as may be deemed necessary, for the whole of those parts of the State of Rajasthan to which this Act extends.

(1) A The State Government may also appoint such and so many other persons as it thinks fit and necessary to be—
(i) Deputy Excise Commissioners incharge of divisions
(ii) [District Excise Officer incharge of district]
(iii) Other inferior Excise Officers.

Section 9

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1. The State Government may prescribe duties and powers to be performed and exercised by each officer or class of officers appointed under sub-section (1) and (1A).

2. The State Government may delegate to the Excise Commissioner such powers of the Government conferred by this Act, as it may specify, except the power to make rules thereunder.

3. The State Government may also authorise the Excise Commissioner to delegate to any of his subordinate officers such of his powers under this Act, as may be specified.

SYNOPSIS

(1) Control of Administration. (Section 8)
(a) Control Meaning.
(b) Excise Commissioner—Status.
(c) Power exercisable from time to time (S. 74).
(d) Rule making power (S. 42).
(e) Power to issue warrant (S. 46).
(f) Power to regulate Tendering.
(g) Executive orders Value of.

(b) Action when arbitrary.

(II) Appointments (Section 9)
(a) Excise Commissioner & Additional.
(b) Appointment of Loyal Officers.
(c) Duties & Powers of Officers.
(d) Delegation of Powers.
(e) Notification for Appointment of Excise Officers and others.

1. Control of Administration of Excise Department (Section 8)—

(a) "Control" Meaning—The word "Control" used here has not been defined in this section or the Act. According to dictionary meaning, the word "Control" means (i) power to check or restrain superintendence.

(b) Excise Commissioner—Status of—The "control" is supervisory as well as governing and commanding power over the Excise Department vested in the Excise Commissioner for its administration, but it is subject to the directions of the State Government. Thus the Excise Commissioner is the Chief Executive Officer of the Department to execute the directions of the State Government and to carry out the provisions of the Act as per policy of the States Government.

(c) The powers exercisable from time to time by the Excise Commissioner. — Section 74 provides that any power conferred by this Act on the Excise Commissioner may be exercised by him from time to time as occasion requires.

(d) Rule Making Power (Section 42)—The Excise Commissioner may, after prior sanction of the State Government, make rules to give effect to the provisions of the Act under S. 42 on the subjects enumerated therein.

1. Substituted by section 4 of Rajasthan Act No. 38 of 1957. Published in Raj. Gaz. Part IV-A. Extraordinary, dated 5-12-1957
2. Legal Glossary, Govt. of India, 1979, Page 56
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Section 9

(c) Power to issue warrant—Under S. 46 of the Act, the Excise Commissioner may issue warrants for search or arrest in appropriate cases, as the case may be.

(e) Power to nominate tenders—Under Rules 11, 12 & 17 of the Rajasthan Excise Act, 1956, the Excise Commissioner is held to be competent to enter into negotiations with the tenders and the petitioner has a right to participate in such negotiations. 

(g) Executive Orders passed by Excise Commissioner—Value of—Executive orders passed by the Excise Commissioner do not carry the effect of law. Although such orders may be used as Guidelines for the subordinate Officers, held that the courts are required to judge the legality according to law.

(b) Action of Excise Commissioner held arbitrary—The District Excise Officer licensing authority has to decide about place or location of liquor shop. The Excise Commissioner is not authorised to interfere in such a decision unless there are exceptional circumstances. Held, the order interfering the decision of D E O was arbitrary in absence such exceptional circumstances. (Order set aside.)

(i) Powers of Excise Commissioner Grant of Licence—The Excise Commissioner empowered to grant a licence as well as to cancel the same. On application of petitioner, renewal of licence, the Excise Commissioner cancelled the licence and refused renewal on breach of condition 2 of the licence. Held, the Excise Commissioner was competent to do so.

II. Appointments (Section-9)

(1) Excise Commissioner and Additional Excise Commissioner—Sub-section (1) section 9 provides for appointment of—

(a) Excise Commissioner—This appointment is obligatory as expression “shall point” has been used. The Excise Commissioner is the Chief Controlling Authority, the Excise Department of the State.

(b) Additional Excise Commissioners—Add. Excise Commissioner “may be appointed” as many in number as deemed necessary for the whole of Rajasthan. The provision “those parts of the State of Rajasthan to which this Act extends” used here is not its value as the Act is applicable to whole of the State of Rajasthan.

At present there are three Additional Excise Commissioners in Rajasthan at Jaipur, Alwar & Udaipur.

(2) Appointment of Excise Officers—[Sub-section (1-A)] As per necessity the State government may appoint other officers, viz—

(i) Dept. Commissioners in charge of divisions.

(ii) District Excise Officers in charge of Districts and

(iii) Other inferior officers

Service Rules—These appointments of the inferior officers of the Excise Department are to be made as per Service Rules of these services.

M/s Malvi Khan & Sons v. State 1989 (2) W.N. 135
Refer to AIR 1957 All 735 39 CRI 18 171 Indian Cases 121

Section 9

3. Duties & Powers of Officers—[S. 9(1-B)] The State Government under S. 9 (1-B) may prescribe duties and powers of each officer or class of officers, viz—

(1) Excise Commissioner

(2) Additional Excise Commissioner

(3) Dy. Excise Commissioner

(4) District Excise Officers &

(5) Other inferior officers.

In Chapter VIII of the Act, the powers and duties of officers have been mentioned in sections 43 to 53 of the Act.

4. Delegation of powers [Sub-section (2) & (3)] The Excise Commissioner may delegate any powers of the State Government under this Act delegated to him under S. 9(2) and may delegate his powers under the Act to his Subordinate officers under S. 9(3) on being authorised to do so by the State Government.

In Chapter XIII of the Rajasthan Excise Rules, the Powers of officers have been enumerated vide Rule 88 to 91 of these rules.

Rule 91 of these rules run as under—

91. Powers conferred by Notification under Section 9—All Excise Officers may exercise the powers conferred upon them by any Notification under Section 9 or by an order issued under each notification, for the time being in force.

5. Notifications

Appointment of Excise Officers in charge of areas, [Please refer to Part III—Notifications infra.]

1(9A. Appeals and Revision—(1) An appeal shall lie—

(a) to the Excise Commissioner from any order passed by an Excise Officer under this Act, and

(b) to the Division Bench of the Board of Revenue established under the provisions of Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956), from any order passed by the Excise Commissioner under this Act otherwise than as on appeal—]

(2) Any appeal under sub-section (1) may be preferred at any time within sixty days from the order complained of.

(3) The decision of Excise Commissioner or the [Division Bench of the Board of Revenue, as the case may be, on such appeal shall subject, to the result of revision, if any, under sub-section (4), be final.


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3. Scope of Revision—Sub-section (4) provides for revision against the appellate order passed by the Excise Commissioner to the Division Bench of the Board of Revenue. No direct revision of order of original nature is possible. It is ruled out altogether by this sub-section.

4. Procedure not provided for—Principles of Natural Justice to apply—No procedure for appeal or revision has been provided for under this section and the C.P.C. is also not made applicable as stated above. Hence, in absence of statutory procedure, the principles of natural justice would be applicable while deciding an appeal or revision under this section. This is the basic concept of the Administrative Law. The discretion vested in the authorities shall be exercised judiciously as the administrative proceedings are quasi-judicial. However, the spirit or principles of C.P.C. may be applied.

[Please refer to Note (14) & (15) of the Commentary of "Preamble" for the principles of Natural Justice & use of discretion.]

5. Review—Not possible when not provided for—The Review is not a right but a right created by law. It is not an inherent power of the Court or tribunal, but is bestowed upon by a provision of law. When no such right is provided for by this Act, there is no right of review created and no review shall be open to the aggrieved person. The provisions of Civil Procedure Code are not made applicable under this section. The officers are administrative bodies and are not courts, hence C.P.C. is not applicable to the proceedings before these authorities and no review is competent.

After a brief exposition of the jurisprudence of Appeals, Revision & Review as remedies under the Act, let us now proceed to examine the provisions of this Section.

6. Appellate Authorities & Revisional Authority under Section 9-A

(a) TABLE

<table>
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<tr>
<th>Reference</th>
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<th>Appeal to</th>
<th>Revision from appellate order only</th>
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<td>S 9A(1)</td>
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<tr>
<td>(a)</td>
<td>Excise Officer</td>
<td>Excise Commissioner</td>
<td>Division Bench of Revenue Board</td>
</tr>
<tr>
<td>(b)</td>
<td>Excise Commissioner</td>
<td>Division Bench of Revenue Board</td>
<td></td>
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</table>

(b) Appeal—(1) An appeal against the (original) order passed by Any Excise Officer under this Act shall lie to the Excise Commissioner, [S 9A(1)(b)] and An appeal against the (original) order passed by the Excise Commissioner shall lie to the Division Bench of the Revenue Board. [S 9A(1)(b)]

(c) Revision—When the order of an Excise Officer is challenged in an appeal before the Excise Commissioner under S 9A(1)(a) and an appellate order is passed by the Excise Commissioner, a revision before the Division Bench of the Revenue Board would lie against such appellate order. No direct revision of any original order is available under S 9A(4) of the Act.

1 AIR 1979 All 110, AIR 1978 Mad 221
7. Pre-condition for Appeal—[Proviso to S. 9A]—Payment of 75% demand necessary—Before filing appeal, the Appellant has to deposit 75% of the amount of demand created by the order under appeal and a satisfactory proof of such payment is to be attached with the memo of appeal. Such proof may be either a copy of Treasury challan or cash receipt of the Department. This proviso has been newly added by the Rajasthan Act No. 34 of 1989 w.e.f. 31-7-1989.

[Refer to Note (12) for Statement of Object & Reasons of the Act]

8. Limitation for Appeal—[Sub-section (2)]—An appeal may be preferred at any time with in SIXTY DAYS from the date of order complained of. Thus an appeal shall be barred by limitation on expiry of 60 days from the date of order.

There is no provision in this section for condonation of delay on sufficient ground. The period of limitation of 60 days is to be computed from the date of order, but when order is served on the party on some later date, no provision to extend period of limitation has been made in this section. The limitation Act, 1963 would not be applicable as the appellate authority is not a court.

The proviso is unsatisfactory and does not fall in line with the basic norms of law. It can be challenged as arbitrary in an appropriate case. However on principles of equity, the period may be extended on showing sufficient cause of delay.

9. Finality of Decision in Appeal—[Sub-Section (3)]—The appellate order of Excise Commissioner or Divisional Bench of Revenue Board shall be final and no second appeal would lie, but a revision under S. 9A (4) would lie against the appellate order of the Excise Commissioner passed under Section 9A (1)(a) of the Act. No revision would lie against the order of Divisional Bench of Revenue Board passed under S. 9A (1) (b) of the Act in appeal against original order of the Excise Commissioner.

10. A Defective piece of Legislation—From the close study of the provision of S. 9A, it is found that it is a defective piece of Legislation. In all other fiscal Acts such as the Rajasthan Sales Tax Act and Land & Building Tax Act etc., there are detailed provisions of appeal and revision. The Scope and procedure of appeal or revision have not been brought out clearly by this Section. Provision of limitation is not complete in itself. The Procedure of Appeal and revision has not been given in the section or in the Rules. For procedure, provision of C.P.C are not made applicable. It is a piece of legislation which vests wide and arbitrary discretion in the authorities to be used or misused. It is submitted that it requires proper amendments in the interests of justice.

11. Remedy under Writ Jurisdiction—

[Please refer also to Note (16) in the commentary of Preamble, Supra]

(i) Appeal before Commissioner under S 9A—No absolute bar to Writ Jurisdiction—Where the Excise Commissioner/State Government has acted arbitrarily in not renewing licence of petitioner whereas it has renewed the licences of other two firms. Held, alternative remedy is not absolute bar and the High Court can invoke the jurisdiction under Act 226. (Para 5). If the State and its Officers have acted arbitrarily and in discriminatory manner, held the writ lies. No bar.


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(ii) The State acts arbitrarily, it acts discriminatory—Act 226 invoked—A preliminary objection has been raised by the learned counsel for the respondents that an appeal lies under Section 9A of the Act to the Divisional Commissioner and that it is alternative, efficacious remedy and therefore, this Court should not exercise its powers under Article 226 of the Constitution of India. It has also been contended by Mr. Singhvi, learned counsel for the respondents that the matter arises out of a contract, therefore, the writ jurisdiction should not be exercised. Lastly it was contended by him that nobody has a fundamental right to issue of a licence for bottling of liquor even if the licence should have been renewed and has not been renewed because the Excise Commissioner has powers to cancel the licence, no case for interference is made out. (Para 4).

There is no dispute that so far as an executable article is concerned, no body has a right to trade in it and it is also true that as provided under Sec. 17 of the Act there is no right of renewal of a licence. But the law is settled that the State must act reasonably and not arbitrarily. So far as the existence of alternative remedy is concerned we must assume that it is not absolute bar to exercise the powers under Article 226 and despite the fact that an alternative remedy exists this Court can in a proper case whether the alternative remedy has been availed or not availed, in case it is satisfied that the State or its Officers have acted arbitrarily and we may state that if the State acts arbitrarily, it acts discriminatorily, this Court does invoke its powers under Article 226 of the Constitution of India. (Para 5)

(iii) Appeal under S. 9A not adequate remedy—Writ lies—In the present case, since the demand of excess duty is not backed by a valid law, it gives a right to the petitioner to move the High Court under Act 226 of the Constitution. The Excise Commissioner could not be expected to give any adequate remedy to the petitioner under S. 9A in the appeal on the face of the notification issued by the State Government.

(iv) Contract for Grant of Licence for Liquor—Where remedy by way of appeal not availed, the plea of alternative remedy can be raised as no fundamental right to trade in liquor is available. Mere admission of writ is not a sufficient ground to ignore such plea.

(v) Writ held not maintainable—S. 9A and Public Demand Recovery Act, 1952—There is weight in the contention that by cancellation of licences on 15-1-66, the respondents have prevented the petitioners from lifting and selling liquor and thereby making up the guaranteed amount. But alternative remedy bars the writ jurisdiction under amended Act 226 of the Constitution. (Writ dismissed).

(vi) Appeal available under Section 9A—Order under S. 34 violating rules of natural justice—Held, writ lies, no bar.

12. Statement of Object & Reasons. (Raj. Act No. 14 of 1989)—Appeals under S. 9-A of the Rajasthan Excise Act 1950 are sometimes preferred even in cases in which the appellants themselves are convinced about the reasonability of the demands created

1. Mrs. Sarmad Bhatkali v. State 1989(2) RLR 777 (Del)
4. Hare v. State 1977 WLN (SC) 381 (Del)
In order, therefore, to discourage the misuse of the existing provision of appeal for the purpose of delaying the payments, an amendment of the Section was thought necessary so as to provide for ensuring the payment of 75% of the amount of demand created by the order appealed against.

13. Statement of Object and Reasons (Raj. Act No. 4 of 1987)—Under the Rajasthan Excise Act, 1950, the Board of Revenue had been empowered to hear and decide appeals and revisions. It was deemed expedient, after creation of the posts of Divisional Commissioners in the State, to empower them in place of the Board to hear such appeals and revisions so that the burden of work on the Board was lessened and the cases could be disposed of expeditiously. Section 9-A of the said Act was, therefore, to be amended.

Since the Rajasthan Legislative Assembly was not in session and the circumstances existed which rendered it necessary to take immediate action the Governor of the State of Rajasthan promulgated the Rajasthan Excise (Amendment) Ordinance, 1987 (Ordinance No. 7 of 1987) on 31st January, 1989.

14. Section when cannot be invoked—Reference to Excise Rules in R. 10(2) of Rajasthan Opium Rules -Effect of—As a perusal of the section 9-A of the Rajasthan Excise Act, 1950, it provides for appeals & revisions from orders passed under the Rajasthan Excise Act, 1950. It is apparent that the reference to Chapter VIII of the Rajasthan Excise Rules in Rule 10(2) of the Rajasthan Opium Rules has been made in way of convenience and can by no stretch of interpretation deemed to confer jurisdiction on the Board of Revenue in the matters relating to the Opium Act, as such the revision petition is misconceived and is not maintainable in the absence of a statutory provision.

No Writ lies- When alternative remedy by way of appeal to Excise Commissioner available, no Writ lies. Direction given to Excise Commissioner to entertain appeal if filed within 30 days from to day 2.

15. Question of direct Revision—Held, a direct revision (a. e. revision against original order of Excise Officer) is neither competent, nor maintainable under S 9A of the Act.3

16. Limitation for Revision—Sub-section(5)—(New amendment 2008)—A revision under sub-section may be filed before the Divisional commissioner any time within thirty days of the order complained of

Section 9-B. Bar of jurisdiction of Civil Courts:

No civil court shall have jurisdiction to entertain any suit or proceeding to set aside or modify—

(a) any original order passed by an officer competent to do so under the provision of the Act, or

(b) any order passed under, or referred to in Section 9-A.

1. Hazari Lal Vs. Commissioner, Udaipur, 1976 (1) RD 26
3. Harshil V. State 1974 (1) RD 64; Mangal V. State 1975 (1) RD 137 (Page 81)
5. [9-B Bar of Jurisdiction of Civil Courts—No civil court shall have jurisdiction to entertain any suit or proceeding to set aside or modify any order made under, or referred to in, section 9-A.]

Section 9 ]

The Rajasthan Excise Act

COMMENTS

(a) Amendment introduced—The provision under S. 9-B was inserted vide Act No. 24 of 1992-No.E.F-36(Vidihi)2 dated 11-11-92, published in Raj Gaz-FD-Part 4(Ka) dated 11-11-1992 which is being reproduced below in footnote no 4 on Page No. 100. This was substituted looking at the situation in 1998 as above.

(b) Jurisdiction of Civil Court eliminated—Section 9-B eliminates the jurisdiction of a civil court in two cases viz—

(a) Original order of a competent officer passed under the provisions of the Act or

(b) Any order passed under or referred to in Section 9A (i.e. order in appeal or revision). Such order are not to be set aside or modified by a civil court in a suit or proceedings.

This provision is meant to expedite the action in the cases or proceedings under the Excise Act and to stop unnecessary delay in disposal of such cases. Now the orders mentioned in clauses (a) & (b) in the text would attain finality. But still in appropriate cases, the writ petition would lie in the High Court and the Supreme Court for redress. In other words, the jurisdiction of the Civil Court though barred, the extra ordinary jurisdiction of High Court is still open in appropriate cases.

By this finality clause, finality has been given to the action of authorities functioning under the Act only (i) where the officer is competent to do so and (ii) has complied with the statutory provision. This provision does not exclude the jurisdiction of the Civil Court where it has not complied with the statutory provisions or has not acted in conformity with the fundamental principles of judicial procedure. Various propositions have been summarised by the Supreme Court in the following cases: Please refer—


It is to be noted here that “a body which is creature of statute, must act either in accordance with the statute which created it or must not act at all.” Every arbitrary action of an authority is liable to be challenged under Art. 14 of the Constitution.2

10. Appointment of officers and conferring powers—(1) The State Government may—

(a) empower any officer to perform the acts and duties mentioned in Chapter VIII, and

(b) order that all or any of the powers and duties assigned to an officer of the Excise Department under this Act shall, subject to the provisions thereof, be exercised and performed by any officer other than an Officer of the Excise Department or by any other person.

COMMENTS

SYNOPSIS

Scope

1. Scope—Section 10 enables the State Government to confer powers under this Act on any officer or even on any person. These are wide powers meant to execute the provisions of this Act.

Powers under Chapter VIII

2. Powers under Chapter VIII of the Act—These powers and duties may be performed by any officer to whom the State Government empowers to do so (Section (b)).

Powers under sub-sec. 3(b)

3. Powers under Sub-section (b)—Sub-Section (b) enables the State Government to order that the powers and duties of an Excise Officer under the Act are to be exercised—

(i) by any officer other than an officer of the Excise Department or
(ii) by any other person so authorised.

Notifications issued

4. Notifications issued under—

(a) Officers & Guards of the Customs & Excise Department—[Notification No. F. 49 (1) SR/59, dated 30-11-1951]

In exercise of the powers conferred by section 10 of the Rajasthan Excise Act, 1950, the Government of Rajasthan is pleased to order that all officers of the Customs & Excise Department including Guards, shall exercise the powers and perform the duties under section 45 of the Act.


(b) Officers of Police & Revenue Departments—[Notification No. F. 37 (52) E & T/51, dated 9-9-1961]

In exercise of the powers conferred by section 10 of the Rajasthan Excise Act, 1950 (Act No. II of 1950), and in supersession of this Department Notification No. F. 4(1) SR/50, dated the 15th May, 1951 published in the Rajasthan Gazette Vol. III Pt. of 1951 the State Government hereby orders that the Officers of Police and Revenue

Substituted by Rajasthan Act 38 of 1957.

Section 11

Department not below the rank specified hereunder shall exercise the powers and perform the duties under the sections mentioned against them.

1. Naib Tehsildar, Revenue and above.

Section 44, 47 and 67(1) (a) except in respect of the retail licences granted for sale of liquor under the Act.

2. Sub-Inspector of Police.

Section 45 except in respect of the retail licences granted for sale of liquor under the Act.

[Published in Raj. Gaz (1) IVC, dated 26-10-61]

(c) Collector & S.D.O. Jaisalmer

[Notification No. F. 36 (1), dated 21-8-54]

In exercise of the powers conferred by section 10 (b) of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 11 of 1950), the Government of Rajasthan is hereby pleased to order that the Collector, Jaisalmer and the Sub-divisional Officers of Jaisalmer and Pokaran, shall exercise and perform in their jurisdiction all the powers and duties assigned to the Deputy Excise Commissioner and the Assistant Excise Commissioners respectively under the aforesaid Act.

[Published in Raj. Gaz-1 (b) dated 11-9-1954, Page 390]

(d) Powers conferred on Officers of U.P. State—[Notification No. F. 37 (11) SR/53, dated 7-5-57]

In exercise of the powers conferred by section 10 (b) of the Rajasthan Excise Act, 1950 (Act No. II of 1950), the Government of Rajasthan does hereby order that with effect from the date of publication of this notification in the Rajasthan Gazette, the following officer of the State of Uttar Pradesh shall exercise within the district of Bharatpur the powers under section 45 and 47 of the said Act in respect of intoxicating drugs and liquors as defined in section 3 (11) and (15) thereof on the condition that the persons arrested and things seized shall be immediately handed over to the Excise Inspector of the Circle concerned, namely—

1. Assistant Excise Commissioner, Agra charge

2. Assistant Excise Commissioner, Excise Intelligence Bureau, Allahabad

3. Excise Inspector of

(a) Agra

(b) Mathura Districts.

4. Excise Inspectors, Excise Intelligence Bureau, Allahabad.

[Published in Raj. Gaz- IV C dated 30-5-57]

(e) Powers conferred on Officers of Uttar Pradesh

[Notification No. F. 57 (1) SR/53/C, dated 27-1-58]

In exercise of the powers conferred by section 10(b) of the Rajasthan Excise Act, 1950 (Act 11 of 1950), the Government of Rajasthan does hereby order that with effect from the date of publication of this notification in the Rajasthan Gazette, the following officers of the State of Uttar Pradesh shall exercise within the district of Bharatpur, the
under section 45 and 47 of the said Act in respect of intoxicating drugs and liquors in sections 3(14) and (15) thereof on the condition that the persons arrested and things seized shall be immediately handed over to the Excise Inspector of the circle named, namely:


2. Superintendent of Excise, Ganja Squad, Western Zone, Aligarh.

(f) Powers conferred on Officers of State of Punjab

[Notification No. D. 6774/58 F. 37(1) SR/53-11, dated 23-11-59]

In exercise of the powers conferred by section 10(b) of the Rajasthan Excise Act, Act II of 1950, and in supersession of the Notification No. F. 37(1) SR/53-II dated 1st January, 1958, the Government of Rajasthan does hereby order that with effect from the date of publication of this notification in the Rajasthan Gazette, the following powers of the State of Punjab shall be exercised within the districts of Rajasthan shown against them respectively, the powers under section 45 and 47 of the Act in respect of intoxicating drugs and liquors as defined in sections 3(14) and (15) thereof on the condition that the persons arrested and things seized shall be immediately handed over to the Excise Inspector of the circle concerned, namely:

District of Rajasthan

Officers

Excise and Taxation Officer, the Excise and Taxation Officer, the
Assistant Excise & Taxation Officer, the
Excise Inspector and Excise Sub-inspector posted in—

1. Hisar District
   (a) Ganganagar, Churu and Jhunjhunu District

2. Gurgaon District
   (b) Alwar and Bharatpur District

3. Faridpur District
   (c) Ganganagar District

4. Mahendargarh District
   (d) Sikar, Jhunjhunu and Alwar District

off the Excise Intelligence

not below the rank of Sub-Inspector and
since Sub-Inspector.

[Published in Raj. Gaz.-IV(C) dated 18-2-60, Page 1234-5]

(g) Notification dated 17-4-64 cancelled—

[Notification No. F. 1(34)-FD/RT/65, dated 13-11-64]

In exercise of the powers conferred by clause (b) of section 10 of the Rajasthan Act, 1950 (Raj. Act II of 1950) the State Government hereby cancels the Departmental of even number dated the 17th April, 1954, Published in the Rajasthan Rajpatra, dated 23-7-64.

[Published in Raj. Gaz.-IV-C-EO-dated 7-1-1965]

5. Investigation when not vitiated—Head Constable cannot investigate excise cases without authority. His investigation is held invalid. But on report of Head Constable seizing liquor, investigation commenced by SHO- Cognizance on report of SHO held not without jurisdiction. No prejudice caused to accused has been shown. Held, trial court's view was erroneous. Trial held not vitiated.

6. Power conferred by Notification under S. 10- (Rule 90 of the Rajasthan Excise Rules, 1956)—All Excise Officers may exercise the powers conferred upon them by any notification under S. 10 for the time being.

[Please refer to such notifications in Part III of the Book- NOTIFICATIONS]

   Also refer—State v. Rana 1987 RLW 519 E.R. (1968) 18 RA. III.
## Chapter III

**Import, Export and Transport**

**Introductory Note**

Chapter III of the Act deals with "Import, Export & Transport" of Excisable Articles under Ss. 11 to 15 of the Act and Chapter IV deals with "Manufacture, Possession & Sale" of Excisable Articles under Ss. 16 to 27 of the Act.

To give effect to these provisions the Rajasthan Excise Rules, 1956 provide for

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<th>S.No.</th>
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<th>Reference to Rules</th>
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<td>II</td>
<td>Import, Export, Transport and possession of...</td>
<td>Rs 3-16, Rs 17-18A</td>
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<td></td>
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<td>Country Liquor</td>
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<td>2</td>
<td>III</td>
<td>Import &amp; Export of -</td>
<td>Rs 19-42.</td>
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<td>(a) Indian Made Foreign Liquor</td>
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<td>3</td>
<td>IV</td>
<td>Transmission &amp; Possession of Intoxicating Drugs</td>
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<td>4</td>
<td>IV-A</td>
<td>Import, Export, Transport possession &amp; Sale of Denatured Spirit &amp; Licence therefor</td>
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</table>

The provisions of these Rules are exhaustive and they provide for details relating to the provisions of the sections concerned of the Act and are, therefore, to be read together for complete knowledge of the relevant point of law.

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1. Reference of Definitions—

1. Excisable Articles—This expression has been defined in Section 3(4) of Act 5 of 1935 as follows:

   "(4) "Excisable Articles" means and includes—
   (i) Spirit, fermented wash or other material for distillation or
   (ii) any other article which the State Government may, from time to time, declare to be an excisable article for the purpose of this Act."

The word "Liquor" has been defined under S. 3(15) and is to be notified by the State Government under S. 4(1) of the Act.

2. "Country liquor" and Foreign liquor—are to be also declared by the Government under S. 4(2) of the Act.

The word "Liquor" covers not only beverages but also all liquids containing "alcohol".

3. "Intoxication" generally means effect of alcoholic stimulants on brain or nervous system of human being. As the term has not been defined in the Act it refers only to the excessive use of intoxicating drugs or liquor.

4. "Denatured Spirit"—Refer to clauses (3), (3-A) & (4) of section 3, which are as follows:

5. "Denatured" means mixed with such substance and by such process as may be prescribed under section 42 in order to render any spirit unfit for human consumption whether as a beverage or as a medicine or in any other way whatsoever.

6. (3-A) "Denatured spirituous preparation" means any preparation of denatured spirit or alcohol and includes beverages, French polie and varnish prepared out of such spirit or alcohol.

7. "Intoxicating drug"—Refer to S. 3(14) which runs as follows:

8. "Intoxicating Drug" means—

   (i) the leaves, small stalks and flowering or fruiting tops of the hemp plant (cannabis sativa) including all forms known as Bhang, Sea or Gangi.

   (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 of intoxicating drug, or any drink prepared therefrom, or

   (iv) Any other intoxicating or narcotic substance which the State Government may declare, by notification in the official Gazette, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in the Dangerous Drugs Act, 1930 (Central Act II of 1930).

9. "Sulfa"—Not excisable article—The definition of an intoxicating drug in subsection (4) of section 3 does not show that it means Sulfa also. Where there is nothing in the evidence to show that Sulfa is charas that is the resin obtained from the Indian hemp plant which has not been submitted to any manipulations other than those necessary for packing and transport, it cannot be held that sulfa is an excisable article within the

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COMMENTARY
SYNOPSIS

1. Meaning of “Import” 3. Other Conditions

1. Meaning of “Import”—In clause (13) of Section 3, the word “Import” has been defined to mean “brought into” the State of Rajasthan. Thus, when any excisable article (as defined in clause (4) of Section 3) is brought into the territory of the State of Rajasthan, it is called “import” of excisable articles in Rajasthan.

2. Pre-Conditions for Import—(S. 11).—There are three conditions in clauses (a) to (c) of Section 11 to be complied with before import of an excisable article-

(i) General or special permission of the State Government to import such article.
(ii) The conditions imposed by the Government to be satisfied and
(iii) Excise duty under S. 28 is paid or a bond executed.

Therefore, such excisable article can be imported or brought into the State of Rajasthan.

3. Other Condition (Ss. 13, 14 and 15)—Section 13 empowers the State Government to prohibit import and transport of excisable articles by Notification. Passes or permits can be granted under Ss. 14 and 15 of the Act on conditions or restrictions imposed by the State Government.

4. Provisions of Rules—In the Rajasthan Excise Rules, 1956, there are following provisions relating to Import of various excisable articles:

(a) Import of Country Liquor (Rule 3)
    (1) Import to be in accordance with rules (Rule 4)
    (2) Import to be subject to the rules of the Exporting State (Rule 5)
    (3) Marking to be made on casks (Rule 6), consignment to be accompanied by pass and Accounts (Rule 7) and verification of consignment on arrival (Rule 8).

(b) Import of Indian-made Foreign Liquor, Foreign Liquor & Beer—Rule 19 deals with Methods of Import. Rules 20 to 25 have been now deleted w.e.f. 26-3-87. Import on pre-payment of duty in Rajasthan has been explained in Rules 24 to 29 of these rules.

(c) Import of Denatured Spirit—has been dealt with in Rules 46-A of these Rules.

(d) Import etc. of Spirituous Preparations—has been dealt with the separate Rules called “the Rajasthan Spirituous Preparations Import, Export, Transport, Possession & Sale Rules, 1989”

[Refer to these Rules in Part II of this book for Text of Rules and also refer to Commentary of S. 71 infra for details]

12. Export and Transport of excisable article—No excisable article shall be exported unless—

(a) the duty (if any) imposed under section 28 has been paid or a bond has been executed for the payment thereof, and
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(b) such conditions (if any) as the [State Government] may impose, have been satisfied.

2 Notification—Under clause (b) of Section 12.—Transport of excisable articles by a retail licensee within the territorial limits of his licence, the state govt. rely prohibits transport of excisable articles by retail licensee within the territorial limits of his licence without accompanying “Transport declaration form” as prescribed “Excise Commissioner.”

COMMENTS

SYNOPSIS

Meaning of “Export.”
Meaning of “Transport.”
3 Pre-Conditions for export & transport
4. Provisions of Rules

1. Meaning of “Export”—In definition of “Export” in clause (9) of Section 3, it means taking out of the territory of the state of Rajasthan so when an excisable article (as defined in S. 2(4)) is taken out or sent out of Rajasthan, it is called export of that excisable article from Rajasthan.

2. Meaning “Transport”—In Section 3(25) the definition of “Transport” has been cut. It means “to move from one place to another within” the territory of the State of Rajasthan. Thus it is different from import and export defined above.

3. Pre-Conditions for Export and Transport—Section 12 provides for two provisions to be satisfied before exporting and transporting of an excisable article, i.e.—
(a) Duty imposed under S. 28 is to be paid or bond for payment to be executed, and
(b) The conditions (if any) imposed by the State Government are to be satisfied.

4. Provisions of Rules—In the Rajasthan Excise Rules, 1956, there are following views relating to Export and Transport of the various excisable articles—

Country Liquor—
(a) Export of Country Liquor—it has been dealt with in rules from Rs. 9 to 14. Rules 9 to 11 deal with permits for permission. Rule 12 deals with bonded warehouse. Excise Commissioner may extend time of passes or bond under 13. Discharge or enforcement of bond is dealt with in Rules 14 of these Rules.

(b) Transport of Country Liquor—It has been dealt with in Rules 15 and 16 putting in restrictions.

Indigenous Foreign Liquor, Foreign Liquor & Beer—
Export in General—
(i) R. 31 deals with duty paid. (ii) Export from Distilleries in Bombay to other States in India has been explained in Rs. 32 to 37. (iii) Export from Distilleries on payment of duty has been given in Rs. 38 to 40 of these Rules.

(iv) Export from wholesale shops by pass (R. 41).
(v) Book Transfer of duty is mentioned in R. 42.

Substituted by S. 4 of Rajasthan Act No. 28 of 1957 dated 5-12-1957.
Notification No. F. 4 (62) FD/Ex.96 dated 31-03-1997 w.e.f. 1-4-1997

Section 1213—The Rajasthan Excise Act

(C) Denatured Spirit—in Chapter IV-A, import, export, transport, possession sale of Denatured Spirit has been dealt with. Rule 46-B deals with Export of Denatured Spirit, whereas Rule 46-C deals with transport thereof.

(D) Import, export etc. of Spirituous Preparations—The Rajasthan Spirituous Preparations Import, Export, Transport, Possession & Sale Rules. 1989 deals with these subjects.


(a) prohibit the import or export of any excisable article into or from the territories to which this Act extends or any part thereof;
(b) prohibit the transport of any excisable article.

COMMENTS

SYNOPSIS

1. Definition of Excisable Article.
2. Prohibitory Powers of State Govt.
3. Prohibitory Powers of State Government—Section 13 empowers the State Government to prohibit import, export and transport of any excisable article by issuing notification in the Official Gazette. This is enabling section in the Act.

4. Notification under (S. 13)—

1. Charas, Bhang, Ganja & all Intoxicating drugs prohibited—

(1) to prohibit the import and export of, or transport within Rajasthan of Charas;
(2) to prohibit the import into Rajasthan of [xxx] Bhang except—

(a) when brought by a passenger in his personal possession in a quantity not exceeding the limit of possession of substance concerned prescribed by section 19 of the aforesaid Act read with sub-section (1) of section 5 thereof, or
(b) on behalf of the Government of Rajasthan; and

2. Substituted by S. 4, ibid.
The Rajasthan Excise Act

(3) to prohibit the export out of Rajasthan of all intoxicating drugs as defined by sub-section (4) of section 3 of the aforesaid Act, except on behalf of the Government of Rajasthan or except by a bona fide passenger as part of his personal luggage in a quantity not exceeding the limit of possession of drug concerned under the aforesaid Act.

(3) Prohibition of “Ganja” —

[No F.4(6) ET/5-1 dated 17-12-58, Pub. in Raj. Gaz. IV-C dated 8-1-59]

In exercise of the powers conferred by section 13 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the Government of the State of Rajasthan does hereby —

(a) direct that the words “Ganja and “ occurring in the Notification No. F. 49(8) SR/53, dated the 15th February, 1957 shall be deleted, and
(b) prohibit the import into, export from and transport within Rajasthan of Ganja by any person except by or on behalf of the Government for scientific purposes.

This shall take effect on and from the 1st April, 1959.

Channas & Ganja — “Channas” is not cannabis plant, but it is resin obtained therefrom, whereas “Ganja” is flowering or fruiting tops of cannabis plant excluding its seeds and leaves when not accompanied by tops (Part 1).

(3) Export or Import of Foreign Liquor Prohibited —

[Notification No. F. 3(3) PD/EX/77, dated March 14, 1978]

S. O. 207— In exercise of the powers conferred by Section 13(a) of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government hereby prohibits with immediate effect the export or import of foreign liquor out of territory of Rajasthan which the said Act extends to

[Published in Raj. Gaz. Ex. ord. 4(Ga)(II) dr. 15-3-1978 page 377]

(4) Notification during Period of operation of Rajasthan Prohibition Act—

The following Notifications issued during period of Prohibition in view of the Rajasthan Prohibition Act, 1969 have been rescinded in view of the Rajasthan Prohibition Act Repealing Act, 1981 as these were thereafter rendered useless.

2[Notification No. F.2(7) PD/EX/81 dated August 21, 1981]

G.S.R. 53— In exercise of the powers conferred by sub S 4 of S. 19 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950) read with section 13 thereof, the State Government hereby rescinds with immediate effect, the following Notifications issued by the State Government under the said sections from time to time, namely—


1 Mangal v. State, 1998(2) WLC 405.

14. Passes necessary for import, export and transport — No excisable article exceeding such quantity as the [State Government] may prescribe by notification in the [Official Gazette] either generally or for any local area comprised therein shall be imported, exported or transported except under a pass issued under the provisions of the next following section.

[X X X]

Provided also, unless the [State Government] shall otherwise, direct that no pass shall be required for transport of any excisable article or intoxicating drug exported under a pass issued by an officer duly authorised in this behalf from any place beyond the limits [those parts of the State of Rajasthan to which this Act extends] to any other place beyond the said limits.

15. Grant of passes for import, export and transport— (1) Passes for the import, export or transport of excisable article may be granted by the Excise Commissioner or by an Excise Officer duly empowered in this behalf subject to such restrictions as the [State Government] may impose in this behalf from time to time.

(2) Such passes may either be general, for definite periods and kinds of articles or special for specified occasions or particular consignments only.

2 Substituted by section 11 of 1964.
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COMMENTSARY (Sects. 14 & 15)

SYNOPSIS

Meaning of
Necessity of Pass
Quantity to be prescribed
Notification issued

1. Meaning of:
(a) Import  
(b) Export  
(c) Transport  
(d) Excisable Article

2. Necessity of Pass—Excisable articles in excess quantity cannot be imported, exported, or transported by any person in Rajasthan without a pass (or permit, as used the Rules) issued by the Excise Authority. Grant of pass has been dealt with under 15 infra.

Please see Notification No. 40 Page 657 for exemption of Retail Licence of Foreign liquor & Beer.

3. Quantity to be prescribed—The State Government may prescribe any quantity of any excisable article which may be imported, exported or transported by a person for this purpose a notification in the official Gazette shall be published prescribing the quantity in general or in any local area.

4. Notifications issued under Section 14—

(1) Maximum Quantity prescribed for personal Use—
(to be imported or exported without pass)

[Notification No. F. 1(87) E & T/ 59-II, dated 30-11-61]

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 1950 (F of 1950), and in supersession of this Department Notification No. F. 1(38) E & T/ 1-I, dated the 22nd January, 1959, the State Government hereby prescribes:

(1) In relation to the following excisable articles, the maximum quantities specified below are the maximum quantities which may be imported or exported without a pass for personal use throughout the territories of the State of Rajasthan to which the said Act extends—

(a) Country Liquor 0.75 litres
(b) Foreign liquor (other than Beer, fermented liquor and rectified spirit) 1.50 litres
(c) Beer and fermented liquor 4.50 litres
(d) Bhang 100 gms

(2) The maximum quantity of all excisable articles which may be transported without pass for personal use to be declared under the following sub-section (1) of section 5 of the said Act at the limit of sale by retail.

[Published in Raj. Gaz. IV-C dated 28-12-61]

Section 15

(2) For Foreign Tourists

[Notification N. F 3(2) SR/51-II (Part II) dated 31-10-1962]

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 1950 (F of 1950), and in partial modification of Excise and Taxation Department Notification No. F. 1(87) E & T/59-I, dated the 30th November, 1961 the State Government hereby prescribes, generally for all the territories of the State of Rajasthan to which the said Act extends—

(a) two units to be maximum quantity for import, and
(b) four units to be the maximum quantity for export or transport.

Without a pass issued under section 15 of the said Act, for personal use by foreign tourists holding all India liquor permits issued by Indian Missions abroad or by the Directors/Assistant Director in the Government of India Tourist Offices abroad or by the Director or Assistant Director in the Government of India Tourist Office, Bombay, Calcutta, Delhi or Madras.

Note—One unit for the purpose of this notification shall be construed as equal to any of the following or the metric equivalents thereof, namely—

(i) One quart bottle of wines, or
(ii) Two quart bottles of wines, or
(iii) Nine quart bottles of fermented liquors of a strength exceeding two percent of alcohol by weight, or
(iv) Twenty seven quart bottles of fermented liquors of a strength not exceeding two percent of alcohol by weight.

(3) Limit of Retail Sale prescribed by Notification (under S.S) Notification No. F. 1(87) E & T/59-I dated 30-11-61—The following limit of retail sale has been prescribed for all purchasers—

2. (a) Foreign Liquor other than Beer, Fermented liquor & rectified spirit .......................... .......................... .......................... .......................... 5 liters
(b) Beer & Fermented Liquor .......................... .......................... 9 litres

[For Foreign Tourists—Please See Notification dated 30-10-1963 in the Commentary of Section 5 of the Act]

5. Grant of Passes—Section 15—Section 15 provides that—

(1) Passes for the import, export or transport of excisable article which may be granted—

(a) Excise Commissioner, or
(b) Excise Officer duly empowered in this behalf.

(2) Restrictions may be imposed by State Government from time to time.

The Rajasthan Excise Act

(3) Kinds of passes—(i) general, (ii) for definite periods, (iii) for kinds of articles ng or (iv) special passes for—(i) specified occasions, (b) particular consignments

6. Rules relating to Pass/Permit—In the Rajasthan Excise Rules, 1956, there allowing provisions relating to pass/permit—

(1) Rules 24 & 25—Procedure for Permit for import of Indian Made Foreign Liquor, Foreign Liquor & Bear in Chapter III of these Rules

(2) Rule 32—Export in bond under pass & Rule 33—Application to be made to D.E.O or Assistant E.O

(3) Rule 34—Permit granted by District Excise Officer or Assistant Excise Officer of exporting district.

(4) Rule 39—Application for pass.

(5) Rule 41—Pass for export from wholesale shops

(6) In chapter IV-A relating to Denatured Spirit—Rule 46 A (iii) Issue of permit for Import, Rule 46 B (ii) Permit for Export, (iii) Application for pass and (iv) Issue of pass

7. Permit when not Valid—Under the provisions of the Rajasthan Excise Act and Rules made thereunder, the Assistant Excise Officer was not competent to grant any if, held that such permit was not a valid permit in the eye of law.

Please see for more notifications in Part III of the Book

Chapter | IV |

Manufacture, Possession and Sale

Introduction

Chapter III of the Act deals with “import, Export & Transport” of Exsicable Articles under Ss. 11 to 15 of the Act and Chapter IV deals with “Manufacture, Possession & Sale” of Exsicable Articles under Ss. 16 to 27 of the Act.

To give effect to these provisions of the Act, the Rajasthan Excise Rules 1956 provides for as follows—

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<td>2.</td>
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<td>3.</td>
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<td>Import, Export, Transport, possession &amp; Sale of Denatured Spirit &amp; Licence thereof</td>
<td>Rs 46A to 46E</td>
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The above mentioned provisions of Rules are exhaustive and provide for details on the provision of the sections concerned and are, therefore, to be read together with these sections of the Chapter.

There are Special Rules on various topics of this chapter, we are enlisting these Rules hereunder for ready reference—

(a) Special Rules—The following special rules have been made for the purposes of this Act—

1. Rajasthan Excise (Grant of Hotel Bar/Cafe bar licences) Rules, 1983
2. The Foreign Liquor (Grant of whole sale Trade and Retail off licences) Rules, 1982
4. The Rajasthan Country Liquor (Fixation of Strength) Rules, 1983
7. The Rajasthan Fixation of Retail Sale Price of Denatured Spirit Rules 1987
8. The Rajasthan Molasses Rules 1985

[Please refer to Part II of the Book for the Text of these Rules]
The Rajasthan Excise Act

Section 16

(b) Establishment of Distilleries, Brewery or Ware Houses.

Special Rules—The following rules have been made under Section 42 of the Act with prior sanction of the State Government:

1. The Rajasthan Brewery Rules, 1972
2. The Rajasthan Distilleries Rules, 1976
3. The Rules regulating stock taking and wastage of Liquor at Distilleries & Ware Houses, 1959
4. The Rules regarding the Wastage in transit, issue and storage of Hemp Drugs in a Ware House, 1959
5. Conditions & Restrictions on Bonded Ware Houses

[For Text of these Rules, please refer to Part II of this book]

16. Manufacture of excisable article prohibited except under the provisions of this Act.—(1) (a) No excisable article shall be manufactured,
(b) no hemp plant (Cannabis Sativa) shall be cultivated,
(c) no portion of the hemp plant (Cannabis Sativa) from which intoxicating drug can be manufactured shall be collected,
(d) no liquor shall be bottled for sale,
(e) No Tari producing tree shall be tapped,
(f) No Tari shall be drawn from any tree, and
(g) no person shall use, keep or have in his possession any materials, still, utensils, implements, instrument or apparatus whatsoever for the purposes of manufacturing any excisable article

except under the authority and subject to the terms & conditions of licence granted in that behalf by the Excise Commissioner [(or by an Excise Officer duly empowered in this behalf)]

(2) No distillery, brewery or pot-still shall be constructed or worked cept under the authority and subject to the terms and conditions of a licence anted in that behalf by the Excise Commissioner.

COMMENTARY

SYNOPSIS

| Meaning | 5 Principles laid down by Court
| Manufacture etc. Prohibited | 6 Benefit of Preclusion
| Restrictions on licence | 7 Latest cases
| Violation is offence (Section 54) |

1. Meaning of—Refer to the definitions of -
(a) Manufacture [Section 3(17)]
(b) Excisable Article [Section 3(4)]

Section 16

(c) To bottle i.e. bottling [Section 3(23)]
(d) Tari- [Section 3(22)]
(e) Still- [Section 3(21-B)]

2. Manufacture etc. prohibited—This section is prohibitory one, which prohibits certain activities mentioned in clauses (a) to (g) of the Section. The Excise Commissioner or an Excise Officer duly empowered in this behalf has been empowered to grant a licence for these activities with certain terms & conditions.

Please refer to S. 17 for this purpose.

3. Restrictions on & Licence for Manufacturing units of Excisable articles—Sub-Section (2)—Construction or working of manufacturing units known as—
(a) distillery, or
(b) brewery, or
(c) Pot-still

—is also prohibited under sub-section (2), but it is restricted or regulated by a licence granted by the Excise Commissioner. Please refer to S. 17, supra, for further details.

4. Violation of restrictions is offence—The contravention of provision of S. 16 are punishable under S. 54 and S. 54-A of the Act, which is very exhaustive.

5. Principles laid down by Court (Illustrative Cases)

Calculation of Excise Compensation—Excise compensation on basis of excise income of jagirdars was taken into consideration for determination of total amount of compensation payable under c. (b) of Para 2 of second schedule Directions given by High Court in D.B. Civil Writ Petition No 1743 of 1964 which was been followed by Jagirdar Commissioner-Held, not open to petitioner to take a stand contrary to the above decision. (Writ petitions dismissed) Rano Takhat Singh v State 1979 WLA 779 (RRI) 294 (79).

Excise compensation to Jagirdars—Held payable—The Rajasthan Land Reforms and Resumption of Jagirdar Act shall override all the laws in force. We do not think that the Rajasthan Excise Act was any exception and, therefore, for the purposes of compensation we shall have to give effect to sec. 47 and clause 2(b) of Schedule 11 of the Rajasthan Land Reforms and Resumption of Jagirdars Act notwithstanding Sec. 16 of the Excise Act State of Rajasthan v. Rano Takhat Singh I.R. (1975)22 Raj 1162. 1973 WLA 955. 1973 RRI 25.


The privilege of private distillation allowed to the petitioner under the order of the Ruler of Udaipur was not a licence granted to the parties within the meaning of section 16 of the Rajasthan Excise Act, or such as would be preserved under the saving section 2 of that Act. The scheme of the Act did not and could not contemplate the grant of any permanent licence such as was claimed by the petitioners to have been granted to them by the Maharana of Udaipur. The privilege of private distillation

of liquor or even the possession of any materials for the purposes of manufacturing liquor by the petitioners was directly hit by section 16, Rajasthan Excise Act and could not be exercised or enjoyed after the commencement of the Act. The so-called right of private distillation was not a right at all in any strict or legal sense of the term but a privilege enjoyed during the good pleasure of the Ruler. Watan Mahal Singh v. State (1954) 8 Raj. LR. 373.

Section 16 of the Rajasthan Excise Act, 1950 prohibits distillation without proper licence. Driving any income from which it was prohibited by section 16 of the Act was violation of the law and the Jagirdar cannot claim any compensation on that score. The prohibition came into force on 1-7-1959. The court was not prepared to attribute such ignorance of law to the legislation. The court was also not prepared to hold that the provisions of the Rajasthan Land Reforms and Reorganisation of Jagirs Act repeals the provisions of section 16 of the Rajasthan Excise Act, 1950.


Ss. 16 & 54- Conviction & Release on Probation—Accused first offender, poor man, belongs to scheduled caste, remained in jail for 5 days. Released on probation. Ram Kalyan v. State, 1984 (1) CRN 463.

Ss. 16 & 54- Probation allowed—Further Prosecution when not justified—Accused a young man of 25 found in possession of one bottle of illicit liquor and has remained in jail for few days. No workable still and quantity of wash found in his possession. Held, his further prosecution for manufacturing illicit liquor is not justified. Benefit of Probation granted. Girish v. State, 1985 (3) WLN 1258.

Ss. 16 & 54- Probation allowed—Accused aged 30. Not a preconvict—Fine deposed—Case pending for last 10 years. Sami U. P. C. is mandatory and ‘special reasons’ for not allowed probation are to be given. Ramakrishna v. State, 1985 (1) CRN 53.


Ss. 16 and 54—Sentence reduced—Inordinate delay in sending the sealed samples for chemical analysis is a relevant consideration, but each case would depend on its own facts. Offence was committed in 1971 and the accused petitioner has already remained in jail for two months. Sentence was reduced to term already undergone by him. Dhanraj v. State, 1981 (1) LR 376.

Ss. 16 & 54 and FIRS 360 and Rajasthan Excise Act. Ss 16 & 54—Illicit liquor recovered from possession of accused who was a previous convict and was aged 12 years. Held, a fit case to release him on probation under S 330 U. P. C. (1978 R. C. C 224 relied on.) Kakker Singh v. State, 1981 (6) R. C. 267 ; 1981 (6) CRN 598.

Ss. 16/54 Criminal Practice- Ex parte hearing in Criminal Appeal—Rehearing allowed. In Criminal Case, unless an advocate engaged by the accused has been formally disengaged or otherwise instructions are withdrawn from him, he has to appear in the case. In the instant case advocate T did not appear and advocate S could not appear as his name did not appear in cause list. State-Appeal was heard ex parte and was allowed. Held, in interest of justice rehearing of appeal was allowed. State v. Nabin Chandra & Hamera Rosu 1984 Cr. LR. 637 and 717.

Conviction—When case was not found to be doubtful or ground of want of independent evidence, the conviction was upheld. In sample 99% of Illicit Alcohol was found. Nagor Singh v. State, 1989 (2) WLN 224.

Acquittal—Where only two bottles of illicit liquor were recovered & accused remained in custody for 13 days, acquittal was maintained. State v. Mohan Singh, 1987 WLN (CC) 548.

No offence or charge was held made out, where three bottle of liquor recovered from accused is not violation of law. Pratap Lal v. State 1988 WLN (CC) 47; 1988 CRN (Raj.) 724.

In one case, the prosecution failed to show that the sample of liquor was sent to Chemical Examiner, in saided condition, conviction not proper. State v. Pratap Singh, 1989 WLN (CC) 798.

6. Benefit of Probation

Benefit of Probation can be given even in the cases where minimum sentence is provided under S. 54 of the Act. The court pointed out—These provisions (of S. 4 Probation of Offenders Act and S. 360 U. P. C.) are mandatory and it was duty of the lower courts to have collected material about the accused, antecedents, family background of the offenders and, if the Court, after considering the material came to the conclusion that the offender is of such a character that he cannot reform or rehabilitate only then after recording the "special reasons" it could refuse to deal with the case under the provisions of Section 4 of the Act, 1958. Nothing like this was done in either of the cases and the concerning courts refused to give benefit of the provisions of Section 4 without material on record, which should have been collected. Satya Singh v. State, 1990 (4) RL 785 (Paras 5 & 6), 1990 RL 796.

Probation—Accused convicted, but incident was nine year old and the accused remained in jail for ten days. Benefit of probation granted. Manishan Singh v. State, 1987 (2) WLN 311; 1987 (2) WLN 658; 1987 RCL 21.

Accused belonging to Scheduled Caste committed a petty trivial offence, when one bottle of liquor containing 400 M.L. liquor only was recovered from him. He was sentenced to six years of the Court, but the effect would be that the accused would be deprived of his service. He was therefore released on probation. Satyam Singh v. State, 1987 (2) CRN 505; 1987 WLN 652.

Illustrations—When benefit of probtion extended—Accused 1st offender remained in jail for ten days and the incident was of 1978. Satya Singh v. State, 1987 WLN (CC) 224.

Where the appellate court granted benefit of probation, it remitted him to serve a sentence passed by the Trial Court. The Trial Court was directed to release the accused on bond with sureties. Ram Chambo v. State, 1988 (5) RL 811; 1988 CR LR (Raj.) 78.

Accused 17-18 years old and running a regular shop. He is not involved in manufacture of illicit liquor. Still was recovered from open space and not from his house. He is not a previous convict and now expected to stick to his shop. Benefit of probation extended. Purushottam v. State 1989 (2) RLR 36; 1989 (2) WLN 305.

Probation when cannot be refused—Special reasons have to be recorded for refusal. Recovery of 141 bottles is held not such a reason to refuse benefit of probation. Venkat V. State 1990 (1) WLN 55; 1990 Cr LR 256 (Raj).

Sentence, when reduced to period already undergone—Incident seven years old, 44 bottles of liquor recovered, but only six samples were taken. Accused remained in custody for 12 days. Karam Singh v. State 1987 (2) WLN 334. Accused was sentenced on 11 March 1987 for a period of more than 7 years. Accused remained in custody for 10 months. Accused 12 years ago, two pitchers of water recovered from accused. Sentence reduced. Banarsi Singh v. State 1988 (2) WLN 542. Accused not a previous convict and has not committed such offence after the incident of 12 years. He remained in custody for 10 months or so. Jaipal Singh v. State 1989 Cr LR 258 (Raj).

Benefit of Probation when given—Minimum sentence has been provided, yet benefit of probation may be given. Provisions of Probation of Offenders Act are mandatory. It was duty of lower court to collect material about accused. Special reasons are to be recorded for refusal of probation. Petitioner is 60 years old. Incident of 1982. No previous conviction. Benefit of probation given to accused.

Benefit of Probation when allowed—incident of years 1981. Accused is 70 years old with no previous conviction. Benefit given to accused.

Benefit of Probation when allowed—Where accused was 21 years without any previous conviction, benefit of probation given to accused.

Probation granted. All relevant facts and past conduct of accused well considered by session judge. (Probation affirmed).

Probation granted by Session Court—Bonds could not be furnished in time. High Court extended period for furnishing personal bond and security bond for deposing his amount till 15.4.1992.

Recovery of 17 bottles of illicit liquor conviction - Probation granted—Case 9 years old. Trial court has not considered for benefit of probation to be given to accused. Conviction confirmed. But benefit of probation given to accused in revision.

Probation when granted—in appeal against conviction, prayer for release of accused in probation was accepted as there was no previous history of conviction of accused.

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Section 16 of the Rajasthan Excise Act appellant. He has already gone imprisonment for six days appellant was released on probation.

Benefit of Probation when cannot be denied—Revision filed against order giving benefit of probation to accused in excise case. Held, benefit of probation cannot be denied to a convict on ground of recovery of large quantity of liquor, even when he was not a previous convict for such offence. (Revision dismissed).

7. Latest Case-Law

Cultivation of Bhag without licence punishable under Excise Act and not under NDPS Act—No evidence could be collected during investigation that the petitioner was engaged in cultivating and selling the Ganga Petitioner is aged about 72. Not a previous convict.

Increase of Bottling Fee—

Validity Upheld—Held that the provisions of Section 16(1) (a) and (c) 21 and 24 of the Act as also R. 68(2) of the Excise Rules are not Ultra-vires the constitution and are not beyond the competence of the state Legislature. Held, the increase of bottling fee from 3 paisa to 11 paisa also cannot be said to be excessive (with petitions dismissed).

No conscious Possession—Acquittal—22 bottles of liquor recovered from house of accused from a room frequently visited by others. Accused is deaf and dumb and was not able to communicate. Held, the accused was, therefore, not in conscious possession of 22 bottles of liquor. Accused acquitted.

Seizure & Sealing—Acquittal upheld—When prosecution failed to prove that seal was intact held, accused was rightly acquitted. (1950 CLR (Raj) 509 referred).

Sentence when reduced—Accused 24 years of age on date of incident and suffered imprisonment for 66 days old sentence on 14 years. Held, it is not proper to send accused to jail. Sentence was reduced to period already undergone.

Recalling of witnesses when allowed—Accused was not allowed in cross examine a material witness. Held, serious prejudice was called to accused. Prayer of accused for recalling such witness for cross examination was allowed.

Appreciation of evidence—conviction when set aside—No proof that the field from which illicit liquor recovered belonged to appellant accused. No site-plan was prepared and no nirahs were called on. No proof on record whether accused made chemical examiner in duly sealed condition. Conviction and sentence set aside.

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2. Pawan Lal v. State, 1997 WLN (Raj) 428 (R.C.)
4. Udai Pratap Singh Co. Ltd v. State of Raj. 1996 (2) WLN (Raj) 413 (R.C.)
5. State of Raj. v. Ratanbri, 1992 CLR (Raj) 720
Delivery on Supradigmana—Foreign liquor seized was lying in custody of police. Stuff likely to deteriorate. Liquor delivered to petitioner-owner on supradigmana.\(^1\)

Change when set aside under S. 482, Cr. PC—Petitioner was not arrested on spot. No evidence of identification connecting him with crime, in as much as, none of three witnesses has identified the petitioner to be one of occupants of premises statement of co-accused is not an evidence. Hold, no option but to quash the charge framed against petitioner. (Para 6) Order framing of charge is set aside (Petition allowed).\(^2\)

Sentence when reduced—Illicit liquor i.e. a drum of full wash found in the house of accused. Conviction not challenged. Accused petitioner remained in custody for two months. He is first offender. Sentence, therefore, reduced to the period already undergone by him.\(^3\)

Interested Witnesses—No particular number of witnesses be required for proving a fact under S. 134, Evidence Act. Conviction can safely be based on testimony of a single witness. Witnesses cannot be discarded on the sole ground that they were interested in success of the remit of the discharge of their official duties.\(^4\)

Sentence when reduced—An old incident of 14 years. Offence was committed in 1982. The petitioner has undergone about 4 months sentence. In circumstances of the case it appears to be just and proper to modify the sentence of imprisonment for the period already undergone and fine enhanced to Rs. 200/-\(^5\)

Sentence when reduced (sub-section 16/54)—Illicit liquor recovered with workable still from house of accused-petitioner convicted and sentenced to one year’s imprisonment by the trial court conviction confirmed in appeal—Revision—Sentence reduced to six months in interest of justice after considering the facts and circumstance of the case (Revision accepted)\(^6\)

Recovery of 150 bottles of illicit liquor—Conviction upheld when samples reached laboratory in sealed condition.\(^7\)

17. Establishment or licensing of distilleries and ware house—Subject to such restrictions or conditions as the\(^8\)[State Government] may impose, the Excise Commissioner, may—

(a) establish a distillery or pot-still in which spirit may be manufactured under a licence granted under this Act;
(b) discontinue any distillery or pot-still so established;
(c) license the construction and working of a distillery or pot-still or brewery on such conditions as the\(^9\)[State Government] may impose;
(d) establish or license a warehouse wherein any excisable article may be deposited and kept without payment of duty; and
(e) discontinue any warehouse so established.

8. Substituted by S. 4 of Raj. Act No. 38 of 1957—Published on 5-12-1957.

**Section 17**

**THE RAJASTHAN EXCISE ACT**

**COMMENTARY**

**SYNOPSIS**

1. Scope—Section 17 is like a preface to Section 18 which empowers the Excise Commissioner to establish or grant licence to or to discharge the manufacture or transit or warehousing of any excisable article and to prohibit the functioning of such establishments.

2. Restrictions & Conditions for Establishment of Distilleries, Brewery or Ware Houses etc.

   (a) Special Rules—The following rules have been made under section 42 of the Act by Excise Commissioner with prior sanction of the State Government—

   1. The Rajasthan Distilleries Rules, 1972
   2. Rajasthan Distilleries Rules, 1976
   3. The Rules regulating stock taking and warehousing of Liquor at Distilleries & Ware Houses, 1959
   4. The Rules regarding the warehousing in transit, issue and storage of Temep Drugs in a Ware House, 1959.

   (b) Conditions & Restriction for Licence of a Bonded Ware House.

   [Please refer to these conditions etc. at the end of Rules—under heading (21) Bonded Ware House]

   [For text of these Rules, please refer to Part II of this book.]

3. Important Case—

   **M/s R.N. PRODUCTS, JODHPUR v. STATE OF RAJASTHAN**

   \[(1989)2 Raj. LR 741\]

   S. 17: Refusal of Renewal of Licence for establishment of Bonded Ware House & Bottling Plant—Action held arbitrary—

   The case of the petitioner is that in respect of M/s. Agro Alwar Mart, Alwar, M/s Shivalik-Ka-Nerna, Jodhpur and M/s Ajanta Chemicals Alwar, the licences have been renewed even though the aforesaid licencees failed to start construction within six months from the date of issue of licence. Upon such averment, it was proved that an order, direction or a writ including a writ in the nature of mandamus or any other writ be granted and respondents be ordered to renew the licence of the petitioner immediately (Para 3)

   \*[Preliminary objections as to alternative remedy under S. 9A of the Act and involving complicated questions of facts rejected (Para 4 to 12)]

Please refer to this aspect of Commentary to “Preamble”—Note (16) supra.
The matter may be looked at yet from one more angle. The order of the Excise Commissioner is based on the sole ground that since the petitioner failed to establish bottling plant in accordance with term no. 13 of the licence granted to him, hence, was not possible to renew his licence. It doesn’t appear that the Commissioner, at all considered the various grounds constituting the basis of the petitioner’s inability to establish the bottling plant within the period fixed by the licence. Had the Excise Commissioner considered such grounds and would have passed a speaking order rejecting one grounds, then the petitioner could have very well approached the Divisional Commissioner by way of appeal and could have shown that the order of refusal was baseless. But this was not done in this case and, hence, the remedy of appeal would have been only illusory and meaningless. (Para 13)

The next submission of Shri Makheswar was that the petitioner does not have fundamental right to carry on trade or business in liquor. We have no quarrel with this proposition. In our opinion, this too would not be a ground for rejecting the present application. A similar objection was raised in the case Samrath Bottlers1 and was negatived and was next contended that S. 97 of the Act did not confer a right to renew of a licence in the petitioner (Para 14). (Section 97 - Quoted)

True, that there is no inherent right of renewal of a licence in favour of the petitioner. But in this case, the petitioner has complained of a hostile and discriminatory treatment of an unreasonable and arbitrary refusal. In our opinion in such a case, this objection does not disentitle the petitioner from coming to this Court. This aspect of the matter was also considered in Samrath Bottlers Pvt. Ltd’s case1 (supra) and this objection was negatived. We are of the view that the authorities of the State acted unreasonably and arbitrarily, the Court has always jurisdiction to intervene because executive authorities are expected to act in a fair and reasonable manner.

Learned counsel for the respondents has repeatedly urged before us that even a licence would have been issued to the petitioner, the Excise Commissioner could not cancel the same by virtue of clause 23 of notification Ex 1 and as such, the case of the petitioner cannot stand on a better footing. Clause 23 of the relevant notification reads as under -

23. If the licensee infringes or abets the infringement of any of the conditions of his licence, the Excise Commissioner may revoke, cancel and determine the licence forthwith to Government the whole or any part of the security deposited.

Provided that if the infringement is of a minor nature, the licence may be restored at the order forfeiting the security may be set aside on payment of a sum not exceeding ₹ 1,000/-

In our opinion, this clause is wholly inapplicable to the present case because the present case is not one of cancellation but of refusal to renew a licence and this argument serves to be stated only for sake of rejection. (Para 15)

Case considered on Merits -

Now, having cleared the deck of the preliminary objections/submissions, we may consider the case of the petitioner on merits. It is established before us that M/s Agro

Alwar Mart, Alwar had been granted a similar licence on 23-5-87. Likewise, M/s Ajanta Chemicals, Alwar, had been granted a similar licence on 11-5-87. M/s Samrath Bottlers Pvt. Ltd. were granted a similar licence on 15-11-87. The petitioner was granted his licence on 6-11-87. Now, none of the above parties could start a bottling plant by the time the period of the respective licence expired M/s Agro Alwar Mart, Alwar and M/s Ajanta Chemicals, Alwar, moved for renewal of their licences and their licences were renewed even though till the expiry of their licences, both of them had not started bottling of liquor. M/s Samrath Bottlers Pvt. Ltd. also applied for renewal but in its case, the renewal was refused on the ground that it was not in a position to start bottling the liquor. Samrath Bottlers Pvt. Ltd. therefore, approached this Court by way of D.B.Civil Writ Petition No. 3427/88 complaining of hostile and arbitrary discrimination. The Bench agreed with the contention of the petitioner that the State of the Excise Commissioner was not allowed to pick and choose between similarly situated persons. It was held that the petitioner stood equally with others and was similarly situated. In the present case we find that the petitioner stood in the same position as the aforesaid other persons or concerns who had been granted a renewal. Learned counsel for the respondents tried to distinguish the case of the petitioner on the ground that while at the time of renewal in favour of M/s Agro Alwar Mart, Alwar and M/s Ajanta Chemicals, Alwar, they were in a position to start bottling the liquor and hence their licences had been renewed, but in the case of the petitioner, the petitioner was not in a position to start bottling the liquor by the date the order Annex R. 1 was passed. In this connection, much emphasis was laid on the fact that the petitioner had not even acquired land prior to 14-7-88 when Ex. 10 had been in favour of the petitioner. It is regretted that when the petitioner did not have land for setting up a bottling plant prior to 11-7-88 there was no occasion for granting a renewal in his favour on 29-7-88. Annex R. 1 does not show that the Excise Commissioner at all considered the question from this angle. This is a ground which is being raised in reply to this writ petition for the first time. We doubt if this ground is available to the respondents at all. Union of India v. Mario Chabalese (AIR 1982 SC 691), a question arises whether the Govt. could be permitted to shift the ground of refusal to grant is a matter that the government action must be adjudged on the reasons stated in the impugned order and it was irrevocable for the Govt. to take a new ground. Reference in this connection was placed upon Commissioner of Palace Bombay v. Girdhidas Shantini (AIR 1952 SC 604) and following observations were quoted with approval -

"Public orders, publicly made in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officers making the order of what he meant, or what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of such to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

It was held that it was not permissible for the Govt. to offer a justification for refusal to grant accreditation to the respondent on grounds other than those given in
The Rajasthan Excise Act [Section 17]

Regulations order. This very view has been taken in Mohinder Singh v Chief Election Commissioner, New Delhi (AIR 1978 SC 851) and it was observed as follows:

"... when a statutory functionary makes an order passed on certain grounds its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavits or otherwise. Otherwise, an order had in the beginning may, by the time it comes to court on account of challenge, get validated by additional grounds later brought out."

No new ground for refusal open—We are, therefore, of the opinion that it is not to the respondent to rely upon any other ground of refusal other than what had stated in Annexure R.I. The sole ground given in this order was that since the licence failed to establish a bottling plant within the prescribed period, renewal could not be made in his favour. At any rate, the petitioner had obtained the land prior to the coming into force of the Act and, therefore, this ground petitioner was not possessed of land for establishing a bottling plant, nor was it available to it at the time. The appeal of the petitioner against the order R.I. vide Ex. R.C. vide Ex. R.C. on 22nd June, 1972 (Para 16)

Learned counsel for the respondents urged that the petitioner had failed to submit an application for the Excise Commissioner as envisaged by clause 2 of the licence. In other words, the plea was that the petitioner had failed to apply for renewal of the licence. However, the application was submitted in time as per clause 2 of the licence and the plea was not permissible. Nevertheless, for reasons already stated, it was not permissible for the respondents to raise this ground in their reply when the Commissioner did not raise this order Annexure R.I on such a ground. Moreover, there was a substantial compliance of the conditions when the plant had been submitted with the original application itself. (Para 17)

Learned counsel for the respondents, strenuously urged that the expression that the petitioner had failed to establish a bottling plant and comprehensive enough to: within its scope the various grounds, namely, (a) the petitioner had failed to submit an application for renewal to the Excise Commissioner, and (b) the petitioner had not acquired the land and had not established a bottling plant till 19-7-88. In our opinion, such an approach is permissible and the respondents cannot be permitted to raise new grounds when they were not relied upon while presenting the order Annexure R.I. (Para 18)

Nature of power & duty of Authorities—

We may state that an authority vested with statutory powers in under a duty of enacting officers, after taking into consideration all relevant material, having certain decisions to be made by it. It cannot act arbitrarily or capriciously particularly when there is no likely to be affected adversely by its decision. The power to grant or refuse renewal of a licence is a very important power and was to be exercised by the Excise Commissioner in a reasonable manner. We do not find that the Excise Commissioner at took into consideration the various representations and the correspondence made the petitioner with the Excise officials. The order does not show that he took into consideration the reasons advanced by the petitioner, which enabled him from establishing

Section 17-19] The Rajasthan Excise Act [Section 17-19]

a bottling plant within the prescribed period. The power of refusing a licence is not an unbridled power and therefore, must be exercised upon consideration of all relevant and material factors. (Para 19)

In the present case, we find that the Excise Commissioner has acted unreasonably and in an arbitrary manner in refusing the licence to the petitioner. It has also acted in a highly discriminatory manner when we compare the case of the petitioner with the case of Mr. Agarwal, of the Excise Commissioner, the case of Mr. Agarwal, of the Excise Commissioner, the case of Mr. Agarwal, of the Excise Commissioner, the case of Mr. Agarwal, of the Excise Commissioner and Mr. Agarwal, of the Excise Commissioner (Para 20)

In our opinion, the present case is squarely covered by the Bench decision in Suresh Bhatia v. State Government, the learned counsel for the respondents has failed to distinguish that Bench decision without being any good ground for the distinction. (Para 21)

In the facts and circumstances of the case, we are of the view that the writ petition must succeed. We accept the writ petition. We direct that the licence of the petitioner shall be renewed for the period ending with 31-3-90 provided the petitioner starts bottling liquor within a period of one month from the date of grant of renewal. We direct the excise authorities to renew the licence of the petitioner for the period ending 31-3-90, within ten days. (Writ accepted) (Para 22)

18. Removal of excisable article from distillery etc.—No excisable article shall be removed from any distillery, pot-still, ware house or other place of storage established or licensed under this Act unless the duty (if any) payable therefore under this Act has been paid or a bond has been executed for the payment thereof.

COMMENTARY

Scope: Removal of any excisable article from distillery etc. is prohibited and condition has been laid down that—

(a) Duty (if any) has been paid,

(b) Bond has been executed for payment of duty

Thus the collection of duty is the main purpose behind this provision

Movement or removal of excisable articles from distillery, warehouse etc. shall be regulated by the special rules mentioned in Commentary of S. 17

19. Possession of excisable articles in excess of the quantity prescribed by the State Government prohibited except under permission.—(1) No person not being licensed to manufacture, cultivate, collect or sell any excisable article, shall have in his possession any quantity of such article in excess of such quantity, as is prescribed by the State Government. The possession of such excisable articles is prohibited except under permission granted by the Excise Commissioner (or by an Excise Officer duly empowered) in that behalf.

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1. Inserted by section 3 of the Excise Act, 1957.
(2) Sub-Section (1) shall not extend to-
(a) any foreign liquor (other than denatured spirit) in the possession of any common carrier or warehouse man as such, or

[(b) XXXI]-[Omitted by S. 3 of Raj. Act No 22 of 1958- dated 22-5-58]

(3) A licensed vendor shall not have in his possession at any place other than that authorised by his licence, any quality of any excisable article in excess of such quantity as the State Government has under section 5 declared to be the limit of sale by retail, except under a permit granted by the Excise Commissioner [or by an Excise officer duly empowered] in that behalf.

(4) Notwithstanding anything contained in the foregoing sub-section, the [State Government] may by notification in the Official Gazette prohibit or restrict the possession by any person or class of persons, or subject to such exceptions as may be specified in the notification by all persons in those parts of the State of Rajasthan to which this Act extends, on any specified area or areas thereof, of any excisable articles either absolutely or subject to such conditions as it may prescribe.

**COMMENTS**

**SYNOPSIS**

1. Scope: This Section is prohibitory as well as regulatory. The restrictions on possession of quantity of excisable articles have been given in this Section.

2. The quantum is to be regulated by Notifications, Rules and permits.


4. Notification of Specific Goods

5. Limit of Sale: 6 litres.

6. Prohibition:

   1. Country Liquor: 3 litres
   2. Foreign Liquor other than Beer: 6 litres
   3. Beer & Fermented Liquor: 9 litres

For Foreign Tourists: Please see Notification dated 30-10-1963 in the Commentary of section 5 of the Act in commentary of S. 15, supra.

**NOTIFICATIONS**

1. Notification No. F. (401) E & T/56, dated 18-6-1956

   In exercise of the powers conferred by section 10(4) of the Rajasthan Excise Act, 1950 (Act No. II of 1950) the Government of Rajasthan does hereby direct that in the whole of Rajasthan no person, not being licensed to manufacture, collect, sell, shall at any one time in his possession more than four quart bottles of foreign liquor excepting beer.

   [Published in Raj. Gazette Part 1 b dated 30-6-1956, Page 291]

2. Notification No. F. (158) E & T/56 HI dated 22-1-1959

   In pursuance of the provisions of sub-section (4) of section 19 of the Rajasthan Excise Act, 1950, (Act No. II of 1950) and in supersession of notification No. F. (11) SR 30 dated the 20th June, 1951, the Government of Rajasthan does direct that notwithstanding anything contained in sub-sections 11, 22 and 33 of the said section, no person shall take into or keep upon any premises used as restaurant in the whole of the State of Rajasthan except Abu area any quantity of liquor unless such premises have been licensed for consumption of liquor therein under the said Act or the rules made thereunder.

   1. Substituted vide S.O. 108 dated 31-7-87 for "220 litres."
   2. Substituted vide 1-8-2003 for "3 litres."
(5) Case Law Summarised

Meaning of "Specified Area" used in S. 19(4)—Restaurants included by Notification No. F.311 SR/50 of 20/23 June 1951 in it and keeping liquor in restaurants prohibited—"restaurants" defined in Notification—Held, Notification not ultravires the State Government [AIR 1961 SC 652, distinguished].

It is obvious that an area can be specified by its name or geographical limits or in any other way. Where the notification gives the definition of restaurant as a place used for the purpose of the consumption of food or drink by the public for consideration, it is sufficient to particularise that area and all the restaurants situated within the specified area are within the meaning of section 19(4) of the Act. Under the circumstances, the notification which prohibits the keeping of liquor in restaurants in whole of the State of Rajasthan is not ultravires the State Government.

Retail Sale of Country Liquor—Tender invited—Earnest money deposited—Petitioner withdrawn the tender—Tender accepted—Security deposit not deposited—Held, the forfeiture of earnest money was valid as per clauses of the tender.

Validity of Permit under Ss. 18 and 54 and Excise Rules R.18—District Excise Officer and his superior officers are competent to grant the licence and permits and Assistant Excise Officer was not competent to grant any permit under the provisions of law. Held, illegal permit granted by AEO was not a permit in law of law. (Arshad Ali v. State, 2003 (2) SCC 472).

Latest Case Law

Cancellation of whole sale IMFL bear licence and forfeiture of Security and Licence fee—Validity examined—Order quashed—Refund to be made—[Section 19/54 & 58 (c)]]—Allegation of unauthorised storage and breach of conditions of licence levied against the contractor. No enquiry was conducted on defence taken by the contractor that he did not get possession of the room in which IMFL bear issued to previous contractor was stored and it was stock of the previous contractor—Link of acquisition of stocks of previous licence by the current licence—not established. Action taken by search party in searching and seizing only premises in dispute casts serious doubt on the sufficiency of the Search Report.

In absence of such link evidence having been established that there was conscious transfer of excisable articles in favour of subsequent licensee he could not be held liable for the recovery of said articles from the premises which were approved in favour of the previous licensee for conduct of his business.

The single Judge was, thus, justified in holding that the order of cancellation of license by the commissioner of whole sale IMFL bear Licence and country liquor cannot be sustained and deserves to be quashed.


Section 20-22

Held that as cancellation of licence in both the cases have found to be illegal consequently, the order of forfeiture of security and license fee in each case can not be sustained and they are required to be refunded to the contractor. If the contractor is entitled to interest thereon under the law, he is also entitled to such interest.

Further held that damages can not be granted in this writ petition. (Appeal dismissed) [Case of Chief conservator of forest, Govt. of A.P. v. Collector & Ors., 2003 (2) SCC 742, referred].

6. Expression "those parts of the State of Rajasthan to which this Act extends"—used in section 19(4) rendered useless—This expression was inserted in 1957. Thereafter the Act was made applicable to "Abu Area" w.e.f. 1-9-78 and is now applicable to whole of the State of Rajasthan. So this expression is of no use.

20. Sale of excisable article without licence prohibited—No excisable article shall be sold without a licence from the Excise Commissioner or any Excise Officer duly empowered in that behalf; provided that—

(1) a person licensed under this Act to cultivate or collect the hemp plant (Cannabis Sativa) may sell without a license those portions of the plant from which any intoxicating drugs can be manufactured to any person licensed under this Act to deal in the same or to any officer whom the Excise Commissioner may prescribe;

(2) a licence for sale in more than one district of [those parts of the State of Rajasthan to which this Act extends shall be granted with the previous approval of the [State Government], and

(3) nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

21. Sale of excisable article—No liquor shall be bottled for sale, and no excisable article shall be sold, otherwise than in accordance with the terms and conditions of a licence granted in that behalf.

22. Prohibition of sale, etc. to certain persons or in certain manner or circumstances—(1) No licenced vendor and no person in the employ of [such vendor or acting on his behalf shall sell or deliver any liquor or intoxicating drug to any person apparently under the age of 18 years, or to any person of unsound mind or to any soldier on duty and in uniform except with the permission of the proper officer of the unit to which the soldier belongs.

2. Inserted by section 7—ibid.
Section 23

(d) Railway Refreshment Room & Dining Car (R. 52)
(e) Canteen Tenant (R. 52)
(f) Occasional Licences (R. 54)
(g) Licences for the Sale of Tonic & medicated wine (R. 55)
--- Rectified Spirit (R. 56)

District Excise Officer is the Licensing Authority for these licences.

[Please refer to the Text of Rules for details]

[For “Special Rules” please refer the List in Introductory Note of this Chapter.]

3. Violation of Prohibitions mentioned in Section 22 and 23 are punishable under S. 55—[Please refer to section 56 infra.]

4. Expression “those parts of the State of Rajasthan to which this Act extends” used in Section 20(2) rendered useless—This expression was inserted in 1957. Thereafter the Act was made applicable to "Abha Area" w.e.f. 1-9-78 and is now applicable to whole of the State of Rajasthan. So this expression is of no use.

5. Case law Summarised—

---Refund of security deposit: When demand of licensee could not be met out, he is entitled to refund of deposit, but when interest was not claimed in notice under section 80 CPC- Held, plaintiff is not entitled to interest on amount of deposit.1

---Contract for Sale of liquor- Short Supply where liquor not available at Warehouse. Held, suit of plaintiff deserves to be decreed where State was responsible for short supply of liquor.

---Sale of liquor- Where the liquor was not supplied inspite of payment of full amount of price- Held, suit is liable to be decreed.


(a) Source of rule making power not flowing from S. 42 (e), but from S. 42(a)—mention of wrong provision not to invalidate the rules, when justified under Other provision.

Rules Valid. (Para 31 to 35 & 36)

(b) Meaning of word “regulating” used in S. 42(1) examined. (Para 35)—

---No discrimination—No violation of Art. 14 of the Constitution (Para 37)

(d) S. 42(e) not ultra vires the Constitution—No unfederated, unconstituted or arbitrary powers vested in the Excise Commissioner where rules made after prior sanction of State Government.4

Exercise of Jurisdiction by Excise Commissioner—Grant of Licence for Exclusive Privilege—(S.24)

Writ petition filed for seeking directions for declaration that (i) respondent was not eligible for consideration of tenders and (ii) finalisation of tenders in favour of respondent. Held that exercise of discretion by Commissioner is neither unreasonable nor is against public interest. Highest bidder has been accepted. Excise Commissioner, thus, has rightly...

1. Dhruv v. State of Rajasthan 1986 WLN (1UC) 392
2. Mangal Bhai v. State 1986 WLN (1UC) 183
4. Lakk Raja, V. State 1987 (1) RLR 661; 1987 (1) WLN 774
Section 24]

The Rajasthan Excise Act

3. Exclusive Privilege—Three fact-situations—(Section 24)—There are three fact-situations in which the Excise Commissioner may order the grant of a licence for the exclusive privilege which is subject to the provisions of section 31 relating to grant of licences—

1. Manufacturing or
   Supply by wholesale, or
   both

2. Selling by wholesale or
   by retail, or

3. Manufacturing, or Supplying by wholesale or both and selling by retail,
   —relating to (a) Country liquor, or
   (b) Foreign liquor, or
   (c) Intoxicating drug

—within any local area of the State of Rajasthan.

Thus, the exclusive privilege can be given in any of the fact-situations mentioned above in (1), (2) and (3) and such privilege can be given for any of the excisable articles mentioned above in (a), (b) or (c). This exclusive privilege be given in any local area of the State i.e. not for the whole of the State but area wise.

4. Exclusive Privilege System (Ss.24, 28 & 30) in view of the Courts (Case Law)


These licenses are contracts and lumpsum amount voluntarily agreed to pay to the State are not leases of excise duty and are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the State to the licensees. The lump sum amount stipulated is not to be equated with issue price also. [1974 WLN 367 (DB) Affirmed]


3. Exclusive Privilege of Sale of Country Liquor—Section 24 read with section 30 authorises the Excise Commissioner to grant a licence for the exclusive privilege of selling retail country liquor in the State of Rajasthan and under Commissioner may accept payment of a sum in consideration of the grant of the licence for exclusive privilege under S. 24—Contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity.

Constitution of India—Art. 47—Contracts to sell liquor not void being opposed to Directive Principles of State Policy contained in Art 47.
When and how excise duty can be levied in Rajasthan—Constitution of India.

Section 24

The Rajasthan Excise Act

The lump sum is determined by the Commissioner and for the payment of that guaranteed amount he has to purchase from the bonded warehouse of the State Government liquor of such value which may go to pay the entire amount guaranteed by him under that system.

A close comparison of the two systems reveals that the "exclusive privilege system" is nothing but an old wine in a new bottle. Under the guarantee system the licence is required to pay the amount guaranteed by him in the shape of the value of the liquor whereas under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under section 30 of the Act read with Rules 67-71 of the rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.

Licence for Sale of Country Liquor—Guarantee System & Exclusive Privilege systems distinguished—"Value Price" and "Licence Fee" include excise duty—Excise duty changeable only on liquor drawn from Govt. Warehouse at time of purchase and not on undrawn quantity of liquor.

Exclusive Privilege of Sale of Country Liquor

Section 24 read with Section 30 authorises the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under Section 36 instead of in addition to any duty leviable under this Chapter Excise Commissioner may accept payment of a sum in consideration of the grant of licence for exclusive privilege under Section 36. Held, the contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity. (I.R. (1972) 22 Raj. 84, reversed).

Guarantee & Exclusive Privilege System—Grant of Licences for country liquor thereunder—Liability of Licencee to pay stipulated sum—Enforcing payment of guaranteed sum not recovery of excise duty—The licence fee stipulated to be paid by contractors is the price or consideration for the privilege. Neither a tax nor an excise duty. (AIR 1975 305.1975 SC 1121 and I.R. (1960) 2 Ker. 71 (foli)). These licences are contracts and lumpsum amount voluntarily agreed to pay to the State are not duties of excise duty but are in the nature of lease money for rental or lumpsum amount for exclusive privilege of retail sales granted by the State to the licencees. The lumpsum amount stipulated is not to be equated with issue price. (1974 WLN 367(3B) affirmed).

Decision of Excise Commissioner upheld being just and fair where the Highest bidder backed out.

Nature of Contract—S. 30 & Rajasthan Excise Rules, 1956—R. 67—No concluded contract where tender was temporarily accepted Non-compliance of concluded contract where tender was temporarily accepted Non-compliance of Conditions—Held open to non-petitioner to withdraw the acceptance of tender.

Contract of sale of Liquor—suit when decreed—Short supply by Government ware house—where liquor was not available in the ware house, held the suit of plaintiff deserves be decreed when the State was responsible for short supply of liquor. Where the liquor was not supplied inspite of payment of full amount of price paid—the suit is liable to be decreed.

Refund of Security Deposit—When demand of license could not be met out, interest is entitled to refund of deposit, but where the interest was not claimed in the notice under S. 80 CPC, held that plaintiff is entitled to interest of deposit.

Question of Lack of Supply or Short Supply of Country Liquor raised by contractors—decisions before High Court in Writ petitions:

Each writ petitioner was asked to establish that how much quantity of liquor was not supplied due to lack of supply. No details could be furnished. Held, no cause of action in favour of petitioners survives for consideration of the High Court. (Petitions dismissed).

Increase of Bottling Fee:

Validity Upheld—Held that the provisions of section 16(1)(a) and (b), 21 and 24 of the Act as also R. 6(2) of the Excise Rules are not ultra vires the Constitution and are not beyond the competence of the State Legislature. Even the increase of bottling fee from 3 paisa to 10 paisa also cannot be said to be excessive (Writ petition dismissed).

2. Expression “those parts of the State of Rajasthan to which this Act extends” used in section rendered useless—This expression was inserted in 1957. Thereafter the Act has been extended to the whole State of Rajasthan u.c.f. 1957-78, but this expression was not omitted may be due to oversight.

6. “Subject to the provisions of Section 31”—Section 31 read with relevant rules provides for various kinds of licences for excisable articles for various purposes. Exclusive privilege system can be restored to by Excise Commissioner in appropriate cases. (Refer to Section 30 and 31 for further details).

7. Negotiations for Tender—The Commissioner Excise is held competent to enter into negotiation and petitioner has a right to participate in such negotiations.

25. Manufacture and sale of liquor in military cantonments—Within the limits of places in which any military forces are stationed and within such distance from those limits as the Government in any case may prescribe, no licences for the manufacture or sale of liquor, or for an exclusive privilege in respect of liquor under section 24 shall be granted unless with the consent of the Commanding Officer.

Section 25-27 | The Rajasthan Excise Act

COMMENTS

Scope—Section 25 imposes restriction on manufacture and sale of liquor in Military Cantonments; The State Government may prescribe limits of such area in which:

(i) No licence for manufacture or sale of liquor, or
(ii) No Exclusive privilege in respect of liquor as enumerated under S. 24 of the Act.

—Shall be granted without the consent of the Commanding Officer—

This Prohibition is in the interest of the military establishment & employees.

26. Grantee of exclusive privilege may let or assign—Subject to the conditions of his licence, the grantees of any exclusive privilege may let or assign the whole or any portion of his privilege, but no lessee or assignee of such privilege or portion of a privilege shall exercise any rights as such unless and until a licence has been granted to him by the Excise Commissioner on application made by the grantee.

COMMENTS

Scope—Rights of Grantee of exclusive privilege—Section 26 extends the right to let or right to assign the whole or any portion of exclusive privilege to the grantee but this will be subject to the conditions of his licence.

On application made by the grantee, when the Excise Commissioner has granted a licence to a lessee or assignee of such privilege, he shall thereupon be entitled to exercise any rights let or assigned to him by the grantee, but not before granting such licence.

27. Recovery by grantee of exclusive privilege of sum due to him—Any grantee, lessee or assignee as aforesaid may recover from any person holding under him any money due to him in his capacity of a grantee, lessee or assignee, as if it were an arrear of rent recoverable under the law for the time being in force with regard to landlord and tenant.

Provided that nothing contained in this section shall affect the right of any such grantee, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

COMMENTS

Right to recover sums due to grantee, lessee or assignee—Section 27 is enabling provision which authorises any grantee, lessee or assignee of exclusive privilege (refer to S. 26, supra) to recover from any person holding under him any money due to him in his capacity. For this purpose such amount shall be treated as “arrears of rent” which is recoverable under the law relating to landlord and tenant (v. Ram Control Act).

But this section will not affect the right of any such grantee, lessee or assignee to recover any such amount by way of civil suit.
Chapter V

Duties and Fees

Introduction Note

Chapter V of the Act under Sections 28 to 30- AA deals with duties and fees. The word 'duty' refers to excise duty, while the word 'fees' refers to fees for licences, permits, etc.

In the Rajasthan Excise Rules, 1956, the provisions relating to mode of payment of duty have been given in Chapter XII-Rules 85 to 87.

The detailed provisions as to 'Licence Fees' have been enumerated in Chapter IIII of these rules under Rules 66 to 71.

28. Duty on excisable articles—An excise duty (or a countervailing duty as the case may be) at such rate or rates as the [State Government] or the council as the case may be, may impose either generally or for any specified local area in any excisable article imported or exported, or transported or manufactured, cultivated or collected under any licence granted under this Act, or manufactured in any distillery, pot-still or brewery established or licensed under this Act.

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

29. Manner of levying duty—Subject to such rules regulating the time, place and manner of payment, as the [State Government] may prescribe, such duty may be levied in such one or more ways as the [State Government] may by notification in the [Official Gazette] direct.

COMMENTARY (S 28 & 29)

SYNOPSIS

1. Excise duty

2. Excise Revenue

3. Intoxicating Drug

4. Excisable articles

Note:

1. Inserted by Section 9 of Rajasthan Act No. 28 of 1952 published in the Rajasthan Gazette, Part IV-A, dated 13-12-52.


Section 29 | The Rajasthan Excise Act

5. Nature of Excise duty

(a) General fees

(b) Excise duties under the Act (S 28)

(c) Manner of levying duty (S 29)

(d) Mode of Payment of duty

(e) Notifications

1. Rectified spirit not excisable article

6. Countervailing duty

1. Excise duty [As defined in S 3(6)]—It means—

Any duty of excise imposed by or under this Act (i.e. under S 28) on—

[(as excisable articles)—

—manufactured or

—produced in the STATE OF RAJASTHAN

2. Excise Revenue [As defined in S. 3 (8)] means—

—revenue derived or derivable from—

(i) payment, (ii) duty, (iii) etc. (iv) tax (v) fine (Other than imposed by a court of law). or (vi) Confiscation

—imposed or ordered under the provisions of this Act, or by or under any other law for the time being in force relating to liquor or intoxicating drugs.

Thus, the excise duty is part of excise revenue.

3. “Intoxicating Drug” (S.3(14)) means—

(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant (Cannabis Sativa) including all forms known as Bhang, Sidu or Ginjoo

(ii) Charas, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulation other than those necessary for packing and transport.

(iii) Any mixture, with or without inert material, of any of the above forms of intoxicating drug, or any drink prepared therefrom, or

(iv) Any other intoxicating or narcotic substance which the State Government may declare, by notification in the official Gazette, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in the Dangerous Drugs Act, 1930 (Central Act II of 1930).

4. Excise Article—

[Refer to Clause (4) of Section 3 for full details]

[For details of these words, please refer to Commentary of section 3- Definitions]

5. Nature of Excise duty—

(A) General Law—The Excise duty may be construed as a duty leviable upon the manufacturer or producer of excisable articles or at least at the stage of or in connection with manufacture thereof (AIR 1967 SC 791, 1959 PC 1, 1942 PC 33, 1945 PC 38, 1962 SC 1281, 1967 SC 1312 relied on) 2. A duty of excise is primarily a duty levied on a manufacturer or producer. If it is a tax on goods, not on sale.

1. British India Corp. Ltd. v. Collector, Central Excise, AIR 1963 SC 104

(B) Excise duty under the Act—
   (i) According to definition of Excise duty under clause (6) of Section 3 [See Note(I), supra], the Excise duty is to be imposed-
      (a) on excisable articles only (see-clause (4) of S.3 for details)
      (b) on manufacturing or producing in Rajasthan, and
      (c) as imposed by or under this Act
   (ii) Section 28 imposes (a) excise duty or (b) countervailing duty, as the case may be-
      (a) On the rate or rates directed by the State Government, according to place generally or for local area to be specified.
      (b) On the excisable articles-
         (i) imported or exported, or
         (ii) manufactured, cultivated or collected
            — under any licence granted under this Act; or
      (c) On excisable articles—
            — manufactured in—
            — any distillery, PoI-still, or brewery
            — established or licensed under this Act.
   (C) Manner of Levying duty—(Section 29)—Section 29 gives outline only. The excise duty shall be levied in the manner prescribed by the Rules as follows:
   (D) Mode of Payment of Duty—In the Rajasthan Excise Rules, 1956, the Chapter XII deals with "Mode of Payment of duty" in the following manner:
      Rule 85- Duty on foreign liquor and country liquor payable before issue.
      Rule 86- Duty on Ganji and Bhang payable before issue.
      Rule 87- Bonds & their effect.
   (E) Notifications relating to imposing of excise duty.—We are reproducing only the most important notification hereinafter in Note (10). These notifications are subject to frequent amendments, please refer to latest notification from Rajasthan Gazette. Please also refer to Part III of the book for further notifications.
   (F) Excise duty on Rectified Spirit imported for Industrial Use—Constitution of Indus-Schedule VII-List II-Entry 51(a) Beyond Competence of State Legislature—Rectified Spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government.

The reason is, that it is the stage of manufacture that the excise duty can be and is leviable and only such rectified spirit which is alcoholic liquor fit for human consumption, can be excisable within the expression of Section 3(4) of the Act and the State legislature can be competent to impose and levy duty under Section 28 of the Act in view of entry 51(a) of List II (State List) of the Seventh Schedule to the Constitution of India, and it may be stated that rectified spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government under the aforesaid entry of List II (State List) of the Seventh Schedule to the Constitution of India and it is beyond the competence of the Legislature.

1. Mrs. Hinglaj Gopinath, B.L., V. State 1989 (1) RLR 642. For details of the case, please refer to Commentary of Section 3(4), supra. Also refer to AIR 1990 SC 927

Section 29

6. Countervailing duty—It is excise duty to be prepaid before import or if import is under bond to be paid when the bond is broken.

   (a) Import on pre-payment of duty in the State of export.
   Rule 29—Import Free of duty at the reduced rate.
   Rule 31—Excise duty how paid
   Rule 32 to 42—deal with Excise from distilleries on payment of duty.
   (b) Provisions relating to fees—Licence and Permit Fees—(Chapter VIII of the Rules) Rules 68 to 71

(c) Various kinds of licences under S. 31 of the Act have been dealt with in the following chapters of the Rules in details—
   (i) General Provisions on licences—Chapter IX Rules 72 to 77
   (ii) Licences for Foreign Liquor and Beer licences for whole sale retail. (Chapter V-Rs.47-52)
   (iii) Licences for Country liquor and Intoxicating Drugs (Chapter VI-Rs.57-59)
   [For licences, please also refer to the Special Rules of particular liquor in Part II of this book and the licence forms prescribed by the Government.]
   (iv) Licence & Permit Fees—(Chapter VIII-Rs. 68 to 71)

8. Procedure or Systems of Granting licences under the Rajasthan Excise Rules 1956—

   (1) Procedure by Auction (Chapter VII- Rs. 60-62)
   (3) Licence on payment of lumpsum instead of or in addition to pay duty—(Exclusive privilege System) Chapter VII-B-Rules 67-L to 67-M.

9. Special Rules—List of—

*1. Rajasthan Excise (Grant of Hotel bar/Club bar Licences Rules. 1973
2. The Foreign Liquor (Grant of whole sale Trade and Retail off Licences) Rules 1983
4. Rajasthan Distilleries Rules, 1969

For text of these Rules, please refer to in Part II of the Book
[Also refer to Commentary of S. 31 for Introductory Note on the above-mentioned (*) rules]

10. Notifications imposing Excise duty—

   — Introductory Note

There are three sets of Notifications—

   This famous notification of 30.3.1977 was amended from time to time and has been reproduced in Part III of the book for reference. It was superseded by S.O. 252 dated 9-12-1996 and has become a dead letter now.
I. Notification No. S.O. 232 dated 9-12-96—This notification of 9-12-96 continued as main notification in place of above notification till 31-3-97. When it was superseded by S.O. 15 dated 31-3-97. It has also been reproduced in Part III of the book for reference.

It is a surprise that it has been amended by S.O. 52 dated 7-5-98 even after 31-3-97 when it was not in operation. So this amendment suffers from mistaken reference. [Please refer to Explanatory note. infra, appended to S.O. 15 dated 31-3-97 for comments]

III. Notification No. F. 4(52) FD/EX/96—S.O. 15—dated 31-3-1997—At present this notification is in operation w.e.f. 1-4-1997 and is being reproduced herein after with amendments upto 1-4-1999 for ready reference.

1. आवेदक/विवाह

[(क) जब रमण से भार भीतरिक बिखावा]

(i) भारत में भिडित बिदेशी राष्ट्र

(ii) देशी नजर

1[(iii) बीत]]

[(क) बेदेशी (Bottled) निवास]

(iii) बेदेशी

[(ii) बेदेशी (Heritage Liquor) निवास]

[(क) जब रमण के भिन्न उपमोन्नि बिखावा]

(i) उपमोन्नि को संयोजित करते हुए

भारत में भिडित बिदेशी रिपोर्ट

(ii) नवम्न, भूलगू नव तत्संबंधित वर्ण और राज्य में आवेदक में मधुर संचार

द के लिए भारत में भिडित बिदेशी राष्ट्र विदेशित अन्न के अन्तर्गत और विदेशित की गई थी। उपरन्तु संबंध

1. Published in Raj. Gaz. 310 4 (G) [II] dated 11-4-1997, page 257 to 258 (18 Dec. 1-4-1997)
2. Substituted for “Rs. 3-1-96” by S.O. 107 dated 9-7-98: Pub. in Raj. Gaz. 14-AIV (G)(111) dated 9-7-98, page 1657 (119) RCS (24 447/36/19)
3. Substituted for “1-00 p.h.” by S.O. 107 dated 9-7-98 and l
4. Added by S.O. 107 dated 9-7-98, ibid.

1. Added by S.O. 107 dated 9-7-98, ibid.
2. Substituted for expression “25% higher than the rates applicable to normal beer”, by Notification No. F. 4(4) FD/EX/199, dated 22-3-99.
5. Added S.O. 107 dated 9-7-98, ibid.

[(iii) जनात्मक और भारत में निर्दिष्ट विशेष तिथि]

[(क) यदि शराब, पुरूष निवास के 8.75% प्रति शत तिथि]

15.00/- 8. प्रति शत तिथि]

[(ब) यदि शराब, पुरूष निवास के 8.75% प्रति शत तिथि]

15.00/- 8. प्रति शत तिथि]

[(क) बिनायक (Bottled) निवास]

[(ii) बिनायक (Heritage Liquor) निवास]

[(क) जब रमण के भिन्न उपमोन्नि बिखावा]

100.00/- 5. प्रति शत तिथि]

[(iii) विदेशी राष्ट्र]

[(ii) नवम्न, भूलगू नव तत्संबंधित वर्ण और राज्य में आवेदक में मधुर संचार

द के लिए भारत में भिडित बिदेशी राष्ट्र विदेशित अन्न के अन्तर्गत और विदेशित की गई थी। उपरन्तु संबंध

1. Added by S.O. 107 dated 9-7-98, ibid.
2. Substituted for expression “25% higher than the rates applicable to normal beer”, by Notification No. F. 4(4) FD/EX/199, dated 22-3-99.
5. Added S.O. 107 dated 9-7-98, ibid.
2. प्रतिशुल्क
आवश्यक होने के पूर्व संदर्भ किया जाने दिया पद्धति आवश्यकता के अधीन हो गए कंट्रोल किया जाने वाले अवश्यक समाप्त हो।

3. आवश्यकता
आवश्यक होने के पूर्व संदर्भ किया जाने दिया पद्धति आवश्यकता के अधीन हो गए कंट्रोल किया जाने वाले अवश्यक समाप्त हो।

(क) भारत में निगरानी विभाग
(i) बियर की गर्मी भारत में निगरानी विभाग पर
4.00/- स. प्रति प्योर लिटर
(ii) भारत में निगरानी विभाग के बिना पर
4.00/- स. प्रति प्योर लिटर

(ख) बियर
1(5.00) स. प्रति प्योर लिटर

(ग) किराया
20.00/- स. प्रति किलो
5/- प्रतिदिन

[म. 46(62) विन/आव/96 रिलेंस 31 मार्च 1997]

Notification (dated 31-3-97)
[As amended w.e.f. 1-4-2006]
[Not. No. F. 4(62) FD/EX/96, dt. 31-3-97]

In exercise of the powers conferred by Sec. 28 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), and in supersession of the department notification No. 72(FD)/EX/96, dated 9-12-96, the State Government hereby imposes Excise Duty on 1 consumption on the following excisable articles manufactured in Rajasthan under licence granted under the aforesaid Act or Rules made thereunder or in any distillery ready. Bottling Plant established or licensed under the aforesaid Act or Rules made under and Countervailing duty on such excisable articles imported into the State at rates specified below with effect from 1-4-97, namely:—

1. Excise Duty—
2[(iii)\(A\) added]

Substituted Rs. 8.00 for Rs. 5.00 and Rs. 5.00 for Rs. 3 respectively by S.O. 107 dated 9-7-98, ibid.

Amended by S.O. 52 dated 7-5-98.


Words “export, import and” deleted vide No. 1(10) FD/Excise/96 dated 2-11-1996.

The Rajasthan Excise Act

2. Countervailing Duty—
To be paid before import or if its import is under bond to be paid when the bond is broken.

3. Import duty— (deleted ***)

GOVERNMENT OF RAJASTHAN
FINANCE DEPARTMENT
(EXCISE DIVISION)

[No.13(10)/FD/Excise/99 Dated 2-11-1999]

NOTIFICATION

In exercise of the powers conferred by section 28 of the Rajasthan Excise Act, 1950, the State Government hereby makes the following amendment with immediate effect in this department notification No. F.461/ED/Excise/96 dated 31-3-1997, (as amended from time to time), namely:

Amendment

In the said notification:
1. In the Preamble, the existing words "export, import and" appearing between the words "Excise Duty on" and "consumption" shall be deleted.
2. Under the head "1. EXCISE DUTY", the existing sub head when exported out of the State and items thereunder shall be deleted.
3. Under head "1. EXCISE DUTY", the expression "(B)" appearing in sub-head "when consumed in the State" shall be deleted.
4. The existing head "3. IMPORT DUTY" and items thereunder shall be deleted.

Explanatory Note- Import duty on शरका (Molasses)- A mistake of reference-But order/amendment would be valid.

(c) Molasses—
If monthly consumption by a unit is—
(i) up to 20,000 Qts., Rs. 80/- (per qtl.)
(ii) More than 20,000 Qts. but less than 30,000 Qts., Rs. 80/- (per qtl.)


Deleted the following items - vide No. 1(10) FD (Excise)99 dated 2-11-1999.

3. Import Duty—
To be paid before import or if its import is under bond to be paid when the bond is broken.
(a) Indian Made Foreign Liquor
(i) On Bottled I.M.F.L., Rs. 5.00 per L.P. litre
(ii) On Bulk I.M.F.L., Rs. 5.00 per bulk litre
(b) Beer
(c) Molasses
(d) Lanced Poppy Heads
Published in Raj. Gaz.-FO—IV.C(III) dated 23-3-98.

Section 39

The Rajasthan Excise Act

(iii) More than 30,000 Qts.
Rs. 105/- (per qtl.)

(iv) More than 40,000 Qts.
Rs. 85/- (per qtl.)

The above rate of Import duty was substituted by S.O. 72 dated 7.5.92 vide S.O. 333 dated 12.9.97 and S.O. 272 dated 9.12.96, but the main notification S.O. 272 dated 9.12.96 has been superseded by Notification S.O. 15 dated 31.3.1997 (Main Notification in Hindi-Quoted). Hence above amendment after 31.3.97 by S.O. 72 dated 7.5.92 suffers from mistake of reference, which may be ignored and the rates of Import duty on Molasses may be treated as valid. No corrigendum has yet been issued by Government. Now Import duty has been deleted by notification no. 1(10) FD/Excise/99 dated 2-11-1999.

11. The Latest Trend—

Levy of Bottling Fee not unconstitutional

Rule 91(3) of the Distilleries Rules, 1976 says that the Excise Commissioner may specify wherever possible that mechanical arrangements may be made for all operations up to the stage of bottling and may also lay down that bottling operation must be carried out under proper supervision in conformity with high standards of hygiene and the product should not be touched by human hand at this stage. This condition is prescribed to keep the liquor to be bottled so that the liquor may not become hazardous to the public. These services thus being rendered by the State Government and, therefore, it cannot be said that the levy of bottling fee is unconstitutional because no services are being rendered by the State. (Para 22)

The concept of "quid pro quo" has undergone a definite change in the laws of public law. It was held that it is now increasingly realized that merely because the collection for services rendered or grant of a privilege of licence is taken to the consolidated fund of the State and not separately appropriated towards the expenditure for rendering the services is not by itself decisive.

Before the liquor becomes marketable, it must be saleable i.e. it must be fit for human consumption and that has to be ensured by the Excise authorities and, therefore, the levy of bottling fee cannot be said to be ultras to the Constitution or the Act and the Rules. (Para 28)

Cases Referred to:

2. M/s India Cable Co. Ltd. v. Collector, Central Excise, AIR 1985 SC 64.

Excessive Wastage—Import of I.M.F.L. from other distilleries resulting in excessive waste and the Excise Officer demanding same on account of excess wastage. Such demand is neither duty nor tax. It is compensation or price agreed to be paid as part of consideration under agreement with Government reimbursing Government for loss of revenue computed in terms of excise duty which State would have earned had there been no excessive wastage. (Para 28)

Section 30 | The Rajasthan Excise Act

Under the guarantee system the licensee is required to pay the "value" of the liquor to the extent to which he guarantees the payment and the value of the liquor contains certain portion which can easily be attributed towards the payment of excise duty as a licensee pays that amount by drawing liquor from the warehouse of the State Government and paying the issue price thereof. Under the "exclusive privilege system" that component of the issue price which is attributable to payment of excise duty is adjusted towards the guarantee, amount which a licensee is required to pay during a financial year under the license issued under Chapter VII-B of the rules means that the licensee under the exclusive privilege system guarantees the payment of the excise duty to the extent the lump sum is determined by the Commissioner and for the payment of that guaranteed amount he has to purchase from the bonded warehouse of the State Government liquor of such value which may go to pay the entire amount guaranteed by him under that system.

A close comparison of the two systems reveals that the "exclusive privilege system" is nothing but an old wine in a new bottle. Under the guarantee system the licensee is required to pay the amount guaranteed by him in the shape of the value of the liquor whereas under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under section 30 of the Act and with Rule 67-1 of the rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.

3. Licence for Sale of Country Liquor-Guarantee System & Exclusive privilege systems distinguished-"Value Price" and "Licence Fee" include excise duty-Excise duty chargeable only on liquor drawn from Govt. Warehouse at the time of purchase and not on undrawn quantity of liquor.  

4. Exclusive Privilege of Sale of Country Liquor-S. 24 read with S. 30 authorised the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under S. 30 instead of or in addition to pay duty levable under this Chapter. Excise Commissioner may accept payment of a sum in consideration of the grant of license for exclusive privilege under S. 24. Held, the contractor is bound to pay the guaranteed amount even when liquor is not sold in agreed quantity (I.LR 1972) 22 Raj. 54; reversed)

5. Guarantee & Exclusive privilege System Grant of Licences for country liquor thereunder-Liability of Licensee to pay stipulated sum-Enforcing payment of guaranteed sum not recovery of excise duty - The licence fee stipulated to be paid by contractors is the price or consideration rental charges-Neither a tax nor an excise duty [AIR 1975 SC 360, 1975 SC 1121 and I.LR (1969) 2 Ker 71 fol] These licences are contracts and lump sum amount voluntarily agreed to pay to the State are net levies of excise duty but are in the nature of lease money or rental or lump sum amount for exclusive privilege of retail sales granted by the State to the licensees. The lump sum amount stipulated is not to be equated with issue Price also [1974 WLN (DB) affirmed]

6. Decision of Excise Commissioner upheld being just and fair where the Highest r back out.1

7. Nature of Contract—S. 30 & Rajasthan Excise Rules, 1956- R. 67-No. concluded act where tender was temporarily accepted Non-compliance of Conditions Held to non-petitioner to withdraw the acceptance of tender.1

8. Contract of Sale of Liquor when decreed—Short supply by Government house- Where liquor was not available in the ware house held the suit of plaintiff was to be decreed when the State was responsible for short supply of liquor.2

Where the liquor was not supplied in spite of payment to full amount of price the suit is liable to be decreed.3

9. Refund of Security Deposit—When demand of licence could not be met out, entitled to refund of deposit, but where the interest was not claimed in the notice r S. 80, CPC held that plaintiff is not entitled to interest of deposit.4

Latest Case Law summarised

● 10. Exclusive Privilege to vend country liquor in Bihar & Orissa State—Such privilege granted to more than one person in a zone—payability of licence fee by each examined.

Held that the terms of tender and licence provide for collection of the total licence or the Zone from each of the contractor in that zone in equal proportion. Held further when the tender condition and conditions of the licence do not provide, the State not be able to collect the full licence fee from each of the licensees/contractors.5


Since the licensees having entered into agreement voluntarily, containing the terms and having done business under the licences obtained by them, cannot be held as being out of the agreement nor can they be allowed to challenge the fee of the Rules which constitutes the terms of the contract [AIR 1975 SC 2008 and 1987 SC 933 follow].6

12. Exercise of Jurisdiction by Excise Commissioner—Grant of Licence for Exclusive privilege—

Write petition filed for seeking directions for declaration that (i) respondent was eligible for consideration of tenders and (ii) final selection of tenders in favour of respondent, that exercise of discretion by Commissioner is neither unreasonable nor is against the interest. Highest bidder has been accepted Excise Commissioner, this has rightly raised the jurisdiction (Para 6) (Writ petition dismissed) [AIR 1984 SC 1630 and 1980) 1992 relied on 7

Champak Lal v. State 1986 WLN (UC) 178.  
Dharmraj v. State 1986 WLN (UC) 392.  

Section 30-A ] The Rajasthan Excise Act

13. Short supply of liquor by State—Claim for grant of rebate—Liability of State and contractor pointed out—

The State to supply the liquor to the licensees as unless the State supplies them the liquor they cannot carry on their business and if there is any short supply the licensees are entitled for rebate as per the rules and terms and conditions of the licence. But the question arises, who is responsible for the alleged short supply.

In State of Rajasthan v. Chandrakant [1992 (5) SC 654], the Supreme Court has observed that it is for the writ petitioner to establish their contention that in spite of their demand, the State could not supply the requisite quantity. The mere fact that there was a short fall in overall production of country liquor in the State of Rajasthan during the said year does not establish their contention. If really the petitioners had asked for supply of certain quantity, there must be some evidence in support of such demand, whether in the shape of e-mail, invoice or some other document. Further, when the ware house could not supply the increased quantity, they must have made an endorsement to that effect on some document or must have issued a certificate to that effect. All that material must be in possession of the petitioner. It is true that the State cannot merely rely upon the theory of e-mail or proof and ought to assist the court in arriving at a fair decision by placing all the relevant material before it. But this obligation cannot be said to mean that the State is under an obligation to establish or make out the writ petitioner's case. The burden lies upon the petitioner, who seeks a particular relief on the basis of certain facts, to establish those facts.

According to the Condition No. 1(GA) of the licence either the licence holder has to deposit the installment of the exclusive privilege amount in 12 monthly installments before expiry of 10th of subsequent month every month and if in a particular month there is any deficiency then that is required to be fulfilled by cash deposit and if in a particular month, more than the requisite liquor is lifted, then that cannot be adjusted towards any other month for the purpose of rebate.

It is not necessary for the respondents to supply liquor as and when demand is made but it can be supplied at any time before the entire month in some time due to non-availability of liquor in the warehouse or sometimes due to non-availability of loading/unloading & transportation facility with the licensed, or for any other reason, liquor is not lifted and what is the reason at the point of time for non-supply of liquor either on the part of State or on the part of licence is material for fixing the responsibility for non-supply or non-lifting of the liquor.1

20-A. Interest payable on failure to pay excise revenue—if the amount of any duty, fee or other demand due against any person under this Act or the rules made thereunder is not paid till the due date as prescribed, he shall be liable to pay on the amount due simply interest at the rate of

[at such rate, as may be notified by the State Government from time to time] from the day next following the day on which the payment of such duty, fee or demand became due.

Provided that where as a result of any order of the competent authority, the amount on which the interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.]  

**Explanation**—Where both the excise revenue and interest are outstanding, the past payments made shall be appropriated first towards excise and then towards interest."

**Rate of Interest**—As per amended provision, the State Government has now notified the interest rate of 18% per annum (i.e. 1.5% per month) instead of 24% per annum (i.e. two percent per month) vide order No. F(428) F/EX/3 dated 07-06-03 w.e.f. 01-04-2003.

**COMMENTARY SYNOPSIS**

1. Amendment 2003
2. Meaning of 'Month'
3. Interest when commences.

1. **Amendment 2003**—Wide powers conferred on State Government—Section 30-A has been amended and expression two percent per month "has been substituted by expression" at such rate, as may be notified by the State Government from time to time." This amendment empowers the State Government to notify the interest rate from time to time and provides wide discretion.

3. **Meaning of 'Month'**—The word 'month' has been defined in clause 46 of Section 32 of the Rajasthan General Act, 1955, as under:

4. "Month" shall mean a month according to the English Calendar.

It denotes a period terminating with the day of the succeeding month numerically corresponding to the day of the succeeding month, if it terminates with the last day thereof.

3. **Interest when commences**—The interest commences from the day next following the day on which the payment of such duty, fee or demand becomes due.

4. **Reduction of Interest**—In case the amount of demand is reduced by the competent authority, the interest shall also be reduced and the excess amount of interest so paid shall be refunded by the Government. It is duty cast on the department to refund the excess amount paid as interest.

5. **Recovery of Interest**—Contract not violative of provisions of the Constitution of India. If contract is restored under S. 30-A, the recovery could be made. When petitioner failed to deposit requisite amount, held, the Government was entitled to interest.

**[Applicability of Section 30-A, Liability of Interest under conditions of Government Contract for delayed payment.—Principles of Natural Justice not followed.—Bank Guarantee**

5. Chandan Singh v. State of Rajasthan & others, 2003(3) WLC (Raj.) 584

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delayed—Provided, liability of interest is as per terms of the contract and not as per Section 30-A of the Act. After availing benefit, Petitioners, held can not assault condition No. 175 of the contract providing for interest for delayed period. However, as the demand notice issued without giving opportunity of hearing, is liable to be quashed and is hence set aside—principles of natural justice violated (Paras 17-19) (Petition partly allowed).

**30-AAA. Power to reduce or waive interest in certain cases—Notwithstanding anything contained in this Act, the Excise Commissioner may, on an application made in this behalf, by a licensee and after recording his reasons for so doing, reduce or waive the amount of interest payable by the licensee under this Act, if he is satisfied that—**

(a) to do otherwise would cause genuine hardship to the licensee; and

(b) the licensee has co-operated in any proceeding for the recovery of any amount due from him.

**COMMENTARY SYNOPSIS**

1. Statement of Objects & Reasons
2. Notwithstanding anything contained in this Act.
3. Powers of Excise Commissioner & Procedure to reduce interest.

1. **Statement of Objects & Reasons**—Section 30-A of the Act provides for payment of interest on failure to pay excise revenue. In certain cases, however, the amount of interest have increased enormously and a situation has arisen in which the recovery even of the due revenue has become difficult. It has, therefore, been decided that, by inserting new Section 30AA in the Act, the Excise Commissioner be empowered to reduce or waive the amount of interest in case of genuine hardship. Such a provision already exists in the Rajasthan Sales Tax Act.

2. **Notwithstanding anything contained in this Act**—Effect—This non-obstante clause gives overriding powers to the Excise Commissioner. The provisions of Section 30AA would not be affected by any provision elsewhere contained in this Act.

3. **Powers of Excise Commissioner & Procedure to reduce interest**—On an application of a licensee, the Excise Commissioner may reduce or waive the amount of interest to be paid by the licensee after recording reasons for doing so.

4. **Satisfaction of the Excise Commissioner**—If the Excise Commissioner is satisfied on the following two grounds, he may reduce or waive the interest payable in any case:

(i) In the circumstances of the case there is a genuine hardship caused to the licensee.

(ii) The licensee is co-operative in nature for the recovery of dues against him.

Thus, there is wide discretion given to the Excise Commissioner to deal with cases of genuine hardship and to reduce or waive the amount of interest. Such a wide discretion is to be exercised in genuine cases and no arbitrariness should prevail as it is quasi-judicial function and not purely administrative one.
Chapter VI
Licences, Permits and Passes

Introduction Note

In Chapter VI of the Act, section 31 to 38 deal with "Licences, Permits & Passes" being issued under the Act read with various rules.

(a) The Rajasthan Excise Rules, 1956—In the Rajasthan Excise Rules, 1956 the licences of various kinds have been described in the following Chapters.

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<th>Chapter</th>
<th>Licence for</th>
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<td>V</td>
<td>Foreign Liquor &amp; Beer for wholesale vend</td>
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<tr>
<td>VI</td>
<td>License for Retail Sale of</td>
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<td>—Country Liquor &amp; Intoxicating Drugs</td>
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Licences are to be given after following any of the following procedure enumerated in the rules:

(a) Licences by Auction—Chapter VII (Rs. 61 to 67)
(b) Licence under the Guarantee System—Chapter VII-A (Rs. 67-A to 67-H)
(c) Licence on payment of lumpsum instead of or in addition to duty (Exclusive Privilege System)—Chapter VII-B (Rs. 67-A to 67-L)

Chapter VIII of the Rules provides for "Licence & Permit Fees" under rules 68 to 71. The latest notifications have been included in this Chapter.

General provisions as to Licences have been given in Rules 72 to 77 A in Chapter VIII of the Rules.

(b) Special Rules—List of—
1. Rajasthan Excise (Grant of Hotel bar/Club bar licence) Rules, 1973
2. The Foreign Liquor (Grant of whole Sale Trade and Retail off Licence) Rules, 1982

[For text of these Rules please refer to Part II of the Book.]

(1) Introduction Note on Grant of Hotel bar/Club bar Licence Rules, 1973—These rules are applicable to licences for Hotel bars or Club bars as defined under 2 of these rules.

Rule 3 enumerates the persons who are eligible for grant of such licences and provides for procedure of granting such licence in details.

In case of default in payment of licence fee or failure to start sale, the licence may be cancelled by the Excise Commissioner vide rule 4. Exemptions on grounds of disqualifications mentioned under R. 3(8) or in case of fraud and questionable method of obtaining sanction, the licence may be cancelled after giving opportunity of hearing.

Renewal of licences is dealt with in R. 7 A. These rules have been given over riding effect over the Rajasthan Excise Rules, 1959 vide Rule 8 of these Rules.

(2) Introductory Note on The Rajasthan Foreign Liquor (Grant of wholesale trade & retail off licences) Rules, 1982—

1. Background—Prior to these 1982 Rules, the Rajasthan Foreign Liquor Rules, 1972 was in force. In 1982, these Rules were made and published on 20-2-1982 in the Rajasthan and came into force w.e.f. 20-2-1982.

2. No absolute right to sell liquor—Arts. 14, 19 & 30A A not attracted.

3. Grant of Licence Procedure—Rule 3 deals with eligibility and procedure of grant of whole sale trade and retail off licences for sale of foreign liquor [Refer to Rs. 47 (1)]. 49 read with 48 of the Rajasthan Excise Rules also. The following procedure may be used:

(i) be auction (as per procedure prescribed under rule 4 of these rules) or
(ii) on commission basis, or
(iii) by negotiation with the existing licences; or
(iv) by any other system sanctioned by Govt.

4. Grant of licence for exclusive privilege is to be regulated by Rule 3 A of these rules.

5. Group of Shops—(Rule 4 A) may be given licences under these rules.

6. Cancellation of Sanction of licence (Rules 5)—Licence may be cancelled on any of the following grounds:

(i) Non-deposit of prescribed fee as per Rule 69 (1) of the Rajasthan Excise Rules, with in 15 days of the date of receipt of sanction
(ii) For not starting the shop within 15 days of the receipt of licence

6. The licenses suffers from any of disqualifications mentioned in R. 4(3), or
(iv) Where sanction of grant of licence was obtained by fraud or questionable method.

In these cases, the Excise Commissioner shall give a reasonable opportunity of being heard. In these cases deposited amount may be also forfeited.

7. Exemptions—(Rule 6) These rules are not applicable to—

(1) Castex Stores Department (India)
(2) Commanding officers of Armed Forces of the Union of India or
(3) The Border Security Force Personnel Stationed in Rajasthan

8. Licence fee & Renewal Fee—(Rule 7)—Application for renewal of licence shall be made as per Rule 72 A of the Rajasthan Excise Rules accompanied by a treasury receipt of renewal fees and usual fees payable under R. 69 (1) of the Rajasthan Excise Rules.

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1 Ram Krishna Virdi Vargh v. State 1981 WLR (RJ) 267
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Section 31

No claim to renewal of such licence or compensation on non-renewal could be entertained by any person.

The question of renewal of licence can arise only when there exist an existing licence and there is no gap in between the expiry of the licence and grant of new licence.

9. Overriding effect of these Rules—In case of conflict between the provisions of these rules and the Rajasthan Excise Rules and the former (i.e. these rules) shall prevail. Thus these rules being special rules shall prevail over the general rules (i.e. Rajasthan Excise Rules, 1966).

Introductory Note on the Rajasthan Intoxicating Spirituous Preparations Import, Export, Transport, Possession & Sale Rules, 1989

These rules came into force w.e.f. 6-11-89 which deals with the above mentioned subjects relating to 'Spiritious Preparations'.

'Spiritious Preparations' means such preparations declared by the Government as 'liquor' from time to time. The Government of Rajasthan declared all medicinal toilet preparations and other spirituous preparations containing more than 20 proof to be liquor for the purpose of the Act and the Rules vide Notification S.O. No. 585/89 dated 8-5-1989.

The Government has approved the list of 26 intoxicating preparations to be for purposes of R 26, incapable of being misused for potable purposes and therefore exempted from the operation of these rules vide S.O. 31 dated 21-1-1990.

Rule 5 provides for the following spirituous preparations which may be possessed in any quantity by any person and registered practitioners of various pathies within prescribed limits without the licence or permit:

(1) Allopathic Preparations
(2) Homoeopathic Preparations
(3) Ayurvedic Preparations
(4) Toilet Preparations
(5) Essential Oils
(6) All Kind of Intoxicating Spirituous Preparations.

Rules 6 to 9 deal with issuing permit or pass for import, export and transport of these preparations. Sale of these preparations are to be regulated by licences, permits or passes issued by authorities in pursuance of Rules 10 to 23 of these rules.

Infringement of the provisions of these rules would be an offence under S. 34 of the Rajasthan Excise Act, 1956 as provided by Rule 24(iii).

The District Excise Officer may also revoke the licence or permit on such infringement. In cases of minor nature, the District Excise Officer may restore such licence or permit with payment of an amount not exceeding Rs. 500.

Duty (Rule 25)—Where the duty is not leviable under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955, the provisions of the Rajasthan Excise Act, 1950 apply and the duty may be imposed accordingly.

Rani Krishna V. State 1981 W.N. (R.C.) 707*

Exemption (Rule 26)—The Excise Commissioner will issue a list of preparations incapable of being misused for potable purposes and these rules shall not apply to these preparations vide S.O. 31 dated 21-1-1990. A list of 26 such intoxicating preparations has been exempted from operation of these rules.

[Please refer to the list and notifications along with the text of Rules in Part II of the Book.]

Forms—The following forms have been prescribed and appended to these Rules:

1. Application for issue of I.S.P. Licence for the sale of Ayurvedic Drugs.
2. Form of Application for the grant of licence for the sale of Intoxicating Spirituous Preparations.
3. Licence for the sale of Intoxicating spirituous preparations (Form I.S.P. 1)
4. Permit for the possession of Intoxicating spirituous preparations (Form I.S.P. 2A)
5. Form of Permit for import/transport of Intoxicating Spirituous Preparations (Form I.S.P. 3)
6. Form of Permit for the Export/transport of Intoxicating Spirituous Preparations (Form I.S.P. 4)
7. Register showing stock of each kind of Intoxicating Spirituous Preparations (Form I.S.P. 5)

31. Form and condition of licences etc.—Every licence, permit or pass granted under this Act, shall be granted—

(a) by such authority,
(b) on payment of such fees (if any),
(c) subject to such restrictions and on such conditions,
(d) in such form and containing such particulars, and
(e) for such periods.

as the [State Government] may, by rules, prescribe, by rules either generally or for any class of licences, permits or passes or as the [State Government] may direct for any particular licence, permit or pass.

32. Saving of licences in force at the commencement of this Act—Every licence which was granted under any provision of the Excise Acts or Laws repealed by this Act, shall be deemed to have been granted under the corresponding provision of this Act and shall (unless previously cancelled, suspended, withdrawn or surrendered under this Chapter) remain in force for the period for which it was granted.

33. Power of authority granting licence to require execution of counterparty agreement etc.—Any authority granting a licence under this Act may require the grantee to execute a counterparty agreement in conformity with
the tenor of his licence and to give such security for the performance of such agreement or to make such deposit in lieu of security, as such authority may ink fit.

COMMENTARY (Sections 31-33)

SYNOPSIS

Meaning of Licence

Licences dealt with in Excise Rules, 1956

(Terms & Conditions of licence-Marriage

1. Licence-Meaning of—The dictionary meaning of the word ‘licence’ is an ‘authority to do something which would otherwise be impermissible unlawful or illegal’, formal permission by a constituted authority to do something.

1. There is several prohibited provisions in this Act in relation to trade in liquors dealing with excisable articles and to regulate these provisions, the licences of such kind are to be issued under S. 31 read with various Rules.


(i) General Provisions on licences Chapter IX Rules 72 to 79A

(ii) Licences for foreign Liquor and Beer licences for wholesale vend. (Chapter V:R 47-56)

(iii) Licences for Country liquor and Intoxicating Drugs (Chapter VI:R 57-59)

(iv) Licence & permit fees. (Chapter VIII:R 68 to 71)

For licences, please also refer to the special rules of particular liquor in Part II this book.

3. Terms & Conditions of Various licences issued by the Excise Commissioner are reproduced at the end of the Raj. Excise Rules, 1956—

1. देवी मृता की चुटकुल ठिकाने के लिए नि:शुल्क (नियंत्रण 57, 67 (श) तथा 9) के अनुसार

2. भारत निवेदित विदेशी मृता (भारतीय को होकर) ध्येय किया अनुमोदित न की जाए (नियंत्रण 47)

3. भारत निवेदित अन्य (भारतीय को होकर) ध्येय किया (सुधा बिदित) अनुमोदित न की जाए (नियंत्रण 47)

4. ध्येय के धुधार (रिचर्ड अको) ध्येय किया अनुमोदित न की जाए (नियंत्रण 47)

5. भारतीय की कुटुंब की ध्येय किया (सुधा बिदित)

6. ध्येय के धुधार ध्येय किया अनुमोदित न की जाए (नियंत्रण 47)

7. प्राथमिक रिचर्ड अको, पुरुष अत्याधुनिक और इन्फॉमॅटिक नियंत्रण के निर्देशन और ध्येय ध्येय किया अनुमोदित (नियंत्रण 47) के अनुसार

8. ध्येय प्रमाण (Dotated spirituous or spirits) ध्येय किया (सुधा बिदित) (Dotated spirituous or spirits) न की जाए (नियंत्रण 68 (98) के अनुसार)

9. देवी देवी की अनुमोदित न की जाए (नियंत्रण 68 (112) तथा 93) के अनुसार

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(iv) Guarantee & Exclusive Privilege systems: Grant of Licences for country liquor thereunder.- Liability of Licensee to pay stipulated sum-Following payment of guaranteed sum not recovery of excise duty.- The licence fee stipulated to be paid by contractors is the price or consideration rental charges—Neither a tax nor an excise duty. [AIR 1975 SC 369, 1975 SC 1121 and I.L.R. (1969) 2 Ker. 7 (R)] These licences are contracts and lumpsum amount voluntarily agreed to pay to the State are not leases of excise duty, but are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the State to the licencees. The lumpsum amount stipulated is not to be equated with lease price also [1974 WLN 367 (DB) affirmed] 1.

(v) Guarantee system availed for full term-Challenge to its validity not allowed.—After excluding his competitor and taking the licence and enjoying the monopoly, the petitioner could not challenge the validity of the Guarantee System 2.

(vi) Auction-Highest bid not necessary for Government to accept it.—The power given to the Government by the Act to sell the exclusive privilege in such manner as it thinks fit is a very wide power. The power is unrestricted. It includes the power to sell by private negotiation. 3.

(vii) Highest bid—Cancelling the highest offer and giving it to the next highest offer was held to be not proper. 4.

(viii) Retail sale of Country Liquor—Tenders invited—Earnest money deposited—Petitioner withdraws tender—Tender accepted—Security deposit not deposited.—Held, the forfeiture of earnest money was valid as per clauses of the tender. 5.

(ix) Negotiations for Tender.—[R 11.12 & 17 of Raj. Excise Rules] The Excise Commissioner is held competent to enter into negotiations and the petitioner has a right to participate in such negotiations. 6.

(x) Considerations of Prohibition Law while granting licence.—Prohibition is a State policy for the welfare and health of the society. The licensing authority must consider the provisions of prohibition statute while granting the licence or penalties thereof 7.

(A) Forfeiture of Earnest money valid.—Effect of Withdrawal of offer.—The petitioners tendered tender on form 8 for the retail sale of country liquor in pursuance of the notice inviting tawards. They deposited the earnest money. The petitioners, however, intimated that their tender stood withdrawn and asked for refund of money. The tender was accepted and the petitioners were required to deposit security money. The petitioners did not deposit the security amount and action to forfeit earnest money was disallowed. The question arose whether earnest money could be forfeited or not. The High Court considered the clauses of the tender. The petitioners were bound to follow the statutory condition that if they default in terms of undertaking given in the tender, they would be liable

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5. Substituted by section 12 of the Rajasthan Act.
7. Omitted by section 12 of the Rajasthan Act.
(c) where a licence, permit or pass has been granted on the application of the grantee of an exclusive privilege under this Act, or the requisition in writing of such grantee, or
(f) if the conditions of the licence, permit or pass provide for such cancellation or suspension at will

(2) When a licence, permit, or pass held by any person is cancelled under sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person under this Act or any other law for a time being in force relating to excise, revenue or under [1The Opium Act, 1878 2[Central Act 1 of (1878)].

(3) The holder of a licence, permit or pass shall not be entitled to any compensation for the cancellation or suspension thereof under this section nor a refund of any fee paid or deposit made in respect thereof.

35. Further power to cancel licences—(1) Whenever the authority having granted a licence, permit or pass under this Act considers that such licence, permit or pass should be cancelled for any cause other than those specified in section 34, it may, on remitting a sum equal to the amount of fees payable in respect thereof for fifteen days, cancel the licence or permit either:
(a) on the expiration of fifteen days' notice in writing of its intention to do so; or
(b) forthwith without notice

(2) When a licence, permit or pass is cancelled under this section any sum paid in advance or deposit made by the licensee in respect thereof shall be refunded to him after deducting the sum (if any) due to the [State Government]

(3) If any licence, permit or pass be cancelled under clause (b) of sub-section (1) in addition to the sum remitted as aforesaid, there shall be paid to the licensee such further sum (if any) as may be determined by the Excise Commissioner in his discretion.

COMMENTARY (Ss. 34 & 35)

SYNOPSIS

1. Power to cancel and suspend licence, permit or pass (Section 34)—Meaning and effect of these expressions is missing in the provisions of this section. Suspension can be temporary for a time being whereas cancellation is a final and permanent action. But power to suspend a licence pending enquiry has not been accepted by the Rajasthan High Court. Hence suspension or cancellation of licence cannot be distinguished as effective and as such both are almost same.

2. Grounds for cancellation or suspension of licence etc.—Sub-section (1) enumerates six grounds in clauses (a) to (f). Please refer to the text of the section. In clause (h) cancellation or suspension at will on condition of licence has been included. [See Note (4) also]

3. Procedure—No procedure for cancellation or suspension of licence has been given in this section. However, no such provision has been included in the rules also. Hence the principles of natural justice are to be followed before suspending or cancelling a licence. Question of post-decisional hearing is also to be considered following Mstita Gandhi's Case [AIR 1978 SC 597 (611)].

[Please refer to Note (14) in the Commentary of “Preamble” on “Principles of Natural Justice”]

4. Cancellation, modification and suspension of licences. (Rules 76 of the Rajasthan Excise Rules, 1956)—This rule runs as under:

Rule 76—Cancellation, modification and suspension of licences—The authority granting a licence under these rules may cancel, suspend or modify the licence—
(a) to rectify clerical mistakes;
(b) if the licence has been obtained by fraud, or
(c) if the licence has been guilty of the violation of a condition of his licence or the contravention of the provisions of the Act or any notification order or rule issued under the Act.

5. Effect of Cancellation of a licence, permit or pass—Sub-section (2) When a licence, permit or pass is cancelled under sub-section (1), the authority may also cancel any other licence etc., granted to such person.

6. No compensation for cancellation or suspension of licence etc.—Sub-section (1) of this section is to be read as under: if a licence etc. is cancelled or suspended under this section, the holder thereof is not entitled to any compensation or refund of any deposit. This provision is very harsh and arbitrary. Also refer to section 37 of the Act for further provisions.

7. Cancellation of Licence etc. under S. 35—Where a licence etc. is to be cancelled on any other cause or ground, which is not covered by grounds mentioned in Section 34, the authority may issue a notification that it has to remit a sum equal to the amount of fees payable for it for fifteen days. This condition is mandatory in nature and is to be followed strictly. Otherwise, the weight of contractor (licence) under licence will be reduced by S. 76(b) (1) of the Act.

8. Case Law summarised—Where no procedure is prescribed in an authority acting under a statute must comply with the substantial requirements of natural justice and

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the enquiry for the cancellation of the license, but it has been given to the Department to inflict punishment and the order of suspension if passed under these provisions shall be dealt with as if the penalty has been imposed by the Department. It may be noted that the licences are generally granted for a period of one year and if this power of suspension of a license is taken as a power to afford facility to the Department pending the enquiry for cancellation of the license, then in that event after the enquiry if the licence is found innocent, then the suspension during the course of enquiry for the cancellation of license would automatically act as a punishment because during the period of suspension the entire business of the licencee shall be stopped [ILR (1959) 9 Rajasthan 1009, referred to].

Cancellation of Licence & Natural Justice—Once a licence is granted to a licensee under the Excise Act, no order of cancellation can be passed without providing an opportunity of hearing. A reasonable opportunity of hearing and showing cause in an enquiry to be conducted, are the most essential requirements for consideration of the question of a licence under S. 34 of the Act. [1963 RLR 419, 1966 RLR 398 and AIR 1978 SC 597 relied on] [Note—accepted on basis of Enquiry left open]

Cancellation of Licence—S. 35 & 76 and Rajasthan Prohibition Act—Licences can be cancelled under S. 35 by remitting the request amount as contemplated by the section—otherwise right of contractors under licence will be preserved by S. 76 (1).

Refusal of Renewal of Licence for establishment of Bonded Ware House & Bottling plant—Action held to be arbitrary—No new ground for such refusal was open (Paras 16. 17, 18) Nature of power and duty of Authorities pointed out.

Termination of Licence by District Excise Officer—Date of expiry of licence wrongly mentioned in licence as 31.3.1978 instead of 31.3.1979. As per rules it was due to be terminated by 31.3.1979 i.e. at end of the financial year. Held, the date wrongly entered in licence gives no right to petitioner to make a claim. Actually Petitioner Committee defaults in terms of the licence and not deposited balance of amount in time despite notice and in view of this, the cancellation was justified.

36. Surrender of licence to sell by retailer—Any holder of a licence to sell by retail under this Act may surrender his licence on the expiration of one month’s notice in writing given by him to the Excise Commissioner of his intention to surrender the same and on payment of the fee payable for the license for the whole period for which it would have been current but for such surrender.

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering such a licence, he may remit to the holder thereof, the sum so payable on surrender, or any portion thereof.

5. M/s Anil Kumar v. Board of Revenue, 1996 (1) WLN 156.
37. No renewal of licence or compensation on determination or renewal of licence claimable—No person to whom a licence has been granted under this Act shall have any claim to the renewal of such licence, or to any claim for compensation on the determination [or non-renewal thereof].

**COMMENTARY**

1. **Scope**—Section 37 postulates that:
   (i) Renewal of licence cannot be claimed as of right by the licensee.
   (ii) On determination or non-renewal of licence, no claim for any compensation can be made.

These two postulates are used as a shield by the authorities against the licence holder for action taken to determine (on coming to an end or expiry of period) a licence. In case of refusal to renew a licence, every arbitrary action by authority is amenable to writ jurisdiction of the High Court and any harsh and arbitrary action can be challenged in a writ petition.

**Important case—**

**SAMRAT BOTTLERS Pvt. Ltd. Vs. STATE OF RAJASTHAN**

**[1988 (2) RLR 577 (DB)]**

- **Ss. 9A, 16 (d) & 37, Constitution of India, Art. 226**

   (a) Writ lies when State acts arbitrarily in spite of remedy of appeal under S. 9A—(Paras 4 & 5)

   (b) Renewal of licence—Direction issued to renew licence as State Govt. acted arbitrarily and discriminatorily—(Paras 5 & 6)

**a) Facts of the case—**

Ms. Samrat Bottlers (P) Ltd. (short the petitioner) has challenged Annexure-1 dated 18-7-1988, under which it was communicated to the petitioner that his licence or bottling plant cannot be renewed. The challenge is based on the ground that the action is arbitrary and discriminatory in as much as two licences, viz. of M/s Alwar Mal and Agro Food Manufacturing Company Pvt. Ltd. Alwar and M/s Ajanta Chemicals P. Ltd. Alwar which had been granted bottling licence for the period ending 31st March 1988, were granted renewal whereas the licence of the petitioner who is better situated was not renewed.


2. The grant of licence is regulated by the Raj. Excise Act, 1950 (for short the Act) and Raj. Excise Rules 1956 (for short the Rules). Under Ss. 16 of the Act, no excisable article shall be manufactured and under its clause(c), no liquor shall be bottled for sale except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner of or by an Excise Officer duly empowered in this behalf. It appears that licence was issued to the petitioner on 15th Nov., 1987. In other words, the licence for bottling of liquor was effective only for a period of 4-1/2 months. Similar licences in Alwar for bottling liquor was given to Alwar Malt and Agro Food Manufacturing Company (P) Ltd. on 23-5-87 to M/s. Ajanta Chemicals Pvt. Ltd. Alwar, on 14-5-88 and they too were to end on 31st March, 1988. It appears that the petitioner had started the construction of necessary sheds and had dug a well. It had placed orders for the machinery so that the work of bottling of liquor could be taken up. But the petitioner could not in time the licence start bottling of liquor by 31st March 1988. He was called upon by the District Excise Officer under Annexure-10, dated 12-1-88 to deposit renewal fee by 20th February, 1988. So that the licence may be renewed. The petition had a sum of Rs. 25,000 being renewal fee vide Annexure dated 26-2-1988 also requested for renewal of the licence. Under his letter dated 10-3-1988 the petitioner wrote to the District Excise Officer that electric connection has been taken, lease-deed for land has been executed godown has also been constructed and a boundary wall has been constructed. A tube well has also been dug and electric connection has been taken for the purpose. The construction of the remaining part of the building was going on and order has been placed for necessary machinery etc. But under the impugned order, the renewal of the licence of the petitioner for bottling of liquor was not done whereas the renewal of the licence, which was earlier granted to Alwar Malt and Ajanta Chemicals was done.

3. Notice was (sic) given to the petitioner and reply has been filed and so far as the alleged discrimination is concerned, a case has been set-up that the petitioner on the one hand and Alwar Malt and Ajanta Chemicals on the other hand were not similarly situated in as much as the petitioner was not in a position to start bottling of liquor whereas the other two were in a position to start bottling of liquor. Therefore the licence was not renewed for non-payment of renewal fee.

4. & 5—Preliminary objection of alternative remedies by way of appeal under S. 9A. A—If the state arbitrarily acts discriminatorily, this Court does invoke its powers under Art. 226 of the Constitution of India.

(b) Action refusing renewal of licence—

We shall presently show that there appears to be no jurisdiction (Sic notification) for having refused the licence of Alwar Malt and Ajanta Chemicals shall also be justified to show whether they were similarly situated, rather were similarly situated, rather were not similarly situated in a better way that the petitioner, their licence was renewed. Thus the Excise Commissioner/State Government has acted arbitrarily in not renewing the licence of the petitioner whereas renewed the licence of the above named two firms.
The Rajasthan Excise Act

We have already given about and we may that so far as licences of Alwar Malt Ajanta Chemicals for bottling of liquor for the period ending 31st March 1983 are concerned, they were issued on 23-5-87, respectively. The licence to the petitioner was originally issued in October, but having been received by the petitioner on 15-11-87, we may take it to have been issued on that date. If Alwar Malt and Ajanta Chemicals, even if the issue of licence to them in the month of October, could not complete the installation of the machines etc., could not be in a position to undertake bottling of liquor by 31st 1987, how could it be expected that the petitioner, who had only received the licence 15-11-87 i.e. after almost about six months of the issue of licence to the other two, be in a position to have started bottling of liquor. The petitioner had applied for renewal and on being asked to deposit the fee, the petitioner in February, 1988, therefore, if on inspection, it was found that the two firms were in a position to undertake bottling of liquor immediately, and they can be in a position, having been granted the licence in May, 1987, and the petitioner was not in a position to immediately start bottling liquor, having been granted licence in the month of Nov., 1987, as aforesaid, it could be said that the grant of renewal of licence to which undoubtedly the petitioner is not right like the two others, renewal of the petitioner when he was granted to two others. The State or Excise Commissioner cannot be allowed to pick and choose if such a measure is allowed than many questions may be raised or reasons which are not stated herein. Therefore, this is not to be said that no body has right to be there for an excisable article for which it will include licence of bottling of liquor, but every body has a right to be treated equally with others who are similarly situated.

Action arbitrary- Directions issued—

The action of the Excise Commissioner/State Government in refusing the renewal of licence of bottling liquor to the petitioner, who had invested sufficient amount. It may be stated that even as per the report available with the respondent, it can be said that in May, 1988, the plant and machinery ordered by the petitioner were ag ready was arbitrary, because two persons who were similarly situated, rather placed a weaker position, licences have been renewed. We are of the opinion that the licence the petitioner, who had deposited Rs. 25,000/- on the being asked to do so even January, 1988 should have been renewed. The petitioner thus has been dealt with unfairly. The Excise Commissioner doesn’t appear to have acted fairly and has acted arbitrarily, therefore, we hereby allow this writ petition and direct that the licence the petitioner shall be renewed for the period ending 31st March, 1989. Provided the petitioner starts bottling liquor within a period of one month from the date of the grant renewal. We direct the Excise Commissioner/State Government to renew the licence the petitioner for the period ending 31st March, 1989. Immediately. (Writ allowed)

3. Case Law Summarised

Renewal of Licence—Speaking Order necessary—No formal order refusing renewal licence was passed by the Excise Commissioner, but he wrote a Commissioner not to renew licence. Held, the Excise Commissioner must pass express speaking order. R. A. was not properly followed.

Babati v. Assistant Excise Officer, Sirohi 1981 RR 425.

Section 37-38

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No Claim of renewal as right—Petitioner failed to apply for renewal of licence in time. Held, the licencees have no claim as right for the renewal of their licence or for compensation in lieu of non-renewal. Held the Excise Commissioner committed no violation of Rules.

Legislative Function—Right of hearing—[Ss. 37 and 41]—Rajasthan Foreign Liquor (Grant of whole sale trade & retail Licences) Rules, 1982. Rr 6 and 7; Validity of Notification dated 11-5-82 amending Rr 6 & 7—The amendment of the Rules is a Legislative function of delegated legislature and the principles of natural justice or the right of hearing or opportunity to show cause cannot be extended to it. Rules cannot override the Act and therefore, in view of S. 37 whatever promise might have been made or impression given to the licencees for renewal, no legal right is created and the respondents cannot certainly reject the prayer for renewal and go ahead with the auction proceedings according to the amendment of 31st March, 1982. (Five writ petitions dismissed summarily).

Renewal of licence—Not a Claim—[S. 37 and Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail Off Licence) Rules, 1972 R. 60]—No person to whom a licence has been granted under the Act can claim the renewal of a licence or can claim for compensation on termination or non-renewal thereof. The question of renewal of a licence can arise only when there exists and existing licence and there is no gap in between the expiry of licence and grant of new licence. As the total prohibition was in force in the State of Rajasthan, by no stretch of imagination it can be said that the petitioner’s old licence could be renewed from April 1, 1980. (Writ dismissed).

Refusal to renew licence—Appeal before Commissioner under S. 9A—Not absolute bar to Writ Jurisdiction—Where the Excise Commissioner/State Government has acted arbitrarily in not renewing licence of petitioner whereas renewed the licence of other two firms. Held, alternative remedy is not absolute bar and the High Court can invoke the jurisdiction under Art. 326. If the State and its officer have acted arbitrarily and in discriminatory manner, held the writ lies. No bar.

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

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

COMMENTS

1. Scope—This section deals with technical irregularities or defects in licence. What is a technical defect, irregularity or omission in a licence—this question is to be decided by the Excise Commissioner and such decision shall be final. For such technical defect, irregularity or omission, no licence shall be treated to be invalid.

2. Rules—In rule 76 of the Rajasthan Excise Rules, 1956, a provision for modification of licence has been made, to rectify clerical mistake.


Chapter VII
General Provisions

1. Introductory Note

There are three important provisions of law enacted in this Chapter containing sections 39 to 42 of the Act.

1. Weight & Measure—Presented Measures, weight and testing instruments to be kept by the license of excisable articles (S.39).
2. Recovery of Excise Revenue (S. 40).
3. Rule-making power of—
   (a) State Government (S. 41) and
   (b) Excise Commissioner with prior sanction of the State Government (S. 42).

39. Measures, weights and testing instruments—Every person who manufactures or sells any excisable article under a licence granted under this Act shall be bound—

(a) to supply himself with such measures, weights and instruments, as the Excise Commissioner may prescribe and to keep the same in good conditions, and

(b) When such measures, weights and instruments have been prescribed, on the requisition of any Excise Officer duly empowered in that behalf, at any time to measure, weight to test any excisable article in his possession in such manner, as the said Excise Officer may require.

40. Recovery of Excise Revenue—All Excise revenue, including all amounts due to the State Government by any person on account of any contract relating to excise revenue, may without prejudice to any other mode of recovery, be recovered from the person primarily liable to pay the same from his surety, (if any), as arrears of land revenue or in the manner provided the recovery of public demands by any law for the time being in force in the case of default made by a holder of a licence the Excise Commissioner if an Excise Officer duly empowered in that behalf may take the grant for which the licence has been given under management at the risk of the default, declare the grant forfeited and resell it at the risk and the loss of the defaultor ten years grace under management under this section, the Excise Commissioner.

Commentary

Section 40 | The Rajasthan Excise Act

1. [or an Excise Officer duly empowered in that behalf] may recover as excise revenue any money due to the defaultor by any lessee or assignee.

Provided that no licence for an exclusive privilege granted under section 24 shall be forfeited or resold without the sanction of the authority granting the licence.

2. [Provided further that notwithstanding anything to the contrary contained in any law for the time being in force, the amount recoverable under this section, shall be the first charge on the property of such person liable for payment of said amount.]

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1. Meaning of Excise Revenue—In clause (8) of the Act, the expression "Excise Revenue" has been defined as follows:

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

2. "All amount to"—Licence fee leviable under contract is held to be excise revenue & is recoverable under S. 40

3. Methods of Recovery of Excise Revenue & dues—

(a) "as arrears of land revenue"—Recovery of miscellaneous revenue & other money (Section 256 of Rajasthan Land Revenue Act, 1956)—Under Clause (a) S. 256, all sums of money payable to the Govt. Department on account of (i) rates, (ii) taxes, (iii) charges or (iv) other dues may be recovered as arrears of land revenue.

Under clause (c), all sums of money due to the State Government under any (i) grant or (ii) lease or (iii) contract which provides that they are recoverable as arrears of land revenue, can be recovered.

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4. State v. Balwant, 1974 WLN 367 (Del.)
Section 40-A(1) | The Rajasthan Excise Act

Both these alternative methods are to be adopted at the risk of defaulter i.e. contractor-grantee. This provision is also very harsh one.

6. Grant taken under Management—When the default in payment of excise dues is made by a holder of licence, the management is set up on such grant (i.e. Administrator or manager is appointed) by the Excise Commissioner or competent authority at the risk of defaulter. In such a case, the Excise Commissioner of an Excise Officer duly empowered in this behalf may recover any moneys due to defaulter by any lessee or assignee of the defaulter.

7. Forfeiture & resale of Grant—As alternative method, the Excise Commissioner or Excise Officer so empowered may forfeit the grant and then can resell it at the risk and loss of the defaulter.

8. Exception—Exclusive Privilege Grant—(Proviso)—When a licence under S. 24 is granted for an exclusive privilege, such grant shall not be forfeited or re-sold without the sanction of authority granting such licence. This is a restriction against forfeiture of exclusive privilege grant only.

9. Amount recoverable as “First Charge”—(Second Proviso)—This special provision has been made to secure that the interest of the Government by securing the payment of amount recoverable as FIRST CHARGE on the property of person liable to make payment of such amount i.e. excise revenue. Thus the amount due to the Government as excise revenue shall be chargeable out of the property of the person liable to it on first preference and after recovery made out of such property by the Excise Department, the residual amount shall be liable to be paid to other creditors.

IMBA Special mode of the recovery—(1) Notwithstanding anything contained in the Act any law, for the time being in force or contract to the contrary, the District Excise Officer may, at any time or from time to time, by notice in writing, a copy of which shall be sent to the defaulter at his address last known to the District Excise Officer, require—

(a) any person from whom any amount is due or may become due to the defaulter who has failed to pay due amount on the demand by the District Excise Officer, or

(b) any person who holds or may subsequently hold any money for or on account of such defaulter, to pay, into the Government Treasury or the bank authorised to receive money on behalf of the State Government, in the manner specified in the notice, either forthwith or upon the money becoming due from him or being held by him, within the time specified in the notice (not being more than the money becomes due or is held, so much of the money as is sufficient to pay the amount due from the defaulter or the whole of the money when it is equal to or less than [than] amount.

Explanation—For the purposes of this section “defaulter” means a person who is primarily liable to pay any excise revenue or any amount due to State Government from him on account of any contract relating to excise revenue and who does not pay such revenue or, as the case may be amount by due date and includes his surety.

(2) The authority issuing a notice under sub-section (1) may, at any time or from time to time, amend or revoke any such notice or extend the time up to three months for making any payment in pursuance of this notice.
(3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the defaulter, and the treasury receipt or the challan of the bank for such payment shall constitute a good and sufficient proof of discharge of the liability of such person to the extent of the amount specified in the receipt or the challan.

(4) Any person discharging any liability to the defaulter after service on him of the notice issued under sub-section (1) shall be personally liable to the State Government to the extent of the liability discharged, or to the extent of the amount of demand, whichever is less.

(5) Where a person to whom a notice under sub-section (1) is sent proves to the satisfaction of the District Excise Officer that the money demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then nothing contained in this section shall be deemed to be required such person to pay any such money or part thereof, as the case may be, to the District Excise Officer.

(6) The provisions of this section shall be without prejudice to any action that may be taken for the recovery of the arrears."

41. Power of State Government to make rules—(1) The State Government may make rules for the purpose of carrying out the provisions of this Act or other Law for the time being in force relating excise revenue.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Government may make rules—

(a) regulating the delegation of any powers by the Excise Commissioner;
(b) prescribing the powers and duties of officers of the Excise Department;
(c) regulating the manner in which appeals shall be made to the Excise Commissioner;
(d) regulating the import, export, transport or possession of any excisable article [or molasses or lanced poppy heads];
(e) regulating the period and localities for which and the person to whom licences for the vend by wholesale or by retail of any excisable article may be granted;
(f) prescribing the procedure to be followed and the matters to be ascertained before any licence for vend is granted for any locality;
(g) for the prohibition of the sale of an excisable article to any person or class of persons;
(h) for the grant of expenses to witnesses and compensation for loss of time to persons released under section 44 on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences punishable under this Act but acquitted;
(i) regulating the power of Excise Officers to summon witnesses from a distance under the provisions of section 44;
(j) for declaring the Excise Officers to whom, and the manner in which information or aid should be given under section 50;
(k) for the prohibition of the employment by the licence-holder of any person or class of persons to assist in his business in any capacity whatsoever;
(l) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises, and the meeting or remaining of persons of bad character in such premises;

[(m) for the grant and distribution of rewards to informers and Government servants.]

[(o) prohibiting the printing, publishing or otherwise displaying, or distributing any advertisement or other matter commending or soliciting the use of, or offering any intoxicant or calculated to encourage or invite any individual or the public generally to commit an offence under this Act, or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any licence, permit or pass obtained thereunder,]

(p) prohibiting within the State the circulation, distribution or sale of any newspaper, book, leaflet, or other publication printed and published outside the State which contains any advertisement matter of the nature described in clause (n); and

(q) declaring any newspaper, book, leaflet, booklet, or other publication, wherever printed or published containing any advertisement or matter commending or selecting the use of or offering any intoxicant, to be forfeited to the State Government.]

(3) The power conferred by this section for making rules is subject to the condition that the rules shall be made after previous publication.

Provided that any such rule may be made without previous publication if the State Government considers that it should be brought into force at once.

42. Powers of Chief Excise Authority to make rules—The Excise Commissioner may, subject to the previous sanction of the [State Government], make rules—
(a) regulating the manufacture, supply, storage or sale of any excisable article including-
(i) the erection, alteration, repair, inspection, supervision, management and control of any place for the manufacture, supply, storage or sale of such article or drug and the fittings, implements and apparatus to be maintained therewith,
(ii) the cultivation of the hemp plant (Cannabis Sativa),
(iii) the collection of portions of the hemp plant (Cannabis Sativa) from which many intoxicating drugs can be manufactured and the manufacture of any intoxicating drug therefrom,
(iv) the bottling of liquor for purpose of sale,
(b) regulating the deposit of any excisable article in a ware house and the removal thereof from any such warehouse or from any distillery pot-still or brewery,
(c) prescribing the scale of fees or the manner of fixing the fees payable in respect of any licence, permit or pass or the storing of any excisable article,
(d) regulating the time, place and manner of payment of any duty or fee,
(e) prescribing the restrictions under and the conditions on which any licence, permit or pass may be granted including provisions for the following matters-
(i) the prohibition of the adixture with any excisable article of any substance deemed to be noxious or objectionable,
(ii) the regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendee from a higher to a lower strength,
(iii) the fixing of the strength, price or quantity in excess of or below which any excisable article shall not be sold or supplied or possessed and the quantity in excess of which denatured spirit shall not be possessed and the prescription of a standard of quality for any excisable article,
(iv) the prohibition of sale except for cash,
(v) the fixing of the days and hours during which any licensed premises may or may not be kept open, and the closure of such premises on special occasions,
(vi) the specification of the nature of the premises in which any excisable article may be sold and the notice to be exposed at such premises.

1[(xiv) the form of accounts, to be maintained and the returns to be submitted by licence-holders, and
(xv) the regulation of the transfer of licences;
(i) declaring [substance and the process] by which spirit manufactured in India shall be denatured,
(ii) for causing such spirit to be denatured through the agency or under the supervision of Excise Officer,
(iii) for ascertaining whether such spirit has been denatured]

Commentary (Ss. 41 & 42)

SYNOPSIS

1. Scope of Ss. 41 & 42
2. Nature of Rule making Power
3. Subordinate Legislation
4. Judicial review of the Rules
5. The Rules—their place & construction
6. Rules when come into existence
7. Rules under the Act
8. Rules making power of State Government
   (S. 41)
   (a) General power
   (b) Particular power
   (c) New excisable articles added
   (d) Measures added

Explanation: Fees may be prescribed under this sub-clause at different rates for different classes of licence, permits, passes or storage, and for different areas.


to whom power is delegated. Such rules are statutory although not a part of the main statute. An order made under a power given in a statute is the same thing as if the statute enacted what the order directs or forbids. Where it is provided that rules framed under an Act and duly published shall thereupon have effect as enacted in the Act itself, it is the duty of the court to construe an Act in such a manner as to give effect to its provisions if it is possible to do so, and this can be done by reading the rules, as part of the section under which they are framed and not as part of the rest of the Act. Rules do not lose their character as rules even though they are to be repugnant to the provisions of the main enactment. The rule of interpretation in such cases is that if subordinate legislation is directly repugnant to the general purpose of the Act which authorises it, or if it is repugnant to any well-established principle of statute. It is either ultra vires altogether or must, if possible, be so interpreted as not to create an anomaly. The rule must be read and interpreted in reconciliation with the main enactment. If reconciliation is found to be impossible, or if the exercise of the delegated authority appears to be excessive, the rules must give way to the main provisions of the Act, but before doing so, we shall have to struggle against such a construction and will have to make an effort within the bounds of reason to bring the rules within the ambit of the rule making authority. This is so because when a competent authority entrusted with the task of making the rules exercises that power, the rules made by it should be as far as possible supported even by a benevolent interpretation and conflict of jurisdiction should be avoided. In other words, if the Act is plain, the rules must be interpreted so as to reconcile with it or if it cannot be reconciled the rule must give way to plain terms of the Act.

The scope of the subordinate legislation also deserves a passing reference. The statutory rules if validly made within the powers conferred by the Act must be regarded as part of the Act itself and are not regarded as statutory rules under the Act. The statutory rules are to be held as part of the parent Act and if made within the limits prescribed by the rule making power in the Act, can do anything in Saligram Singh vs. Emperor [1922] Patna 27, 31, that is held to be the business of the Court to observe how unreasonable or validly made. Hence if validly made within the scope of the delegated authority rules have as much force and effect as the main enactment. The Act and the Rules form part of a composite scheme. In the absence of rules, the Act cannot be enforced as many provisions of the Act be put into operation only after something prescribed in the Rules. Held that the Rules made under a statute are legitimate aid to construction of statute as contemporaneous exposition. 1

1. The delegation (or the Rules) does not fall beyond the reach of the judicial review power of the Supreme Court and the High Courts. The reason for the ground of voidness of delegated legislation is that the rule that what limits the competence of the Legislature limits the competence of the administrative authority as well, and the former cannot delegate, if delegation implies giving away of the essential legislative function and results in the legislative abdication 1.

Section 42

Subject to the wide, peremptory limits of delegation and the established presumption of validity of the Statute, the delegation may be attacked on the following grounds:

(a) That the Rules are ultra vires the enactment itself under which these are made, i.e., these Rules are against the policy and purpose of the Act enumerated in the various sections of the Act itself.

(b) The Rules have been framed without following the prescribed procedure, complying with the mandatory conditions.

(c) The Rules contravene any provision of the Constitution of India e.g. against the fundamental rights enshrined in the Constitution.

(d) The delegation of Rule making power is arbitrary, uncontrolled and excessive.

The initial difference between subordinate legislation and Statute lies in the fact that a subordinate law-making body is bound by the terms of its delegated or derived authority and that courts of law, a general rule, will not give effect to the rules etc. made unless satisfied that all the conditions precedent to the validity of the rules have been fulfilled. The validity of the statutes cannot be canvassed by the courts the validity of delegated legislation as a general rule can be. The Courts, therefore, will require due proof that (1) the rules have been made and promulgated in accordance with the statutory authority; (2) the Act has been prescribed in accordance with the provisions of the Statute in which it is created, either with respect to the procedure adopted form of substance of the regulation or the sanction, if any, attached to the regulation; and (3) that the court may reject as invalid and ultravires a regulation which fails to comply with the statutory essentials.

5. The Rules—Their place and construction—The Rules made under a statute must be treated for all purpose of construction obligation exactly as if they were in the Act and are to be the same effect as if contained in the Act, and are to be judicially noticed for all purpose of construction and obligation. It must be recognized that the Rules have been made and promulgated in accordance with the procedure prescribed by the Act. The Rules are not attacked as invalid and ultravires a regulation which fails to comply with the statutory essentials.


Similarly the Rules cannot save an Act. They are made by a subordinate authority which is not the legislature and validity of an Act cannot be made to depend upon what some subordinate authority chooses to do or not to do. The Rules cannot travel beyond the Act and must be read subject to its provisions similarly the Rules cannot enlarge the meaning of the section if the rule goes beyond what the section contemplates: the rules must yield to the statute. Once the old rule has been substituted by the new rule, if ceases to exist and if does not automatically get revived when the new rule is held to be invalid.

Where there is any conflict between a rule framed under an Act and a section of the Act itself this must be dealt with, in the same spirit as a conflict between two sections of the Act would be dealt with, and if reconciliation is impossible, the subordinate provisions (i.e., Rules) must give way.

In some statutes, powers are given to frame rules and when so framed they are made part of the statute. In such case it may be permissible to supplement the provisions of statute itself within limits.

6. (a) Rules when come into existence—Commencement of Statutory Rules—It is the date of publication in the official Gazette from which the rules framed commence it come into existence and not the date of Notification. To determine this point we have to consider the basic principles of the interpretation of statute. Maxwell in his realist on "Interpretation of Statutes" has on page 15 (12th Edition) observed as follows:

"According to a decision of Baille Hoche J. Statutory instruments do not come into operation on the day on which they are first made, but on the day on which they are made available or known to the public or the person whom it is sought to affect by them."

(b) Publication of Rules & Notification—Section 72 of the Act provides the principle or Commencement of the Rules or a notification in the following manner:

"72 Publication of rules and notifications—All rules made and notifications issued under this Act shall be published in the Official Gazette and shall thereupon have effect as if enacted in this Act from the date of such publication or from such other date as may be specified in that behalf."

7. Rules under the Act—The Rajasthan Excise Act is a fiscal law providing structure or making rules. It enables under section 41 and 42 to the State Government and the Excise Commissioner respectively to frame various rules to fill up the structure of the Act. This power to make rules is known as "subordinate Legislation", which is beyond the scope of principles of natural justice, but can be challenged in a writ petition as arbitrary and discriminatory under Art. 14 or being ultravires the Act and Constitution of India.

8. Rule making Power of State Government (S. 41)—There are three sub-sections in this section:

(a) General Power—Sub-section(1) empowers the State Government to make Rules for the purpose of carrying out the provisions of—

(i) this Act, or

(ii) Other Law in force. Thus under this general power State Government can make rules relating to excise revenue under this Act as well as under any other Act relating to excise revenue.

Meaning of "Excise Revenue"—
[Please refer to Commentary of Section 1, clause (8), supra]

(b) Particular Powers—Sub-section(2), without affecting the general powers under sub-section(1) provides a list of particular subjects in clauses (a) to (p) on which rules may be framed by the State Government. Please refer to the clauses in the text of S. 41, above.

(c) New excisable articles introduced—By amendments to this section, two new excisable articles have been added in clause, (d) of sub-section (2), i.e., Molasses or Lanced poppy Heads. The Statement of objects & Reasons for these Amending Acts are being reproduced hereunder so as to make clear the object and meaning of these amendments:

(i) "Molasses"—added to the list.

Statement of Objects & Reasons (Raj. Act No. 8 of 1985)

Molasses is the mother liquor produced in the final stage of the manufacture of sugar. The Central Government has made the Molasses Control Order 1961 with regard to molasses. The Rajasthan Excise Act 1950 does not, however, contain any provision in respect of molasses. It appeared necessary to check unauthorised use of molasses to prevent its loss in transit and storage and to control the production of spirit.

In view of the above, it appeared necessary to define the expression "Molasses" by adding a new clause (17-A) to S.3 and to empower the State Govt. to make rules by inserting clause (d) of sub section (2) of S.41 of the Rajasthan Excise Act, 1950.

(ii) Lanced poppy Heads—added to the list.

Statement of Objects & Reasons (Act No 1 of 1986)

The Parliament recently enacted a law called the Narcotic Drugs & Psychotropic Substances Act, 1985 (Central Act 162 of 1985)

The earlier enactments namely the Opium Act, 1937, the Opium Act 1878, and the Dangerous Drugs Act, 1930 have been repealed by S. 82 of the said Central Act.
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162 of 1985. After the aforesaid Acts, various rules made by the State Government under those Acts were also rendered ineffective and, thereafter, it became necessary to make new rules under the new Central Act and also to empower the State Government to make rules regarding licensed poppy heads under the Rajasthan Excise Act, 1950. Earlier, licensed poppy heads were being dealt with under the Rajasthan Opium Rules, 1960.

(d) Previous Publication (Sub-sec.(3)- Provision nullified by proviso.- Sub-section (3) puts a fetter on the rule making power that the rules shall be made after previous publication.

But this restriction has been relaxed by adding, a proviso to this sub-section that if the State Government considers that it should be brought into force at once, such rule may be made without previous publication of such rule.

This proviso has been used almost in all cases of making rules under the Act and this may be challenged as arbitrary and indiscriminate use of this power in any appropriate case.

9. List of Rules made by the State Government (under S. 41)

4. The Foreign Liquor (Grant of whole sale Trade and Retail off Licences) Rules, 1982.

[For the Text of these rules, please refer to Part II of this Book.]

10. Rule making power of Excise Commissioner (under Section 42)—

Section 42 empowers the Chief Excise Authority, i.e., the Excise Commissioner to make rules. This power is to be used subject to the previous sanction of the State Government. This is statutory and mandatory restriction on the rule making power of the Excise Commissioner. No provision of Previous Publication of these rules incorporated in S. 42 as has been done in S. 41 of the Act.

A list of subjects has been given in the Section containing items (a) to (b) on which the Excise Commissioner can make rules. This power is meant to regulate the affairs of the excise revenue in the State.

11. List of Rules framed by the Excise Commissioner (under S. 42 of the Act)—


Section 42 | The Rajasthan Excise Act | 187

7. The Rules regulating Stock-taking and wastage of Liquor at Distilleries.
8. The Rules regarding the wastage in transit, issue and storage of Hemp drugs in a Ware House, 1959.
11. Bonded Ware House Conditions & Restrictions.
12. Registration of Contractors [Please see these Rules in Part II of the Book.]

12. No provision to lay the Rules before the Legislature—In democratic set up the delegated legislation is to be regulated by the theory of check and balances and the original legislative body has to be informed about the subordinate legislation (i.e., Rules) made under its delegated authority. For this purpose a provision is being used mainly in the delegation of the Rules making power to lay the rules on the table of the house of the Legislature while in next session, so that such rules may be modified by the Legislature or may have the stamp of authentication by the Legislature.

Such provision may be seen in various enactments. [For example, S. 31(2) of the Rajasthan Land & Building Tax Act, 1963] No such provision has been made in the Excise Act and as such the delegation of rule making power may be challenged on ground of arbitrary and uncontrolled delegation in an appropriate case.

[For plea of delegation, please refer to note (3) of the Commentary of Preamble of the Act.]

13. Case law Summarised—Validity of Rules Rs. 31, 41, 42(c) and 72—Powers of prescribing form of licences & to lay down conditions for licences delegated by State Government to Excise Commissioner Held, Rules made by Excise Commissioner and duly published have to effect of law.


The power to make such rules vested in the Excise Commissioner under section 42(a) of the Act by making such rules, the Excise Commissioner was exercising his power to regulate the manufacture, supplies, storage or sale of an excisable article within the purview of sub-clause(1) of clause (a) of section 42.

Validity examined—S. 41 and Rajasthan Excise Rules, 1956, Rs. 267- KK R. 67(3), (5), (10) and 93—Licence for exclusive privilege of selling by retail country liquor at a shop to be granted amongst others by inviting tender- Earnest money deposited with tender- Withdrawal of tender- Acceptance of tender- Failure to deposit security money- Forfeiture of earnest money—Validity examined.

2. M/s. Sena Distilleries Ltd. V. Excise Commissioner 1984 WLN 489 (490); 1985 Raj R. 773
14. Leading Case—

LEKHRAJ

V State of Rajasthan

[1987(1) RLR 661; 1987(1) WLN 774]

SECTION 42—RULE MAKING POWER

(a) Act 226, Construction of India-Maintainability of writ petition—

Preliminary objections raised (Paras 17 to 20)-c-Estoppel—

(i) Petitioners cannot be allowed to avoid contractual obligations after enjoying licence for entire period (Paras 20 & 46).

(ii) Validity of Rules and licence challenged-Petitioners are not precluded from challenging the amendment in rules. (Para 20).

(iii) Question of disputed facts—material not made available—High Court not to enter into detailed enquiry as to justification of rise in price (Paras 38 & 41 and 61).

(b) Validity of Rules (Amendment of 1985) challenged—Rule making power under S. 42(e) & Rajasthan Issue and Sale Price of Country Liquor Rules, 1964, as amended in 1985—

(a) Source of rule making power not flowing from S. 42(c), but from S. 42(a)—Mention of wrong provision not to invalidate the Rules when justified under other provision—Rules are valid (Paras 31, 35 & 36).

(b) Meaning of word “regulating” used in S. 42(b) examined. (Para 35).

(c) No discrimination - No violation of Art. 14 of the Constitution of India. (Para 37)

(d) S. 42(e) not ultravires the Constitution-No fettered, uncontrolled or arbitrary powers vested in the Excise Commissioner where rules made after prior sanction of State Government. (Para 45).


(a) Conditions not onerous, arbitrary or unreasonable No contravention of S. 29 of Contract Act S. 29 only applicable to ordinary contracts and not to special contracts of Excise—Excise contracts or conditions are Statutory in nature—Amount of Excise privilege & price not to be confused—Power vested in the Excise Commissioner to vary the issue price cannot be said to be unreasonable or arbitrary. (Paras 46 to 55).

(b) Contract of Adhesion or Adhesive Contract—No person has an absolute right to trade in liquor- Art-47 of Constitution of India leads towards complete prohibition-Doctrine of adhesive contract cannot be invoked in contracts for obtaining licence of Excise privilege to sell country liquor—Held-Imagined conditions of licence not fair, arbitrary or unreasonable- Not void. (Paras 56 to 60).

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(c) Rise or fixation of the Issue Price—Challenged being arbitrary and unjustified-Cost of production & rate of Issue Price—Disputed facts—Material not placed by parties before High Court-Government has not examined this aspect—Left for Govt. to decide-Govt expected to be fair and just. (Para 61)(Writ petitions dismissed).

*d* 15. Latest Case Law—

(1) No unjust enrichment—No refund of Excise Duty Collected—When in normal commercial transaction duty is passed on to the consumers then the petitioner is not entitled to refund of excise duty. Not averred in writ petition that the excise duty was not collected from the consumers. (Para 6) (Writ petition dismissed).

(2) All powers necessary by implication—Framing of Rules—By framing of the said Rules, the Government has not contravened any provisions of the Act including Section 42. The State Government has power under S. 41 (2) (d) to frame rules regarding permit fees also while framing rules for regulating the import, export, transport or possession of an excisable article. This clause (d) is a very wide import. Held, grant of jurisdiction implies the grant of all powers necessary for its exercise. When statute confers power in general terms, all powers incidental and necessary to make such law effective are included by implication.2

(3) Provisions not unconstitutional—S. 42 (a), (b) & (c) Commissioner authorised to frame rules—S. 42 (a) of the Act authorises the Commissioner to make the rules regulating the manufacture, supply, storage or sale of an excisable article. Regulatory functions are covered by Entry 33 of List III of Schedule VII of the Constitution. S. 42(b) also authorises the Commissioner to make the Rules regulating the deposit of any excisable article in a ware house and the removal thereof from any such warehouse or from any distillery pot still or brewery. S. 42(c) empowers the Excise Commissioner to make the Rules prescribing the scale of fee or the manner of fixing the fees payable in respect of any licence, permit or pass or the storing of any excisable article. These powers are within the legislative competence of the State Government and therefore, the provisions of Ss. 41 and 42 of the Act are neither ultra vires to the Constitution nor they are against the provisions of Entry 84 of List I of Schedule VII of the Constitution. R. 69-B of the Rules pertains to the fees for certain permits. We have already held that the prescription of fee for obtaining permits is also within the legislative competence of the State Government and therefore, the provisions of R. 69-B of the Rules are not ultra vires to the provisions of the Constitution.3

(4) Vires of Mollases Rules—Rules held to be ultra-vires—Mollases Rules, 1985—Rs. 8, 9, 11 & 17 and Rajasthan Excise Act, 1954—S. 3(17A), 41—When the regulation is controlled by section 31 and molasses have been included in the definition clause of S. 3(17A) and it has also been included under S. 41, then the State Government has

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all powers to frame rules and regulations. The State Government is authorised to frame rules about molasses in the parameters that are prescribed by S. 41. (Para 9) (Petition dismissed).

(5) Licence for Beer Bar when becomes illegal—Ss. 44 and Rule 75 (2)-Notification dated 15-2-57—Licence for Beer Bar granted. Beer is included in foreign liquor. There is prohibition under R. 75(2) for running a retail shop of country or Foreign liquor within a radius of 200 meters of schools or institutions. Held grant of licence for Beer Bar was legal and was, therefore, quashed.


Licence was granted to petitioner under the Excise Act and Rules thereunder. Condition to. 33 of the Licence provided for levy of excise duty on wastage of IMFL as per rules. Nature of contract is held to be statutory and petitioner having accepted licence cannot wriggle out from contractual obligations arising out of the conditions of licence. Held, the State is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of contract. Rules of 1959 held not applicable in the instant case. Hence enquiry under R. 5(5) was out of question and contractual obligation alone to prevail(Special appeals dismissed).

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Chapter [ VIII ]

Powers and Duties of Officers

I. Introductory Note

1. Scope—Chapter VIII deals with powers and duties of Officers in relation to the prohibitions and restrictions placed on the dealings of excisable articles and their regulation through licensing system. Further Chapter IX deals in the punitive regulation of the defaults as offences under the Act. Both Chapter VIII (from Ss. 43 to 53) and Chapter IX (from Ss. 54 to 70) are to be read together to understand the Scheme of regulating nature incorporated in this Act. The provisions of the Rajasthan Excise Rules, 1956 (Chapter XIII from R. 88 to 91) are also to be referred to for confirmation of powers under the Act.

2. Powers of Officers—(Chapter XIII of the Rajasthan Excise Rules, 1956)—

Rule 88—powers under Ss. 43, 44, 45 & 46—All Excise Officers of the Government of Rajasthan not below the rank of Excise Inspector and Patrolling Officers in the Excise Preventive Force may exercise the powers referred to in Ss. 43, 44, 45 and 46.

Rule 89—powers under S. 45 (i.e. Power of arrest, seizure & detention)—All Excise Officers of the Government of Rajasthan including Excise Guards may exercise the powers mentioned in Section 45:

Provided that when power is exercised by an Excise officer other than an Excise Inspector of the circle concerned, such officer shall immediately hand over the person arrested and the article seized to the Excise Inspector of the circle concerned.

Rule 91—Powers Conferred by Notification under S. 90—All officers may exercise the powers conferred upon them by any notification under section 90 for the time being.

Rule 91—Powers Conferred by Notification under S. 9—All Excise officers may exercise the power conferred upon them by any notification under S. 9 or by any order issued under such notification, for the time being in force.

3. Regulatory Provisions & Applicability of Criminal Procedure Code—As the process & procedure of investigation, search, arrest and seizure etc. in the cases under the Act are to be carried out, the provision of the Criminal Procedure Code, 1973 would apply for these offences being of criminal nature.

(a) Procedure Contained in the Act—There are following provisions in the Act itself relating to various procedural aspects—

In section 43, power to enter and inspect a place of manufacture and sale has been explained while S. 44 deals with investigation into offences which is to be conducted under the provisions of Cr. P.C. S. 45 deals with arrest, seizure and detention while S. 90 authorises the Excise Commissioner or Magistrate or an authorised excise officer to
The Rajasthan Excise Act | Section 43

Issue warrant of search or arrest. S. 47 further deals with power of excise officer to search
without warrant. Section 48 lays down the procedure relating to arrest. search, search
warrant, production of persons arrested and investigation into offences to be in accordance
with provisions of Cr. P.C. with certain modifications contained in proviso to S. 48. Section
49 deals with bail in offences as per provisions of Cr. P.C.

(b) General Provisions (Ss. 50 to 53)—There are following sections in the Act
to deal with various facts-situations in the excise cases:

Section 50—Duty of officers of certain departments to report offences and to assist
Excise Officers.

Section 51—Duty of Land holders and others to give information.

Section 52—Duty of Officer-in-charge of Police Station to take charge of articles
seized.

Section 53—Power to close shops for the sake of Public Peace.

Thus, it is clear that the provisions of the Criminal Procedure Code are to be followed
with the certain modifications mentioned in these sections.

43. Power to enter and inspect place of manufacture and sale

The Excise Commissioner or any Excise Officer not below such rank as the
(State Government) may prescribe may—

(a) enter and inspect at any time by day or by night any place in which
any licenced manufacturer carries on the manufacture of or stores
any excisable article,

(b) enter and inspect at any time within the hours during which sale
is permitted, and at any other time during which the same may be open,
any place in which any excisable article is kept for sale by any person
holding a licence under this Act,

(c) examine any book, account, or register or examine, test, measure or
weigh any materials, stills, utensils, implements, apparatus or
excisable article, found in such place; and

(d) seize any measures, weights, or testing instruments which he has
reasons to believe to be false.

COMMENTARY

SYNOPSIS

1. Scope
2. Meaning of Excisable Article
3. ‘Reason to believe’—Meaning
4. Authorities to exercise power
5. Nature of Power

1. Scope—Section 43 authorises certain officers to enter and inspect a place
of manufacture or sale of excisable articles as enumerated in clauses (a) to (d). This section
is exhaustive and full of details.

2. Meaning of Excisable Article—[See under S 3(4)]

3. “Reason to believe”—Meaning—in section 26 of Indian Penal Code, the definition
of expression “reason to believe” is given as follows

“26” Reason to believe—A person is said to have “reason to believe” a thing,
if he has sufficient cause to believe that thing but not otherwise.

4. Authorities to exercise Power under S.43—Rule 88 of the Rajasthan Excise
Rules 1956 runs as under:

"All ExciseOfficers of the Government of Rajasthan not below the rank of Excise
Inspector and Patrolling Officers in the Excise Preventive Force may exercise the powers
referred to in Sections 43, 44, 45 and 47."

Thus the following officers are authorised to take action under this section—

(1) Excise Commissioner or
(2) Excise officer not below the rank of Excise Inspector or Patrolling Officers
of Excise Preventive Force.

5. Nature of power—There are four clauses explaining the scope and nature of
power under this section, which may be summarized as follows

(a) Entry and inspection of place of manufacture or stores of any excisable article
at any time by day or by night.

(b) Entry and inspection of place of sale of excisable articles during such hours
when sale is permitted or any time when the shop is open.

Both these actions can be taken in case of licensee holder.

(c) At such place, the following records and things can be examined and tested—
(i) Any book, account or register.
(ii) Any material, stills, utensils, implements, apparatus or excisable articles
found at such place can be examined, tested, measured or weighed.

(d) When any measures, weights or testing instruments are found to be false,
such article may be seized by such officer.

This is a preventive measure to regulate the manufacturing, storage or sale of
excisable articles kept by licence holders at any place.

44. Power of certain officers to investigate into offences punishable
under this Act.—(1) Any officer of the Excise Department not below such rank as the
(State Government) may prescribe may investigate into any offence
punishable under this Act committed within the limits of the area in which
such officer exercises jurisdiction.

(2) Any such officer may exercise the same powers in respect of such
investigation as an officer-in-charge of a police station may exercise in a cognizable

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1. Substituted by section 4 of Rajasthan Act No. XXXVIII of 1957, published in the Rajasthan
Gazette, Extraordinary, Part IV-A, dated 1-4-1957.

2. Substituted by section 5 (2) of Rajasthan Act No. 28 of 1961, published in the Rajasthan
case under the provisions of [Chapter XII of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)].

2[XXX] and, if specially empowered in that behalf by the [3[State Government], such officer 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 punishable under this Act into which he has investigated.

COMMENTARY
SYNOPSIS
1. Scope
2. Investigating officers
3. Powers of Investigating officers [Sub-S. (2)]
4. Power to stop proceedings

1. Scope—Section 44 deals with investigation of offences under the Act.

2. Investigating officers [Sub-Sec-(1)]—(a) Vide Rule 88 of Rajasthan Excise Rules. 1956, all Excise Officers not below the rank of Excise Inspector and Patrolling Officers of Excise Preventive Force may investigate into the offences under this Act.

(b) Sub Inspector of Police may investigate into such offences vide Notification No. F.I.(152) E & T/61 dated 9-9-61. [Please refer the Notification in Commentary of S. 45, infra].

3. Powers of Investigating officer [sub-sec. (2)]—These officers may exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise under provisions of Chapter XII of the Code of Criminal Procedure, 1973. Chapter XII runs from S. 154 to 176. Only relevant sections are to be followed.

4. Power to stop proceedings [sub-section (2) Para two 2]—Investigating Officer specially empowered in this behalf (i.e. District Excise Officer) may stop further proceedings against any person after recording reasons in writing.

Notification
No.F.I.(143) E & T/63, dated 21-12-1964

In pursuance of sub-section (2) of Section 44 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950) the State Government hereby specially empowers even Excise officer not below the rank of a District Excise Officer to stop without reference to a Magistrate, for reasons to be recorded by him in writing, any further proceedings against any person concerned or supposed to be concerned in any offence punishable under the said Act into which he has investigated.

[Published in Raj. Gaz. - Part IV-C dated 4-3-75]


Section 45

45. Power of arrest, seizure and detention—Any officer of the Excise, Police, Salt, Customs [Narcotics] or Land Revenue department, not below such rank and subject to such restrictions as the [3[State Government] may prescribe, and any other person duly empowered in this behalf may arrest without warrant, any person found committing an offence punishable under this Act and may seize, and detain any excisable article or other article which he has reason to believe to be liable to confiscation under this Act or other law for the time being in force relating to excise revenue, and may 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.

COMMENTARY
SYNOPSIS
1. Who can exercise power
2. Notification dated 9-9-61
3. Field Constable of Police authorised
4. Who may be arrested
5. Seizure & detention
6. Detention & search
7. Procedure
8. Rules 88 & 89 of the Rajasthan Excise Rules, 1956 provide as follows:

Rule 88—All Excise Officers of the Government of Rajasthan not below rank of Excise Inspector, and Patrolling Officers in the Excise Preventive Force may exercise powers referred to in sections 43, 44, 45 and 47.

Rule 89—All Excise Officers of the Government of Rajasthan including Excise guards may exercise the powers mentioned in section 45.

Provided that when power is exercised by an Excise Officer other than an Excise Inspector of the circle concerned, such Officer shall immediately hand over the person arrested and the articles seized to the Excise Inspector of the circle concerned.

and there is reasonable cause to suspect as such, such person and vehicles etc. can be detained and a search can be made.

7. Procedure—Section 48 provides for procedure relating to arrest, search etc. and says that the provisions of the Code of Criminal Procedure, 1973 shall be applicable, subject to some modifications mentioned in proviso to S. 48 of the be applicable, subject to some modifications mentioned in proviso to S. 48, of the Act.

[Please refer to Commentary of S. 48, infra for details]

46. Power of Excise Commissioner or Magistrate to issue warrant for search or arrest—The Excise Commissioner or a Magistrate, [1] or an Excise Officer duly empowered in this behalf, having reason to believe that an offence under this Act has been, is being, or is likely to be committed, may—

(a) issue a warrant for the search of any place in which he has reason to believe that any excisable article or any utensil, implement, apparatus or materials, in respect of which such offence has been, is being or is likely to be committed are kept or concealed, and—

(b) issue a warrant for the arrest of any person who he has reason to believe to have been engaged in the commission of any such offence.

COMMENTARY

1. Warrant Issuing Authorities—The following officers have been empowered to issue warrants of arrest or search under this section:

(1) Excise Commissioner,

(2) Magistrate, or

(3) Excise officer duly empowered in this behalf.

Following Notification dated 15.12.69 empowers Assistant Excise Officers under this section—

[Notification No. GSR 13 dated 15.12.69]

In exercise of the powers conferred by Finance (Excise) Department Notification No. 1(58) FD/EX 67/2 dated 18th Sept. 1969, I here by delegate to the Assistant Excise Officers, my powers under Section 46(a), Section 67(1)(b) in so far as complaint or report is not for offences under sections 60.61 and 69(3) of the Rajasthan Excise Act, 1950 (Raj. Act No. 11 of 1950) to be exercised within their jurisdiction. [Published in Raj. Gaz. Part IV-C dated 13-4-1970, Page 33]

2. Warrant of Search—Clause (a)—A search warrant may be issued for search of any place where, if there are sufficient grounds to believe that—

(i) Any excisable article or

(ii) Utensils, implements, apparatus or materials etc. are kept or concealed in respect of which an offence under this Act has been committed or is being committed or is likely to be committed.

3. Warrant of Arrest—clause(b)—A warrant of arrest may be issued against a person if there are sufficient reasons to believe that such person has been engaged in the commission of any such offence under the Act.

4. For Search Warrant—[Refer to Ss. 93 to 111 of Cr. P.C.]

47. Power of Excise Officer to search without warrant—(1) Whenever an officer of the Excise Department not below such rank as the [State Government may prescribe] has reason to believe that an offence punishable under this Act has been, is being or is likely to be committed in any place, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time by day or right enter and search such place;

Provided that such officer shall before entering such place record the rounds of his belief as aforesaid.

(2) Every Excise Officer as aforesaid may seize any thing found in such place which he has reason to believe to be liable to confiscation under this Act and may detain and search and if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

COMMENTARY

1. Search without warrant—Section 47 empowers the Excise officer not below the rank of Excise Inspector and Parcelling officer of Excise Preventive Force [Refer to Rule 98 of the Raj Excise Rules, 1956] to search without warrant as per provisions of the section.


In exercise of the powers conferred by Section 10 of the Rajasthan Excise Act, 1950 (Act II of 1950) and SR50 dated the 15th May 1951 published in the Rajasthan Gazette Vol. III, Pt. 1 of 1951, the State Government hereby orders that the Officers of Police and Revenue Departments not below the rank specified hereunder shall exercise the powers and perform the duties under the sections mentioned against them—

1. Naib Tehsildar Revenue and above
2. Sub Inspector Police
3. All officers of Police & Revenue including constables, Chowkidars and Patwars.

Section 47

Section 44, 47, and 67(4)(b), except in respect of retail licences granted for sale of liquor under the Act.

Section 45, except in respect of the retail licences granted for sale of liquor under the Act.

Section 47

3. Case Law—

Search-Irregularity-Possession of illicit liquor—Conviction Under S. 54 would not be affected by any irregularity committed in search under S. 47, where no prejudice is caused. Held, recovery of articles will not be rendered illegal due to such irregularity in search [AIR 1929 All 337 relied on].

Contra provision of of S. 47- Four bottles of liquor recovered from accused by S.H.O. without complying with the provisions of S. 47—Grounds of belief not recorded, hence search was vitiated [AIR 1960 SC 210 followed and AIR 1979 SC 711 relied on]. Held, acquittal was right [Appeal dismissed].

S. 47 and Penal Code-Ss.147, 333 & 350—[When search was illegal—Conviction set aside]—When the search was made without complying with the provisions of Sec. 47 of the Excise Act, the search itself was illegal and the inmates or owners of the house i.e. Nanda and Kundan and their companions had every right to resist that search and to cause grievous injuries to the persons who were playing with their liberty. A search against the provisions of Sec. 47 is definitely illegal. Hence it cannot be held that the Excise Inspector was acting in bona fide discharge of his duty. Even the evidence regarding the occurrence is totally contradictory. On the strength of such an ovular evidence it is not possible to fasten the guilt on the accused persons [Appellate Accepted].

No urgency shown—[It is true in an urgent case a sub-inspector may conduct search for an offence against the Excise law without obtaining a warrant from the competent Excise Officer. But he cannot wield the same power to search without warrant where it is not shown that there was a great urgency and where the sub-inspector could have obtained the requisite warrant from the Excise officer within no time or within very short time.]

Search by officer not competent—[Effect of]—Where the officer making search was not competent as police officer to make any search but in course of the search certain prohibited excisable article was found in his possession and was seized. The conviction was upheld.

Duty of officer conducting search—[It is the utmost duty of the officer conducting search is to conduct the same in a highly regular, lawful and in a manner set by procedure, so as to minimize the defensive objection as to its legality, and humiliation of the search in prosecution stage. Any procedural irregularity or search without authority or search without warrant would always create doubt and demands strict scrutiny. When comes to the conclusion that some excisable articles are recovered from the illegal possession of the accused on search the pleas of defensive search do not remain very material and the conviction is not vitiated.]

4. Ramchandra vs. State [1953] 520 36 CR (J & K) 551
5. Emperor vs. Basant [1934] Oudh 610 31 Cr IL R 114
6. Mohsinad Khan vs. Emperor [1932] 205 All 185 1932 All L 1104 33 CR (J & K) 340 Indian Cases 246
Effect Illegal Search—Conviction when set aside—In the instant case the search as illegal as it was in violation of provisions of Section 47 of the Act. Held that when such search was illegal, conviction cannot be based on such search.  

When no warrants were obtained for search, but bags containing illicit liquor were seized. Held, conviction is not justified due to illegal search.  

48. Procedure relating to arrest, searches, etc—The provisions of Code of Criminal Procedure, [1973 (Central Act 2 of 1974)] relating to arrests, searches, warrant, production of persons arrested and vestigation into offences shall be held to be applicable, so far as may be. All action taken in these respects, under this Act. 

Provided that—

any offence punishable under this Act may be investigated into without the order of a Magistrate and any warrant issued by the Excise Commissioner or an Excise Officer duly empowered in this behalf under section 46 may be executed by any officer selected for that purpose by the authority issuing the warrant.

whenever an excise officer makes any arrest, seizure or search he shall within 24 hours thereafter make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 49 take or send the person arrested and the article seized with all convenient despatch to a Magistrate for trial.

no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place of search is situated.

COMMENTS

1. Procedure—“as far as may be”—Procedure of the Code of Criminal Procedure, 1973 is made applicable, so far as it is possible with the modifications provided in proviso 4, (ii) & (iii) of this section. Please refer to the text above for details.


(a) Investigation—Chapter XII—Information to police and their powers to investigate—According to S. 44(2) of the Excise Act, Investigating officer of Excise Department may exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable case under the provisions of Chapter XII of the Code of Criminal Procedure, 1973 (Popularly called Cr. P. C.). Further section 48 also refers to the provisions of Cr. P. C. to be applied in Excise Cases.

Illegality in Investigation—Effect thereof—An illegality committed in the course of investigation does not affect the competence and jurisdiction of the court for trial.

Validity of Recovery of Search—Calling of the same person to witness several searches or recoveries, is objectionable and would render the search or the recovery doubtful and suspect, if not invalid.

Duty of Investigating officer is to bring out the real unvarnished truth.

Evidence Statement of accused to the investigating officer at time of investigation is not admissible in evidence.

Confession—recorded by the Excise Inspector is inadmissible in evidence.

(b) Chapter V—Arrest of Persons—Sections 41 to 60, Cr. P. C.

Section 41, 42, 43, 45, 46, 47 are important.

(c) Search during Investigation—Search by Police Officer. Section 51—search of arrested person.

Sections 93 to 101 deal with search warrants and general provisions relating to searches.

(d) Production of person arrested—section 56, Cr. P. C.—Person arrested to be taken before Magistrate or Officer in charge of Police Station.

Section 57—Person arrested not to be detained more than twenty-four hours.


2 Harshnath Prakash Adam v. Om Prakash (1972) 1 SCC 249 (263)
3 Jamuna Chowdhury v. State of Bihar AIR 1974 SC 122 (326)
5 Raja Ram Narayan v. State of Bihar AIR 1964 SC 828 (833)
(2) Except the offences punishable under sections 54 and 56, which shall be non-bailable, all other offences under this Act shall be bailable within the meaning of the said Code.

COMMENTS

1. Bail in Excise offences—Section 49 makes provision of the Code of Criminal Procedure, 1973 applicable to cases of bail in offences under this Act.

Chapter XXIII of Cr. PC. deals with bail, particularly sections 436 and 437 of Cr. PC. are relevant.

2. Bail when granted—Only six bottles of illicit liquor recovered from accused, so was allowed bail.

3. Latest trend—Liquor Tragedy Cases (Ss. 54, 61, 63 & 31C and Cr. PC—i.e. 439) Bail granted—31 persons lost their lives and 105 were seriously injured. Salesman on retail shop "VK" was the master mind who prepared illicit liquor. "VK" is held not entitled to bail (Application dismissed). Three other salesmen ordered to be released on bail as their detention is no more required for investigation. Direction for proper investigation given ( Bail Granted ) [AIR 1979 SC 1456 relied on].

Bail when refused—Liquor Tragedy—31 lives lost while 105 injured. First bail application was rejected after considering all aspects. No new ground available. Charge already framed. Trial to be expedited by Trial Court (Second Bail Application disposed of).

[Please also refer to Note 4 of commentary of S. 54 infra for further case law.]

50. Duty of officers of certain departments to report offences and to assist Excise Officers—Every officer of the Police, Salt, Customs [Narcotics] and Land Revenue Department shall be bound to give immediate information to an officer of the Excise Department of all breaches of any of the provisions of this Act which may come to his knowledge, and to aid, any officer of the Excise Department in carrying out of the provisions of this Act upon request made by such officer.

51. Duty of landholders and others to give information—(1) Every owner or occupier of land and the agent of any such owner or occupier of land on which, and

(2) Every Sarpanch or Panch of a Panchayat established under the Rajasthan Panchayat Act, 1953, [Rajasthan Act 21 of 1953], lambardar,

village headman, village accountant or village policemen in whose village, there shall be any manufacture or illegal import or collection of any excisable article not licensed under this Act, or any unlawful cultivation or collection of any plant from which an intoxicating drug can be produced shall be bound, in the absence of reasonable excuse to give notice of the same to a magistrate or to an officer of the excise, Police, Customs or Land Revenue Department, immediately the same shall have come to his knowledge.

52. Duty of officer in—charge of police station to take charge of article seized—Every officer-in-charge of a police station shall take charge of and keep in safe custody, pending the orders of a magistrate or of the Excise Commissioner [of an Excise Officer only empowered in that behalf] all articles seized under this Act which may be delivered to him, and shall allow any officer of the Excise Department who may accompany such articles to the police station or may be deputed for the purpose by his superior officer, to affix his seal to such articles, and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

53. Power to close shops for the sake of public peace—(1) The District Magistrate by notice in writing to the licensee may require that any shop in which any excisable or intoxicating drug 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 a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a Magistrate of any class or any police officer above the rank of a constable who is present, may require such shop to be kept closed for such period as he may think necessary.

Provided that where any such riot or unlawful assembly occurs the license shall, in the absence of such Magistrate or police officer, close his shop without any order.

COMMENTS

1. Scope—Section 53 deals with public peace in relation to the liquor shops. There are two fact-situations for closing of liquor shops dealt with under sub-sections (1) & (2)

2. Two Fact-situations—(1) District Magistrate has been empowered by sub-section (1) to regulate the timings of the liquor shops etc in interest of preservation of the public peace in any place in the district.

(2) in case of riot or unlawful assembly the shop in vicinity of occurrence may closed for certain time by (i) Magistrate or (ii) Police officer above the rank or constable sent at sight. Or, in case no such Magistrate or Police officer is present at sight, licence shall close such shop without any order.

These are temporary situations for closer of liquor shops based on preservation public peace, but a liquor ship may be closed from an area due to option of the all inhabitants as detailed below-

3. A Special Provision—Closure of Country Liquor shop by Local option in Panchayat ree—There are Rules entitled, 'Rajasthan Excise (Closure of Country Liquor shops local option) Rules, 1975. The procedure given in R. 3 to R. 15 may be usefully quoted re for reference:

4. Option of closure by voters of Panchayat—A liquor shop in any Panchayat ree shall be closed if the voters in the Panchayat Circle opt for such closure with 2/3 of the total number of voters of the Panchayat Circle voting for closure of the shop in the manner hereunder laid down, from the commencement of the year immediately following the one in which such voting takes place.

5. Application for closure—An application in Form 1 may be made by voters of any Panchayat circle to the concerned Sub-divisional Officer for ascertaining public opinion in the question of closure of any or all liquor shops or sub-shops, functioning in the panchayat circle.

Provided that no such application shall be entertained unless not less than one-sixth of the total number of the Panchayat circle have signed/affixed their thumb impressions on the application in support of the demand.

6. Enquiry by SDO on application and Report—On receipt of such an application, a Sub-divisional Officer shall make an on the spot enquiry and if he is satisfied that the number of applicants who are voters of the Panchayat circle and who have actually signed/affixed their thumb impressions on the application is not less than one-sixth of the total number of voters of the Panchayat Circle, he shall send the application to the Excise Commissioner with his endorsement thereon to this effect.

7. Excise Commissioner to consider SDO's Report—On receipt of the application along with the report of the Sub-divisional Officer under Rule 5, the Excise Commissioner shall, unless he considers that the application is not in accordance with the provisions of these rules or he deems it necessary to call for further report from the sub-divisional officer, ask the Collector concerned to ascertain the public opinion in the Panchayat Circle on the question of closure of the liquor shop as demanded in the application by holding a poll.

Provided that if in the opinion of the Excise Commissioner the application is not in accordance with the rules, he shall send a report to the Government whose decision shall be final and will be communicated to the Panchayat for informing the applicants.

8. Issue of public notice by Collector—The Collector shall thereupon issue a public notice of intended poll in Form 2 and shall publish it on the notice Board of the Panchayat and such other places in the Panchayat Circle as he deems fit. The Collector shall allow period of at least fifteen days to intervene between the date of publication of the public notice in the Panchayat circle and the date of the poll.

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9. Appointment of Presiding Officer—The Collector shall appoint a Presiding Officer not below the rank of the Tehsildar for conducting the poll and polling officers to assist him in the conduct of the poll.

10. Polling—Mode of—The polling shall be conducted in the manner laid down for election of Panchas in the rules prescribed under the Rajasthan Act. 1953 amended.

11. Ballot papers—The ballot paper used for the purpose of poll shall be printed in Form 3.

12. Counting—After the polling is over, the Presiding Officer shall count number of votes polled for and against the closure of the liquor shop, declare the result and send a report in duplicate to the Collector in Form 4 along with the record of the poll.

13. Report of the result of polling—The Collector shall forward one copy of the report to the Excise Commissioner with his remarks, if any.

14. Excise Commissioner's duty on receipt of report—On receipt of the report of the Presiding Officer, the Excise Commissioner shall if not less than two-thirds of the total number of voters of the Panchayat Circle had voted for the closure of the shop, order the closure of the said shop in the Panchayat circle from the commencement of the year next following the year in which the voting took place.

15. Strength of voters favouring closure—If the any poll organised in the manner laid down above, not less than 2/3rd of the total number of voters in the Panchayat circle do not vote for a closure of any liquor shop or sub-shop, no application for ascertaining the public opinion in the Panchayat Circle for closure of the same shop or sub-shop shall be entertained before expiry of a period of twelve months from the date on which such poll was last held.

16. Record of polling—The record of the poll including the electoral rolls and ballot papers used and used shall be preserved for a period of twelve months after the date of poll unless otherwise directed by the Government or any competent court.

4. Repeal of Licence—Matter of Policy of State—When the State has received complaints that consumption of liquor in Bars resulted in law and order problems, womenfolk being harassed, certainly in public interest it could take a decision to repeal the grant of bar licences. There is nothing unreasonable. It is, held, not necessary that a committee ought to have been appointed and a report obtained before such a repeal. It is matter of policy which the Government alone is competent to formulate. The State Government knows best how to augment its revenue. 1

5. Declaration of Dry-days for sale of liquor during election-contract of Liquor-Order enforceable—

No breach of contractual obligation where specific conditions incorporated in the notice inviting tenders. There is no inherent power to sell liquor. Restriction is held, just and reasonable. State Government competent to issue directions under Rule 41 and 92. The Governor can also pass such order under Art. 161 and of liquor cannot be equated with contract in other cases. nor the issue of reasonableness and fairness be agitated in liquor contract (Petition dismissed).2

## Chapter IX

### Offences and Penalties

#### (1) Introductory Note

**SYNOPSIS**

1. List of offences under the Act
2. Reference to Provisions of Cr. P.C.
   1. Investigation
   2. Arrest of Persons
3. Search during Investigation
4. Production of person arrested
5. Special Provisions in the Chapter

### (1) List of Offences Under the Act

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Section</th>
<th>Offence</th>
<th>Punishment</th>
<th>Nature</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>54</td>
<td>Penalty for unlawful import, export, transport, manufacture, possession etc.</td>
<td>Three years &amp; Fine upto Rs. 2000/-</td>
<td>Non-bailable</td>
</tr>
<tr>
<td>(2)</td>
<td>Proviso to S. 54</td>
<td>Possessing workable still or selling or possessing any excisable article contravention of the Act etc.</td>
<td>Minimum six months &amp; Fine Rs. 2000/-</td>
<td>Non-bailable</td>
</tr>
<tr>
<td>(3)</td>
<td>55</td>
<td>Penalty for unlawfully selling to person under eighteen or employing children or women.</td>
<td>Fine upto Rs. 500/-</td>
<td>Bailable</td>
</tr>
<tr>
<td>(4)</td>
<td>56</td>
<td>Penalty for rendering denatured spirit fit for human consumption</td>
<td>Not be less than 6 months &amp; fine Three years &amp; Fine not less than Rs. 2000/- and fine Rs. 1000/-</td>
<td>Non-bailable</td>
</tr>
<tr>
<td>(5)</td>
<td>57</td>
<td>Penalty for possession of excisable article unlawfully imported</td>
<td>Upto three months or fine up to Rs. 1000/- or both</td>
<td>Bailable</td>
</tr>
</tbody>
</table>

#### (2) Reference to Provision of the Code of Criminal Procedure, 1973 made applicable to Excise Cases:

(1) Investigation

Chapter XII—Information to police and their Powers to investigate—According to S. 44(2) of the Excise Act, Investigating officer of Excise Department may exercise the same power in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable case under the provisions of chapter XII of the Code of Criminal Procedure, 1973(Popularly called as Cr. P.C.). Further Section 48 also refers to the provisions of Cr. P.C. to be applied in Excise Cases. The following section of Cr. P.C. are important and relevant here—

S.154—Information in cognizable cases (F.I.R.)
S.156—Police officer’s power to investigate cognizable case
S.157—Procedure for investigation
Section 54

The Rajasthan Excise Act

(4) Provisions of the Rajasthan Excise Rules, 1956

(a) Chapter X- Rt. 78 to 82 deal with disposal of confiscated articles. (See-under S. 69)

(b) Chapter XI- Witnesses-Expenses etc.

(c) Chapter IX-B- Rule 77-D- Compounding offences (under S. 70 of the Act).

54. Penalty for unlawful import, export, transport manufacture, possession, etc. Whoever, in contravention of this Act or of any rule, order made or of any licence, permit or pass granted thereunder—

(a) imports, exports, transports, manufactures, collects, sells or possesses any excisable article; or

(b) cultivates any hemp plant (Cannabis sativa); or

(c) constructs or works any distillery, pot-still or brewery; or

(d) uses, keeps or has in his possession any materials, still, utensil, implements or apparatus whatsoever for the purpose of manufacturing any excisable article other than tari; or

(e) removes any excisable article from any distillery, pot-still, [brewery] or warehouse established or licensed under this Act; or

(f) bottles any liquor for the purposes of sale; or

(g) taps or draws tari from any tari producing tree shall be punishable with imprisonment for a term which may extend to 2[three years][and] with fine which may extend to 4[twenty thousand] rupees [XXX];

1 Provided that if a person is so found in possession of a workable still for the manufacture of any excisable article [or is found to be guilty of selling or possessing for sale any excisable article in contravention of the provisions of this Act or of any rule or order made or of any licence, permit or pass granted thereunder he shall be punished with the minimum sentence of imprisonment for six months and fine of two hundred rupees.]

2 Provided further that if the quantity of liquor found at the time or in the course of detection of the offence exceeds fifty bulk litres, the person guilty for such offence shall be punished with the minimum sentence of imprisonment for one year and fine of ten thousand rupees:—

3. Inserted by section 6 (4)(a).d.

S.158- Report law submitted
Ss.160 & 164-Calling and examination of witnesses
S.172- Diary of Proceedings in Investigation
S.173- Report of Police officer on completion of Investigation

Illegality in Investigation-Effect thereof—An illegality committed in the course of investigation does not affect the competence and jurisdiction of the Court for trials. 1

Validity of Recovery or search—Calling of the same person to witness several searches or recoveries, is objectionable and would render the search or the recovery doubtful and suspect, if not invalid. 2

Duty of Investigating officer is to bring out the real unvarnished truth. 3

Evidence—Statement of accused to the investigating officer at time of investigation is not admissible in evidence. 4

Confession recorded by the Excise Inspector is inadmissible in evidence. 5

(2) Chapter V- Arrest of Persons

[Sections 41 to 60, Cr.P.C] Sections 41, 42, 43, 45, 46, 47 are important.

(3) Search during Investigation

Section 165- Search by Police officer
Section 51- Search of arrested person
Section 93 to 101 deal with search warrants and general provisions relating to searches.

(4) Production of person arrested

Section 56, Cr.P.C. - Person arrested to be taken before Magistrate or officer in charge of Police station

Section 57- Person arrested not to be detained more than twenty-four hours

[for details, please refer to any book on Code of Criminal Procedure, 1973]—

(3) Special Provisions in the Chapter

There are special provisions as to deal with excise offences in this chapter from sections 66 to 70. These provisions prescribe the procedural principles to be followed in these cases—

S.66- Enhanced punishment after previous conviction
S.66A- Security for abstaining from commission of offences
S.67- Cognizance of offences
S.68- Presumption as to commission of offence in certain cases
S.69- What things are liable to confiscation
S.70- Power of excise officer to compound offences
S.64a- Manufacture, sale or possession by one person on account of other person...
COMMENTS

SYNOPSIS

Nature of offence

Punishment

Minimum Sentence prescribed

Scope of the Act

(a) Ganja Case

(b) Bhang Case

Principles laid down (Case law)

(i) Menstru in Excise offences

(ii) Possession—meaning & Nature

(i) Appreciation of Evidence

(a) Samples & Report of Chemical Examiner Recovery of Articles

(b) Recovery of Thieves

(c) Testimony of Excise Inspector

(d) Witness' testimony of

(i) Burden of proof (61) 68y

(g) Miscellaneous Cases) Practice & Procedure

(b) Proof of Alcoholic Contents

(i) Latest blood

(j) Bail

(6) Illustrative Cases.

(7) Benefit of Probation—

(a) Important Case—Soor Singh (1990)

(b) Not to be deprived of Service

(c) Probation when allowed (Illustrative Cases)

(i) Excise cases

(ii) Prohibition cases

(1) Nature of offence—Contravention of "(i) this Act, or (ii) any rule, or (iii) order made, or (iv) any licence, permit or pass granted thereunder.—"

---is the offence under Section 54, where activities or acts mentioned in clauses to (g) [Please refer to the text of section] are undertaken by any person. Without the contravention, these activities are not offences simpliciter.

Therefore Contravention mentioned above is the main ingredient of the offence, libel must be alleged and proved by the prosecution.

(2) Punishment—Imprisonment for a term up to three years and with fine up to 20,000/- Both penalties are to be imposed as word "and" has been used which was statuted in 1956.

(3) Minimum Sentence prescribed—(a) There are two offences in which minimum sentence of imprisonment for six months and fine of Rs. 200/- has been prescribed by visa to S. 54. These offences are—

(i) Possession of a workable still for the manufacture of any excisable article, OR

(ii) Selling or possessing for sale any excisable article.

---in contravention of the provisions of this Act, or of any rule or order made, or of any licence, permit or pass granted thereunder.

(b) If during detection of offence, more than fifty litres of liquor is recovered, minimum sentence of imprisonment shall be for ONE YEAR and Rs. Five or Ten thousand shall be imposed.

(4) Scope of the Act—(a) Possession of Ganja without licence—

---Section 37 of NDPS Act held not applicable as offence is punishable for six naths only under the Excise Act. 1


Section 54

(b) Cultivation of Bhung without licence—

It is punishable under the Excise Act and not under NDPS Act. 1

(5) Principles laid down

CASE LAW

(a) Menstru in Excise Offences

S. 54 (a) — Offence under Mensa—Held that dealing in illicit liquor without a licence or a valid permit implies mensa and as such proof of mens rea is not necessary.


(b) Possession—Meaning & Nature

(1) Meaning of "Possession"—

"Possession" means conscious possession. Neither mere possibility nor remote probability nor vague doubts which are not reasonable, can without robust to the foundation of administration, be reliable and cogent to the administration of justice, be the foundation of discrediting the reliable and cogent evidence.

In the instant case, carrying of 30 bottles of liquor (in vehicle) was held possible of which of them taking the other in consideration. [Nahata v. State of Rajasthan 1976 WLN681.]

(2) Two elements of "Possession"—

(a) Possession must be conscious as well as

(b) exclusive of the accused.

(See cases infra)

(3) No. Conscious Possession—(a) Burden of proof—

The mere fact that the accused Nos. 1 and 2, were found sitting in the house at the time of raid alone is not sufficient. The burden of proving that the accused were in conscious possession of the contraband articles in question lay on the prosecution.

The possibility of the accused having casually gone to the house and not being aware of the existence of the contraband material in question can not be ruled out. Further the prosecution has failed to establish the identity of the liquor seized from the house with the sample sent to the chemical analysis. The accused were held to be entitled to the benefit of doubt. The prosecution failed to prove guilt beyond doubt. [State of Madhya Pradesh v. Prabhakar Nehara 1977 Cr LR (Mad) 422.]

No Possession Conscious Possession (b) Acquittal

22 bottles of liquor recovered from house of accused from a room frequently visited by others. Accused is deaf and dumb and was not able to communicate. Held the accused was, therefore, not in conscious possession of 22 bottles of liquor. Accused acquitted [State of Raj. v. Maheswari 1992 Cr LR (Raj) 749.]

(4) Conviction set aside—meaning of "possession"—S. 27 IPC held does not apply—

Mere fact that the petitioner was the head of the family is not sufficient for a finding that he must have been in conscious possession of liquor contained in the bottles which were found in his house. [Sentence set aside. Chorna v. State 1963 RLR 570: 1963 WLN (UC) 135: 1963 RCC 305: 1963 RLR 342: 1963 Cr LR 1113

(5) "Ganja"—When exclusive possession could not be proved—finding of trial Court correct and appeal of State fails. [State v. Mahabir 1978 Cr LR (Raj) 365.]

(6) Exclusive Possession must be proved—Recovery from open verandah being accessible to all & one, no exclusive possession held proved—accused, a police constable

Section 54] The Rajasthan Excise Act

(16) Possession of liquor of different strength-offence when not made out—What is an offence under the Act is the possession of any liquor in contravention of any rule which may have been made by the Excise Commissioner fixing the strength of quantity in excess of or below which the liquor shall not be possessed by any person. Unless, therefore, the Excise Commissioner has fixed the strength or the quantity of liquor by any notification with the previous sanction of the Government, the possession of liquor of a strength different from that which is sold doesn’t amount to an offence. Notification No. 4163 obviously only purports to fix the price of liquor of particular variety which can be charged by a licensee. It does not lay down the strength of quantity in excess of or below which any liquor shall not be possessed by any person. Therefore it cannot be said that the possession of the liquor is a transgression of the rule promulgated by the notification. [Kumawat Singh v. State of Raj. 1956 RWN 483]

(c) Appreciation of Evidence.

(17) Appreciation of Evidence—Samples sealed on spot, but no evidence produced that samples not tempered with before reaching chemical examiner—Articles excisable sent to chemical examiner no evidence that these were same which were recovered from possession of accused—No link established (Revision applied) ILR (1955) 3 Raj 655, 1966 RWN 451, ILR (1969) 19 Raj 918 and 1974 WLN 132. [Mst. Nathki v. State. 1978 (3) R. Cr. C. 138 (159).

(18) Report of Assistant Chemical Examiner excluded from evidence, though admissible in evidence, under S. 510, Cr.P.C—No evidence to the effect that samples reached in an untempered condition for re-analysis additional evidence refused at seven years have passed (Appeal dismissed) [State v. Hovair Lal 1978 WLN (UC) 279: 1978 CR LR (Raj) 506 and 509]


Also refer—Mst. Nathki V. State. 1978 R.C.C. 158.

(21) Fermented wash recovered from field of accused—No evidence to connect accused from recovery—Field open and accessible to all—Conviction held erroneous. [Kumbhariya V.State 1979 CR LR (Raj) 59]

(22) Recovery of illicit liquor proved—Value of Hostile Motivin witnesses—it does not tend to throw any evidence on the record that Circle Inspector some how or other planted illicit liquor in his house so as to implicate him in this case. Mohari, who turned hostile to the prosecution case admitted his signatures on the recovery memo and the step-plan. He further stated that he had put his signatures to these documents without any pressure from the quarter. His evidence is therefore, not in any way helpful to the accused...
petitioners. Had there been no recovery of the illicit wine from Jannat's house in his presence, he would have surely refused to sign the recovery memo and the site plan. (Conviction upheld) [Jumma v. State, 1976 Cr. L.R. (Raj) 351.]

(ii) Recovery of utensils—

(23) Use for distillation must be proved—The Excise Inspector in his statement before the trial court merely exhibited this inspection memo EXP 7 and didn't testify to its contents on oath. Hence, in the absence of any satisfactory evidence that the tin, the earthen pot and the bottle were the implements of manufacturing illicit liquor and the few drops found in the bottle were of illicit liquor, the recoveries from the house of the petitioner alone was not enough to establish and sustain the charge under sec. 54(a) of the Act. These articles could be used for purposes other than distillation of illicit liquor and, therefore, both the courts below committed an error in holding that there was no other alternative use and utility of these articles but for distillation of illicit liquor. [Ravindra Singh v. State 1977 C. L.R. (Raj) 191.]

(24) Acquittal—Accused caught with 8 bottles of illicit liquor in a jerrycan—Prosecution failed to establish that throughout the period from seizure of the article reaching to office of Chemical Analyst, the sample bottle remained in sealed condition—Report of Chemical Analyst not exhibited—Conviction held not sustainable. (Revision allowed) [Rachna Khan v. State 1982 R. Cr.C 229.]

(d) Testimony of Excise Inspector

(25) Revision—Nothing illegal to base conviction on Statements of Excise Inspector [1957 RLW 338 (All)]. Conclusions on finding of fact not perverse and based on evidence, held, not to be disturbed in revision. [Harmesh v. State 1979 Cr. L.R. (Raj) 525.]

(26) Illicit liquor recovered—Expert opinion is required—Excise Inspector's opinion in absence of scientific evidence not of any value. [AIR 1967 SC 1550 fol.; 1958 RLW 54 dist.]


(27) Spirit—Even if the stuff is 'spirit' unfit for human consumption, a case under S.57 can be made out against accused in possession—[Ram Chandra v. State IJR (1966) 10 Raj 733: 1960 RLW 215.]

(28) Recovery of illicit liquor from accused and recovery memo was got signed from him. Held, the recovery memo admissible in evidence so far proving of his signatures is concerned, but rest of recovery memo is held admissible and not hit by S.25 of Evidence Act.


(e) Witnesses—Testimony of

(29) Working still and illicit wash recovered—Solitary Witness—even when identity of the petitioner was mistaken, held, extremely unsafe to convict the petitioner only on the statement of sole witness. (Revision allowed—Petitioner was acquitted.)


(30) Applicability & Scope—Conviction altered from clause (a) to (b)—Two members turned hostile. Accused ran away from spot. Dakshin Bahri, a bottle of liquor, a plastic tube as well as fermentation wash were recovered and samples certified by Analyst to contain excisable articles. In fact the broken pieces of the Bhatti were not produced in the court and as such it cannot be said with certainty that a working still was recovered from the possession of the accused. Held that conviction cannot be sustained under S. 54(c) but he can be convicted under Ss. 16/54(a) of the Act. (Revision partly allowed) [Anur Singh v. State 1983 R.C.R.C. 49(56).]

(31) Identity mistaken—Solo witness (Revision allowed—accused acquitted) [Gundu v. State 1981 (6) R. Cr.C. 195.]

(f) Burden of Proof—Presumption under S. 68 of the Act—When possession proved, accused has to explain possession

(32) Assumption—Once it is proved that the accused had something to do with the import, export, transport, manufacture, sell or possession of excisable article, it is for him to prove satisfactorily that he has not knowingly done so. Section 69 of the Act will become operative if it were held that the prosecution must prove the conscious possession before it can take resort to S. 68. Section 68 proceeds on the assumption that a person who is in any way concerned with the excisable article, as mentioned under S. 54(a) of the Act, he must be presumed to have committed the offence charged. The practical difficulty of the prosecution to prove something which is evident only within the knowledge of the accused has persuaded the legislature to consider that if the onus is placed on the prosecution, the object of the Act would be frustrated by enacting S. 68 of the Act the legislature has manifested its intention that an anti-social adventurer cannot claim for his injurious activities large regard than for the defence of the society itself. [1976 Cr. L.R. 382 and AIR 1960 SC 483, not applicable.]


(33) Possession must be proved—In order to raise a presumption of guilt against the accused, it must be made out by the prosecution beyond doubt that he was in possession of the excisable articles recovered on search. There cannot be any absolute presumption that a person in occupation of the premises must be in possession of every thing found in side the premises. Whether such a presumption should be raised in any particular case or not depends upon facts and circumstances of each case—[State v. Chandrabhan. AIR 1942 Oudh 69.]

(34) Use of implements to be stated—Though the law presumes against the accused person as laid down in Section 68 yet the prosecution must establish certain primary and basic facts. The Excise Officer must allege and explain as to what those implements of manufacturing illicit liquor was recovered with the accused and also its supposed use when accused was in possession—[Empire vs. Mohadeo AIR 1925 All 388:88 IC 275: 23 All LJ 417: 26 Cr.LJ 1107.]

(g) Practice & Procedure

(Miscellaneous Cases)

(35) CrPC S. 167(5)—Investigation when becomes illegal—Provisions of S. 167(5) are held to be mandatory and the Magistrate shall order stopping further investigation...
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(45) Driver of truck carrying liquor with permit—No criminal liability can be saddled on him (Application accepted, proceedings quashed).

Guman Singh v. State 1978 WLN (UC) 50 (51)

(46) Owner of car—Liability of complicity in carrying Ganja made out—It is no doubt true that the car in which the contraband Ganja was being carried belonged to the appellant, but that fact would not show that it was the appellant who was responsible for sending the Ganja in the car. The appellant admittedly was not present in the car at the time the Ganja was recovered from the car. Besides the driver, there were two other occupants of the car and, according to one of them, namely, Wali Mohd. the Ganja belonged to him. The appellant has stated that he had deposited his driver Akram on February 4, 1967 to take the car to Sasaram at a distance of 70 miles from Varanasi for election work. The High Court rejected this version of the appellant on the ground that as the car did not reach Sasaram the appellant should have lodged a report on February 5, 1967 with the police. The fact that no such report was lodged with the police by the appellant till February 8, 1967 shown according to the High Court, the complicity of the appellant. In this respect we find that there is nothing on the record to indicate that the appellant should have come to know on February 5, 1967 that the car had not reached Sasaram if, in fact he had sent the car to that place. There is nothing improbable in the appellant having learnt on February 8, 1967 that his car had not reached Sasaram and about his having made a report to the police on that day.

Thakur Sai Narain Singh v. State of Madhya Pradesh, 1973 (1) SCR 176

(47) Duty of prosecution to produce records—It is incumbent for the prosecution to submit search warrant proceedings, list of articles recovered and seized along with the original articles seized during such search and the same must be thoroughly proved by calling the Mohir (search-witnesses) present before whom the search was conducted so as to provide ample opportunity to the court to safeguard the interests in establishing the bonafide legality and due effect of the search and to the accused to understand the allegations and prepare himself for his defence in the absence of which the prosecution case will be rather weaker to sustain conviction.

Mohammad Bashir Khan v. Emperor 33 Cr. LJ 94—AIR 1932 All 385, 1932 All L.J 194—140 IC 246

(48) Appeal against acquittal—The memo of appeal is completely silent with regard to any ground challenging the order of acquittal. Hence merits cannot be challenged (Appeal dismissed)


(49) Deposit of Fine—Criminal P.C.—Ss. 68 & 69—When accused is ready & willing, cannot be sent to jail. The learned Additional Chief Judicial Magistrate had no power express or implied to have sent the accused to imprisonment when he was ready and willing to deposit the fine within the stipulated period i.e. 7 days extended period. Even otherwise when the earlier application was refused it was obligatory on the learned Additional Chief Judicial Magistrate to have atleast accepted that part of the fine which was imposed besides the substantive sentence. Looking from the either angle the order of the Addl. Chief Judicial Magistrate cannot be held to be a valid order. Neither section 68 nor section 69 IPC contemplated that the accused should be present in the court for depositing the
(h) Proof of Alcohol content in Liquor

The percentage of alcohol could not be so calculated with any precision by mere visual observation (AIR 1967 SC 1550 relied on)


Mere smell alone is not sufficient to prove alcohol content of liquor. A scientific expert opinion is always necessary. The Inspector failed to tell the Court as to his training etc. and as such his bold opinion without convincing ground cannot be accepted as expert evidence.


(i) Latest Trend

1. Expert evidence—Excise Inspector testing liquor by smelling. Held to be an expert in this particular case.

Held, we find that the Excise Inspector who had deposed, at the very outset of his evidence, that he had put in 21 years service as Excise Inspector and had tested many samples of liquor. As already pointed out, the competence of C.D.Mishra to test the composition and strength of the liquid under consideration was not questioned at all. We, therefore, think that this particular Excise Inspector could be treated as an expert within the meaning of Section 45 of the Evidence Act. The Excise Inspector had, in addition to employing the smell test, used all the other tests he could reasonably adopt. If his competence to give his opinion or the sufficiency of the tests adopted by him had been questioned in the Trial Court, the prosecution would have been in a position to lead more evidence on these questions. We also find that the objects recovered from the possession of the appellant almost proclaim the nature of his activities and of liquor which could be in possession.

2. Excise employee witness—Simply because he is an excise employee, it is not enough to discount his statement as an interested witness or in the absence of his hostility to the accused person. Despite pointed and lengthy cross-examination nothing has been brought in the statement of the witness—Excise employee so as to doubt his veracity of his statement. Both the lower courts below relied on his statement and I have no reason to hold otherwise.

3. Interested Witnesses—No particular number of witnesses is required for proving a fact under S. 134, Evidence Act. Conviction can safely be based on testimony of a single witness. Witnesses cannot be discarded on the sole ground that they were interested in success of the result of the discharge of their official duties.

4. Recalling of witnesses when allowed—Accused was not allowed to cross-examine a material witness. Held, serious prejudice was called to accused. Prayer of accused for recalling such witness for cross-examination was allowed.

5. Appreciation of evidence—Conviction when set aside—No proof that the field from which illicit liquor recovery belonged to appellant accused. No site-plan was prepared and no mowers were called on. No proof on record whether articles reached chemical examiner in duly sealed condition. Conviction and sentence set aside.

6. Delivery on Superintendence—Foreign liquor seized was lying in custody of police. Stuffed likely to deteriorate. Liquor delivered to petitioner—Order on superintendence.

7. Charge when set aside under S. 482, CrPC—Petitioner was not arrested on spot. No evidence of identification connecting him with crime. In as much as none of three witnesses has identified the petitioner to be one of occupants of premises. Statement of co-accused is not an evidence. Held, no option but to quash the charge framed against petitioner. (Para 6) Order framing of charge is set aside (Petition allowed).

(j) Bail

Bail when granted—(i) Only six bottles of illicit liquor recovered from accused. He was allowed bail.

(ii) Offences under S. 54 and Penal Code Ss. 302, 304, 323—CrPC—S. 438.

Jurisdiction for Anticipatory Bail explained—Arrest apprehended for non-bailable offences. Held, the Court within whose jurisdiction is arrested has jurisdiction for granting anticipatory bail.

The Court within whose jurisdiction, a person apprehends his arrest for a non-bailable offence, has jurisdiction to grant anticipatory bail to such person notwithstanding the fact that the offence for which he apprehends his arrest was committed beyond the territorial jurisdiction of the High Court or the Court of Sessions, to which he has applied under this section.

In the instant case the accused resided within the jurisdiction of the Additional District Sessions Judge, Sojat and he apprehended his arrest there although the F.I.R. was lodged elsewhere not within the jurisdiction of Sojat Judge. The Judge at Sojat had jurisdiction to consider bail application.

(iii) Liquor Tragedy Cases—(Ss. 54, 61, 63 & 31C and CrPC—S. 438)—Bail granted—31 persons lost their lives and 105 were seriously injured. Sales man on retail shops

References:
to be repugnant and void in the extent of its inconsistency with the former enactment passed by Parliament. However, it is made clear that personal use and sale of Bhang is not an offence under Rule 24 of the Rajasthan N.D.P.S Rules, 1985.

In the instant case none of the witnesses cited in the charge-sheet have seen the accused-applicant sowing, watering, and giving care and attention for protection of the cannabis plants in question. It is not possible in the present case also to infer or to gather from the circumstances that the accused-applicant was giving any careful attention to protect the cannabis plants in question. Unless the guilt of accused applicant by consciously cultivating cannabis plants in question is prima facie shown or proved by attributing some overt act to him by prosecution agency, it would be presumed that the alleged cannabis plants were of small growth and these unwanted self-grown cannabis plants were growing in his field of "Mirch" unnoticed by him. Accused enlarged an bail.1

(6) Illustrative Cases

(a) Conviction Cases

1. When case was not found to be doubtful on ground of want of independent witness the conviction was upheld. In case 90-14% Ethyl Alcohol was found. 2

2. Permit under Validity-District Excise Officer and his superior officer are competent to grant the licence and permits and Assistant Excise Officer was not competent to grant any permit under the provisions of law. Held alleged permit granted by AEO was not a permit in eye of law. (Acquittal set aside - accused convicted).3

(b) Acquittal Cases:

1. Where only two bottles of illicit liquor were recovered & Accused remained in custody for 13 days, acquittal was maintained.4

2. No offence or charge was held made out, where three bottles of liquor recovered from accused. It is not violation of law.5

3. In one case the prosecution failed to show that the sample of liquid was sent to Chemical Examiner in sealed condition. Conviction not proper.5

4. Conviction when held erroneous—No signatures of Mofiziri on recovery memo—Excise Inspector did not testify the Contents of memo on oath—No evidence as to recovered utensils etc. to be implement of illicit liquor-alternative use possible. Held, view of both lower courts erroneous—Revision accepted, conviction set aside.6

5. Conviction not possible—Acquittal upheld—When the sample of illicit liquor recovered was not properly sealed & forwarded to the Chemical Examiner, accused cannot be convicted on the basis that the liquid was liquor (Appeal dismissed)8

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6. Denatured spirit seized from possession—Not fit for human consumption-Covered 24-A(3)-I 1977 Cr. LR(Raj) 81 and AIR 1962 SC 579 followed Conviction set aside (Revision allowed). 1

7. Petitioner found drinking alcohol from a bottle; sitting outside his house-was convicted-Doctor neither tested urine nor blood of petitioner nor his stomach contents. His opinion was based on alcoholic smell emanating from the mouth of accused-smell comes from B.G. Phos and Pickles also weakness of defence not to be exploited—Motion set aside (Revision allowed). 2

8. Independent evidence available to prove that accused was in possession of tiles of liquor—Feeding is based on proper appreciation of evidence-Acquittal upheld. 3

9. Infirmities in prosecution story—When it is not mentioned that bottles of liquor were reached for the Chemical Examination in same condition. Held report of Chemical examiner cannot be taken into consideration and the accused is entitled to acquittal. 4

10. Inspection memo without signatures of Mithah—Excise Inspector did not testify both the contents of Inspection Memo—Recovery of earthen pot and bottle does not show that these articles were used for manufacturing illicit liquor—Held, conviction erroneous. 5

Ex P. 7 does not bear the signatures of Mithah and the petitioners; it is alleged to have been made at the spot after the recovery of the alleged excisable liquor. The Excise Inspector in his statement before the trial court merely exhibited inspection memo 7 and did not testify to its contents on oath. Hence, in the absence of satisfactory evidence that the tin, the earthen pot and the bottle were the implements manufacturing illicit liquor and the few drops found in the bottle were of illicit wine, the recovery from the house of the petitioner alone was not enough to establish and on the charge under section 54(a) of the Act. These articles could be used for purposes other than distillation of illicit liquor and, therefore, both the courts below committed error in holding that there was no other alternative use and utility of these articles for distillation of liquor. 6

11. Reversal of acquittal order after 10 years—Propriety examined—Even though hargishra was filed on 14-10-1969, the charge was framed on 24-11-1971, i.e., more than two years and the prosecution cannot be held reasonable for this delay. But after framing of the charge, the case had to be adjourned on a number of dates for the reason that the witnesses were not present and necessary steps for effecting service summons has not been taken by the prosecuting agency. The incident took place on 13th April, 1968, and the respondent already suffered the agony of a prolonged trial before the Magistrate for more than three years. The reversal of acquittal of the respondent necessitating a fresh trial after lapse of nearly 10 years would not subserve the interest of justice. 7

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1. State v. Pravin Chand, 1982 WLN 656 (Raj) 187-1982 Cr. LR (Raj) 429
2. State v. Raju Lala Sen Madhu, 1990(2) BLW 526, 1990(2) WLN 314 CR 1990(2) RLJ 429
3. State v. Ramji Hansraj, 1982 CR LR (Raj) 74.0
6. Ram Ann Singh v. State 1987(2) WLN 40.4
8. Bankey Singh v. State 1989(2) WLN 342
9. Mangilal v. State 1989(2) WLN 342
11. Damji v. State 1983(3) RLJ 258
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17. Sentence reduced—Incident 13 years old—380 bottles of liquor recovered from accused, out of them 4 bottles were taken as sample. Bottles found to be containing liquor—conviction-incamera cannot be positively presumed that other bottles also contained liquor. As four bottles found in conscious possession of the accused, the conviction was maintained, but sentence reduced to period already undergone. 1

18. Sentence when reduced—Illicit liquor i.e. a drum of full wash found in the house of accused—Conviction not challenged—Accused-petitioner remained in custody for two months. He is first offender. Sentence, therefore, reduced to the period already undergone by him. 2

19. Sentence when reduced—An old incident of 14 years. Offence was committed in 1982, while petitioner was convicted in 1987. His appeal was decided in 1994 and he was sent to jail on 14-3-1996. Sentence imposed is six months imprisonment with Rs. 100/- as fine.

The petitioner has undergone about 4 months sentence. In circumstances of the case it appears to be just and proper to modify the sentence of imprisonment for the period already undergone and fine enhanced to Rs. 200/-.

20. Illegal Search—Conviction Set aside—In the instant case the search was illegal as it was in violation of provisions of section 47 of the Act. Held that when search itself was illegal, conviction cannot be based on such search.

21. Search found illegal—When no warrants were obtained for search, but beg containing illicit liquor bottles were seized. Held, conviction is not justified due to illegal search.

22. Sentence reduced (Ss. 16/54)—Illicit liquor recovered with worker still from house of accused-petitioner convicted and sentenced to one year’s imprisonment by the Trial Court conviction confirmed in appeal—Revision—sentence reduced to six months in interest of Justice after considering the facts and circumstances of the case. (Revision accepted).

(7) Benefit of Probation

(a) Important Case—

SONA SINGH V. STATE OF RAJASTHAN
[1990 (1) RLR 278: 1990 RCC 596]

Ss. 54/16 Benefit of Probation when allowed—although Minimum Sentence was prescribed—Duty of Court pointed out

2. All the three petitioners were convicted under Section 16/54 of the Rajasthan Excise Act, 1950 (for brevity, ‘Excise Act’) and have been sentenced to different period of imprisonment & fine by the trial Court. Petitioner in Petition No. 77/90 was sentenced by the appellate Court to six months rigorous imprisonment and fine of Rs. 200/- in default to undergo one month’s further sentence. Petitioner in Revision Petition No. 87/90, was sentenced by the appellate Court, for a period of six months rigorous imprisonment and a fine of Rs. 500/- in default to undergo further rigorous imprisonment for a period of three months and in Petition No. 91/90 the petitioner was sentenced to simple imprisonment for six months and a fine of Rs. 200/- in default of which, he was sentenced to further simple imprisonment for 15 days.

1. Ashok Kumar v. State, 1991 RLR 331;
2. Gurdeep Singh v. State, 1996 CrLR (Rev) 5 : 1996(1) RCD 464 (Rev);
3. None of the learned counsel for the petitioners presses their petitions on merits, it is contended that all the petitioners deserve to be given benefit of the provisions of Sec. 360, Cr. P.C. or the Probation of Offenders Act, 1958 (for brevity the Act, 1958) which had been wrongly denied to them. It is also pointed out that no reasons were recorded by the courts below regarding refusal to give above benefit to the petitioners and whatever was done has been given, are no reasons in eye of law.

4. It is contended by Miss Sumitra Goyal learned Public Prosecutor, that benefit of provisions of Act, 1958/Section 360 Cr. P.C. could not be given to them, as minimum sentence of six months is provided in Sec 54 of the Excise Act 1950. It is, therefore, held that the courts below had rightly denied this benefit to the petitioners.

5. There is no doubt that Section 54 of the Excise Act does provide that a person found guilty under the provisions of Section 54 shall be punished with minimum sentence of imprisonment for six months and fine of two hundred rupees, maximum sentence provided is three years and fine which may extend to two thousand rupees. Reliance was placed by the learned Public Prosecutor on State v. Andhra Pradesh R. Rangadours (AIR 1982 SC 1492), wherein while considering the provisions of the Andhra Pradesh Excise Act, it was observed by the Apex Court that where provision minimum sentence is provided, the Court is not entitled to reduce the same by beyond minimum sentence provided in section itself. In my opinion, this authority is not applicable to the present contention raised by the learned counsel for the petitioners. It is contended whether the petitioners were entitled to benefit of the provisions of Act, 1958/Section 360 Cr. P.C. and not that they should have been given less sentence than the minimum provided in Section 54 of the Excise Act. The Probation of Offenders 1958 is a milestone in the progress of liberal trend of reform in the field of criminal justice. The result of the recognition of the doctrine that the object of criminal law is to reform individual offender than to punish him. Hence, this Act came to be enacted keeping in view the purpose mentioned above: Section 4 of the Act, 1958 clearly provides that if any person is found guilty to have committed an offence, not punishable with imprisonment for life and the Court by which the person is found guilty in my opinion, having regard to the facts and circumstances of the case, including the reoffence and character of the offender, that it is expedient to release him Provided of good conduct then, notwithstanding anything contained in any other for the time being in force, the Court may instead of sentencing him at once to punishment, direct that he may be released on his entering into a bond with or out sureties to appear and receive sentence when called upon during such period exceeding three years as the court may direct, and in the mean time to keep peace be of good behaviour. Sub-sec (2) provides that before making any order under section (1), the Court shall take into consideration the report if any of the Probation officer concerned in relation to the case. Thus, it is evident from the provisions referred above that these provisions are mandatory and it was duty of the lower courts to collect material about the character, antecedents, family back-ground of the offenders if the Court, after considering the material, came to the conclusion that the offender such a character that he cannot reform or rehabilitate only then after recording special reasons it could refuse to deal with the case under the provisions of Section 4 of the Act, 1958. Nothing like this was done in either of the three cases and the concurred courts refused to give benefit of the provisions of Section 4 without material or record, which should have been collected.

6. Reference may be made to State v. Railwin (1973 C.L.R. 354), in which the Apex Court considered similar provisions of the Railway Property (Unlawful Possession) Act, 1960, while considering the question of giving benefit of the provisions of Section 4 of the Probation of Offenders Act. The petitioners, in the above mentioned case, was convicted for an offence under Section 3 of the above-mentioned Act and was released under the provisions of S. 4(1) of the Act, 1958, on entering into a bond for Rs. 500/- with two sureties to be of good behaviour for a period of new year by the trial Court. The State preferred revision petition and contended that since the sentence for a minimum period of one year with a fine of Rs. 1000/- was provided under Section 3 of the above-mentioned Act, the benefit of the provisions of Section 4 of the Act, 1958 could not have been given to the accused person. However, it was held that if minimum sentence is provided, benevolent of the Act, 1958 could not have been given to the accused person. However, it was held that if minimum sentence is provided, benevolent of the Act, 1958 could be applied if the conditions are satisfied. In Revision Petitions No. 11990 and 9990, benefits of the provisions of Section 4 of the Act, 1958 was refused as minimum sentence of one year with a fine of Rs. 1000/- was provided in Section 3 of the Excise Act. In revision Petition No. 8790, while refusing to allow the benefit of the provisions of section 4 of the Act of 1958, it was observed by the Appellate Court that even though the petitioner is a man having family, but since he was manufacturing illicit liquor and was possessing illicit liquor in large quantity, he does not deserve to be given benefit of the provisions mentioned above. In my considered opinion the reasons mentioned above are not sufficient to disentitle the petitioner from consideration for giving benefit of the provisions mentioned above. The trial in Revision Petition No. 7790 was initiated on the incident that took place on 17-5-87 and, thus more than four years have passed, since the petitioner has been facing the criminal proceedings in various courts. In Revision Petition No. 8790, the trial was initiated on the incident that took place on 14-11-87 and the petitioner has faced criminal proceedings in various courts for about 3 years and is 60 years old, as given out by the learned counsel. In Revision Petition No. 9990, the trial was initiated on the incident, which took place on 17-10-82 and the petitioner has faced criminal proceedings for about 8 years. All the petitioners have remained in jail for quite some time and they have no previous conviction to their discredit, nor any criminal proceedings are pending against them, as given out by the learned counsel for each of the petitioners, and it will serve no useful purpose, after they have faced the proscribed criminal litigation in various courts to put them behind bars for any further period. Similar view was taken by this Court in Nana v. State of Raj (1982 C.L.R. 279), Mohanlal Borwari v. State of Rajasthan (1986 RLR 369) & Magh Singh v. State of Rajasthan (1986 C.L.R. Raj 50).

7. Having regard to all the facts and circumstances of the case & nature of the offence, I am of the opinion that it is expedient to release all the petitioners on probation of good conduct and they may be released on each of them entering into a bond in the sum of Rs. 5,000/- (Rupees five thousand only) with two sureties in the sum of Rs. 2,500/- (Rupees two thousand & five hundred only) each to the satisfaction of the
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Trial Court to appear & receive the sentence when called upon during period of one year and, in the meantime, to keep peace and be of good behaviour.

(b) Benefit of Probation allowed—Not to be deprived of service—Sentence till rising of the Court set aside—A case of scheduled caste person—One bottle containing 400 M.L of liquor recovered from the accused belonging to scheduled caste while coming on cycle. He was also drunk.

The accused in his statement stated that he was a teacher and he came from centre after getting salary and when he was going to the school the Excise people were beating lady and he has told them why they were beating the lady, on which they said that she has committed crime. On this the Excise people gave beatings to the accused and told him that he will teach a lesson and caught hold of him. He was having no liquor with him. For the purpose of revision I would accept the analysis of the two courts that a very small quantity of illicit liquor in one bottle was found from his possession while he was coming on cycle. (Para 4)

The accused belongs to scheduled caste as he is harijan chamar and he is a teacher in the society in which he is living irrespective of the fact that the possession of illicit liquor even of this insignificant quantity may be an offence, yet the question is whether for such a petty trivial offence, the accused should be deprived of the career by substantive punishment which has been done by the trial court. Although the trial court sentence is till rising of the Court but the effect of this would be that the accused would be deprived of his service. (Para 5)

It is very rare and with great difficulty that a scheduled caste person gets appointment in service and for this lapse, punishing him of jail and depriving of service would hardly be justified. Consequently looking to the facts and circumstances of the case I would reduce the accused on probation rather than sentencing him, so that he is not deprived of his service (Revision allowed-para 6).

(c) Probation when allowed (Illustrative Cases)

(i) Excise Cases

1. Probation allowed—48 bottles of liquor caught while taking out the side licence in one day was given benefit of the Act of 1958, but not to the Licence. Conviction of Licence was upheld.

2. Benefit of Probation—Accused, aged 38, was agriculturist having no previous conviction—Released on probation.

3. Possession of illicit liquor when not proved for sale, it is no offence. Held, sentence is not inadequate.

4. Probation allowed to a lady accused of 69 years as small quantity of liquor was recovered from her possession—Not previous conviction—Released on probation.

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5. Probation—Accused 60 years old—He is first offender—Benefit of probation allowed in interest of justice.

6. Conviction & Release on Probation—Accused first offender, poor man—Belongs to scheduled caste, remained in jail for 8 days—Released on probation.

7. Probation allowed—Further Prosecution when not justified—Accused, a young man of 25, found in possession of one bottle of illicit liquor and has remained in jail for few days. Noversible loss and quantity of liquor found in his possession held, his further prosecution for manufacturing illicit liquor is not justified. Benefit of Probation granted.

8. Probation allowed—Accused aged 30—Not a pre-convicted first deposed case pending for last 10 years. S. 361 Cr. P.C. is mandatory and “social reasons” for not allowing probation are to be given.

9. Probation Cr. P.C. S. 360—Benefit allowed when accused 25 years of age and not previous convict.

10. Probation—Accused was released on probation being first offender [1978 Cr.LJ (Raj) 54, 1981 RCC 1, AIR 1979 SC 964 referred to]

11. Probation when allowed—Accused was not habitual offender and was convicted under S. 54(d) (c) & (d). Benefit of Probation given. (Revision partly allowed)

12. Benefit of Probation—Under S. 360 Cr. P.C. or Probation of Offenders Act—Not to be extended unless accused is below 21 years of age illicit liquor recovered, benefit not extended, but held sentence is excessive. (Sentence modified)


14. Probation convincted, but incident was nine year old and the accused remained in jail for ten days. Benefit of probation granted.

15. Accused belonging to scheduled caste committed a petty trivial offence when one bottle of illicit liquor containing 400 M.L. liquor only was recovered from him. He was sentenced to till rising of the Court, but the effect would be that the accused would be deprived of his service. He was, therefore, released on probation.

16. Accused first offender, remained in jail for ten days and the incident was of 1978.
17. Where the appellate court granted benefit of probation, it tantamounted to sitting aside sentence passed by the Trial Court. The Trial court was directed to release it on bond with sureties.\(^1\)

18. Old incident of 1983. Accused an old man of 50 years. He remained in jail for 4/15 days. Period of six years lapsed. Now it is unjust to send him back to jail. Probation halted.\(^2\)

19. Accused 17-18 years old and is running a regular shop. He is not involved in manufacture of illicit liquor. Still was recovered from open space and not from his house. He is a previous convict and now expected to stick to his shop. Benefit of probation extended.\(^3\)

20. Acquittal-Seizure & Seal-Duty of Prosecution—It was duty of prosecution to prove that the seal on the packet of seized articles was intact from date of seizure to delivery to the Chief Public Analyst. It was for the prosecution to fill up the gap in its evidence (Para 7).

Held, accused was rightly acquitted. (Para 8) (1980 Cr. L.R (Raj.) 509 ref. to) (Appeal dismissed)\(^4\)

21. Benefit of Probation when allowed—Incident of year 1981:- Accused is 70 years old with no previous conviction. Benefit given to accused.\(^5\)

22. Benefit of Probation when allowed—Where accused was 21 years without any previous conviction, benefit of probation given to the accused.\(^6\)

23. Probation granted by Sessions Court—Bonds could not be furnished in time. High Court extended period for furnishing personal bond and security bonds and for imposing the amount till 15.4.1992.\(^7\)

24. Recovery of 17 bottles of illicit liquor—Conviction—Probation granted—Case years old. Trial court has not considered for benefit of probation to be given to accused—rejection of appeal—Benefit of probation given to accused.\(^8\)

25. Probation when granted—In appeal against conviction, prayer for release of accused on probation was accepted as there was no previous history of conviction of accused. Appellate Court has already undergone imprisonment for six days. Appellant was released on probation.\(^9\)

26. Benefit of Probation when cannot be denied—Revision filed against order giving benefit of probation to accused in excise case. Held, benefit of probation cannot be denied a convict on ground of recovery of large quantity of liquor, even when he was not previous convict for such offence. (Revision dismissed).\(^10\)

Parvat Singh v. State 1992(2) RLR 36; 1993(2) WLN 310.
State v. Laddu 1990(3) RLR 429; 1990(5) WLN 80.

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(ii) Prohibition Cases

1. Prohibition of Offenders Act, Ss. 3 & 4—Probation allowed—Liquor was proved by Chemical examination—Conviction upheld, but probation allowed as the petitioner was illiterate. Harijan of village facing criminal trial for last seven years and already remained in jail for 15 days. Not habitual offender. Chance given to reform. (Shyam Ram v. State 1985 WLN(UC) 150)

2. When only one bottle of liquor was recovered on 14.11.78 and the Act has now been repealed, the benefit of probation allowed. (Kshetra v. State 1984 WLN 325; 1985 Raj. L.R 601/83 1984 R Cr C 44; 1985 WLN 563).


3. Accused was found in possession of bottles of illicit liquor in 1976—Six years have lapsed—Benefit of probation given (Revision partly allowed). (Govind Lal v. State 1982 R Cr C 382).

4. Benefit of Probation—Half bottle of liquor recovered from accused—Incident of 1977—Since the prohibition Act has been repealed, accused-petitioner be released under S. 4 of Prevention of Offenders Act (Revision partly allowed). (Tulsi Ram v. State 1982 R Cr C 249).

5. One bottle of rum (liquor) recovered from possession of accused—Applicability of S. 360 Cr. P.C. or Act of 1958 not excluded by any Act. Accused was not previous convict. Benefit of probation allowed. (Revision dismissed, accused was released on bonds). (Jagga Ram v. State 1981(6) R Cr C 1).

6. When the accused 31 years of age and already undergone imprisonment for 80 days and was not a previous convict, the benefit of probation given and was released. (Kajoor v. State 1981 L.R 285).

7. Benefit of Probation allowed—In the instant case, the petitioner is a widow having two children to support and she admitted the guilt. Only one bottle of liquor was recovered from her possession and she was not a previous convict. Benefit of probation was given and she was released on bond (Revision dismissed). (Somdel v. State 1981(6) R Cr C 36).

8. Probation allowed—Only one earthen pitcher containing wash was found—Accused 20 years old and has remained in jail for 28 days. The Act is also now a dead law—Probation allowed. (Bhanwari v. State 1986 WLN(UC) 110; 1985 WLN 247).


10. Probation on good conduct—Five liters of illicit liquor found—accused not pre-convict—Released on probation. (Uma Ram v. State 1986 Cr. L.R (Raj.) 27; 1985 WLN(UC) 564).

11. Released on Probation—Seven bottles of illicit liquor recovered from accused—Probation Act is now a dead law—Probation granted. (Pabu Ram v. State 1985 WLN(UC) 560).
12. Proviso to S.4 (2) does not override the provisions of the Probation of Offenders Act and provision for minimum sentence of 6 months is not a bar to grant probation. See Ram v State 1984 RLW 200.

13. Probation- Benefit allowed to accused 65 years old having three bottles of cat· liquor.

Mahalab v State 1984 WLN(UC) 243.

14. Benefit of Probation given to accused having 10 bottles of liquor.

Dunger Ram v State 1984 WLN(UC) 121: 1984 Cr L.R. (Raj) 393.

15. Probation extended to accused found in possession of 7 bottles.

Gapa v State 1984 Cr. LR. (Raj) 464.

16. Benefit of Probation given to accused possessing one bottle of liquor.

Kande v State 1984 Cr. LR. (Raj) 744.

1["54-A. Owner of animal, cart, vessel, raft, motor vehicle or any her means of conveyance deemed to be guilty in certain cases- Where any animal, cart, vessel, raft, motor vehicle or any other means of conveyance used in the commission of an offence under this Act, and is liable to confiscation, the owner thereof, except in case of a motor vehicle or other means of conveyance owned by the Central Government or any State Government or any undertaking, shall be deemed to be guilty of such offence and such owner shall be liable to be proceeded against and punished accordingly unless he satisfied the court that he had no reason to believe that such offence was being or likely to be committed and he had exercised due care in the prevention of the commission of such an offence."

COMMENTS

SYNOPSIS

1. Deeming Provision- New offence created- Section 54-A is a deeming provision offence in which the owner of:

(i) animal, (ii) cart, (iii) vessel, (iv) raft, (v) motor vehicle or (vi) any other means of conveyance, (e.g. cycle, trolley etc).

Is deemed to be guilty of such offence where such conveyance is:

(i) used in commission of an offence under this Act and is liable to confiscation under S. 69 of the Act. Such owner shall be proceeded and punished accordingly.

2. Defence- The owner has to satisfy the court that:

55. Penalty for unlawfully selling to persons under eighteen or employing children or women- If any licenced vendor, or any person in his employ or acting on his behalf-

(a) sells or delivers any liquor or intoxicating drug in contravention of section 22 or

(b) employs or permits to be employed on any part of his licensed premises any person in contravention of section 23 or

(c) permits disorderly conduct or gaming on the licensed premises,

(d) permits any person whom he knows or has reason to believe to have been convicted of any non-bailable offence or any reputed prostitute to frequent his licensed premises whether or not for the purpose of crime or prostitution;

shall in addition to any other penalty to which he may be liable to punishable with a fine which may extend to five hundred rupees.

COMMENTS

1. Nature of offence—The offence under this section relates to unlawfully selling etc. by the licensed vendor or his employee, or any person acting on his behalf. This is offence of vicarious liability or joint liability in which the licensed vendor as well as actual seller on his behalf shall be liable to punishment.

2. Penalty—This offence consists of several acts mentioned in clauses (a) to (d) for which any other penalty may be imposed under any law, but an additional penalty of fine up to Rs. 500/- may be imposed under this section.

3. Several Act of offence-clause(s)—Contravention of provisions of section 22 and selling or delivery of any liquor or intoxicating drug. Section 22 puts prohibition of two kinds-
Section 56-58 ]

3. Punishment—Minimum Sentence—Very harsh punishment has been provided under this section. Imprisonment shall be at least for six months which may be extended upto three years and minimum fine of Rs. 200/- has been prescribed which may be extended upto Rs. 1000/-. Prescribed Minimum Sentence to be awarded (S.4(2) of Raj. Prohibition Act): The minimum sentence provided thereunder is six months. No discretion has been left to the court in an offence under S. 4(2) of the Act to give the sentence less than minimum prescribed. [AIR 1958 SC 935 referred to] (Revision dismissed). Kanya v State 1941 (6) R Cr C. 407 (408).

57. Penalty for possession of excisable article unlawfully imported—Whoever without lawful authority has in his possession any excisable article knowing the same to have been unlawfully imported, transported manufactured, cultivated or collected not having the prescribed duty paid thereon, shall be punished with imprisonment for a term which may extend to three months, or with fine, which may extend to one thousand rupees or with both.

COMMENTS

1. Nature of offence—It is a bailable offence under Section 57 of the Act.
2. Meaning of—
   (i) Excisable article [See-S 3(4)]
   (ii) Import [See-S 3(13)]
   (iii) Transport [See-S 3(25)]
   (iv) Manufacture [See-S 3(17)]
3. Ingredients of offence—
   1. Possession of any quantity of excisable article and
   2. (a) Knowledge of such article being unlawfully—
      (i) imported,
      (ii) transported,
      (iii) manufactured,
      (iv) cultivated, or
      (v) collected, or
   (b) Knowledge that excise duty is not paid on such article.
4. Punishment—
   — Imprisonment up to 3 months or
   — with fine upto Rs. 1000, or both.

58. Penalty for certain acts by licensee or his servants—Whoever being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf—
   (a) fails to produce such licence, permit or pass on the demand of any Excise officer or of any other officer duly empowered to make such demand; or

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(1) Selling or delivery of any liquor or intoxicating drug to (a) person apparently under the age of 18 year (i.e minor), or (b) to any person of unsound mind or (c) to any soldier on duty and in uniform
(2) exchange for jewellery, clothes, arms or household utensil is prohibited. [Please refer to the text of Section 22. supra, for details]

Clause (b)—In contravention of Section 23, any person of below 18 years of age or a woman is not to be employed.

Clause (c)—Disorderly conduct or Gaming on licensed premises is not to be permitted by the licensed vendor etc.

Clause (d)—Frequent visits of (i) convict of any non-bailable offence, OR (ii) any reputed prostitute on licensed premises is not to be allowed.

Thus these prohibitions are to be strictly followed by the licensed vendor etc.

4. Licensed dealer when held guilty—The Excise Inspector gave some money to boy of ten year’s age and sent him to buy some liquor. After 9 p.m. the boy brought the liquor and the vender was arrested. Held, the vendor was guilty of offence under this section.1

2456. Penalty for rendering denatured spirit fit for human consumption—Whoever renders or attempts to render fit for human consumption any spirit (wherever manufactured) which has been denatured or any denatured spirituous preparation or has in his possession any denatured spirit or any denatured spirituous preparation which has been rendered fit for human consumption or in respect of which any attempt or in which any alteration has been made to render it so fit, shall be punished with imprisonment for a term which shall not be less than six months and may extend to 3[three years] and also with fine which shall not be less than rupees two hundred and may extend to one thousand rupees.]

COMMENTS

1. Nature of offence—The offence under S. 56 is a non-bailable offence relating a penalty for rendering denatured spirit fit for human consumption. Attempt to render fit for human consumption is also an offence under this section.
2. Meaning of—
   (1) Denatured—[See-S 3(3)]
   (2) Spirit...[See-S 3(21)]
   (3) Denatured Spirituous Preparation—[See-S 3(4)]

1 Refer to 17 CRLJ 139 : 33 Indian Cases 35
in any case not provided for in section 54 wilfully contravenes any rule made under section 41 or section 42, or
(c) wilfully does or omits to do anything in breach of the conditions of the licence, permit or pass not otherwise provided for in this Act, all be punished for each offence with fine which may extend to five hundred rupees.

COMMENTARY

1. Scope—Section 58 deals with certain offences committed by the licensee or his employee acting on his behalf. The offences have been enumerated in clauses (b) and (c) which are (a) Failure to produce licence, permit or pass when demanded (b) wilful contravention of Rules made under this Act, or (c) wilful act or omission of any condition of licence etc. (Please read the clauses in text)

2. Punishment—Fine up to Rs. 500/- for each such offence.

Where the complaint was not alleging breach of the particular condition of licence l the Counsel for State could not point out such contravention, held no offence was de out under clause (c) of section 58 above.

Supply of lesser weight or measurement amounts to an offence. Shop can be closed temporarily during prescribed period when no alternative arrangement could be made. Servant found selling liquor in a grove after prescribed hours, but servant was not to be unauthorised. Hence, Master was held not liable.

59. Penalty for consumption in chemist’s shop etc.—(1) If any chemist, druggist, apothecary or keeper of a dispensary allows any excisable article, which has not been bona fide medicated for medicinal purposes to be consumed his business premises by any person not employed in his business, he shall be punished with imprisonment for a term which may extend to three months and with fine which may extend to one thousand rupees.

(2) If any person not employed as aforesaid, consumes any excisable article on such premises, he shall be punished with fine which may extend to two hundred rupees.

COMMENTARY

Scope—According to section 58, the consumption of any excisable article not for medicinal purposes, in the shop of chemist, druggist etc. by any person (who or at his employer there) is an offence and the chemist etc. is to be punished with

Puthwala v. Emperor 1932 Cri. L.J. 433 Indian Cases 405
Dulli v. Emperor AIR 1925 All 367.
Substituted and omitted by section 5 of Rajasthan Act No 41 of 1956. published in the Rajasthan Gaz. Extraordinary, Part IV-A, dated 31-1-1956

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imprisonment for three months and with fine up to Rs. 1000/- Such person consuming such article is also liable to fine up to Rs. 200/-. 60. Penalty for Excise Officer refusing to do duty—Any Excise Officer who without lawful excuse shall cease or refuse to perform or shall withdraw himself from the duties of his office unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his superior officer two months notice in writing of his intention to do so shall be punished with imprisonment which may extend to three months or which may extend to five hundred rupees or with both.

61. Penalty for Excise Officer making vexatious search etc.—If any Excise Officer—

(a) without reasonable grounds of suspicion enters, inspects or searches, or causes to be entered, inspected, searched any place, or
(b) vexatiously and unnecassarily 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 unnecassarily detains, searches or arrests any person, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both.

COMMENTARY

1. Offences by Excise Officer—Section 60 and 61 provide for penalties for excise officer also for his misconduct. These are penal provisions and are different from any departmental action under the relevant Service Rules, i.e. Rajasthan Civil Services (C.C.A.) Rules, 1956 and Rajasthan Civil Services (Conduct) Rules

2. Refusal to perform duty (Section 60)—Any Excise Officer (i) ceases or refuses to perform the duties of his office, or (ii) withdraws himself from such duties.

AND

(a) he does so without any lawful excuse, &
(b) without written permission of Excise Commissioner,
(c) without giving two month's written notice to his superior officer.

Then such Excise Officer is liable to punishment under S. 60 of the Act with imprisonment up to 3 months or with fine up to Rs. 500/- or both.

3. Making a vexatious search etc. (Section 61)—This offence forbids the vexatious search or seizure or arrest by Excise officers. The three conditions mentioned in clause (a), (b) or (c) are relating to such offence, when any one of these is fulfilled it amounts to an offence

1. Please refer to the following books for details—

—Law & Procedure of Disciplinary Proceedings (Butt).

Makhan Lal v. State of Punjab & Ors. 1980 Cri LR (SC) 113
Narain v. Emperor AIR 1936 All 606, 610
Nemchand v. Emperor AIR 1935 All 87
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he shall be punishable with imprisonment for a term which may extend to three months; [and with fine] which may extend to five hundred rupees. [XXX]

COMMENTARY

1. Offence of Fraud—Section 63 creates an offence against the licensed manufacturer or vendor or his servant for selling fraud with customers or consumers of liquor. Two alternative facts situations have been mentioned in clauses (a) or (b) in which the vendor or manufacturer changes the variety and nature of the liquor before supplying it to the customer. Such adulteration or fraudulent act is an offence under this section.

2. Punishment—
(a) Imprisonment up to three months and
(b) Fine up to Rs. 500/-.  

3. “Any person in his employ or acting on his behalf” Meaning—Under S. 63, the offence of fraud may also be committed by the employee of the licensed vendor or even by his agent or representative acting on his behalf. In such a case the doctrine of constructive (or vicarious) liability comes into action and both Master and his servant can be convicted for the offence under S. 63 of the Act in view of S. 64 of the Act infra.

The son of licensee found selling the adulterated liquor and no proper precaution was taken by the licensee. Conviction was held to be proper.

64. Manufacture, sale or possession by one person on account of another—(1) When any excisable article has been 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 manufacture or sale was or that such possession is, on his account. The article shall for the purpose of this Act be deemed to have 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 manufactures, sells or has possession of an excisable article on account of another person from liability to punishment under this Act for the unlawful manufacture, sale or possession of such article.

COMMENTARY

1. Scope—S. 64 is a deeming clause which creates the constructive or vicarious liability of the person on whose account the excisable article is being manufactured, sold or possessed by any other person. In such a case both persons have been made liable for offence under the Act. This is a general principle applicable to all offences under the Act.

1 Substituted and omitted by section 6 of Rajasthan Act No. 46 of 1956. Published in Raj. Gaz.-E.O.M.V. A dated 31.12.56.
2. Emperor v. Sitab Prasad, AIR 1955 All. 513
2. Knowledge or reason to believe of such other person—For applicability of the deeming provision the person on whose account the excisable article was manufactured or sold or is in possession, must have knowledge or reasonable belief of such activities being done on his behalf by other person. Such knowledge or belief is to be proved, in case of possession the conscious possession is to be proved by the prosecution.

3. Acquittal—When possession of liquor was not in conscious possession of the accused and it was found in his house, the accused being the head of family, he cannot be held to be in conscious possession of liquor found in his house. (Revision allowed).1

65. Attempt to commit offence punishable under this Act—Whoever attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for the offence.

COMMENTARY

1. Scope—Section 65 has included the "attempt to commit" or "abet to commit" offences in the list of offences under this Act.

2. Meaning of "Attempt" to commit an offence—The expression "Attempt to commit offence" has been dealt with under S. 511 of Indian Penal Code.

   Please refer to the following cases for meaning of "attempt"—

   4. AIR 1970 SC 713.

3. Meaning of "Abetment" to commit offence—The offence of Abetment has been dealt with under section 107 of Indian Penal Code. There are three kinds of abetment:

   (1) Abetment by instigation
   (2) Abetment by conspiracy,
   (3) Abetment by aid

4. Distinction between "Abetment (S. 107) and "Attempt" (S. 511) IPC:

   (1) Both these offences are indistinguishable offences or preliminary crimes.
   (2) Abetment of offence is a complete offence in itself, but "attempt" is an "incomplete-Offence", which has been made a substantive offence.
   (3) In abetment the presence of actor is not necessary on spot or occurrence of offence, but in attempt the presence of offender at the time of commission of offence seems to be necessary.


66. Enhanced punishment after previous conviction—If any person, after having been previously convicted of an offence punishable under this Act or under the similar provisions of any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under this Act, 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 the Code of Criminal Procedure, 1[(1973 (Central Act 2 of 1973))] 2[XXX] from being so tried.

   [Provided further that the enhanced punishment wouldn't in any way affect the minimum sentence prescribed for the 4[offences referred to in the proviso to section 54.]

COMMENTARY

1. Scope—Enhanced Punishment—S. 66 provides for the enhanced punishment after previous conviction for an offence under this Act. This second or subsequent conviction makes the accused liable for double(twice) of the punishment provided for the offence.

2. Summary Trial—In such a case summary trial under the Code of Criminal Procedure [under chapter XXI of Cr. P.C. sections 250 to 265] shall not be prevented in view of proviso 1 of this section.

3. Minimum Sentence—Under proviso to S. 54 minimum sentence has been prescribed for certain offences, but such enhanced punishment under S. 66 would not affect the enhanced punishment under this section.

4. Quantum of Punishment & Previous Conviction—Not proved—No question asked to accused—sentence reduced to six months already undergone. The Magistrate should not have referred to the previous conviction, because the petitioner was not charged with it, nor any question relating to his previous conviction was asked from him after he was convicted for the subsequent offence by the learned Magistrate. Hence, I exclude his previous conviction in determining the measure of punishment. The petitioner has already served at rigorous imprisonment for six months. The ends of justice would be met if the sentence of one year's rigorous imprisonment awarded to him by the trial court is reduced to the term already undergone by him.5

5. Previous Conviction to be proved—Only after determination of guilt of accused person, the evidence of a previous conviction can be used for purpose of enhancement of sentence under this section.6

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3 Added by section 7 of Rajasthan Act No. 41 of 1956 published in the Rajasthan Gazette Extraordinary, Part IV-A, dated 31-12-1956.
4 Substituted by section 8 (1)(b) ibid.
6 AIR 1928 Oudh 278, 105 Ind. Cases 349 - 29 Cr. J. 525.
EXECUTION is instituted within a year after the date on which the offence is alleged to have been committed.

**COMMENTS**

1. Cognizance of Offences—This is a special provision for taking cognizance of an offence under this Act. There are some restrictions on taking cognizance by Magistrate or Assistant Magistrate under this section.

2. Meaning of "Magistrate"—[Sec. 3(1)] Magistrate means "Judicial Magistrate at Class A"

3. Cognizance under clause (a) of sub-section (1)—Cognizance for offences under sections 56, 59, or 63 shall be taken by the Magistrate:
   (a) On his own knowledge or suspicious (This is covered under S. 190(1)(c) or S. 190(1)(b) of Cr. P. C.); or
   (b) On a complaint or report of an Excise Officer (This is covered under S. 190(1)(b) of Cr. P. C.)

4. "On a complaint or report of Excise Officer"—Meaning of expression—The ion should be construed strictly and cognizance of an offence cannot be taken up in the manner provided in S. 67 of the Act.

The purpose behind S. 67 of the Act is that cognizance should not be taken without the prior investigation of any person other than an Excise Officer under clause (a) of S. 67 of the Act, so that undue harassment to the public may be avoided. The words "on a complaint" and "for a report of an Excise Officer" cannot be read disjunctively.

5. Meaning of "Excise Officer" under S. 67(1)(a)—Excise Inspector is held to Excise Officer—

"Excise Officers" under S. 67(1) (a) and (b)—Confirmer of specific authority purpose of filing of complaint or report under S. 67(1) (a) on any officer, is held necessary (Bhagwan’s case 1979 Cr. LR (Raj) 589 overruled). Held. Excise Inspector competent to make a complaint or report under S. 67(1)(a) case-law reviewed.

Excise Officer—Powers not invested in her or his report cannot be taken by Special Railway Magistrate.

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Excise Inspector is Excise Officer—He can submit charge-sheet and Magistrate can take cognizance of offence on it. View in Bhagwan v. State was followed, whereas D.B. decision in State v. Lakhmik found different view. (Case remanded for fresh trial).

An Excise Inspector was an Excise Officer for the purpose of filing a complaint or a report under S. 67(1)(a) of the Excise Act. [1980 WLN 433 (DB) followed]. Held that in the instant case the complaint was competent. (Acquittal set aside, case sent back for trial). 

Excise Inspector held competent to file complaint or challan under the Excise Act. In the instant case the trial Court has wrongly acquitted accused on this ground. (Appeal accepted).

Inspectors of Excise Department have been invested with powers of Excise Officer under S. 3(7) of the Act. They are, therefore, competent to make a complaint or report for offence under S. 67(1)(a) of the Act to the Magistrate.

In the instant case, held that acquittal was not proper and was set aside but as the case was more than ten years old, the challan was closed.

Another case was eleven years old as such acquittal was not set aside. [1979 Cr. LR (Raj) 159 was reversed by D.B. in 1980 WLN 453 (AIR 1971 SC 1725 and 1978 SC 933 relied on)].


2. Sub-Inspector of Police—Sections 44, 47 and 67(1)(a), except in respect of retail licences granted for sale of liquor under the Act.

Investigation when not vitiated—Head Constable cannot investigate excise cases without authority—His investigation is held invalid. But on report of Head Constable seizing liquor, investigation commenced by SHO—Cognizance on report of SHO held without jurisdiction—No prejudice caused to accused has been shown. Held, trial court’s view was erroneous—Trial held not vitiated.

7. Cognizance under clause (b) of sub-section (1)—Cognizance of offences under sections 55, 56, 58, 60, 61 or 62 shall be taken by the Magistrate—On a complaint or the report of—

(i) an officer not below the rank of the Excise Commissioner or
(ii) an Excise Officer duly empowered in that behalf.

8. Meaning of “Complaint or the report”—[See Note (4) above]

9. Powers under S. 67(1)(b) delegated to Assistant Excise Officers—
presumed [without further evidence] until the contrary is proved, that the accused person he committed such offence in respect of—

(a) any excisable article, or
(b) any still, utensil, implement or apparatus whatsoever [as are ordinarily used in] in manufacture of any such article of drug, or
(c) any materials which have undergone any process towards the manufacture of an excisable article or from which any such article has been manufactured, for the possession of which he is unable to account satisfactorily, and the holder of a licence, permit or pass under this Act, shall be liable to punishment, as well as the actual offender, for any offence punishable under this Act committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

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

COMMENTARY

SYNOPSIS

1. Nature of Presumption—This Section runs thus—

"... it shall be presumed:—
- without further evidence—
- until the contrary is proved that the accused person has committed the offence..."

Thus the presumption is rebuttable and not absolute. There cannot be any absolute presumption that a person in occupation of the premises must be presumed to be in possession of every thing found inside the premises. Whether such a presumption should be raised in any particular case or not, depends upon facts and circumstances of each case. But such facts and circumstances are to be proved in evidence by proper evidence.

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2. Substituted by section 12(1)-404.
3. State v. Chandrashekhar AIR 1955 Mad 20. 36 Cr. L.J. 204

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Jodh. Hussain V. State of Rajasthan 2006 (1) W.L.C. (Raj) 523
Bhatia v. State, 1952 Cr. L.J. 252; AIR 1959 Raj. 260 (DB)
Bhave Lall v. State 1981 Cr. L.J. 330; 1981 W.L.N. 253
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of country liquor as 2.25 litres, by Notification No. F. (E/87) E & T/59-I dated Nov. 30, 1961, Published in Rajasthan Government Gazette, Part IV-C dated December 28, 1961. Section 19 of the Act provides that no person not being licensed to manufacture, cultivate or sell any excisable article, shall have in his possession any quantity of such article in excess of such quantity as the State Government has under S. 5 declared to be the limit of sale by retail. A close reading of the above mentioned notification issued under S. 5 with S. 19 of the Act reveals that the accused petitioner could possess only 2.25 litres of country liquor. Admittedly the article alleged to have been recovered from the possession of the accused is country liquor and the quantity exceeds much above the prescribed limit.

Section 68 seems to be provided with the assumption that if the accused has something to do with the article regarding which he is being prosecuted in that situation the law will presume him to be guilty. In other words once it is proved that the accused had something to do with the import, export, transport, manufacture, sell or possession of excisable article it is for him to prove satisfactorily that he has not knowingly done so. Section 69 of the Act will become acute if were held that the prosecution must prove the conscious possession before it can take resort to S. 68. Section 68 proceeds on the assumption that a person who is in any way concerned with the excisable article as mentioned under S. 54(a) of the Act, he must be presumed to have committed the offence charged. The pratical difficulty in the prosecution to prove something which is exclusively within the knowledge of the accused has persuaded the legislature to consider that if the accused is put on the prosecution, the object of the Act would be frustrated. By enacting S. 68 of the Act the legislature has manifested its intention that an anti-social adventurer cannot claim for his improper activities large regard than for the defence of the society itself. (1976 Cr. 1 R. 302 and AIR 1960 SC 404) (not applicable).

69. What things are liable to confiscation—(1) Whenever an offence punishable under this Act has been committed—

(a) every excisable article in respect of which such offence has been committed,

(b) every still, utensil, implement or apparatus and all materials by means of which such offence has been committed,

(c) every excisable article lawfully imported, transported, manufactured, held in possession or sold along with or in addition to any excisable article liable to confiscation under clause (a)

(d) every receptacle, package or covering in which any article is aforesaid or any materials, still, utensil, implement or apparatus is or are found together with the other contents (if any) of such receptacle or package and

(c) every animal, cart, vessel, raft or other conveyance used in carrying such receptacle or package, shall be liable to confiscation.¹

¹[XXX deleted]

(2) When in the trial of any offence punishable under this Act the Magistrate decides that anything is liable to confiscation (under clause (a) to (d) of sub-section (1)) he may order confiscation.

Provided that in case of a thing other than an excisable article he may, on ordering confiscation, give the owner of the thing liable to be confiscated opportunity to pay any such fine as the Magistrate thinks fit.

(3) When anything mentioned in sub-section (1) is found in circumstances such as afford reason to believe that an offence under this Act has been committed by or means thereof or if such an offence has been committed by or means thereof or if such an offence has been committed and the offender is not known or cannot be found, the Excise Commissioner may order confiscation of the same.

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing or animal or in question or without hearing a person (if any) claiming any right thereto and the evidence (if any) which produces in support of the claim.

Provided further that if the thing in question is liable to speedy and natural decay, or if the Excise Commissioner is of opinion that the said thing is liable to be seized in question would be for the benefit of its owner; he may at any time direct it to be sold, and the provisions of this section shall so far as may be, apply to the net proceeds of such sale.

¹[(4)] Where any means of conveyance referred to in clause (e) of sub-section (1) is seized in connection with the commission of any offence under this Act, a report of such seizure shall, without unreasonable delay, be made to the person seizing it to the Excise Commissioner or the officer, not being the District Excise Officer, as may be authorised by the State Government in this behalf and whether or not a prosecution is instituted for commission of such an offence, the Excise Commissioner, or the officer authorised in this behalf by the State Government, having jurisdiction over the area where the said means of conveyance was seized, may, if satisfied that the said means of conveyance was used for commission of offence under this Act, order confiscation of the said means of conveyance:

Provided that before ordering confiscation of the said means of conveyance a reasonable opportunity of being heard shall be afforded to the owner of the said means of conveyance and if such owner satisfies the Excise Commissioner or the officer authorised by the State Government that he has had a reason to believe that such offence was being or likely to be committed and he has exercised due care in the prevention of the commission of such an offence, the Excise Commissioner or the officer authorised by the State Government in this behalf may not confiscate the said means of conveyance:

Provided further that where such means of conveyance is owned by the Central Government or any State Government or any other Government or by any undertaker, no order of confiscation of any such means of conveyance shall be passed by the Excise Commissioner or the officer authorised by the State Government in this behalf and the matter shall be referred to the State Government by the Excise Commissioner or the officer authorised by the State Government in this behalf, for making such orders regarding means of conveyance as the State Government may deem fit:

Provided also that before ordering confiscation under his sub-section the owner of the means of conveyance, referred to in clause (e) of sub-section (1), may be given an opportunity to pay in lieu of confiscation, a fine not exceeding the market price of such means of conveyance.

(5) [deleted]

(6) Whenever any means of conveyance as referred to in clause (e) of sub-section (1) is seized in connection with commission of an offence under this Act, the Excise Commissioner or any officer authorised in this behalf by the State Government shall have, and notwithstanding anything contained in any law for the time being in force any court, tribunal or other authority shall...
Section 69 | The Rajasthan Excise Act

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The Rajasthan Excise Act

Section 69

Notification

In exercise of the powers conferred by sub-sections (4), (6), (7) and (8) of section 7 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950) the State Government hereby authorises the officers mentioned in col. no. 1, to exercise the powers of the said sub-sections for the means of conveyance mentioned against each in col. no. 2, within their respective jurisdiction, namely—

<table>
<thead>
<tr>
<th>Authorised Officers</th>
<th>Means of Conveyance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. District Excise Officer</td>
<td>Animal, cart, vessel, raft and two wheelers of all kinds.</td>
</tr>
<tr>
<td>2. Additional Excise Commissioner</td>
<td>Light motor vehicles of all kinds.</td>
</tr>
</tbody>
</table>

COMMENTARY

SYNOPSIS

Confiscation of things. [Sub-sec(1)]
Effect of amendment—(2000)
Order of confiscation by Magistrate. [Sub-sec. (2)]
Order of Confiscation by Excise Commissioner [sub-sec. (3)]
Confiscation of any means of Conveyance referred to in clause (e) of Sub-sec(1), procedure summarised [Sub-section (4)]
Defence of owner [Proviso I]
Exception— State Vehicles— [Proviso I]

1. Confiscation of things—Section 69(1) enumerates the list of things which are able to be confiscated when an offence punishable under this Act has been committed.

2. process of confiscation the things mentioned in clauses (a) to (e) of sub-section 1 are liable to be confiscated. We may briefly indicate the nature of these things only with reference.

[See text of these clauses in the Section itself for exact details.]

(a) excisable articles involved in offence.
Section 69 

10. No jurisdiction to Court etc. to order release etc. [Sub-sec. (6)]—A vehicle or conveyance so seized by the Authorities shall not be ordered to be released etc by any court, tribunal or other authority. This is very harsh step. Please read sub-section (6) very carefully.

11. Sale of Vehicle etc. by Public Auction—Sub-section (7)—If it is expedient in public interest or benefit of its owner, such vehicle may be sold by public auction at any time by the Authorities.

12. Disposal of Sale Proceeds [Sub-Section (8)]—On sale of the conveyance, the sale proceeds would be disposed of in the manner indicated in details under sub-section (8) please read sub-section (8) very carefully. No interest shall be paid on the amount paid or refunded under this sub-section.

13. No Saving from Punishment—Sub-Section (9)—If a person is held liable to punishment under this Act, the confiscation order made by the authorities shall not prevent infliction of such punishment. In other words, the owner of vehicle etc. would be liable to punishment under S. 55 A of the Act along with other offences under the Act, as well as the confiscation of same Vehicle under this Section (S. 69). Both actions may be taken together and simultaneously.

[Please refer to Commentary of section 55-A supra, also]


Chapter X. Disposal of Confiscated Articles

(Rs. 75 to 82 of the Rajasthan Excise Rules, 1956).

The following provisions in these rules have been made:

Rule 78 — Magistrate to send the article to District Excise Officer.
Rule 79 — Disposal of animals and things other than excisable articles.
Rule 80 — Disposal of excisable articles.
Rule 81 — Perishable articles.
Rule 82 — Sale or disposal to be deferred pending an appeal.

Thus the following things are to be made over in the District Excise Officer by Magistrate—

(i) excisable articles, or
(ii) any receptacle, packet or cover, or
(iii) any animal, cart, vessel, raft or other conveyance. (Rule 78)

Thereafter the District Excise Officer shall take further action for disposal of these articles as per rules mentioned above.

15. Case Law Summarised—

Correction in Judgment—Accused acquitted by appellate court and jeep confiscated was ordered to be returned to (कार्यकर्ता). It was held to be clerical error. Mistake of language used in the judgment. अपेक्षाकृत जीत कार्यकर्ता को सौंपने ने आठ। The intention of the court was obvious that the jeep has to be returned to one from whom it was recovered. In any case it is a fit case to prevent miscarriage of justice the impugned order should be set aside under the inherent powers of the court (Petition allowed)

Vehicle When Confiscated—Accused was found driving jeep while committed offence. Conviction confirmed. Held Jeep shall stand confiscated.¹

Vehicle not confiscated—Owner lent his car to a friend, but he had no reason to believe that the car would be used for transporting contraband goods in it. This could not be proved by prosecution.²

Liability of Car owner—Complicity of transporting Ganja not made out—Nothing on record to indicate any complicity. Information of missing car given to police late—delay explained.³

70. Power of Excise officer to compound offences—(1) ⁴[Subject to such conditions and restrictions as may be prescribed, the Excise Commissioner or any other Excise Officer specially empowered by the State Government in that behalf] may accept from any person whose licence or pass is liable to be cancelled or suspended under this Act, or who is reasonably suspected of having committed an offence punishable under this Act, a sum of money ⁵[not less than Rs. 5000/- but not exceeding 10 times of the annual licence fee in respect of manufacturing units/ bonding and wholesale vendors etc. and not more than two times of exclusive privilege amount in case of liquor and beer shops along with other levies applicable from time to time] in lieu of such cancellation of suspension or by way of composition for such offence which may have been committed, as the case may be, and in all cases whatsoever in which any property ⁶[XXX] has been seized as liable to confiscation under this Act ⁷[may release all such property except an excisable article on payment of the value thereof as estimated by such officer and may confiscate the excisable article]:

Provided that no such composition shall be accepted from any officer or servant of the Excise Department for any offence under this Act committed by such officer or servant.

[Provided further that no offence of manufacture, or possession for sale of an excisable article punishable under section 54 shall be compounded].

7. Substituted by section 14(1)-ibid.

Section 70 | The Rajasthan Excise Act

(2) On the payment of such sums of money to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

COMMENTARY
SYNOPSIS

1. Compounding of offences by Excise Officers ⁴ ⁴
2. Compounding Authorities Notifications ⁵
3. Compounding of Offences (Rule 77-D) ⁶
4. Effect of [subsection 12] ⁷

1. Compounding of offences by Excise Officers—Section 70 authorises the Excise Officers to compound offences subject to such conditions and restrictions as may be prescribed (i.e. prescribed by Rules) [Refer to Note (3) infra]

2. Who is empowered—Compounding Authorities—
(1) The Excise Commissioner, or
(2) Any other Excise Officer specially empowered by the State Government in this behalf.

NOTIFICATIONS

[Notification No. F. 1(7)-FD-Ex/77 dated 18-1-1967]

In exercise of the powers conferred by sub-section (1) of section 70 of the Rajasthan Excise Act, 1950 the State Government hereby especially empower all the District Excise Officers, within their respective jurisdiction, to exercise subject to conditions and restrictions specified in rule 77-D of the Rajasthan Excise Rules 1950, all the powers under that section to compound offences.

Notification No. F. 1(7)-FD-Ex 72 dated 16-12-1973]

S.O. 78—In exercise of the powers conferred by, Section 70 of Rajasthan Excise Act (Raj Act II of 1950) the State Government hereby authorises the Deputy Commissioner Excise, Headquarters, Udaipur to accept from a person for an offence committed under the Act, compensation money not exceeding Rs. 1000/- (one thousand) in each case.


Section 70(1) uses the expression “subject to such conditions and restrictions as may be prescribed” in relation to Compounding of Offences under the Act

Rule 77-D provides such conditions and restrictions as summarised below—
(1) Any District Excise Officer specially empowered in that behalf may compound the following cases—
(i) Cancellation or suspension of a licence, permit or pass or
(ii) Any offence under the Act
Section 70 | The Rajasthan Excise Act

(2) Such District Excise Officer may accept a sum of money not exceeding Rs. 500/- for such compounding or composition.

(3) Previous sanction of Excise Commissioner shall be obtained by the District Excise Officer before compounding the following offences:

(i) Offence committed or reasonably suspected of being committed under S. 54(e) or S. 54 (d), OR

(ii) if the proceedings for offence are pending in the Court of Law.

4. Procedure (sub-sec. (1)).

(i) The following cases may be compounded:

(1) Where the licence, permit or pass is liable to be cancelled or suspended under this Act, OR

(2) Where a person is suspected to have committed an offence under this Act.

(ii) Composition Money—Amendment 1998—In both these first situations the authorities mentioned above in Note (2) may accept from such person an amount as stated below. It was Rs. Ten thousand prior to amendment of 1998, but now it has been amended.

(a) In respect of manufacturing Units/Bond and wholesale Vends etc.

- A sum of money not less than Rs. 5000/- (five thousand), but not exceeding 10 times of the annual licence fee of the above.

(b) In case of liquor and beer shops.

- A sum of money not more than two times of excise privilege amount.

Along with other levies applicable from time to time

Thus the amount as mentioned above is at the discretion of the authority and is in addition to other levies applicable from time to time.

Such amount may be accepted—

(1) in lieu of cancellation or suspension of licence, permit or pass, or

(2) for composition of such offence which may have been committed by him.

(iii) Seizure of Property—After receiving the composition-money, the authority—

(a) may confiscate the excisable article, and

(b) may release any other property seized as liable to confiscation on payment the value of such property estimated by such officer.

Section 70(1) vs. Section 69(2). Proviso—Under S. 70(1) above, the value of property

limited by such officer is to be paid for release of such property, whereas under proviso to S. 69 the Magistrate may impose fine as he thinks fit in lieu of ordering confiscation.

Suggestion—Both these provisions are discrepant. There should be a limit to a fine in S. 69 whereas the payment of value as estimated by authorities is also unjustified as for the Legislature to amend these provisions.

5. Non-Compoundable Offences—

[Proviso I & II to sub-sec(1)]

The following offences cannot be compounded or composed—
Chapter [ X ]

Miscellaneous

Introductory Note

This is the last Chapter of the Act dealing with miscellaneous provisions, which are very important. These are:

Section 71 — Exemptions from applicability of the Act.
Section 72 — Publication of Rules & notifications.
Section 73 — Bar of certain suits against State Government and its officers while acting in good faith under the provisions of the Act.
Section 74 — Powers exercisable from time to time by Excise Commissioner.

71. Exemptions — (1) Nothing in the foregoing provision of this Act applies to the import, manufacture, possession, sale or supply of any bona-fide medicinal article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries except in so far as the same may be notification in the Official Gazette so direct.

(2) Where in the opinion of the State Government reasonable grounds for doing so, the State Government may, by like notification and subject such conditions and restrictions as it may impose, exempt any person or any excisable article from all or any of the provisions of the Act or of the rules made thereunder either throughout the territories to which this Act extends or in any specified part thereof or for any specified period or occasion.

The State Government being of the opinion that reasonable grounds for doing so, hereby exempts, with effect from 1-4-2001:

(i) such retail licensees who have been granted licence under exclusive sale system from the payment of fee prescribed under rule 69-B of the Rajasthan Excise Rules, 1956 to the extent to which it exceeds the amount of 0.50 per bulk litre.

(ii) such wholesale licensees who have been granted licence under rule 11A of the Rajasthan Excise Rules, 1956 and who manufacture IMFL.


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Beer outside Rajasthan from the payment of fee prescribed under rule 69(1) of the said rules.

(3) Every notification issued by the State Government under sub-section (1) or sub-section (2) shall be laid before the House of the State Legislature at the session there of next following and shall be liable to be rescinded or modified by a resolution of that House.

COMMENTS

SYNOPSIS

1. Scope

2. Bonafide Medicated Articles exempted

3. Old sub-section (2) declared void.

4. "Exemption throughout the territory": Meaning

5. Principle of Probative Value

1. Scope — Section 71 is an important provision of this Act which deals with exemptions from the operation of this Act in certain specified matters. It grants relaxations from the prohibitory and regulatory provisions of the Act or the rules made thereunder.

2. Bonafide Medicated Articles for medical purposes exempted (Sub-section (1) — Sub-section (1) exempts the bonafide medicated articles for medical purposes from operation of the Act in relation to:

(i) manufacture,
(ii) possession,
(iii) sale or
(iv) supply

— by (a) medical practitioners

(b) chemists,

(c) druggists,

(d) apothecaries or

(e) keepers of dispensaries

Except so far as the Government may by notification in the Official Gazette so direct.

3. Old sub-section (2) declared void — Prior to Amendment of 1956, the text of sub-section (2) was as follows:

(2) The Government may by like notification and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons or any excisable article wholly or partially from the operation of all or any of the provisions of this Act or of all or any of the rules made thereunder either throughout Rajasthan or in any specified area comprised therein or for any specified period or occasion.

This provision was held to be void on ground of absence of any basis for classification and giving unbridled power of exemption to the State Government.

So it was amended in 1956 w.e.f. 31-10-56.

The full Bench of the Rajasthan High Court observed: "As sub-section is worded, it does not contain any basis of classification itself although we should like to add that is not an indispensable requirement for upholding a classification. We would next point out that there is nothing in the entire Act either in the preamble or elsewhere therein

show whether and if so on what basis an exemption from the operation of the provisions of the Act could be granted to any class of persons or in respect of any excisable article or with reference to any specified area or any specified period or occasion it further remarkable that the section permits exemption in the case of a single person well. The section, therefore, seems to us to be clearly of the character which would see unenrolled and unbridled powers in the hands of the Government by which it would be able to exempt any person whatever from the operation of the Act as if it were undifferentiated from any other person without any rhyme or reason.1

4. Expression "Throughout the territory to which this Act extends":—used in this section 71(2) rendered useless.—This expression was inserted in 1957. Thereafter the same was made applicable to "Abu Area" w.e.f. 1.9.78 and is now applicable to whole of State of Rajasthan. So expression is of no use henceforth.

5. Classification of Exemptions—[1] Section 71(2) contemplates four classes of exemptions viz.—

1. Exemption as to quantum of Liquor.
2. Exemption as to class or category of person.
3. Exemption as to specific area.
4. Exemption as to the specified time.

The persons holding permits can seek the specified quantum of liquor. Consumers may be granted permission to possess two bottles. The permit holder can have that much quantum of liquor as is specified in the permit. Possession beyond the prescribed limit offends.

There are certain class of persons who are exempted and their exemption have a valid. Personnel of armed forces and the Foreigner as tourists are such persons. As Army cantonees and tourist hotels are provided exemption for that purpose.

Restriction on renewal of licenses—Not violative of Articles 14 & 19 of the constitution—

During prohibition in Udaipur area under Raj. Act No. 17 of 1960, new repealed law of licenses (for sale of foreign and Indian liquor was restricted to three star hotels and above) (where foreign tourists visit and often stay). The Government’s action refusing renewal of licenses to other hotels including the petitioner is held not arbitrary, capricious or discriminatory. Refusal of such licenses does not infringe Art. 14 & 19 of the constitution. Classification is quite reasonable.2

6. Important Notifications relating to Exemption under S. 71(2)

(a) All permissions, exemptions and conditions of Princely States cancelled—

[Notification No. F. 4(1) dated 18th July, 1952]

SR.51.—In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950, read with Section 21 of the General Clauses Act, 1897, in Central legislature, the Government of Rajasthan is pleased to order that all permissions, exemptions and concessions granted in respect of manufacture or distribution of liquor under excisable articles or in respect of any distillery, brewer, pot still or ware-house or the proprietors of the former Jodhpur and Bikaner States and other cantonment States under any rule made thereunder, shall be cancelled with immediate effect.3


Section 71

(b) Exemption from Excise Duty to Various Institutions

[Notification No. F. 1(2) dated 18th September, 1958]

S.R.52.—In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act (No II of 1950) and in supersession of Government Notification No. F. 1 (a) SR/50, dated the 14th March, 1951, the Government of Rajasthan is pleased to exempt from payment of excise duty all rectified spirit (Ethyl alcohol) and absolute alcohol supplied for bona fide use thereof to all recognised medical and educational institutions and all Government and other recognised charitable hospitals and dispensaries throughout the territories to which the said Act extends.

Permits for duty free rectified spirit and absolute alcohol shall be issued by the District Excise Officer concerned in the annual limits fixed by the Excise Commissioner, on receipt of requisitions for the same duly signed by a Principal Head Master, District Medical and Health Officer or any other person of similar status as the case may be. [Published in Raj. Gaz. Part IV C dated 9th Oct., 1958 and thereafter amended by Notifications dated 4th July, 1959 and 15th March, 1969]

(c) Exemption to Military Installations

[Notification No. F. 1(3) dated 21st January, 1953]

SR.53.—In exercise of the powers conferred by Section 71(2) of the Rajasthan Excise Act, 1950, (Act No. II of 1950), the Government of Rajasthan is pleased to exempt the Military installations in India from operation of the provision of the aforesaid Act relating to import, export and possession of the methylated spirit and alcohol if required by them for bona fide industrial purpose. [Published in Raj. Gaz. Part I, dated 28th March, 1953]

(d) Excise duty exempted on supply to Excise Department

[Notification S.O. 119 dated 30.3.1972]

S.O. 119.—In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Act No. II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, exempt the licensees of Indian made Spirituous liquor of Rajasthan who submitted their application for renewal of their licence for 1979-80 after the prescribed period from payment of additional fee as provided in rule 72-A of the Rajasthan Excise Rules, 1956. [Pub. in Raj. Gaz. 4 (G) (1), dt. 6-9-79, page 305].

(c) Additional Renewal Fee exempted—

[Notification No. F. 4(27) FD/Ex/V 79, dated August, 1979]

S.R. 87.—In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, exempt the licensees of Indian made Spirituous liquor of Rajasthan who submitted their application for renewal of their licence for 1979-80 after the prescribed period from payment of additional fee as provided in rule 72-A of the Rajasthan Excise Rules, 1956. [Pub. in Raj. Gaz. 4 (G) (1), dt. 6-9-79, page 305].

(c) Duty free Import of Sacramental Wine

[Notification No. F. 1(4) FD/Ex/V 79, dated November, 1979]

In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government being of the opinion...
reason able ground exist for doing so, hereby permits, the duty free import of sacramental as defined in the Rajasthan Sacramental Wine Rules, 1970 from outside Rajasthan in condition that such import from outside Rajasthan shall be against permits to used by the district Excise Officer concerned with the approval of the Excise Commissioner not exceed 750 Bulk litres per decease per year.

[Published in Raj. Gaz. EO-4 (Gj) I dated 9-11-85, Page 254]

(g) Exemption from R. 72 A- S.72(1)-
In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Raj. Act No. II of 1950), the State Government being of opinion exist that able grounds exist for doing so, exempt the Ganganagar Sugar Mills from operation of the S.72 A of the Rajasthan Excise Rules, 1956 for payment of additional fee only shops run in the Financial year 1982-83.


7. Exemptions provided by Special Rules—Summary Note on Rajasthan Spirituous Preparations Import, Export, Transport, Possession & Sale Rules, 1989

These rules came into force w.e.f. 6-11-89 which deals with the above mentioned sections relating to “Spirituous Preparations”.

“Spirituous Preparations”, means such preparations declared by the Government as “liquid” from time to time. The Government of Rajasthan declared all medicinal toilet preparations and other spirituous preparations containing more than 20 proof proof to be liquid for the purpose of the Act and the Rules vide Notifications S.O. dated 8.5.1990.

The Government has approved the list of 26 intoxicating preparations to be for purposes of R. 26, incapable of being misused for potable purposes and therefore exempted from the operation of these rules vide S.O. 31 dated 22-1-1990.

Rule 5 provides for the following spirituous preparations which may be possessed without licence by various persons and registered practitioners of various paths within prescribed limits without a licence or permit—

(1) Allopathies Preparations
(2) Homeopathic Preparations
(3) Ayurvedic Preparations
(4) Toilet Preparations
(5) Essences and
(6) All kind of Intoxicating Spirituous Preparations.

Rule 6 to 9 deal with issuing permit or pass for import, export and transport of these preparations.

Sale of these preparations are to be regulated by licences, permits or passes issued by the authorities in pursuance of Rules 10 to 23 of these Rules.

Latest Notifications
Please refer to page 653 and from S. No. [24] to owernotes.

8. Legislative Control—[sub-sec. (3)]

Whenever the State Government issues notification under sub-section (1) or (2), it shall be laid before the House of State Legislature in the next session and it can be rescinded or modified by the House of the Legislature.

Thus legislative control on power to exempt has been incorporated under sub-section (3) of S. 71 of the Act so as to check any arbitrary and unbridled action by the State Government. According to Lord Halsbury—

"Exemptions from tax increases burden on the other members of the Community and should, therefore, be deprecated."

9. Principle of Premisamry Estoppel—Applicability—Notification is bad—When an exemption has been issued under rule 8 of the Central Excise Rules such exercise of powers cannot be equated with the legislative function and the premise held by the Central Government to grant exemption in given conditions, Government is bound by it and the obligation cannot be released on the basis of the argument that such exemption is in legislative exercise of its function.

The Notification being No. 159/85 CE is bad and in violation of the principles of prumissory Estoppel and same deserves to be quashed (Writ allowed).
72. Publication of rules and notifications—All rules made and notifications issued under this Act shall be published in the [Official Gazette] and shall henceforth have effect as if enacted in this Act from the date of such publication or from such other date as may be specified in that behalf.

NOTE

[Please refer to the Commentary of sections 41 & 42- Note (6) and commentary of section 4- Note (3) for comments.]

173. Bar of certain suits—No suit, prosecution or other legal proceedings, shall lie against the State Government or against any officer or person for any thing in good faith done or intended to be done in pursuance of this Act.

COMMENTARY

SYNOPSIS

Protection against suits etc. — Meaning of “Good faith”
Writ petitions not barred
Civil suits as remedy

1. Protection against suits etc.
Section 73 provides a legal bar to any suit, proceeding against—
(1) the State Government or
(2) any officer, or
(3) any person.

2. Meaning of “Good faith”
The term “good faith” has been defined in negative form under S. 52 of Indian Penal Code as follows:

“Nothing is said to be done or believed to be done in “good faith”, which is done or believed to be done without due care and attention.”

But this term has been defined in positive form under S. 3(22) of the General Clauses Act and S. 32(32) of the Rajasthan General Clauses Act, 1955 as follows:

“A thing shall be deemed to be done in “good faith” where it is in fact done honestly, whether it is done negligently or not.”

Thus the combined denotation of these definitions concludes two elements in the term “Good Faith”.

viz.– (a) due care and attention i.e. not negligently but cautiously and
(b) honesty i.e. fairly, fair from any fraud, faithfully.

Thus any act done or intended to be done must conform to the above mentioned elements of good faith so as to avail the protection of bar under this section.


3. Writ-petitions when not barred—
Section 78 refers to “other legal proceedings”, but generally a writ-petition under Article 226/227 of the Constitution is not barred being an extraordinary remedy.

[Please refer to commentary of “Preamble”-Note (11) and Note (11) of the commentary of S. 4 of the Act for details]

4. Civil suits, as remedy—
In appropriate cases, civil suits based on law of contract and irregularities committed in applying this Act are being entertained, as pleas of “benefit” fails in such suits.

(a) Contract of Sale of Liquor—Suit when decreed—Short supply by Government Ware House where liquor was not available in the ware house, held the suit of plaintiff deserves to be decreed when the State was responsible for short supply of liquor.

Where the liquor was not supplied inspite of payment of full amount of price, held that the suit is liable to be decreed.

(b) Refund of Security Deposit—When demand of licensee could not be met out, he is entitled to refund of deposit, but where the interest was not claimed in the notice under S. 80 CPC, held that plaintiff is not entitled to interest on amount of deposit.

5. Bar of Jurisdiction of Civil Courts [Section 9-B—New Provision (as amended in 1998)]

Section 9-B provides that “no civil court shall have jurisdiction to entertain any suit or proceeding to set aside or modify (a) any original order passed by an officer competent to do so under the provisions of the Act, or (b) any order passed under or referred in Section 9-A” (i.e. appeal or Revision).

Thus Section 9-B protects certain orders made by the officers of State from judicial scrutiny, while section 73 bars certain suit, prosecution or other legal proceedings and its officers. Both these Sections are different and should not be confused for any thing done or intended to be done in pursuance of this Act in good faith.

Thus any action taken or intended to be taken under the Act has been protected from legal proceedings etc., but it must be in good faith which is to be pleaded and established, when protection under this section is claimed.

74. Powers exercisable from time to time—Any power conferred by this Act on the Excise Commissioner may be exercised from time to time as occasion requires.

Commentary

Section 74 deals with the time of exercise of powers conferred by this Act on the Excise Commissioner. Very wide powers have been given by this Act to the Excise Commissioner who is Chief Excise Authority in law and Controlling Authority, having administrative powers in the Excise Department. All the powers so conferred may not be possible to be exercised at once, but these powers are to be used as per policy decisions of the State Government and are to be exercised from time to time whenever such occasion requires to do so. This relaxation has been given in view of the effect that no body can
seek any remedy by writ of mandamus asking to exercise certain powers for certain purposes mentioned in the Act, but not implemented due to policy of State Government. This section is like a protective umbrella for omission of use of any power by the Excise Commissioner.

**Exercise of Power—All incidental powers necessarily included by implication—Framing of Rules—**

By framing of the said rules the Government has not contravened any provisions of the Act, including Section 42. The State Government has power under S. 41(2)(a) to frame rules regarding permit fee also while framing rules for regulating the import, export, transport or possession of any excisable article. This clause (a) is of very wide import.

Held, grant of jurisdiction implies the grant of all powers necessary for its exercise. When statute confers powers in general terms, all powers incidental and necessary to make such law effective are included by implication.  

[75. X X X]

3 | SCHEDULE I deleted |

4 | SCHEDULE II |

Bond for abstaining from the commission of offences under the Rajasthan Excise Act, 1950.  
[Section 66-A]

Whereas I (name) ...........................................  
[Place] ................................................  
[caste] ....................................................  
[inhabitant of] ...........................................  
[dist. or place] .........................................  
[have been called upon the] to execute a bond to abstain from the commission of any offence under the Rajasthan Excise Act, 1950 for the term of (state the period).

I hereby bind myself not to commit any such offence during the said term and in case of my making default therein I hereby bind myself to forfeit to the State Government the sum of Rs. ...........................................  

Dated this .......... day of .......... 20 ....... (Signatures)

(Where a bond with surety or sureties is to be executed, add—)

I/We do hereby declare my self/ourselves surety/are for the above named  
[that he will abstain from commission of any offence under the Rajasthan Excise Act, 1950, during the aforesaid term, and in case of his making any default therein, I/We bind myself/ourselves jointly and severally to forfeit to the State Government the sum of rupees.  

Dated this .......... day of .......... 20 .......  

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**APPENDIX I**

**THE RAJASTHAN EXCISE (AMENDING AND EXTENDING) ACT, 1957**

(Act No.38 of 1957)

An Act further to amend the Rajasthan Excise Act, 1950 and to extend the provisions thereof to the Ajmer and Jalore areas.

WHEREAS it is expedient further to amend the Rajasthan Excise Act, 1950 (Raj Act 11 of 1950) for the purpose of extending its provisions to the Ajmer and Jalore area of the new State of Rajasthan as formed by section 10 of the State Reorganisation Act, 1956 (Central Act 37 of 1956) and for other purposes hereinafter appearing.

Be it enacted by the Rajasthan State Legislature in the Eighth year of the Republic of India as follows:—

1. **Short title and commencement.—** (1) This Act may be called the Rajasthan Excise (Amending and Extending) Act, 1957

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Definitions.—** In this Act, unless the subject or context otherwise requires—

(i) "Abu area" means the territory comprised in the Abu Road taluka of Banswara District in the State of Bombay as it existed immediately before the first day of November, 1956;

(ii) "Ajmer area" means the territory of the State of Ajmer as it existed immediately before the first day of November, 1956;

(iii) "pre-reorganisation" used with reference to the State of Rajasthan means the State of Rajasthan as it existed in pursuance of the covenant or under the Constitution immediately before the first day of November, 1956;

(iv) "State" or "State of Rajasthan" means the new State of Rajasthan as formed by section 10 of the State Reorganisation Act, 1956 (Central Act 37 of 1956), and

(v) "Sundar area" means the territory comprised in the Sundar taluka of Bikaner District in the State of Madhya Bharat as it existed immediately before the first day of November, 1956.

3. **Extension of Rajasthan Act 11 of 1950.—** On and from the date this Act comes into force, the Rajasthan Excise Act, 1950 (Raj Act 11 of 1950), hereinafter referred to as the principal Act, shall be amended in the manner indicated in sections 4 to 18 of this

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1. First Published in Rajasthan Rajputana part IV-A extraordinary dated 5-12-1957
The Rajasthan Excise Act

Act and shall, as so amended extends to the whole of the State of Rajasthan except the Abu area.

19. Application of rules etc. under Rajasthan Act II of 1950—On and from the date this Act comes into force, the rules, regulations, orders and notifications made and issued under the principal Act by a competent authority in force at the commencement of this Act shall subject to the modifications specified in section 4 of this Act, extend and apply to the whole of the State of Rajasthan except the Abu area.

20. Repeal and supersession—On and from the date this Act comes into force—
(a) the enactments specified in the Schedule together with all laws amending the said enactments shall stand repealed to the extent specified in column 3 thereof, and
(b) the rules, regulations, orders and notifications made and issued under the enactments so repealed shall stand superseded.

21. Interpretation—The provisions of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955) shall, as far as may be, apply mutatis mutandis to this Act and to the principal Act.

THE SCHEDULE

(see section 20)

List of enactments Repealed

<table>
<thead>
<tr>
<th>No.</th>
<th>Enactment</th>
<th>Repealed up to</th>
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<tr>
<td>1</td>
<td>The Excise Regulation, 1915 (Central Regulation 1 of 1915)</td>
<td>As far as it applies to the Ajmer area</td>
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| 2   | The Madhya Bharat Excise Act Sumat 2009 (Madhya Bharat Act 14 of 1952) | As far as it applies to the Sambal area.

Amendments done by sections 4 to sections 18 have been incorporated in the Act.

APPENDIX II

1. THE RAJASTHAN EXCISE (AMENDING AND EXTENDING) ACT, 1978

(Raj. Act No 15 of 1978)

[Received the assent of the President on the 15th day of November, 1978.]

An Act further to amend the Rajasthan Excise Act, 1950

Be it enacted by the Rajasthan State Legislature in the Twenty-Fifth Year of the Republic of India as follows:

1. Short title and commencement. — (1) This Act may be called the Rajasthan Excise (Amending and Extending) Act, 1978.

(2) Except section 4, which shall come into force on the 1st day of December, 1978.

2. Statement of Objects and Reasons

Consequent upon the re-organisation of States, the Abu area was merged in the State in the State of Rajasthan but the Bombay Prohibition Act, 1949 of the erstwhile State of Bombay continued to be in operation in that area. As such the provisions of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) could not be made applicable to the said area.

With a view to obtain uniformity in the application of laws in all areas of the State, it was considered necessary to extend the Rajasthan Excise Act, 1950 to that area.

Since the Rajasthan Legislative Assembly was not in session and the Governor was satisfied that circumstances existed which rendered it necessary for him to take immediate action, he made and promulgated the Rajasthan Excise (Amending and Extending) Ordinance, 1978, on the 1st day of September, 1978.

The bill seeks to replace the said ordinance:

2. Amendment of Section 1, Rajasthan Act IV of 1950. — (In sub-section 1) of section 1 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) hereinafter referred to as the principal Act, the words “except the Abu area” shall be omitted.

3. Commencement of Rajasthan Act II of 1950. — The principal Act as Amended by section 2 of the Rajasthan Excise (Amending and Extending) Ordinance, 1978 (Rajasthan Ordinance No. 14 of 1978), shall be deemed to have come into force in the Abu area from the date of the commencement of the said Ordinance.

4. Repeal and Savings. — (1) The Rajasthan Excise (Amending and Extending) Ordinance (No. 14 of 1978) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance shall be deemed to have been done or taken under this Act.
[APPENDIX III]


(Act No. 30 of 1964)

(Received the assent of the Governor on the 21st day of November, 1964).

An Act to amend certain enactments for the purpose of changing the designations of certain officers of the Excise and Taxation Department bifurcated into Commercial Taxes Department and Excise Department.

Be it enacted by the Raj State Legislature in the Fifteenth Year of the Republic of India as follows:-

1. Short title—This Act may be called the Raj. Excise and Taxation Officers (Change in Designation) Act, 1964.

2. Definitions—In this Act, unless the context otherwise requires

(a) “appointed day” means the first day of July, 1964

(b) “taxation officers” means officers specified in column No. 2 of the Table given in section 4.

(c) “Instrument” include rules, notification and order

3. Amendment of certain enactments.—The enactments specified in the Schedule shall, as from the appointed day, be deemed to have been amended to the extent and in the manner specified in the fourth column thereof.

4. Construction of reference to Taxation Officers in enactments or instruments.—Any reference, by whatever name or words, to any of the officers specified in column No. 2 of the Table given hereto, in any law for the time being in force, or in any instrument or other document, except in any instrument or document made or executed under the Rajasthan Excise Act, 1950 (Raj. Act 2 of 1950), shall as from the appointed day, be construed as a reference to the officers specified against each in column No. 3 thereof.

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<th>Schedule</th>
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5. Reference to Assistant Excise Commissioner in instruments and documents—Any reference to Assistant Excise Commissioner in any instrument or document executed or made under or with reference to the Raj. Excise Act, 1950, shall, as from the appointed day, be construed as a reference to the District Excise Officer.

6. Savings—Notwithstanding anything contained in sections 3-4 and 5, the change made by this Act in the designations of taxation officers or the Assistant Excise Commissioner shall not affect the previous use of old designations by any such officer or reader invalid anything done, or any action taken, by him previously to the commencement of this Act merely on the ground that the changed designation as provided in this Act was not used after the appointed day.

The Schedule [Not printed as incorporated in the principal Act]
APPENDIX IV

THE RAJASTHAN TAX ON LUXURIES (TOBACCO AND ITS PRODUCTS) ACT, 1994

1. Short title, extent and commencement.—(1) This Act may be the Rajasthan Tax on Luxuries (Tobacco and Its Products) Act, 1994.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government by notification in the Official Gazette appoint.

2. Definitions.—In this Act, unless the subject or context other requires—

(a) "business" means the activity of supplying tobacco or its product by way of sale or otherwise, whether or not such activity is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such activity;

(b) "luxuries" means tobacco and its products;

(c) "receipt" in relations to a tobacconist, means the amount of consideration received or receivable by him for supply of tobacco and its products by way of sale or otherwise including any sum for anything done by him in respect of tobacco or its product sold at the time of or before the delivery thereof and the price of primary or secondary packaging;

(d) "registered tobacconist" means a tobacconist registered under this Act;

(e) "rules" means the rules made under this Act;

(f) "State" means the State of Rajasthan;

(g) "tax" means the tax levied on the luxuries under this Act;

(h) "tobacco" means unmanufactured and manufactured tobacco described in the Notes and in the table in Chapter 24 of the Excise Central Tariff Act, 1985.

Explanation.—For the purposes of this clause—

(i) unmanufactured tobacco means unmanufactured tobacco brand name;

(ii) manufactured tobacco does not include Bidis;

(iii) "tobacconist" means—

(a) a manufacturer who supplies tobacco whether by way of otherwise, and includes any person who for the purpose of this Act, carries on the manufacturing done from any other person or not on job work basis, but does not include any person who manufactures tobacco only on job work basis;

(b) any person who for the purposes of the business brings or to be brought tobacco in the State or to whom any tobacco despatched from any place outside the State and who such tobacco whether by way of sale or otherwise;

(c) any person who supplies tobacco from a place within the any place outside the State, whether by way of sale or otherwise, and

(d) any person who does not buy or otherwise obtain unmanufactured tobacco under a brand name but supplies whether by way of sale or otherwise such unmanufactured tobacco in a sealed container under a brand name.

Explanation—For the removal of doubts, it is hereby declared that—

(i) an agriculturist who exclusively supplies unmanufactured tobacco grown on land cultivated by him personally, whether or not in a sealed container but not under a brand name;

(ii) a person, who exclusively supplies unmanufactured tobacco whether or not in a sealed container but not under a brand name;

(iii) a person, not being a person referred to in sub-clause (c), who exclusively obtains tobacco whether by way of purchase or otherwise from a registered tobacconist;

Shall not be deemed to be a tobacconist for the purpose of this clause, and

(j) "turnover of receipt" means the aggregate of the amounts of receipts of a tobacconist during a year in respect of supply of tobacco whether such supply is by way of sale or otherwise.

2. Words and expressions used but not defined in this Act shall have the meaning assigned to them under the Rajasthan Sales Tax Act, 1954 (Act No. 29 of 1954).

3. Incidence of tax.—(1) On or after commencement of this Act (hereinafter referred to as the "commencement date") every tobacconist whose turnover of receipts made—

(i) during the year ending on 31st March, 1994; or

(ii) during any year commencing on 1st April subsequent to the year mentioned in sub-clause (i),

exceeds rupees fifty thousand shall be liable to get such registration as may be prescribed under this Act, and be liable to pay tax on turnover receipts

(2) Every tobacconist who is registered under this Act shall continue to be liable to pay tax until his registration is duly cancelled.

4. Levy of luxury tax on a tobacconist—(1) Subject to the provisions of this Act and the rules made thereunder, there shall be levied on the turnover of receipts of a tobacconist a tax at such rate, not exceeding fifteen percent, as may be notified by the State Government in the Official Gazette.

(2) Notwithstanding anything contained in sub-section (1), where a tobacconist proves to the satisfaction of the assessing authority that tax on the tobacco or its products supplied by him by way of sale or otherwise has already been paid by any other person and produces a proof of such payment in support thereof, he shall not be liable to pay tax under the Act.
5. Exemption from tax—Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt a tobacconist fully or partially, whether prospectively or retrospectively from tax payable by him under this Act.

6. Offences and penalties—All provisions relating to offences, penalties and interest including the provisions of prosecution and compounding of offences of the Rajasthan Sales Tax Act, 1954, shall mutatis mutandis apply to all acts or omissions of a tobacconist and all matters arising under this Act.

7. Applicability of the provisions of the Rajasthan Sales Tax Act, 1954 and the rules made thereunder—Subject to the provisions of this Act and the rules made hereunder, the authorities empowered to assess, reassess, collect and enforce payment of tax under Rajasthan Sales Tax Act, 1954 shall assess, reassess, collect and enforce payment of tax or other sum including penalty or interest payable by a tobacconist under this Act as if the tax penalty or interest were payable under the said Act. and for this purpose, they may exercise all or any of the powers assigned to them under the said Act and all the provisions of the said Act and the rules made thereunder for the time being in force including the provisions relating to registration, returns, advance payment of tax, provisional assessments, assessments, recovery of tax, penalties, interest, prosecution, compounding of offences, appeals, revision, and other incidental and miscellaneous matters shall mutatis mutandis apply.

8. Bar to certain proceedings.—No civil court or any other authority shall stay any proceedings purported to be initiated or already initiated under this Act and no assessment made and no order passed by any officer or any authority under the Act, shall be called in question, except as provided in this Act.


(2) All rules made under this Act shall be laid as soon as may be after they are made before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or two successive sessions and if before the expiry of the session in which they are so laid or in the session immediately following, the House of the State Legislature makes any modification in any of such rules so resolves that any such rules should not be made, such rules shall have effect thereafter only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.


APPENDIX V

THE RAJASTHAN PROHIBITION OF SMOKING AND NON-SMOKERS’ HEALTH PROTECTION ACT, 2000

(Act No. 14 of 2000)

(Received the assent of the Governor on the 11th day of May, 2000)

An Act
to provide for prohibition of smoking in places of public work or use and in public service vehicles in the territory of the State of Rajasthan and to make provision for other matters connected therewith.

Be it enacted by the Rajasthan State Legislature in the Fiftieth Year of the Republic of India, as follows:

1. Short title, extent and commencement—(1) This Act may be called the Rajasthan Prohibition of Smoking and Non-Smokers’ Health Protection Act, 2000

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

NOTIFICATIONS

(1) S.O. 136—in exercise of the powers conferred by section 2 of the Rajasthan Prohibition of Smoking and Non-Smokers Protection Act, 1999 (Act No. 14 of 2000), the State Government hereby declare the following places as “places of public work or use” and to be “Non-Smoking Places” for the purpose of the said Act, namely—

1. All places of public work or use as defined in clause (c) of section 1 of the Rajasthan Prohibition of Smoking and Non-Smokers Protection Act, 1999 (Act, No. 14 of 2000) and Banquet Halls, Monuments, Cinema Halls and Stadium excluding open area.

The notification shall come into force from 1st August, 2000.


(2) S.O. 137—in exercise of the powers conferred by sub-section 3 of section 1 of the Rajasthan Prohibition of Smoking and Non-Smokers Protection Act, 1999 (Act, No. 14 of 2000), the State Government hereby appoints the 1st Day of August, 2000 as the date on which the said Act shall come into force.

Definitions.—In this Act, unless the context otherwise requires—

(a) "advertisement" means and includes any Notice, Circular, Wall Paper, Pamphlet, display on boardings, or any visible representation made by means of any light, sound, smoke, gas or any other means which has the effect of promoting smoking and the expression 'advertise' shall be construed accordingly.

(b) "authorised officer" means a person authorised under section 4.

(c) "place of public work or use" means a place declared as such under section 3 and includes auditoria, hospital buildings, health institutions, amusement centres, restaurants, public offices, court buildings, educational institutions, libraries and the like which are visited by general public but does not include any open place.

(d) "public service vehicle" means a vehicle as defined under clause (33) of section 2 of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988).

(e) "rule" means the rule made under this Act, and

(f) "Smoking" means smoking of tobacco in any form whether in the form of cigarette, cigar, beedi or otherwise with the aid of a pipe, wrapper or any other instruments.

3. Declaration of no-smoking place of public work or use.—As soon as may be after the commencement of this Act and thereafter from time to time, the State Government may by notification in the Official Gazette, declare any place of public work or use in the state of Rajasthan to be a no-smoking place for the purpose of this Act.

4. Power of the State Government to authorise officers to act under this Act.—

1) The State Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act.

2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 5 of 1860).

5. Prohibition of smoking in places of public work or use.—No person shall smoke in any place of public work or use.


7. Prohibition of advertisement of cigarettes etc.—Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any way and public service vehicle which may promote smoking or the sale of cigarettes and beedis etc.

8. Prohibition of sale of cigarettes, beedis etc. to minors.—No person shall sell cigarettes, beedis or any other such smoking substance to any person who is below the age of eighteen years.

9. Prohibition or storage, sale and distribution of cigarettes etc. in the vicinity of educational institutions.—No person shall himself or by any person on his behalf, store, sell or distribute cigarettes or beedis or any other such smoking substance within an area of one hundred metres around any college, school or other educational institution.

10. Display and exhibition of board.—The owner or manager or charge of affairs of every place of public work or use shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by general public prominently stating that the place is a "No Smoking Zone" and that "Smoking is an Offence".

11. Penalties.—Any person, who contravenes the provisions of—

(i) sections 5, 6 or 10 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees but which may extend to five hundred rupees.

(ii) sections 7, 8, or 9 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months or with a minimum fine of five hundred rupees but which may extend to one thousand rupees or with both.

12. Ejection of violators of the provisions of this Act from the place of public work or use.—Any authorised officer or any police officer not below the rank of sub-inspector, may eject any person from the place of public work or use who contravenes the provisions of this Act.

13. Court competent to try offences under this Act and take cognizance of offences.—(1) No court other than the court of a Judicial Magistrate shall take cognizance of and try an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing made by an authorised officer with respect to offences under sections 5, 6 and 10 and on a report in writing made by a police officer not below the rank of sub-inspector, with respect to the offences under sections 7, 8, and 9.

14. Certain offences to be cognizable and bailable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1973) offences under sections 7, 8, and 9 shall be cognizable and bailable.

15. Offences under this Act to be tried summarily.—All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973 (Central Act No 2 of 1974).

16. Power to delegate.—The State Government may by notification in the Official Gazette direct any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.
17. Composition of offences.—The State Government or any person authorised by it by general or special order in this behalf, may either before or after the institution of the proceedings, compound any offences made punishable by or under this Act.

18. Power to make rules.—(1) The State Government may make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are made, before the House of the State Legislature while it is in session, for a period of not less than fourteen days. which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the house of the State Legislature makes any modification in any such rule, or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

PART-II

VARIOUS EXCISE RULES

[For list of various rules, please refer to the contents/ index on face of the book.]

1

THE RAJASTHAN EXCISE RULES, 1956

In exercise of the powers conferred by section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Government of Rajasthan is pleased to make the following rules and to order, with reference to the proviso to sub-section (2) of the said section, that previous publication of these rules is dispensed with as the Government of Rajasthan considers that the rules should be brought into force at once.

Introduction Note

These Rules of 1956 are the main rules under the Excise Act, which fills up the contents of the Act with procedural provisions. Thus the Act is to be read with these rules along with notifications issued thereunder and also the special rules appended herewith.

All these rules make the provisions of the Act workable and effective and form a complete code on the Excise Law in Rajasthan.

CHAPTER I

Preliminary

1. Short Title and Commencement—These rules may be called the Rajasthan Excise Rules, 1956 and shall come into force on their publication in the Rajasthan Gazette.¹

2 Definitions—In these rules, unless the context otherwise requires—

(a) "the Act" means the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950).

(b-a-1) "Bonded Warehouse" means any warehouse or a part of a distillery licensed by the Excise Commissioner as a bonded warehouse for the receipt and storage of liquor or any other article under bond, both in bulk and in bulk. Indian manufactures, transported or imported into Rajasthan State, from any place with in Indian Union as


intoxication—means condition produced on brain or nervous system of human being, by excessive use of any liquor or drugs.  

2. Principles decided by the Courts—

(Case Law)

(a) Rajasthan Excise Rules, 1956—Rules & Rajasthan Issue & Sale price of Country Liquor Rules, 1964—Refund of deposit allowed & suit was decreed—As bottles were not available in the Warehouse liquor was not issued to plaintiff, evidence of endorsement on challan not rebutted by defendant.

(b) Rajasthan Foreign Liquor (Wholesale Trade & Retail Off Licences) Rules, 1982

R. 4 (1) (e) Validity of Auction—Financial Status of bidder—Condition No. 10 to be satisfied—When the appellant could not furnish certificate of financial status as per requirements, held he was rightly not allowed to take part in auction—& Companies Act-S 11 (2) Licence granted to 28 persons jointly to file joint tender—Such tender was accepted and was held to be valid. In facts & circumstances of the case, held that provision of the Companies Act is not applicable. A single venture for purpose of filing tender and obtaining licence is not covered. (Appeal dismissed).

(c) Rajasthan Issue & Sale Price of Country Liquor Rules, 1964—Suit for refund of deposit when decreed—When liquor was not issued due to non-availability of bottles in the Warehouse and endorsement on challan not produced this fact which was not rebutted by defendant. Plaintiff's suit was therefore, decreed.

(d) Rajasthan Stock taking & Wastage of Liquor Rules, 1959—R. 4(1) & (5) and S. 28—Excess Wastage Duty—held not a tax or duty, but consideration for licence—Demand notice cannot be invalid on the ground of not mentioning the provision of law under which it was issued.

transit—Contractual Obligation alone is to prevail—Condition No. 33 of the Licence provided for levy of excise duty on wastage of provided for levy of excise duty on wastage of IMFL as per rules. nature of contract being statutory and petitioners having accepted the licence now cannot wriggle out from contractual obligations arising out of the conditions of licence. Held that the state is entitled to raise excise duty on wastage of IMFL during transit in accordance with terms of the contract. In the instant case the Rules of 1939, held not applicable and as such enquiry under R. 5 (5) was out of question [Special appeal dismissed].

Rajasthan Distillery Rules, 1977

... R.4 and Rajasthan Stock-taking and Wastage of Liquor Rules, 1959- R. 4 (1) & (5)—Duty on Excess Wastage not tax or duty, but consideration for licence— Measure thereof- Validity of demand notice—The so called duty on excess wastage as demanded in the instant case, is neither a tax nor a duty of excess imposed under section 28 of the Act. It is strictly speaking, not a fee in the name of a quasi pro quo for services rendered, but it is a price or consideration which the Government charges to the licensee for parting with the privilege of manufacturing liquor. There is no legal bar to the distiller agreeing to compensate loss of revenue which may be suffered by a State Government as a consequence of such excessive wastage by him in consideration of the privilege of manufacturing liquor granted to him by the State Government. The petitioners had agreed in the instant case to compensate the State Government for the loss of revenue which might have suffered on account of the excessive wastage of rectified spirit by the petitioners. The measure of the loss is the excise duty which the State Government would have had to pay, if the excessively watered rectified spirit had been converted into IMFL for consumption by human beings.

CHAPTER II

Import, Export, Transport and Possession of Country Liquor

I Introductory Note

"Import, Export & Transport"—have been dealt with in Chapter III of the Act under Ss 11 to 15; and "Manufacture, Possession & Sale"—have been dealt with in chapter IV of the Act under Ss 16 to 27. Please read these sections together with these Rules.

Import

3. Import of Country Liquor—Country liquor made by import into Rajasthan only—(a) under the authority and in accordance with a permission granted by the Excise Commissioner, or

(b) under a bond for the payment of the prescribed import duty, executed by a person to whom the exclusive privilege for the supply of such liquor has been granted under section 24 or

(c) as permitted by any notification issued by the Government on the subject and for the time being in force.

4. Import to be in accordance with the rules—All imports of country liquor shall be in accordance with these rules.

5. Import to be subject to the rules of the exporting State—All import of country liquor shall be subject to such rules as may be in force in the State of District from which the liquor is to be obtained.

6. Making of casks—On each cask or other vessel containing country liquor imported into Rajasthan the importer shall cause to be pointed legibly—(a) the name of exporting distillery or warehouse; (b) serial number of cask or other vessel; (c) quantity and strength of the country liquor contained in the cask or other vessel; and (d) the capacity of the cask or other vessel.

7. Consignment to be accompanied by pass and accounts—Each consignment of imported country liquor shall be accompanied by a pass and despatch account in such form as may be prescribed by the Excise Commissioner and the particular noted on cask or other vessel containing the liquor shall tally with the entries in the pass.

8. Verification of consignment on arrival—On arrival of the consignment in the warehouse in Rajasthan, the Inspector-in-charge shall prove the liquor and verify the details of the consignment.

Export

9. Export of country liquor—Country liquor may be exported from Rajasthan only—(a) under the authority and in accordance with the terms of permission granted by the Excise Commissioner concerned; and

(b) by a person who has paid export duty on the country liquor to be exported or, at the discretion of the Excise Commissioner concerned, who has executed a bond for the payment of export duty to the satisfaction of the Commissioner, or

(c) as permitted by any notification issued by the Government on the subject and for the time being in force.

10. Application for permission—(1) When any person desires to export country liquor in bond from Rajasthan, he shall present a written application to the Excise Commissioner containing the following particulars—

(a) the name of the consignor,

(b) the name of consignee; and

(c) description, quantity and strength of the country liquor to be exported.

(2) Every such application shall also be accompanied by—

(a) an authority of import, issued by the appropriate excise authority of the State to which the country liquor is to be exported.

(b) receipt in proof of the payment of export duty, and

(c) a duly executed bond.
11. Application how to be dealt with—(1) On receipt of an application for export of country liquor, the Excise Commissioner shall himself see that the duty has been paid and shall unless there is reason to the contrary issue a pass for export in quadruplicate.

(2) One part of such pass will be given to the applicant and the second part will be sent by post to the officer-in-charge of the bonded warehouse in the importing State, third to accompany the consignment and the fourth be retained for record.

(3) Within a reasonable time to be fixed by the Excise Commissioner who granted the pass and to be specified in the bond or pass, the exporter shall produce before Excise Commissioner his copy of the pass endorsed with a certificate signed by the appropriate excise authority of the importing State the due arrival of irrespective of the country liquor at its destination.

12. Particulars to be marked on casis in which liquor is exported—On each case or other vessel containing the country liquor for export, the exporter shall cause to be painted clearly:

(a) the name and mark of the exporting distillery;
(b) the serial number of the case or other vessel and its capacity;
(c) the nature, quantity and strength of the contents; and their particulars shall tally with entries made in the pass.

13. Extension of time—On a written application being made to the Excise Commissioner establishing sufficient cause for the grant of an extension of time or on the production before him of the certificate from the appropriate Excise Officer of the importing State to the effect that there are good reasons for extending the time it shall be with in the competence of the Excise Commissioner to extend the time specified in the pass or bond for the due arrival of the country liquor at its destination and such power may be exercised for sufficient reason from time to time.

14. Discharge or enforcement on bond—(1) In the case of country liquor exported under special bond the Excise Commissioner of the state of export shall discharge the bond on receipt of the pass and certificate provided that none of the conditions of the bond has been infringed.

(2) The duty on consignment issued under a general bond shall be written off on receipt of pass and certificate, provided none of the conditions of the bond has been infringed.

(3) if the certificate is not received within the time mentioned in the bond or pass or if on the receipt of the certificate it appears that any of the conditions of the bond has been infringed, the Excise Commissioner of the exporting State shall take necessary step for the realisation of the penalty from the exporter or has surcharged the bond.

Transport

15. Transport of country liquor—(1) The transport of country liquor in bond from one Distillery to another or between distillery and bonded warehouse shall be governed by the rules relating to export of country liquor with necessary modifications.

(2) The transport of country liquor from distilleries or warehouses or wholesale depots or wholesale and retail shops shall be regulated by rules governing the issue of country liquor from the distillery or warehouse.
(3) Such permit, if granted shall be prepared in triplicate, the original and the duplicate shall be given to the applicant, who shall present the original before the vendor from whom the liquor is to be purchased. The vendor shall, after compliance, return it to the officer who granted it. The duplicate shall remain with the consignment in its transit from the shop to the place of consumption.

COMMENTARY

Seizure of illicit bottles (Rules 13)

Valid permit was not produced at time of seizure—false defence created after seizure by producing a permit issued by Assistant Excise Officer, who was not competent to issue such permit. Held, such permit is not valid in eye of law accused was wrongly acquitted.

18A. Possession of liquor beyond certain strength—No person shall keep or have in his possession any country liquor of a strength and variety other than those specified for retail sale by rules made from time to time by the Excise Commissioner under sub-clause (iii) of clause (e) of Section 42 of the Act.

COMMENTARY

Joint possession—Factum of knowledge of possession—Where large quantity of "Cocaine" along with weighing machine and packing material was recovered from a small house in which two brothers were jointly residing and running a joint business. Held that in such a case it is useless to plead that each of them were not aware of the dealing in cocaine.

The articles of illicit liquor (tinctures etc.) were recovered in raid from Kotari house occupied by three persons. All of them were held guilty.

Permit when not valid—Under the provisions of the Raj. Excise Act and Rules made thereunder the Assistant Excise Officer was not competent to grant any permit, held that such permit was not a valid permit in the eye of law.

CHAPTER III

Import and Export of Indian-made Foreign Liquor

INTRODUCTORY NOTE

"Import, Export, Transport" have been dealt with in Chapter III of the Act under Ss. 10 to 15, and

"Manufacture, Possession & sale" have been dealt with in chapter IV of the Act under Ss. 16 to 27.

Please read these sections together with these Rules.

FOREIGN LIQUOR & BEER

19. Methods of import—Subject to the provision of the Act Indian-made Foreign Liquor, Foreign Liquor and Beer may be imported in accordance with this Chapter either:

4. Patnaud v. Emperor AIR 1944 All 129 : 33 Cr. L.J. 109
5. State v. Taj Mohammed 1981 WLN 231 : 1982 Cr.L.R (Raj) 408

Rule 19-23 ]

1. In bond for payment of duty in Rajasthan, for wholesale vend by manufacturers by wholesale vendors.
2. On payment of duty in Rajasthan, or
3. On payment of duty in the State of export, at the rates leviable in Rajasthan, to be subsequently transferred to Rajasthan by book transfers.

2[ 20-23 - XXX deleted XXX ]

Import on pre-payment of Duty in Rajasthan

24. Condition of import—(1) A person holding a licence for the sale of Indian made Foreign Liquor and Foreign Liquor or the Commandant of Regimental units of the Armed Forces of the Union of Indian stationed in Rajasthan may import Indian made Foreign Liquor on pre-payment of import duty in Rajasthan and under per export permit issued under the next succeeding rule from a distillery, brewery or warehouse of the exporting State.

Provided that duty paid Rum possessed by any units of the Indian Armed Forces may be imported into the State without payment of duty and such import shall not require any permit pass from the State authority.

2. If the person authorised to import Indian Made Foreign Liquor under sub-rule (1), does not import the liquor for which he has deposited either the duty for half or both, he may be allowed refund by the Excise Commissioner.

Provided that the Excise Commissioner if he is satisfied that there are sufficient reason for doing so, may allow the refund of Indian duty paid in respect of Rum that has been detached or destroyed.

25. Procedure for permit—(1) For a permit under the preceding rule, an application shall be made in writing to the Assistant Excise Officer or Assistant Excise Officer, as the case may be, of the District in which the licensed vend holder holds a licence or the unit of the regiment is stationed (as the case may be) specifying—

(a) the name of the distillery, brewery, bonded warehouse or bonded laboratory from which the import is to be made,

(b) the name, complete description and quantity of each kind of liquor to be imported and the whether the import is to be in bulk or in bottles,

(c) the route of import, and

(d) the amount of import duty to be paid.

(2) A separate application shall be made for each consignment. If the application is in order and the Assistant Excise Officer or Assistant Excise Officer, as the case may be, shall after checking and correcting the amount of duty entered therein endorse the application with an order directing the applicant to pay the amount unless there are reasons for rejecting the application.

2. The applicant shall, after paying the amount of duty as ordered to the Assistant Excise Officer or Assistant Excise Officer, as the case may be, and the prescribed permit

2. Subs. ibid.
Section 26. Procedure on arrival—(1) On receipt of the consignment importer shall at once notify its arrival to the Excise Inspector of theCircle in which his licensed premises are situated, and shall allow him to check the consignment land to examine and, if necessary, to test the same or to take a sample thereof for test.

(2) The [District Excise Officer or Assistant Excise Officer, as the case may be], may, if he thinks it necessary cause the contents of the consignment to be checked with the application and with the permit issued by him.

(3) The importer shall be liable to pay duty on excess transit wastage, if any, claimed to have been lost in transit.

Section 27. Import on pre-payment of duty in the State of export—Import made in foreign liquor may be imported by any person holding a licence for the sale of foreign liquor and also by the Commanding Officer of Regimental units in Rajasthan from any distillery, brewery, warehouse or premises licensed for sale of saleable wine, in any State to which this provision may be applied by the Government, by notification on pre-payment of duty in the State of export at the rates in force in the Rajasthan.

Section 28. How imported—(1) The importer, unless generally or specially exempted by the Excise Commissioner, shall apply to the [District Excise Officer or Assistant Excise Officer] of the District of import, for the issue of permit in accordance with rule 23 (1).

(2) The [District Excise Officer or Assistant Excise Officer, as the case may be], if he sees no objection, shall issue a permit in quadruplicate containing the particulars given in the application. The permit shall be in force for the time stated therein. One copy of the permit shall be made over to the importer, the second copy shall be forwarded to the appropriate Excise Officer of the District or place of export, the third copy shall be sent to the Excise Inspector of the Circle and the fourth shall be retained for record. He shall specify that import is authorised on repayment of duty in the rate of Export as the rates prevailing in Rajasthan.

(3) The importer shall present his copy of the permit before the appropriate Excise Officer of the District or place of export or the Officer-in-charge of the distillery, brewery, warehouse or premises from which export is to be made together with a receipt for the amount of duty paid by him. The said officer, after satisfying himself that the duty is properly paid, shall authorise export and issue a pass to cover the same. A copy shall be sent direct to the [District Excise Officer or Assistant Excise Officer, as the case may be], who shall forward all export cases received from other States to the Excise Commissioner, at the end of each quarter.

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Section 29. Import free of duty or at a reduced rate—(1) Indian-made rectified spirit may be imported free of duty or at the reduced rate of duty payable on rectified spirit, holding a licence and educational institutions, charitable hospitals, Government hospitals and similar institutions, if so authorised by the Excise Commissioner.

(2) The provisions of rules 25 and 26 shall also apply to all import under this rule.

Section 30. Denatured Spirit [Deleted]. [See also Chapter IV, infra]

Export General

Section 31. Duty how paid—(1) The export duty on Indian-made foreign liquor and spirit, held by pre-payment in the District of Export by or through a distiller's advance duty deposit, before the liquor is exported from the distillery, warehouse or licensed wholesale vendees premises.

(2) No pass required of any such consignment shall be issued by any Excise Officer of the District of export referred to in this section.

(3) Rectified spirit shall not be exported without the permission of the Excise Commissioner.

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Commentary

Refund of duty paid not allowed—No duty or countervailing duty on absolute alcohol held by Supreme Court, only prospectively. Claim for refund of duty paid by company, burden of duty already shifted by the company on consumers. Duty refund not allowed to the company.2

Permit Fee—Laws permit fee in order to regulate grant of permit for spirit and to supervise, transport and stimulate purposes permissible under the rule. The concept of quid pro quo not relevant. AIR 1950 SC 1008 Disting 3

Export from Distilleries in Bond to other States in India

Section 32. Export in bond under pass—Any person may export in bond Indian made foreign liquor manufactured at a distillery in Rajasthan in any place in India under a pass granted as provided in the following rules.

Section 33. Application to be made to the [District Excise Officer or Assistant Excise Officer]—(1) When any person desires to export in bond spirit manufactured in distillery in Rajasthan, he shall submit an application to the [District Excise Officer or Assistant Excise Officer] the District in which the distillery of manufacture is situated.

(2) The application must specify (a) the name of the consignor, (b) the name of the consignee, (c) the description, quantity and strength of the liquor to be exported.

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(1) Every such application must be accompanied by (a) a permit from the appropriate Excise Officer of the District to which the spirits are to be exported authorising the import of the spirits, and (b) a duly executed special bond or a reference to the general bond in force.

Note: The permit referred to in clause (a) may be general permit covering all consignments for 1 year.

34. Permit granted by [District Excise Officer or Assistant Excise Officer] of exporting district—(1) The permit granted by the [District Excise Officer or Assistant Excise Officer] of the exporting district shall be in quadruplicate.

(2) One copy of the permit shall be delivered to the exporter, second copy will be forwarded to the appropriate Excise Officer of the District to which the liquor is to be taken, the third will be sent to the Excise Inspector of the Circle and the fourth will be retained for record.

Note: Usually, the officer-in-charge of the warehouse to which the liquor is consigned will be the appropriate Excise Officer of the district of imports.

(3) With a reasonable time to be fixed by the [District Excise Officer or Assistant Excise Officer], as the case may be, of the exporting district and specified in the bond, or post the importer shall produce before the [District Excise Officer or Assistant Excise Officer], as the case may be, of the exporting district his post of the pass endorsed with a certificate signed by the appropriate Excise Officer of the importing district certifying the due arrival at the warehouses of the liquor at its destination.

35. Particulars to be painted on the pass—On each cask or other vessel containing Indian-made foreign liquor for export there shall be legibly cut or painted—

(i) the name and mark of the exporting distillery,

(ii) the number of the cask or other vessel and its capacity,

(iii) the nature, quantity and strength of its contents.

These particulars shall tally with those entered in the pass.

36. Extension of time—On a written application being made to the [District Excise Officer or Assistant Excise Officer], as the case may be, of the exporting district establishing sufficient cause for the grant of time or on the production before him of a certificate from the appropriate Excise Officer of the district to which the liquor is consigned, the Excise Officer, as the case may be, of the exporting district on his own motion or on a written application by the importer, may extend the time specified in the pass or bond of the due arrival of the liquor at its destination.

37. Bond when to be discharged—(1) In the case of Indian-made foreign liquor, the bond of the [District Excise Officer or Assistant Excise Officer], as the case may be, of the exporting district shall discharge on receipt of the pass and certificate mentioned above, provided that none of the conditions of the bond have been infringed. The duty on consignments issued under a general bond shall be written off on receipt of the said pass and certificate, provided that none of the conditions of the bond have been infringed.

1 Subs. vide Raj. Gaz. IV-C (II), dated 16-10-69.

Rule 37-40
Rajasthan Excise Rules, 1936 [295]

(2) If the certificate be not received within the time specified in the bond, or if on receipt of the certificate it appears that any of the conditions of the bond have been infringed the [District Excise Officer or Assistant Excise Officer], as the case may be, of the exporting district shall forthwith take the necessary steps to recover from the importer or his surety the penalty due under the bond.

Export from Distilleries on Payment of Duty

38. Export of duty paid Indian-made foreign liquor to any place in India—Any person may export duty paid Indian-made foreign liquor manufactured at a distillery in Rajasthan to any place in India under a permit granted as provided in the following rules:

1 Provided that the duty paid Indian-made foreign liquor on payment of export duty does not exceed the liquor, the refund of the export duty paid may be allowed by the Excise Commissioner.

39. Application for pass—(1) The exporter shall present an application for a pass to the [District Excise Officer or Assistant Excise Officer] as the case may be, together with a permit authorising the import signed by the appropriate Excise Officer of the State of import, specifying the rate of duty chargeable on the foreign liquor and a receipt for the amount of duty on the total quantity of L.M. liquor to be exported. The [District Excise Officer or Assistant Excise Officer], as the case may be, if satisfied, shall send the application to the inspector-in-charge, Distillery for compliance.

(2) The Inspector thereupon shall grant a pass authorising the export of the Indian-made foreign liquor and endorsing the rate of duty specified in the permit, and the total amount of duty recovered. One copy of the pass shall be sent to the authority granting the import permit.

40. Export of Rum for Troops—Rum manufactured at a distillery in Rajasthan and intended for Indian troops may be exported to any part of India in accordance with Rule 39.

Provided that it shall be the duty of the Exporter to obtain on the back of the pass a certificate signed by the Commanding Officer of any unit to which the rum is supplied, or any District Commissioner, empowered by the Commanding Officer, or in his absence certifying the receipt of the consignment. The exporter shall produce the pass endorsed with such certificate before the [District Excise Officer or Assistant Excise Officer], as the case may be, who will forward it to the incharge of the distillery within the period specified in the pass.

3. Added by Notification No. 4 (49) F.D.(Ex-Rs. OSR, 64 dated 4-7-1980. Published in Raj. Gaz. 4 (Ga) dated 31-3-89 Page 211.
Export from wholesale shops

41. Pass—(1) Whenever a wholesale vendor exports a consignment of duty paid M.F. Liquor manufactured in Rajasthan to any place in India he shall, at the time of kachipatch, prepare a pass in quadruplicate. He shall send on copy of the pass to the [District Excise Officer or Assistant Excise Officer], of the district of export, one copy to the appropriate Excise Officer of the place of export, one copy to consignee, and hall retain the fourth copy.

(2) The pass shall state clearly (a) the name and address of the consignor; (b) the name and address of the consignee; (c) the exact description and quantity of each kind of foreign liquor despatched under the pass, (d) the route by which it is despatched and (e) the date of despatch.

(3) A separate pass shall be issued in respect of each consignment.

Book Transfer of Duty

42. Book Transfer of Duty—The duty, other than export duty on Indian made foreign liquor manufactured at any distillery in Rajasthan and exported thence on payment of duty (i.e. import duty) of any State of India shall be credited by book transfer to the Government of the importing State annually, after the closing of the financial year.

CHAPTER IV

Transmission and Possession of Intoxicating Drugs

Introduction Notes

These Rules are to be read with Chapter III and IV of the Act containing Sections 11 to 15 and Sections 16 to 27 respectively.

Intoxicating drug—Sulfa-nature of—The definition of an intoxicating drug in S.3 does not show that it means sulfa also. It cannot be presumed without any evidence at Sulfa & Charas are the same thing.

43. Transmission by post—Subject to Rule 44, transmission by post of intoxicating drugs, within, into or out of Rajasthan is prohibited except on behalf of the Government by a Government servant acting bona fide in execution of his duty.

44. Transport through Rajasthan—Transport of any intoxicating drugs from any State in India to another State in India shall be unlawful unless authorized by the Chief Excise Authority of the State from which it is being exported by a pass which has been granted on the condition that the consignment is not broken in transit, carried by specified route to a specified destination and subject to such examination as the Gazetted Excise Officer of Rajasthan may require.

45. Possession of drugs unlawfully obtained—No person shall possess any intoxicating drug in any quantity whatsoever except such as he knows or has reason to believe to have unlawfully obtained.

46. Admixture of drugs—(1) In the case of an admixture of two or more intoxicating drugs, the lowest limit of possession applicable to any such drugs under Section

19 read with the notification for the time being in force under Section 5) shall be deemed to apply to the admixture.

(2) In the case of an admixture of one or more intoxicating drug with any other substance (the other substance (the other substance not being an intoxicating drug) the lowest limit of possession applicable to any such drugs (under Section 19 read with the notification for the time being in force under Section 5) shall be deemed to apply to the admixture.

Provided that where water is added, its weight shall not be taken into account in calculating the weight of the admixture for the purposes of this sub-rule.

CHAPTER IV-A

Import, Export, Transport, Possession, Sale of Denatured Spirit and licenses thereof

11 Introductory Note

These rules are to be read with Chapters III and IV of the Act containing sections 11 to 15 and Sections 16 to 27 respectively.

Spirit—Even if the stuff is 'spirit' unfit for human consumption a case under S.57 can be made out against accused in possession.

Import

46.-(i) By whom—Save upon a limit fixed under Section 14 of the Act, no person other than a licensed whole-sale vendor of denatured spirit [for denatured spirit preparatory] shall import any denatured spirit [for denatured spirit preparatory] in Rajasthan.

(ii) Application for import—A whole-sale vendor of denatured spirit [for denatured spirit preparatory], shall supply to the [District Excise Officer or Assistant Excise Officer] of the district of import in writing specifying—

(a) the name of the distillery, bonded warehouse or bonded laboratory from which the import is to be made;
(b) the name, complete description and quantity to be imported and whether the import is to be in bulk or in bottles;
(c) the route of import and the amount of counterrailing duty to be paid.

A separate application shall be made for each consignment and if the application is in order [District Excise Officer or Assistant Excise Officer as the case may be], shall after checking and correcting the amount of duty entered therein endorse the application with an order directing the applicant to pay the amount, unless there are reasons for rejecting the application.

(iii) Issue of permit—The applicant shall after paying the amount of prescribed countervailing duty and permit fee in case the spirit to be imported is manufactured outside Rajasthan produce the receipt thereof and the application before the [District Excise Officer or Assistant Excise Officer, as the case may be], who shall issue the permit in quadruplicate sanctioning the import by the applicant of denatured spirit [or denatured spirituous preparation] of the kind and quantity to be specified by him in the permit. One copy of the permit shall be given to the applicant, the second copy shall be sent to the appropriate Excise Officer of the State of export and the third shall be sent to the Excise Inspector of the Circle, the fourth shall be retained by the [District Excise Officer or Assistant Excise Officer, as the case may be] for record and for verification, if necessary of the consignment on arrival.

(iv) Procedure on arrival—On receipt of the consignment the importer shall at once notify its arrival to the Excise Inspector of the Circle in which his licensed premises are situated and shall allow him to check the consignment and examine the test samples taken thereof for test.

The importer shall be liable to pay duty on the excess transit wastage, if any claim is made by the State of export thereof. In case, he shall be liable to set off against the amount of countervailing duty [paid] by him on the quantity of denatured spirit used in transit.

(v) Procedure at place of export—The importer shall present his copy of the permit in the Chief Excise Authority of the exporting District who may grant a pass covering the import of the spirit into Rajasthan which shall be returned after the receipt of the consignment is recorded on it by the [District Excise Officer or Assistant Excise Officer, as the case may be], of the District.

Export

46-B. (i) By whom—Save up to a limit fixed under Section 14 of the Act, no person other than a licensed wholesale vendor of denatured spirit [or denatured spirituous preparation] shall export denatured spirit [or denatured spirituous preparation] outside Rajasthan.

(ii) Permit of Export—The exporter shall obtain a permit from the appropriate Excise Officer of the State of import authorising import of denatured spirit [or denatured spirituous preparation] and specifying the quantity to be imported.

Provided that the exporter shall not be required to obtain the said permit where there is no restriction on such import in the State of import.

(iii) Application for pass—The exporter shall then present an application to the District Excise Officer or Assistant Excise Officer, of District specifying—

(a) the name of the consignee,
(b) the quantity of denatured spirit [or denatured spirituous preparation] to be exported.

Transport

46-C. (i) Transport from wholesale vendors premises—Denatured spirit [or denatured spirituous preparation] may be transported from a distillery by licensed wholesale-vendors of denatured spirit [or denatured spirituous preparation] for any quantity provided that a pass has been obtained from the [District Excise Officer or Assistant Excise Officer of the District in whose area the wholesale shop is situated on payment of prescribed duty. The pass shall be issued in triplicate, one copy of which shall be given to the transporter, the second shall be forwarded for verification of the receipt of the consignment to the Excise Inspector in whose jurisdiction the licensed premises for wholesale vend, are situated and the third shall be retained for record.

(ii) Excise Duty—Duty paid denatured spirit [or denatured spirituous preparation] may be transported from the premises of the licensed wholesale or retail licensed vendor under cover of a pass issued by the wholesale licensee who sell the spirit. Such pass shall be in duplicate, one copy of which shall be given to the transporter and the other copy retained by him for record.

(iii) Transport by individual—No pass for the transport of denatured spirit [or denatured spirituous preparation] with the limit or private possession by any individual shall be required.

Possession

46-D (i) Possession by an individual—No person not being a licensed wholesale or retail vendor of denatured spirit [or denatured spirituous preparation] shall possess denatured spirit [or denatured spirituous preparation] in excess of the limit of retail sale, unless, he holds a permit from the [District Excise Officer or Assistant Excise Officer, authorising him to possess the spirit in a larger quantity.


(c) the description of the spirit stating the denominations and their proportion used therein along with the certificate to this effect issued by the Excise Officer in-charge. The application shall be accompanied by the permit of import and a specimen receipt of the excise duty prepaid on the quantity of denatured spirit [or denatured spirituous preparation] to be exported.

(iv) Issue of pass—If the application is in order, the [District Excise Officer] may grant a pass authorising export. The pass shall be in quadruplicate. One copy shall be given to the exporter, second to be forwarded to the Excise Inspector concerned of the exporting State, the third to the officer who granted the permit and the fourth to be retained for record.

(v) Verification of export—The consignment shall be sealed with the departmental seal. On reaching the consignment at the destination, the exporter shall get a certificate on his copy of the pass from the officer of the place of import in proof of the same having reached there and then present the said before the issuing authority.
(ii) Permit for possession—The District Excise Officer may grant permit (a) for:
- The purchase of denatured spirit or denatured spirituous preparations from a wholesale vendor or from a retail vendor, where there is no wholesale vendor and for possession of
- The purchase of denatured spirit or denatured spirituous preparations for private purposes for a quantity in excess of private possession, but not exceeding 18

(b) For the purchase of denatured spirit by hospitals, dispensatories, educational and research institutions for their bonafide use in excess of the limit or private possession on any distiller holding a licence for wholesale vendor any other whole-sale vendor, from retail vendor where there is no whole-sale vendor].

(iii) Possession for specified purposes—Licence for possession and use of
- The purchase of denatured spirit for industrial purposes, or for manufacturing denatured spirit for industrial purposes, or for manufacturing denatured spirituous preparations, if satisfied that there
- The previous sanction of the Excise Commissioner. The licence shall also cover the
- The previous sanction of the Excise Commissioner concerned

46-E. (i) Wholesale vend—Licence for the sale by wholesale of denatured spirit or denatured spirituous preparations by distillers who de
- The previous sanction of the Excise Commissioner may be increased to a suitable applicant a licence which covers the right to
- The retail vend—The quantity, within which sale to all purchasers of
- The previous sanction of the Excise Commissioner shall be deemed to be limited to retail shall be [as fixed under Sec. 14 of the Act]

Rules 46F

CHAPTER V

Licences for Foreign Liquor and Beer

 Introductory Note.

In Chapter VI of the Act, sections 31 to 38 deal with Licences, Permits & passes to be issued under the Act read with various Rules.

In the Rajasthan Excise Rules 1956, the licences of various kinds have been described in the following Chapters—

Chapter — Licence for
V — Foreign Liquor & Beer for wholesale vend
VI — Licence for Retail Sale
VI — Country Liquor & Importing Drugs
Licences are to be granted after following procedures enumerated in the Rules—
(a) Licences by Auction—Chapter VII (Rs. 60 to 77)
(b) Licence under Guarantee System—Chapter VII (Rs. 67-A to 67F)
(c) Licence of payment of lump sum instead of or in addition to duty—Chapter VII-B (Rs. 67-I to 67L)

Chapter VIII of the Rules provides for "Licence & Permit Fees" under rules 68 to 70. The latest notifications have been included in the Chapter.

General provisions as to Licence have been given in Rules 72 to 77 A in Chapter IX of the Rules.

Special Rules—There are special rules on specific subject, please look into these rules hereinafter.

Notifications—There are important notifications on various aspects of licences etc. which are also to be read with these rules. (See Notifications)

Licence Forms—There are prescribed forms for various licences under this chapter. These rules have been appended to these rules.

"Bottling"—What is?—It is a process of sale—Liquor is to be bottled under a licence and such a licence has been obtained by the petitioner for the purpose of sale of liquor meant for human consumption, where by it has been prescribed that will be the strength of a particular quality of wine and what will be its colour and what quantity will it be sold and what will be its price. The Distilleries Rules 1976 under
Licence for wholesale vend

2[47. Whole Sale vend licences.—(1) Licences for the wholesale vend of foreign
juice and beer shall be of four classes:
(a) For wholesale vend by manufacturers to Rajasthan State Beverages Corporation
Limited;
(b) For wholesale vend by Rajasthan State Beverages Corporation Limited to
wholesale vendors;
(c) For wholesale vend by wholesale vendors to retail vendors; and
(d) For wholesale vend by manufacturers of wine for its own wholesale vend &
other wholesale vendors;

Provided that manufacturers holding licence under clause (a) may sell draught beer
d from manufacturers holding licence under clause (d) may sell wine, directly to retail on
bars (unless licensee on written consent of the District Excise Officer concerned.)

2[(2) Wholesale licences under sub-rule (1) shall be granted by Excise Commissioner
such form as may be specified by the State Government.

(3) A licensee holding a licence under clause (b) of sub-rule (1) covering any
strict or districts shall hold a licence for the wholesale sale of foreign liquor for each
strict or districts, unless the Excise Commissioner has given a special sanction for such
sale licence.

(4) Notwithstanding anything contained in this rule, licence for wholesale vend
traders or dealers of foreign liquor bottled in foreign countries to wholesale vendors
may be granted by Excise Commissioner on such terms and conditions as State Government
may specify.

Licence for retail Sale

48. Who may grant— Subject to the provision of Rule 47 (3) and subject to the
her provisions of these rules the following kinds of licences for the retail sale of foreign
juice may be granted by the District Excise Officer concerned with the previous sanction
the Excise Commissioner.

(a) Shop licences
(b) Hotel and Dak Bungalow licences
(c) Restaurant or Hotel Bar licences.

Rajasthan Excise Act [Rule 47-48


1[(cc) Club bar licences]
(d) Railway Refreshment Room or Dining Car Licences.
(e) Canteen Tenant Licences.
(f) Occasional licences.
(g) Licences for the sale of tonic and medicated wine.

Explanation— Subject to Rule 47 (3), [grant of the occasional Licences and] renewal
of any of these licences does not require the previous sanction of the
Excise Commissioner.

49. Shop Licences.—(1) Shop Licences for the retail sale of foreign liquor shall
be of two classes as described below—

(a) for retail sale, for consumption on the premises, and
(b) for retail sale for consumption "off" the premises only.

(2) A licensee holding a licence for retail sale for consumption "off" premises shall
not allow the consumption of foreign liquor on his premises and shall serve only in original
sealed bottles.

50. Hotel Licences.—Hotel Licences for retail sale of Foreign Liquor shall cover
for consumption on the premises and to serve Liquor and Beer to all customers and
visitors who visit such Hotel.

51. Restaurant or Hotel Bar Licences—Restaurant or Hotel Bar Licences shall
cover only retail sale of foreign liquor to persons served with tables at the restaurant
or note, for consumption on the premises and the licensee shall not sell foreign liquor
for any other purpose or to any other person.

51-A. Club Bar Licences.—A club which is duly registered may be granted club
bar licences and such licence shall cover only retail sale of foreign liquor by the club
to its bonafide members for consumption in the club premises and such club shall not
sell foreign liquor for any other purpose or to any other person who is not its member.

52. Railway Refreshment Room or Dining Car Licences—Railway Refreshment
room or Dining Car Licences for retail sale of foreign liquor shall cover retail sale for
the consumption on the premises to bona fide Railway passengers either in course of
transit by train or asking a temporary halt at the Railway Station at the beginning or
end of journey and the licensee shall not sell foreign liquor to any other person or for
any other purpose.

53. Canteen Tenant Licences—Canteen tenant licences shall be issued only to
person running a Military canteen established under the Canteen Tenants system and

Udaipur Distillery Co. Ltd. V. State of Rajasthan, 1996 (2) WLC [Raj] 413 (DB)
Amended by GSR 52 dated 11-2-2004-RG-Page 87.
Subs, vide R.G. IV-C, (4) dt. 16-10-69.
shall cover retail sale for consumption on premises or by bona fide members of the Armed Forces of Union of India served by the Canteen and the licensee shall not sell foreign liquor to any other person or for any other purpose.

54. Occasional licence—In respect of the entertainments of temporary nature, occasional licence may be granted for a period not exceeding 30 days and for such hours and on such terms and conditions as may be specified in the licence for:

(a) Consumption of foreign liquor on the payment fee @ Rs. 1000/- per day (when there is no sale and liquor is served);

(b) Sale of foreign liquor on payment of licence fee @ Rs. 5000/- per day. [Provided that a person having occasional licence can lift draught beer from a brewery notwithstanding the provisions of rule 47 of these rules.]

55. Licence for the retail sale of tonics and medicated wines—Licences for the retail sale of foreign liquor in the shape of tonics and medicated wines shall be granted only to bonafide chemists and druggists, and shall cover the retail sale of tonics and medicated wines containing not less than 20% and not more than 42% of proof spirit.

56. Rectified spirit—Licences for the sale of rectified spirit shall be granted only by the Excise Commissioner and shall be granted only to chemists, medical practitioners and persons-in-charge of Laboratories.

CHAPTER VI
Licences—Country Liquor and Intoxicating Drugs

57. Retail Licence—general—Licences for the retail sale of accessible articles may be granted either (1) by auction in accordance with the procedure described in the Chapter on auction, or

(2) On commission basis, or

(3) Any other system sanctioned by the Government from time to time [for instance he guarantee system]

COMMENTARY

R.57 (3) Meaning of words “any payments there at”—Wide enough to include payments under these licences and held that State Government is perfectly justified in recovering such payments in accordance with terms of contract. See S.50 and also 6


Rajasthan Excise Rules, 1956

Rule 57-61

Guarantee System—(R.57 & 67 A)—Permissibility of rebate—Running Contract—Licensee is held not entitled to retain the benefit of rebate on stock remaining unsold at the close of licence for 1977-78 and he is not entitled to rebate an additional quantity of liquor lifted for licence period, 1978-79—Licensee is not entitled to additional rebate (Writ Petition dismissed).

Applicability of Section 30-A—Liability of interest under conditions of Government contract for delayed payment—Principles of natural justice not followed—Bank guarantee delayed— Held, liability of interest is as per terms of the contract and not as per Section 30-A of the Act. After availing benefits, petitioners, held, cannot assail condition No. 175 of the contract providing for interest for delayed period. However, as the demand notice issued without giving opportunity of hearing, is liable to be quashed and in such case set aside—Principles of natural justice violated. (Paras 17-19) (Petition partly allowed).

58. Licensing Authority—Licences for the retail sale of excisable articles shall be granted by the [District Excise Officer] concerned in accordance with the procedure described in these rules or any other system as may be sanctioned by Government and shall authorise the licensee to purchase such articles from the warehouse to which ship is attached or, with the permission of the [Excise Commissioner] from any other warehouse in Rajasthan provided the transport of excisable articles to his shop is covered by an entry in his pass book signed by the officer-in-charge of the warehouse and is effected with in the period mentioned in such entry.

COMMENTS

Termination of Licence premature due to mistake—Claim filed—District Excise Officer, designated as Licensing Authority not incompetent to terminate Licence. Maturity date shown wrong in Licence by mistake. Held, does not give any right to licensee.

59. Prohibition against admixture—A licence for retail sale of Bhang or Ganja shall not entitle the licensee to prepare the preparations or admixtures thereof. A separate licence will be given for such preparations and admixture.

CHAPTER VII
Licences—Procedure for Auction

60. Licences by auction—Licences may be granted by auction in cases where any of these rules provide for the grant of the licences in such manner in such cases. The procedure prescribed by this Chapter shall be followed.

61. Rules for auction—(1) [The District Excise Officer or any other Officer authorised by the Excise Commissioner] shall be the presiding officer for auctions.

1. Panay Lal & Ors. V. State of Rajasthan. 2002 (1) WLC (Raj) 358.
2. Chanan Singh V. State of Rajasthan & Others. 2003 (3) WLC (Raj) 584.
4. MJ, Amar Kumar V. Board of Revenue 1996 (1) WLC 136 (Raj).
Rule 63-67] Rajasthan Excise Rules, 1956

1[(5) [Delet]
2] The State Government hereby prescribes the following procedure for registration of contractors with the Excise Department; namely—
1. Those persons who have applied for registration with the Excise Department on the date of this notification, shall be entitled to have been registered under this Notification.
2. The person(s) applying for registration shall be otherwise eligible to be a contractor under Rajasthan Excise Act, 1950 and rules made thereunder.
3. The Excise Commissioner, Rajasthan, Udaipur shall be competent authority to grant registration.

\section*{COMMENTARY}
Registration of Contractors—Conditions Prescribed—Notification No. F-1 (91F), EX-94 dated 23-12-1994 has been published in Raj Gaz. ED-I (IV-C) (1) dated 13-1-95 on page 412 (2) prescribing procedure and conditions for registration of contractors in the Excise Department. Please refer to the notification under caption "Registration of Contractors" in the Rules, supra.

64. Copies of notices to be made available—A copy of the notice issued for an auction shall be made available before the commencement of the auction for the inspection of the intending bidders.
65. Register of shops to be kept—Every District Excise Officer shall keep a register of shops auctioned by him.
66. The adoption of a method other than auction—(1) The Excise Commissioner may by his discretion direct the adoption of a particular case of method other than auction for the grant of a licence.
(2) In particular, when a licence is cancelled under Section 34 of the Rajasthan Excise Act, 1950 (Act 2 of 1950), a fresh licence for the unexpired period or any part thereof may be granted by the Deputy Excise Commissioner, to grant the tender, re-auction or commission basis subject to confirmation by the Excise Commissioner.
(3) In case a licence is suspended under Section 34 of the Rajasthan Excise Act, 1950 (Act 2 of 1950) the District Excise Officer may grant a fresh licence for the unexpired period or any part thereof may be granted by the Deputy Excise Commissioner, to grant the tender, re-auction or commission basis subject to confirmation by the Excise Commissioner.
67. Delegation of powers—The Excise Commissioner may delegate all or any of his powers under this Chapter to any subordinate officer.

\section*{COMMENTARY}
Negotiations for tender—The Commissioner, Excise is held competent to enter into negotiations and petitioner has a right to participate in such negotiations.
R. 67. No concluded contract where tender was temporarily accepted. Non-compliance of Conditions: Held, upon non-payment to withdraw the acceptance of tender.

Auction System—Meaning of "Fixed Fee"—The term "Fixed Fee" is a fee determined by the Excise Commissioner in lieu of "Licence Fee".

2. The person(s) who have applied for registration with the Excise Department, Rajasthan in the prescribed manner shall be entitled to bid at auction.
3. The person(s) who have applied for registration with the Excise Department, Rajasthan in the prescribed manner shall be entitled to bid at auction.
4. The person(s) who have applied for registration with the Excise Department, Rajasthan in the prescribed manner shall be entitled to bid at auction.
Licence Fee is neither a tax nor a fee. It is held to be a consideration for granting privilege and forms part of excise revenue. It is neither a trade nor a business. It is at a fundamental right of a citizen to deal with in liquor. Imposition of high rate of excise fee is meant to eliminate or discourage large number of enthusiastic citizens.  

Auction-Acceptance or rejection of highest bid. It is option of Government and not open to challenge, as the government is free to adopt any other method for sale of privilege. This power is held to be unrestricted. It undoubtedly includes the power to sell the privilege in question by private negotiations. Cancellation of the highest bid and giving it to the next highest offer (bid) is held to be not proper by the Supreme Court.  

CHAPTER VII-A  
Licence under the Guarantee System  

INTRODUCTORY NOTE  

(a) Grant of licences under Guarantee & Exclusive Privilege system—Recover guaranteed amount held not excuse duty (Sec. 24.28 & 30) of Raj. Excise Act.  

There is no levy of excise duty in enforcing the payment of the guaranteed sum as stipulated sum mentioned in the licences, for these reasons:  

(i) Firstly, the licences were granted after offering being accepted in accepting tender or auction bid.  

(ii) Secondly, the stipulated sum represents the consideration or price for the exclusive privilege of vending liquor.  

(iii) Guarantees agree to pay the sum what he considers equivalent to the value of right.  

(iv) It has no relation with the manufacture or production of any accessible article except that a licence to sell is provided.  

(v) Excise duty is levied on manufacture and not on sale of liquor. This stipulated price is not excise duty.  

(b) Lump sum amount not to be confused with issue price. Both are different. lump sum amount stipulated to be paid under an agreement of licence is not equivalent to the issue price. The issue price is payable only when the contract is delivered. The particular quantity of specified value of liquor. The issue price rates are ascertainable bibles drawn by the contract and does not pertain to undrawn articles. The issue price is the price at which liquor is to be sold to the liquor contractor. The contractor then pays the total sum as price which already includes the excise duty in respect which they have no direct liability. The price of goods necessarily includes different components but price a buyer pays is different from dues or taxes payable by the manufacturers. The incidents of all components taxes and duty pass on to the consumers.  

Inform of sige word price. What the consumer pays is the price of the goods and not the antecedent duties and taxes. The permission given to the contractor in the matter of his obligation is to pay the excise duty component of the issue price. The excise duty component of the issue price is, therefore, only a measure of the quantum or extent of the concession or the remission to be given to the liquor contractor. The lump sum amount paid for the exclusive privilege is not to be confused with the issue price. In essence, what is sought to be recovered from the contractor is the short fall occasioned on account of failure on the part of the contractor to fulfil the terms of the contract. The contractual obligation is not dependent on the quantum of the liquor sold by them which is relevant only for the purpose of remission to be earned by them under the licence. An adjustment by way of reduction in the contractual liability of the contractor to the extent of specified and quantified portion of the issue price is purely a measure of concession or remission and is a method of calculation. The quantum of adjustment only arises when liquor is to be drawn otherwise formula of remission is out of picture.  

(c) Guarantee system and exclusive privilege system compared. Under the guarantee system, the licence guarantees the payment of the specified value of the liquor in a particular financial year which is called under this system the amount of guarantee where as under the exclusive privilege system, the licence guarantees the payment of such lumpsum instead of or in addition to the excise duty as it determined by the Excise Commissioner and subject to such other terms and conditions as may be laid down by him.  

Under the guarantee system the licence is required to pay the value of the liquor to the extent to which the guarantee the payment and the value of the liquor contains certain portion which can easily be attributed towards the payment of excise duty as a licensee pass that amount by drawing liquor from the ware house of the State Government and paying the issue price thereunder. Under the exclusive privilege system, the component of the issue price which is attributable to payment of excise duty is adjusted towards the guaranteed amount which is required to pay during a financial year under the licence issued under Chapter VII-B of the rules which means that the licence under the exclusive privilege system guarantees the payment of the excise duty to the extent to lumpsum is determined by the Commissioner, and for the payment of that guaranteed amount he has to purchase from the bonded warehouse of the State Government liquor of such value which may go to pay the entire amount guaranteed by him under that system.  

A close comparison of the two systems that the exclusive privilege system is nothing but an old wine in a new bottle. Under the guarantee system the licence is required to pay the amount guaranteed by him in the shape of the value of the liquor where as under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under Section 30 of the Act and with Rule 67 of the rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.  

Relation between Excise duty & Issue Price- demand for payment of short-fall guarantee amount cannot be realised by State Government—[Reversed in 1974, WLN 7 DB].

In demand raised under the first system to pay the value of the liquor, which is not been drawn, does contain therein the excise duty which is an indirect tax and under the provisions of the law cannot be realised unless the liquor is drawn a license under the terms of his licence from a ware house. Under the exclusive privilege system, whatever is demanded from the license to complete the guarantee amount is thing but excise duty and such a duty cannot be charged unless the licensee has returned the liquor under the terms of his license.

Guaranteed Amount not demand of excise duty-Guaranteed amount can be manifold under contract—Merely because the issue prices had a component of excise tax, it will be wrong to say that demand for guaranteed amount or deficiency there was a demand for excise duty [ILR (1972) 22 Raj. 84 reversed].

Validity of Licence, when cannot be challenged by way of writ-petition—in the same case, the petitioners worked under the license for the full term and excluded his services. When non-compliance of the terms of such license resulted in inconvenience of the petitioners, the petitioners could not challenge its validity.

Forfeiture of Earnest Money—Rs. 67-L, 67 KK, 67 (3), (9) and (10) and 95. Tender is itself contains conditions for forfeiture of earnest money, if tenderer does not remain and by his tender—This is held to be statutory condition. Held, the auction bidder cannot claim refund of earnest money.

Guarantee System—[Rule 57 & 67 A] Permissibility of Rebate—Running contract sense is held not entitled to retain the benefit of rebate on stock remaining unsold at close of licence for 1977-78 and he is not entitled to rebate on additional quantity of stock lifted by licence period. 1978-79—Licence is not entitled to additional rebate (Writ dismissal).

67-A. Licence under the guarantee system—Licences for retail shops of country liquor in the guarantee system may be granted to persons guaranteeing to draw from Government warehouse and sell, in a financial year or part thereof country liquor of specified value, hereby called the “amount of guarantee”. The purpose of the above rule shall be the total issue price at a Government warehouse calculated at the rate of such price current on the first day of January preceding the financial year to which the guarantee relates.

(2) Licences under the guarantee system may be granted either—
(a) by inviting tenders, or
(b) by auction, or
(c) by negotiation.

(3) The amount of guarantee shall be—


Rule 67A-67B

(a) where a licence is granted by inviting tenders- the amount of the tender accepted for the grant of the licence and
(b) where a licence is granted by auction- the amount of the bid accepted for the grant of the licence and
(c) where a licence is granted by negotiation the amount determined by the Excise Commissioner and accepted by the licensee.

67-B. Procedure for Tenders—(a) in cases in which tenders are to be invited the grant of licence for a shop, sealed tenders for the amount of guarantee for the period of the licence shall be invited by the Excise Commissioner.

(b) A tender notice shall be issued by the Excise Commissioner at least 15 days before the date fixed in the notice for the receipt of tenders. The time up to which the tenders shall be received on the fixed date shall be indicated in the notice. The tenders shall be submitted in the form to be obtained from the District Excise Officer on payment of such fees as may be fixed by the Excise Commissioner. Tenders received after the prescribed time and date shall not be valid and shall not be taken into consideration.

[4][e] The Excise Commissioner shall specify the minimum amount of guarantee for each shop.

[Provided that where tenders are invited, or, negotiation and auction is made in respect of a group of shops, the minimum amount of guarantee for such group as a whole may be so specified];

(b) Every tender shall be accompanied by such earnest money as may be indicated by the Excise Commissioner with the approval of the State Government.

(d) Tenders shall be received by [District Excise Officer] concerned or shall send them to the [District Excise Commissioner] concerned. They shall be opened by the Deputy Excise Commissioner on the date and at the time to be fixed by him in the presence of such tenders as may be present.

(e) Every tender shall be initialed by the Deputy Excise Commissioner, and the amount of tender shall also be written on the tender form by the Deputy Excise Commissioner in his own hand, as soon as the tender is opened.

(f) All tenders received shall be recorded in the register in the form laid down by the Excise Commissioner.

(g) The Deputy Excise Commissioner shall be the authority competent to accept or reject any tender. He may accept the tender other than the highest without assigning any reasons therefor. Where the guaranteed amount offered by any tenderer is acceptable to the Deputy Commissioner but such an amount has been offered by more than one tenderer and one of them is existing licensee for the shop under the guarantee system, licence for the shops shall be granted to such existing licensee. If none of the tenderer offering the same amount to such a licence, a decision shall be taken by the Deputy Excise Commissioner by drawal of lots, in the presence of the tenderers concerned.

(h) Notwithstanding anything contained in Rule 62, the decision of the Deputy Excise Commissioner accepting any tender shall be final, provided that if the tender accepted by the Deputy Excise Commissioner is not the highest tender for a shop or a group...
The Rajasthan Excise Act [Rule 67B-67E]

shops, as the case may be, the Deputy Excise Commissioners decision shall be subject
certification by the Excise Commissioner. The Excise Commissioner may either confirm:
decision of the Deputy Commissioner or require that the highest tender shall be
teed or that the shop or the group of shops, as the case may be, shall be put to
An auction

(1) Acceptance of tender shall be communicated to the successful tenderer in the
of the application by the Excise Commissioner, & the tenderer shall be required to furnish
security in cash within the time indicated in this communication

(2) If the required security is not furnished with the time indicated the acceptance
of the tender may be revoked by the Deputy Excise Commissioner and the earnest money
posited by the tenderer with the tender shall in the event of such revocation be forfeited
State

67.C. Procedure for auction—(1) Subject to such general or special directions may
be issued by the Excise Commissioner from time to time the [District Excise
Clerk] may but the licence for a shop to auction under the guarantee system [on the
as of minimum guarantee as may be specified by the Excise Commissioner for that]

(2) In such an auction the Presiding Officer shall call bids for the amount of guarantee
the period of the licence

67-D Procedure for tenders or auction—Clauses (1) and (3) to (9) of Rule 61 and
62 to 66 shall, as far as may be, be applicable mutatis mutandis in cases of grant
licence under the guarantee system by inviting tenders or by auction

67-E. Grant of licence by negotiation—(1) Subject to such general or special
actions as may be issued by the Excise Commissioner from time to time the [District
Excise Officer], before the commencement of a financial year make an offer to the licence
shop in the form laid down by the Excise Commissioner, for the grant of the licence
the ensuing financial year, indicating there in the amount of guarantee and the conditions
the licence. Such an offer shall give not less than 90 days time to the licensee, with
which he may communicate to the [District Excise Officer] his acceptance or otherwise
be offer in the form laid down by the Excise Commissioner. The acceptance shall be
complied with proof of payment of such security and in such manner as may be
ated in the offer

Provided that if the licensee fails to communicate his acceptance with the aforesaid
90 days or if the acceptance is not accompanied by proof of payment of security
foreseen, such offer shall be deemed to have been rejected by him

Provided further that where any of the other two methods, namely, invitation tenders
under Rule 67-B or auction under Rule 67-C has already been adopted before
offer is made under this rule to the licensee of a shop, the minimum time-limit of
days referred to above shall be reduced to five days

(2) Notwithstanding anything contained in Rule 67-C, but subject to such general
special directions as may be issued by the Excise Commissioner from time to time.

Rule 67-E-67-F

(i) the amount of guarantee in the offer made to such other person shall not
be less than the amount determined by the Excise Commissioner; and

(ii) the minimum time-limit of ten days referred to in sub-rule (1) shall not apply
to an offer under this rule

(3) On receipt of the acceptance of the offer from the licensee or any other person
referred to in sub-rule (2), as the case may be the [District Excise Officer] shall, subject
to such general or special directions as may be issued by the Excise Commissioner, grant
the licence

67-F. Licence for part of financial year—Where a shop is running under a system
other than the guarantee system, or where the licence for a shop has been cancelled
or is otherwise terminated during the course of a financial year, the Excise Commissioner
may direct that such a shop be put to auction under the guarantee system for the remaining
part of the financial year.

67-G. Licence for group of shops—Nothing in these rules shall prevent a group
of shops being put to auction under the guarantee system on tenders being invited,
or to an offer under Rule 67-B being made, for a group of shops jointly.

67-H. Adoption of various methods for grant of licence—Nothing in these rules
shall prevent any of the methods, namely, invitation of tenders under Rule 67-B or auction
under Rule 67-C, or negotiation under Rule 67-1, being adopted for grant of licence on
system for various shops, or any of these methods being tried in any other for
the grant of licence of a shop.

2CHAPTER VII-B

Licence on Payment of lump sum instead of or in addition to duty

67-L. Licence on payment for exclusive privilege—(1) Licence for exclusive
privilege of selling country liquor by retail in any local area under Section 24 may
be granted on condition of payment of such lump sum instead of, or in addition to excise
duty, as may be determined by the Excise Commissioner and subject to such other terms
and conditions as may be laid down by him.

(2) Licence for exclusive privilege of selling by retail country liquor at a shop
may be granted either—

(a) by negotiations with the existing licensees;

(b) offer under sub-rule (1), or where no offer is made under sub-rule (1) on account
of any general or special direction of the Excise Commissioner, make an offer to any
other person for the grant of a licence on the same terms and conditions as those
contained in sub-rule (1);

(c) by auction;

(d) by inviting sealed tenders;

(e) by negotiations with the third parties (persons other than existing licensees);

(f) by following any other system sanctioned by the Government from time to time.

3 Subs. vide GSR-52, dt. 30-3-1972 published in Raj. Gaz. FO, Part IV-C. (I), dated
30-3-1972 P 87.
4 Amended by GSR.97, Notification No F-4 (44) FDI/Ex 2005-Pt-1 dated 28-2-2006.]
Rule 67K-K. Procedure for invitation of sealed tenders—(1) Subject to such general or special directions as may be issued by the Excise Commissioner from time to time, licences under rule 67-I may be granted for any area by inviting sealed tenders.

(2) In such case, tenders will be invited by the Excise Commissioner for the amount of sum payable for exclusive privilege instead of or in addition to excise duty as may be directed by the Excise Commissioner.

(3) A tender notice shall be issued by the Excise Commissioner at least 15 days before the date fixed in the notice for receipt of tenders. The time up to which tenders shall be received on the fixed days shall be indicated in the notice. The tenders shall be submitted in the form to be obtained from office of any District Excise Officer/Excise Commissioner on payment of such fee as may be fixed by the Excise Commissioner. Tenders received after the time and the date fixed in the notice shall not be valid and shall not be taken into consideration.

(4) The Excise Commissioner shall specify minimum amount of sum payable for grant of exclusive privilege in case of each shop and no tenders less than this amount shall be acceptable.

(5) Subject to the written sanction of the Excise Commissioner, licence under this rule may be granted in respect of group of shops jointly.

67J. Procedure for auction—(1) Subject to such general or special directions as may be issued by the Excise Commissioner from time to time, the District Excise Officer may put the licence under Rule 67-I for any area to auction.

(ii) In such an auction the Presiding Officer shall call bids for the lump sum payment of exclusive privilege payable instead of, or in addition to excise duty, as may be directed by the Excise Commissioner.

(iii) Clauses (1) and (3) to (9) of the Rule 61 and Rules 62 to 65 shall, so far as may be, be applicable mutatis mutandis to such auctions.

(iv) Subject to the written sanction of the Excise Commissioner, licence under this rule may be granted in respect of a group of shops.

Subs. by Amending Rules vide GSR 52, dated 30-4-1972.

Deleted by the Notification published in Raj. Gaz. ED-Part IV-C dated 1-3-1963.


Rules 67-K and 67-C were inserted by Raj. Gaz. EX-no. Part IV-C dated 1-3-1967.

(10) If the required security is not furnished within the time indicated, acceptance of the tender may be revoked by the Excise Commissioner and the earnest money deposited by the tenderer with the tender shall in the event of such revocation be forfeited to the State.

(11) On the cover of the sealed envelope containing the tender submitted, shall not be required to indicate amount or name of shop for which tender is being submitted[167-L]. Adoption of any other method—[1]^*[2] The Excise Commissioner may at his discretion grant licence under Rule 67-L for any area by negotiation of any third party.

Provided that in making negotiations with third parties highest bidder if any shall also be given a chance to make a higher offer [for highest tenderer unless he is debarred from holding licence under any provision of the Act or Rules or has rejected he offer under sub-rule (2) of Rule 67-L.]

◊ COMMENTARY ◊

1. No fundamental right available to a citizen—Privilege of selling liquor—Contractual obligation—Where all formalities of tender completed, the contract, was concluded and exclusive privilege granted—Action of Excise Commissioner was held not unjust, nor unfair, nor arbitrary, nor malafide, nor against public interest. Held, it does not contravene Art. 14 of the Constitution. Scope of judicial scrutiny in the matter of government policy is held to be limited.[4]

2. Meaning of "Industrial purpose"—The expression Industrial purpose is a wider term and not related merely to use for production. Where rectified spirit may not be used for production of oil but used for mixing, such use cannot be called research by any means for no research is carried out in laboratory. Such testing is covered by the term, Industrial purpose.[5]

3. Citizen has no fundamental right Validity of high licence fee examined (Rule 67-L)—To deal with sale etc. of liquor is not a trade or business, but it is a privilege granted under a licence alone. Licence fee in fact is neither a tax nor a fee for services rendered, but is a consideration for granting privilege and forms part of excise revenue.[6]

4. Privilege of selling liquor—Citizen has no fundamental right—Submission of tender and completion of formalities by petitioner—Commissioner accepting the same—interpretation of terms and conditions of contract concluded—Exclusive privilege to vend liquor not parted with State in respect of certain villages of Abu Road—Policy of State or granting exclusive privilege of vendng liquor in favour of G.S.M. is neither unjust, nor unfair, nor arbitrary, nor malafide, nor against public interest and does not contravene Art. 14 of the Constitution; it protects weaker sectors from exploitation.[7]

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The expression 'In case licence for any particular area is not granted by adoption of method prescribed in Rule 67-L or 67-K, deleted by G.S.R. 52 dated 10-3-1972 pub. in Raj. Gaz. Ext. Ord., Part IV-C (1) dt. 30-3-1972 p. 287.

Ins. by ibid.

Anil Kumar Sardar Kumar v. State of Rajasthan, 1993 (1) WLN 313.


Panditji Bar-om Restaurant, Govt. of A.P., 1979 (2) Andhra WR 293.

Anil Kumar Sardar Kumar v. State of Rajasthan, 1993 (1) WLN 927.

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5. Highest offer cancelled and next highest offer accepted, Held, it is not proper.[1]

(See Rule 67 B)

6. Licence-Condition No.1 (Ga) and 22(kha)—Held, not onerous, arbitrary or unreasonable and do not contravene S.29 of the contract Act.[2]

7. Tender—Negotiation—Powers of Excise Commissioner—Under the specific situation of the instant case, the Excise Commissioner is competent to enter into negotiations with the third parties and the petitioner has a right to participate in such negotiations.[3]

8. Rectified spirit for industrial use held not exisable article—The rectified spirit imported for industrial use is not an exisable article under S.3(4) of the Act and the State Legislature or the State Government is not entitled to impose and levy excise duty on such rectified spirit.[4]

9. Refund of security deposit—Demand made by licensee could not be met hence, he was entitled to refund of security amount. No interest could be paid when the same was not claimed in the notice.[5]

10. Breach of Contract(R.67-KK)(8)(10)—Tender for licence for sale of Liquor—Once the tender offered by the tenderer is accepted by the competent authority, a complete or concluded contract comes into existence and if the tenderer thereafter backs out or fails to perform the conditions of the tender, his act amounts to a breach of contract and he is liable to make good the damages which the other party sustained i.e., the State has suffered on account of giving the contract to some other party so as to also fulfilling the subject matter of contract.[6]

CHAPTER VIII

Licences and Permit Fees

[168. Fees and terms for certain licences—The under mentioned fees and terms are prescribed for the following kinds of licences—

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Description of Licences</th>
<th>Terms of Licences</th>
<th>Fee for the Term or Part thereof</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(In Years)</td>
<td>(in Rupees)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>(a)</td>
<td>Licence for possession and use of rectified spirit and absolute alcohol for the purpose of Research Laboratory</td>
<td>Ten Years</td>
<td>1000.00</td>
</tr>
<tr>
<td>(b)</td>
<td>Licence for possession and use of rectified spirit and absolute alcohol for educational, medical &amp; Scientific purposes in Educational Institutions, Hospitals and diagnostic Laboratories</td>
<td>Ten Years</td>
<td>25000.00</td>
</tr>
</tbody>
</table>

3. Malathra v. State, 1989 (2) WLN 337
4. M/s Hindustan Copper Ltd. v. State of Rajasthan 1989 (1) RL 632 (DP)
5. 1986 WLN (LGC) 392
<table>
<thead>
<tr>
<th>3) Licence for possession and use of rectified spirit and absolute alcohol for industrial purposes.</th>
<th>One Year</th>
<th>15,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>3a) Licence for possession and use of rectified spirit and absolute alcohol for testing laboratories in commercial enterprises. (Provided consumption is limited to 250 ltrs. per annum)</td>
<td>One Year</td>
<td>12,000.00</td>
</tr>
<tr>
<td>3b) Licence for the wholesale vend of rectified spirit and absolute alcohol in bond by persons who are not manufacturer.</td>
<td>One Year</td>
<td>2,000.00</td>
</tr>
<tr>
<td>3c) Licence for retail sale of rectified spirit by Chemists and medical practitioners.</td>
<td>Ten Years</td>
<td>2,500.00</td>
</tr>
<tr>
<td>(6-a) Application for grant of No objection certificate for (a) Distillery/brewery</td>
<td>One time levy</td>
<td>1,00,000.00</td>
</tr>
<tr>
<td>(b) Bottling plant</td>
<td></td>
<td>50,000.00</td>
</tr>
<tr>
<td>(6-b) Permission for construction of (a) Distillery/brewery</td>
<td>One time levy</td>
<td>5,00,000.00</td>
</tr>
<tr>
<td>(b) Bottling plant</td>
<td></td>
<td>1,50,000.00</td>
</tr>
<tr>
<td>(6-c) Licence to work (a) Distillery with permission to bottle IMFL (b) Bottling plant (c) Bottling plant</td>
<td>One year</td>
<td>12,00,000.00</td>
</tr>
<tr>
<td>(d) Bottling plant</td>
<td></td>
<td>5,00,000.00</td>
</tr>
<tr>
<td>(6-d) Permission for addition/alterations during a financial year in (a) Distillery/brewery</td>
<td>Five Years</td>
<td>22,500.00</td>
</tr>
<tr>
<td>(b) Bottling plant</td>
<td></td>
<td>1,00,000.00</td>
</tr>
<tr>
<td>6) Licence for manufacture and wholesale vend of rectified spirit absolute alcohol &amp; denatured spirit.</td>
<td>Five Years</td>
<td>33,850.00</td>
</tr>
<tr>
<td>7) Licence for the sale of denatured spirit &amp; denatured spiritious preparations.</td>
<td>Five Years</td>
<td>13,500.00</td>
</tr>
<tr>
<td>8) Licence for the retail sale of denatured spirit and denatured spiritious preparations</td>
<td>One Year</td>
<td>20,000.00</td>
</tr>
</tbody>
</table>

---

3. Added by S.O.105 dated 9-7-98.

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**Rule 68-69**

<table>
<thead>
<tr>
<th>Licence fee per bulk litre (in Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Liquor (excluding IMFL and Indian made beer)</td>
</tr>
<tr>
<td>Indian Made beer</td>
</tr>
</tbody>
</table>

| Licence for sale of foreign liquor shall be as follows: |

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Kind of Licence</th>
<th>Licence fee per bulk litre</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wholesale</td>
<td>20.00</td>
</tr>
<tr>
<td>2</td>
<td>Retail</td>
<td>50.00</td>
</tr>
</tbody>
</table>

Provided that:

(i) in respect of wholesale licences granted to Canteen Stores Department a privilege fee amounting to Rs. 30.00 lac shall be charged in addition to the annual wholesale licence fee prescribed for licences under rule 47 (1) (b).

(ii) a sum of Rs. 2,500/- shall be charged from the commanding officer of the Armed Forces of the Union of India Stationed in Rajasthan and Commandant of the Border Security Force personnel for holding retail off licence."
Rajasthan Excise Act  [Rule 69

1(2)(a) The fee for a licence to bottle country liquor, foreign liquor, beer and drought shall be as under:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Kind</th>
<th>for self brand manufacturing (Rs. per bulk litre)</th>
<th>For bottling under franchise arrangements (Rs. per bulk litre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Country Liquor</td>
<td>2.00</td>
<td>2.00</td>
</tr>
<tr>
<td>2</td>
<td>IMFL</td>
<td>2.40</td>
<td>2.40</td>
</tr>
<tr>
<td>3</td>
<td>Beer</td>
<td>1.50</td>
<td>2.30</td>
</tr>
<tr>
<td>4</td>
<td>Drought Beer</td>
<td>1.00</td>
<td>1.50</td>
</tr>
</tbody>
</table>

1(b) The fee to bottle heritage liquor shall be Rs. 0.50 per bottle whether quartz containing 750 ML, Pint, Nip or other miniature size.

1(3) Every manufacturer of Country Liquor, IMFL and beer shall have to get labels respective of size, viz. quart, pint or nip) of brands intended to be sold or manufactured Rajasthan, approved & recorded with Excise Commissioner and a fee of Rs. 2,500/- shall be payble per brand per year or part thereof for this purpose.

The State government being of the opinion that reasonable grounds exist for regarding so, hereby exempts, w.e.f. 1-4-2001

(i) such wholesale licensees who have been granted licence under rule 47(1)(a) the Rajasthan Excise Rules, 1956 and who manufacture IMFL/Beer outside Rajasthan on the payment of fee prescribed under Rule 69(1) of the said rules.

Exemption in bottling fee for exporting Quantity—
For B.T.D. 75% exemption on export proof - w.e.f. 1-4-2004
For IMFL 75% exemption on export proof - w.e.f. 26-4-2006
For C.L. 75% exemption on export proof - w.e.f. 1-4-2004

69A. The fee for a licence for retail sale of country liquor (under guarantee scheme) shall be as under—

License fee per year or part thereof

When guarantee amount for the year—

(1) does not exceed Rs. 15,000  0.20
(2) exceeds Rs. 15,000 but does not exceed Rs. 50,000  0.60
(3) exceeds Rs. 50,000 but does not exceed Rs. 2,00,000  1.00
(4) exceeds Rs. 2,00,000  1.50

Substituted by No.F.4 (44) FD/Excise/2005, dated 12-4-2006. for the following

2(a) The fee for a license to bottle country liquor, foreign liquor and beer shall be as under—

<table>
<thead>
<tr>
<th>1.</th>
<th>2.</th>
<th>3.</th>
<th>4.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Country Liquor</td>
<td>2.00</td>
<td>2.00</td>
</tr>
<tr>
<td>2.</td>
<td>IMFL</td>
<td>2.00</td>
<td>3.00</td>
</tr>
<tr>
<td>3.</td>
<td>Beer (including drought beer)</td>
<td>2.00</td>
<td>3.00</td>
</tr>
</tbody>
</table>

Substituted by S.O. 3 dated 12-4-2005

5. Substituted by S.O. 439 dated 24-3-2005

Rule 69AA-69B] Rajasthan Excise Rules, 1956 [321

[Provided that a sum of Rs. 1000/- (one thousand rupees only) shall be charged from the Commanding Officers of the Armed Forces of the Union of India stationed in Rajasthan and the Commandant of the Border Security Force Personnel for holding a retail off licence.

69AA. The basic licence fee to retail sale of country liquor shall be at such rate and on such conditions, if any, as may be specified by the State Government from time to time.

69B. Fees for certain permits—The under mentioned fees are prescribed for a permit for [('brining') into, ('sending') outside or transport with in the State of Rajasthan of the following excisable Articles—

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Excisable Article</th>
<th>Permit fee per Bulk Litre/ per kg for</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Absolute Alcohol, Methylated Alcohol, and preparations of Denatured Spirit</td>
<td>[Brining] 6.00 [Sending] 10.00</td>
</tr>
<tr>
<td>4</td>
<td>1A. Denatured Spirit</td>
<td>[Brining] 6.00 [Sending] 10.00</td>
</tr>
<tr>
<td>2</td>
<td>Rectified spirit for manufacture of Country Liquor and extra natural alcohol high bouquet spirit and 50% spirits or alcohol for liquor manufacture. (b) Rectified spirit for other purposes. (c) Extra neutral alcohol, high bouquet spirit and like spirits or alcohol for other purposes.</td>
<td>[Brining] 5.00 [Sending] 10.00</td>
</tr>
<tr>
<td>3</td>
<td>Imported Liquor and Beer</td>
<td>[Brining] 10.00 [Sending] 10.00</td>
</tr>
<tr>
<td>4</td>
<td>IMFL</td>
<td>(a) Bottled 5.00 (b) Bulk 3.00</td>
</tr>
<tr>
<td>5</td>
<td>Indian Made beer</td>
<td>5.00</td>
</tr>
<tr>
<td>No.</td>
<td>Item</td>
<td>Rate (in Rupees)</td>
</tr>
<tr>
<td>-----</td>
<td>------</td>
<td>-----------------</td>
</tr>
<tr>
<td>1</td>
<td>IMFL/Beer</td>
<td>4.00 per bulk litre</td>
</tr>
<tr>
<td>2</td>
<td>Country Liquor</td>
<td>5.00 per bulk litre</td>
</tr>
<tr>
<td>3</td>
<td>Bhang</td>
<td>5.00 per kg.</td>
</tr>
<tr>
<td>4</td>
<td>Lanced Poppy Heads</td>
<td>2.00 per kg.</td>
</tr>
</tbody>
</table>

70. The minimum fee shall be paid before grant of licence and if, at any time the fees assessed [per litre] as prescribed under the preceding rule, exceed the minimum fees paid, such excess shall be paid by the whole-saler before he imports the articles, and by the retailer before he obtains it from another dealer for sale.

71. Maintenance of accounts—Every licensee for the sale of foreign liquor shall maintain a regular and an accurate account of sale and submit the same for each calendar month by the 10th day of the following month.

**COMMENTS**


**NOTIFICATION**

S.O. 101. In exercise of the powers conferred by sub Sec. (2) of Section 71 of the Rajasthan Excise Act, 1950 (Raj. Act No 2 of 1950), the Government of Rajasthan pleased to order that the minimum licence fees recoverable under Rules 69(1) and 69(1-A) of the Rajasthan Excise Rules, 1956 and annual initial fee recoverable under second proviso to Rule 3A(2) of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and retail Licences) Rules, 1982 for the licences granted under exclusive privilege system shall be recoverable on proportionate basis from the licensees for the periods during which the licences were granted in the year 1996-97 and accordingly exempted from payment of these fees for the period for which licences were not granted.


2. Substituted vide Notification dated 13-3-82, pub. in Raj Gaz-IV (G) dated 17-5-82.
CHAPTER IX
Licences—General Provisions

72. Who may grant licences—Except as otherwise provided in these rules, all licences under the Act shall be granted by the Excise Commissioner.

Provided that of the licences description of which is given in rule 68 of these rules, the Additional Commissioner, Excise of the area may grant the licence described at Rule 68 (1), 68 (2), 68 (2-A), 68 (3), 68 (9) and 68 (11) & 54]

72-A. Application for licence—Every application for a licence shall clearly describe the premises in which the applicant intends to conduct his business and shall be submitted in case of renewal at least one month before the commencement of the year [(and where the licence is granted for a longer period, at least one month before the commencement of the first year of the period)] for which it is required and shall be accompanied by a treasury receipt showing payment of licence fee, provided where an application for renewal of licence is not made within the prescribed period, it shall be accompanied by additional fee, at the following rates:

(i) Rs. 5000/- or 5% of the licence fee whichever is less, if the delay in deposit of fee is upto one month.

(ii) Rs. 10,000/- or 10% of the licence fee whichever is less, if the delay in deposit of fee is more than a period of one month.

Provided that for renewal of licences upto the year 2001-2002, additional fee equivalent to 25% of the renewal fee or five rupees, whichever is higher shall be charged.

NOTIFICATIONS

72-A. Renewal of Licence—Renewal of licences cannot be a claim of licensee. No time limit prescribed by Rules for submitting application for licence. Held there is no illegality in granting licence to Ganganagar Sugar Mills.4

72 B. Transfer of a licence—(a) Every licence shall be deemed to have been granted or renewed personally to the licensee and no licence shall be sold or transferred without obtaining previous permission in writing from the licensing authority [(and such permission shall not be accorded unless an amount equal to 50% of the licence fee has been paid)].

Provided that [addition (i) or deletion (ii) or substitution (iii) of name (iv) of

1. Added by No. 6 of 22-6-62.
2. Added by No. 11 of 6-7-64.
5. Added by No. 3 of 28-5-59.
Rule 74-75} Rajasthan Excise Rules, 1956

(d) Licence for the retail sale of country liquor may be granted for any part of the financial year by or with the sanction of the Excise Commissioner.

(2) Licences for the wholesale manufacture or supply of liquor may be granted for a period not exceeding five years.

74. Persons debarred from holding licences—Without the previous written sanction of the Excise Commissioner:

(1) No person holding or having an interest in a licence for the manufacturer sale or supply of foreign liquor to a district may hold or possess any interest in a licence for the retail sale of country liquor in the same district.

(2) No person holding an interest in a licence for the retail sale of opium [denatured spirit,] or intoxicating drugs in a district may hold or possess any interest in a licence for the wholesale sale or retail manufacture or sale of foreign or country liquor in the same district.

(3) No person shall hold or have an interest in two or more shops for the retail sale of the same excisable articles in the same village, or in the same city or town, and

(4) No person holding or having an interest in a licence for the manufacture of country liquor or supply thereof from a distillery or retail vendor shall hold or have an interest in a licence for the retail sale of country liquor in the area in which the distillery is established in any area supplied from such distillery.

(5) No person whose tender or bid at an auction for a grant of licence under the Act or these Rules has been accepted but who fails to deposit within the time allowed, the security amount required to be deposited according to the conditions of tender or auction in the financial year 1972-73 or thereafter shall be entitled to hold any licence under the Act or these rules for a period of three years from the last date allowed for deposit of such security.

COMMENTARY

R.73—Premature termination of licence due to mistake—It gives no right to the licensee to claim any specific amount on this account.

Order passed with out hearing—Order under S. 74 (5) passed debarred petitioners for a period of three years from obtaining licence, but no hearing was given part of order relating to disqualifying petitioner from obtaining licence from the Excise Department for a period of 3 years was quashed. CMR 1975 SC 266 relied on it.

Black listing, when not permitted.

775. Location of shops—

(1) A licensee for the retail sale of Country Liquor, Foreign or Indian Made Foreign liquor or hemp drugs shall have his shop only at a place approved by the District Excise Officer concerned.

6. C. T. V. M/s. Ropak Lal Dhandhar 1986(2) WLN 125, 1986:
8. Added vide S.O. 347 dated 9-1-1956 w.e.f. 1-4-96.

3. Added by No. 28 of 5-7-72.
2. A shop for the retail sale of Country Liquors or Foreign or Indian Made Foreign Liquor shall not be located within a distance of 200 metres of Collegiate Educational Institution, Senior Higher Secondary School [Girls School of any standard], Hospital, Place of Worship or Place of Public Entertainment, a Factory or a Labour or Harjani Colony [xxx].

4(3) A retail shop shall not be shifted from one place to another but if a licencee desires to change already approved location of the shop, same may be allowed by the District Excise Officer concerned on such conditions and fees as determined by the Excise Commissioner from time to time.

4(4) The District Excise Officer, with sufficient reasons to be recorded in writing, shall have the powers to shift a shop from one place to another and no compensation shall be given to the licensee of such a shifting of a shop.

Provided that the Excise Commissioner may grant relaxation in the above conditions for a liquor shop in exceptional circumstances [xxx] after recording sufficient reasons in writing for doing so.

4(5) A shop for the retail sale of country liquor, Foreign liquor and Indian Made Foreign liquor, Beer or Hemp Drugs shall not be located within a distance of 150 meters both sides from the Centre of National or State High ways, but this condition shall apply in areas falling within the jurisdiction of Municipal Corporation/Municipal council/Municipality [for where a developed market at a distance specified by Public Health Department is located.]

 qlanar—

1. For the purpose of sub-rule (2) of Rule 75, the restriction about the distance a shop from a “Place of Worship in the cities having a population of more than one shall only be applicable in respect of those places of worship entered in the list maintained in the Office of District Excise Officer.

2. Harjani Colony shall mean a Municipal Ward in which population of P 1810 to 2010 Schedule Castes according to the latest census exceeds fifty percent of total population of that ward.

3. Any shop situated near an educational institution other than a College or Senior Secondary School or any standardized shop shall be opened at least one hour after the closing time of that institution.

4. For the purpose of sub-rule (2) of Rule 75 “Place of Public Entertainment” I mean Theater and Cinema Hall only.


Deletions vide: S.O. 223 dated 25-2-1993 vide the words:

Railway station or Bus Stand approved by Rajasthan State Road Transport Corporation or the appropriate Local Authority as the case may be.


Deletions vide: S.O. 223 of 25-2-93 for the following—

“With the prior approval of the State Government.”

Inserted vide: S.O. 223 dated 25-2-93.


Substituted vide: S.O. 223 dated 25-2-93, for “(4) Restrictions about the distance of a shop from Railway Station and bus stand shall be applicable from 1st April 1993.”

Comprehensive—


4. No. 4 (1) FDEx/75 dated 12-5-1975.

Q. COMMENTARY

1. Location of Shop (R. 75) - Any interference by Excise Commissioner in absence of exceptional circumstances is held to be arbitrary, hence set aside 2.

2. Licence for Beer Bar, when found illegal - Ss. 5, 41 and Rule 75 (2) - Notification dated 15-2-57 - Licence for Beer Bar was granted, beer is included in foreign liquor and there is prohibition under Rule 75 (2) for running a retail shop of country or foreign liquor within area of 200 meters of school or institution. Held that grant of licence for Beer Bar was illegal, hence was quashed.

Q. CIRCULAR

Subject: Location of Country Liquor Shops.

Instruction were issued vide this Department Circular No F. 41 (3) FD/Ex. 75 dated the 15th May, 1972 in regard to regulation of distance of country liquor shops from schools, hospitals, places of workship labour colonies etc. The matter has been reconsidered in the light of the recommendations of the Rajasthan Prohibition Committee. The following revised guide lines are laid down regarding minimum distance which may be kept between a country liquor shop and the places covered by rule 75 of the Rajasthan Excise Rules, 1956.

1. Minimum distance of 250 Metres between country liquor shops and labour colonies Textile Factories and Harjani bastis.

Note: For the purpose of this rule Harjani Basti means a Municipal Ward of the inhabitants in which more than 50% of the inhabitants belongs to scheduled caste.

2. Minimum distance of 200 Metres should be kept between the country liquor shops and hospitals, dispensaries, collegiate institutions, places of public entertainment and public resort and places of common public worship recognized as such by the Excise Commissioner.
3. Country liquor shops near educational institutions (other than collegiate institutions) shall not be allowed to be opened within an hour of the closing of such institutions.

Such distances would mean the distances along regular approach roads in existence and in constant use. It should not be measured as the crow flies. Further the distance should normally be between the actual building or structure covered by Rule 75 and a country liquor shop. Some times such structure have spacious compounds. In these cases, liquor shops may be located at a distance of minimum 100 metres from such compound walls. As regards the statue of Mahatma Gandhi, minimum distances of 100 metres may be kept between the statue and country liquor shops.

The above norms shall be observed in future in approving location of country liquor shops by the District Excise Officers strictly. It may well happen that dispute may arise about location of particular shop in spite of the fact that it fulfills the above norms. In such cases, dispute will be resolved by the District Excise Officer under the advice of the District Magistrate concerned whose advice in such cases will be final.

[(Sub:-Regarding realization of shifting fees for Country liquor shops in year 2006-07.)

I am directed to refer to your letter No. F.22(A) (3)/Settle/Ex-2005-06/42 dated 28-01-2006 on the above subject, the permission is hereby accorded as under:-

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Areas</th>
<th>Shifting Charges (in Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>For Municipal Council Areas</td>
<td>Rs. 5,00,000/each</td>
</tr>
<tr>
<td>2</td>
<td>For other Municipal Areas</td>
<td>Rs. 5,00,000/each</td>
</tr>
<tr>
<td>3</td>
<td>For rural Areas</td>
<td>Rs. 5,00,000/each</td>
</tr>
</tbody>
</table>

75A.- Government may permit consumption of Country Liquor on the premises (to be called "Aaha") attached to a Country Liquor shop on such terms and condition as may be laid down.

76. Cancellation, modification and suspension of licences—The authority granting a licence under these rules may cancel, suspend or modify the licence-

(a) to rectify clerical mistakes.
(b) If the licence has been obtained by fraud or
(c) if the licensee has been guilty of the violation of a condition of his licence or the contravention of the provision of the Act or any notification order or rule issued under the Act.

COMMENTS

Licence of Liquor—Suspension of licence is a punishment under S. 34 and R. 76. Such suspension of licence without following rules of natural justice is invalid.1

Cancellation of Licence & Natural Justice—Once a licence is granted to a licensee under the Excise Act, no order of cancellation can be passed without providing an opportunity of hearing. A reasonable opportunity of hearing and showing cause in an enquiry to be conducted, are the most essential requirements for consideration of the question of a licence under S. 34 of the Act [1968 RDS 191, 1916 RLW 312 and AIR 1978 SC 597 rejected on] Writ accepted with cost.- Enquiry left open.2

Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail-Off Licence) Rules 1972-R, 69 - Renewal of licence-Not a claim - No person to whom a licence has been granted under the Act can claim the renewal of a licence or can claim for compensation on termination or non-renewal thereof. The question of renewal of a licence can arise only when there exists an existing licence and there is no gap in between the expiry of licence and grant of new licence. As the total prohibition was in force in the State of Rajasthan, no stretch of imagination can be said that the petitioner's old licence could be renewed from April 1, 1980 (writ dismissed).3

Rajasthan Foreign Liquor (Grant of wholesale Trade & Retail Licences) Rules, 1982, Rt 6 and 7 - Validity of Notification dated 31-3-82 amending Rt. 6 & 7- The amendment of the Rules is a Legislative function of delegated legislature and the principles of natural justice or the right of hearing or opportunity to show cause cannot be extended to it. Rules cannot override the Act and therefore, in view of S. 37 whatever presumption might have been made or impressions given to the licensees for renewal, no legal right is created and the respondents cannot certainly reject the prayer for renewal and go ahead with the action proceedings according to the amendment of 31st March 1982 (Pet. with petitions dismissed summm).4

76-A Notice of demand—As soon as the demand of any duty free or other demand due against any person under this Act or rules made thereunder is determined by the District Excise Officer, Assistant Excise Officer he shall serve notice of demand in Form ETT along with a certified copy of the order requiring him to pay the amount so determined with in time specified in the notice which shall not be less than fifteen days.

8. Prohibition of Publication of advertisements

77-B. Prohibition of printing and publication of advertisements relating to intoxicants, etc.—(1) No person shall print or publish in any newspaper, news-sheet, ok, leaflet, booklet or any other single or periodical publication or otherwise distribute any advertisement or to the matter which comments or solicits the use of offers, any intoxicant or which is calculated to encourage or incite any individual class of individuals or the public generally to commit an offence under the Act, or commit a breach or evade the provisions of any rule or order made thereunder or any conditions of any licence, permit or pass obtained thereunder.

(2) Save as otherwise provided in Rule 77-C, nothing in this rule shall apply to——

(a) Catalogues or price-lists which may be generally or specially approved by the Excise Commissioner in this behalf.


Text of old Rule 77 was deleted vide NO. F. 4(47) F/EX-77 dated 26-6-1977, Pub. in Raj. Gaz.(H.O.-((H.O.)) (B) dated 4-7-1997. The text of old Rule 77 was as under:

77. Fees not to be refundable—The fee paid for any licence under these rules shall not be refundable except under the specific orders of the Government.


Substituted vide Raj. Gaz IV-C, BO, dated 8-2-68.

Substituted an 16-10-69.
80. Disposal of excisable articles—All excisable articles confiscate under the Act shall be dealt with in a reasonable time after they are received from the Magistrate and the proceeds hereof shall be credited to the Government under the head “8 State Excise Penalties.”

(b) Lawfully manufactured liquor in sealed bottles not exceeding Rs. 50/- in value shall be disposed off in such manner as the [District Excise Officer] may direct and such liquor exceeding Rs. 50/- in value shall be disposed off in such manner as the [Excise Commissioner] may direct.

(c) Bhang [2][*] exceeding Rs. 5/- in value shall be deposited in the nearest bonded warehouse, if it is fit for issue, with the sanction of the [District Excise Officer], and if unfit, shall be disposed off in such manner as the Excise Commissioner may direct.

(d) Disposal of excisable articles in cases not covered by the above sub-rule shall be in such manner as the Excise Commissioner may direct by general or by special order.

81. Perishable articles—Notwithstanding anything in these rules contained above in this Chapter, perishable articles or an animal in respect of which proper arrangements or custody cannot be made, may be disposed off immediately by public auction by the Magistrate himself or by the [District Excise Officer].

82. Sale or disposal to be deferred pending an appeal—The sale or disposal of an excisable article, animal or any other substance confiscated under the Act shall be deferred till the period of appeal against the order of confiscation has expired, or, if an appeal has been made to the knowledge of the officer concerned against such order, then until the appeal is disposed of:

Provided that the perishable article or an animal in respect of which no proper arrangement can be made for custody may be disposed off immediately and the sale-proceed may be credited in the Government treasury as deposits till the time of appeal expires, or until the appeal is disposed of, as the case may be.

CHAPTER XI
Witnesses and their Expenses

83. Expenses of witness—(1) Witnesses summoned by a criminal court for excise cases before it or produced by an Excise Officer shall be paid expenses by the court in accordance with the rule for the time being in force for the grant of expenses to witnesses in criminal cases.

(2) Witnesses summoned by an Excise Officer in any excise case shall be granted expenses by such Excise Officer out of the budget provision under that head, in accordance with the same scales as are applicable to witnesses summoned by a criminal court.

84. Witnesses from more than 5 miles not to be summoned—An Excise Officer shall not summon witnesses residing at a place more than 5 miles from the border of the area which he is appointed.

CHAPTER XII
Mode of Payment of Duty

85. Duty on foreign liquor and country liquor payable before issue—(1) The duty on manufacture imposed for the time being in respect of foreign or country liquor shall be payable before the issue of such liquor from the distillery, brewery, warehouse or godown (as the case may be except where the issue is under a bond for the payment of duty).

(2) Export duty in all cases is payable before issue.

[Provided that Excise Commissioner if he is satisfied that there are sufficient reasons for doing so, may allow refund of export duty paid in respect of IMFL that after having brought in to the godowns of Rajasthan State Beverages Corporation Ltd. had to be returned back or destroyed.]

86. Duty on Ganja and Bhang payable before issue—The duty imposed for the time being on transport of Ganja or Bhang shall be payable before issue from the warehouse or godown concerned, except where the issue is under bond.

87. Bonds—their effect—Every person executing a bond for the payment of duty levied under the Act shall be liable to pay the penalty of the bond according to its tenor.

CHAPTER XIII
Powers of Officers

88. Powers under Section 43, 44, 45 and 47—All Excise Officer of the Government of Rajasthan not below the rank of Inspector [and Patrolling Officers in the Excise Preventive Force] may exercise the powers referred to in Sections 43, 44, 45 and 47.

89. Power under Section 45—All Excise Officer of the Government of Rajasthan including Excise Guards may exercise the powers mentioned in Section 45:

[Provided that when power is exercised by an Excise Officer other than an Excise Inspector of the Circle concerned, such officer shall immediately hand over the person arrested and the articles seized to the Excise Inspector of the Circle concerned.]

COMMENTS

R.88 and R9—Meaning of expression “Excise Officer”.—Excise Inspectors are Excise Officers within meaning of S.3 (7) read with Rts. 88 and 89 and Notification No. 3—They

are competent to make complaint or report under S. 67 (1) (a) to the Magistrate.State v. Laxman Singh 1980 WLN 433: 1980 RLW 495: 1980 Cr. LR 557 (Raj) (DB)
-Rr 88 and 89—Complaint-Filing of—Where the Excise Inspector was conferred with the powers of Excise Officer, he was competent to file complaint in the Court on behalf of the State. [Sotie v. Chikgoa Lal 1966 WLN (UC) 7]

90. Powers conferred by notification under Section 10—All Excise Officers may exercise the powers conferred upon them by any notification under section 10 for the time being.

91. Powers conferred by notification under Section 9—All Excise Officers may exercise the powers conferred upon them by any notification under Section 9 or by any order issued under such notification.

CHAPTER XIV
Miscellaneous

92. Observance of laws of other States—All passes, permits and permissions issued under these rules shall be on the implied condition that the holder thereof has observed and will observe the Excise laws and rules of other State or States in India (as applicable to the subject matter) for the time being in force.

93. Forms—The Excise Commissioner may prescribe forms for any licence, permit, permission, or pass to be issued under these rules, any application or statement to be submitted under these rules or any account to be maintained under these rules and may similarly prescribe forms for statement to be submitted, registers to be maintained and records to be kept by Excise Officer under the Act or these rules and other form for the purpose of carrying out the provisions of the Act and these rules.

COMMENTS

Prescribed Forms—The Excise Commissioner has prescribed various forms of licences which are being reproduced hereafter. These forms are frequently changed and as such please contact the District Excise Officer, in case of doubt.

1. [1993-A]. All transactions in respect of Excise revenue in the form of duty (or a countervaluing), fee or other demand due against any person under the act or rules made thereunder involving fraction of a rupee shall be carried out in nearest multiple of rupee, proportion below 50 paisa being ignored and 50 paisa and above rounded off to the next higher rupee*]

94. SBail—All rules in force in Rajasthan or in any part thereof regarding any matter for which provision is made by these rules are hereby repealed but not so as to affect their previous operations.

FINANCE (EXCISE) DEPARTMENT

FORM No. REB/BWH-1 [See Rule 47 (3)]
Whole Sale Licence With Bond Facility

Sale of Indian Made Foreign Liquor and Beer other than denatured spirit.

Licence No.
Locality
Name of manufacturer licensee.
Address of manufacturing unit
Address of Corporate Headquarters
Name of Local representative
Licence for wholesale sale of Indian Made Foreign Liquor and Beer, other than denatured spirit, is hereby granted to Messrs—

in the District of—

from

on payment of initial fee of Rs. 50,000/- (Rupees fifty thousand only)

Subject to the following special and general conditions

The Licensee is hereby also permitted to establish and work a company bonded warehouse for storing portable Indian Made Foreign Liquor/Beer for export/import or transport under bond at—

in the town of—

during the financial year—

subject to the condition of this licence

GENERAL CONDITIONS

1. The Warehouse shall be established at the premises approved by the Excise Commissioner and no additions or alternation shall be made without obtaining his previous permission.

2. The licensee shall have to pay supervision charges as fixed by the Excise Commissioner.

3. The licensee shall have to furnish security for the amount and in the form as directed by the Excise Commissioner.

4. Issue from the warehouse shall be effected only when the duty payable in Rajasthan has been paid in advance.

5. All the stocks of Foreign liquor shall be kept under double lock system, key of one shall remain with Excise Officer concerned and other with the licensee. The licensee shall open his lock when required to do so by the Excise Officer.

6. Excise operation at the warehouse regarding liquor shall take place in the presence of the Excise Officer and the licensee or his duly authorized agent.

7. The licensee shall provide all the manual labour and assistance necessary to carry out the provisions of law.

8. The licensee shall have to pay duty on the wastage of foreign liquor as per rules.
9. The licensee shall not store any country liquor under cover of this licence nor he shall rectify or denatured spirits or duty paid foreign liquor in the same room.
10. The licensee shall not issue any liquor except under a pass granted by the Officer-in-charge under authority of a permit by the District Excise Officer concerned.
11. The State Government shall not be responsible for any destruction or damage by fire, theft or any other cause to liquor stored in warehouse. In case of any accident the Officer-in-charge shall immediately attend to open it at any hour by day or night.
12. Sales shall be made only on the basis of
   (a) export permit issued by the District Excise Officer/Assistant Excise Officer concerned, or
   (b) permit issued by the concerned District Excise Officer/Assistant Excise Officer to another wholesale license holding license under rule 47 (1) (b).

13. Sales shall only be made in quantities not less than 9 litres or 12 quarters or 24 pints or 48 nips of any kind of liquor e.g. Whisky, Brandy, Rum and Gin and not less than one case of Beer and fermented liquor.

Note—The minimum limit must be adhered to in the case of each kind of liquor sold.

14. The licensee shall not transfer or sublet this licence to or enter into partnership with any person.
15. The licensees shall perform and faithfully abide by these conditions and the provisions of the Rajasthan Excise Act 1950, the Narcotic Drugs and Psychotropic Substances Act 1985 and rules made thereunder or notifications and orders issued by State Govt. or Excise Authorities. In case of infringement of any of the above conditions or order by the licensees or his agent or any person acting on his behalf, the licence shall be liable to cancellation and the licence fee or any part thereof to forfeiture without prejudice to any other action according to law or rules in force.

SPECIAL CONDITIONS
(Applicable to licensees manufacturing IMFL/Beer outside Rajasthan)

1. The licensee shall have to pay licence fee prescribed under rule 65(1) and the import duty imposed under section 28 before he imports IMFL/Beer in to Rajasthan.
2. For import of Indian Made Foreign Liquor/Beer in Bond licencee shall present an application in written to the District Excise Officer or Assistant Excise Officer of the District of import specifying:
   (a) the quantity and description of the Indian made Foreign Liquor to be imported, including quantity in L.P. Litre.
   (b) the name of the distillery or brewery, from which the liquor is to be imported.
   (c) the name of the bonded warehouse in Rajasthan to which the liquor is to be consigned. He shall also pay fees prescribed for such permit in advance.
3. The applicant shall also execute unless a general bond previously executed by him is still in force, either a general or a special bond in favour of the District Excise Officer or Assistant Excise Officer as the case may be of the district of import for the payment of countervailing duty on quantity actually imported and on the excess loss in transit as determined by the law or rules in force in the State of import.
4. The District Excise Officer or Assistant Excise Officer as the case may be shall unless there are reasons to the contrary, prepare a permit for import in quadruplicate, containing all the particulars specified in special condition No. 2 of the licence and clearly specifying that a bond for payment of duty has been executed. One copy of the permit shall be hand over to the applicant, the second shall be forwarded to the appropriate Excise Authority of the District of Export. The third shall be forward to the Excise Inspector of the Circle and the fourth will be retained by the District Excise Officer or Assistant Excise Officer as the case may be for record and verification of the consignment on arrival. The permit shall remain in force only up to the date specified therein.
5. The importer shall present his copy of permit before the appropriate Excise Officer of the State of export of the Officer-in-charge of the distillery or brewery from which the liquor is to be obtained, who shall issue the necessary pass for export from the State. The pass shall specify the number and date of permit authorising the import into Rajasthan.
6. The licensee shall have to inform the probable date of arrival and the approximate quantity in bulk litres of each consignment of foreign liquor to be kept before seven days to the District Excise Officer of the District of Officer-in-Charge.
7. On the arrival in Rajasthan, the consignment of Indian Made Foreign Liquor shall be taken direct to the bonded warehouse as mentioned in the permit, where it shall be checked by the Officer-in-Charge of Warehouse and also entered in the importer's Accounts.
8. As soon as after such arrival, the Officer-in-Charge of the Warehouse shall also certify on the importer's copy of the pass issued in the exporting State full details regarding the liquor received in such form as may be prescribed by the law or may be required by the authority issuing pass and shall return it to the office issuing it, after verification by the District Excise Officer or Assistant Excise Officer as the case may be.
9. The importer shall be liable to pay duty on the excess transit loss as determined by the law or rules in the State of import.
10. The local representative of the manufacturer shall invariably be a full time employee of the company holding this licence and company shall give a certificate to this effect when making an application for this licence.
11. A true and detailed account of the licence fee on the balance of stock on 31st March every year and the quantity imported during the year of running of licence through permits or otherwise till the date of application of every permit along with the treasury receipt of excess amount deposited for the fresh import (if any) shall be submitted along with the application of every fresh import permit.
12. The licencee shall be required to pay brand fee provided for under the proviso of rule 3 of the Rajasthan Foreign Liquor (Grant of Wholesale and Retail of Licences) Rules, 1982.
FORMS OF LICENCES
Terms & Conditions of Various Licences

Issued by the Excise Commissioner -

1. देशी मिर्ची (Country Liquor) की खूदा विक्री के लिए अनुमोदन (नियम 57, 67 (२) तथा ८३ के अनुसार) 341
2. भारतीय निर्मित देशी मिर्ची (बीयर की छोटक) खूदा विक्रय अनुमोदन की शर्तें 351
3. बीयर के खूदा (कैबर ऑफ) विक्रय का अनुमोदन 357
4. विदेशी मिर्ची पर बीयर के खूदा विक्रय का अनुमोदन 365
5. भारतीय मिर्ची का अनुमोदन 370
6. विदेशी विषय के अनुमोदन 378
7. विदेशी मिर्ची (Denatured spirit) का विक्रय प्राप्ति र विक्रय प्राप्ति (Denatured spirituous preparation) के खूदा विक्रय के लिए अनुमोदन (नियम 68 (७) के अनुसार) 379
8. देशी मिर्ची की ही ओलां वर्गाते पता के लिए अनुमोदन (नियम 68 (११) तथा ९३) 383
9. अनुमोदन के लिए भारतीय निर्मित देशी मिर्ची की ही ओलां वर्गाते पता के लिए अनुमोदन (नियम 69 (२) तथा ९२) 386
10. ओप्शनल अनुमोदन के लिए परिवर्तित स्प्रिट या वायरस स्प्रिट (एल्कोहल) का संघर्ष और उसका उपयोग करने के लिए अनुमोदन (नियम ६२ (२) तथा ९३) 390
11. ओप्शनल प्रदेश वेट्ट विक्रय वनवा व प्राप्ति करने हेतु अनुमोदन 391

[Note - Some proforma of other Licences and terms & conditions thereof, have been appended with the various special Rules hereinafter reproduced in this book. Please also refer to the Rules concerned.]

COMMENTARY

Validity of Licence Form - Held, not invalid—

There is no inconsistency between S. 31 and R 93 at the State Government could itself prescribe the forms and licences and lay down the restrictions or conditions in respect thereof or may delegate the power to the Excise Commissioner who could exercise and same with the sanction of the State Government.

The argument that form C. L. (1) A was not prescribed by the State Government and that it was issued by the Excise Commissioner in breach of section 31 was repelled. The Excise Commissioner was duly authorised to prescribe the form C. L. (1) A and the contract entered into by the petitioner with the State Government on and aforesaid form is not illegal or invalid in any manner.¹


| उपर्युक्त व्यक्तियों को विषय द्वारा निर्देशित राजस्थान राज्य मंत्री से उत्तर देने का मांग के साथ अनुमोदित तुकदा/कुकनी का खूदा विक्रय करने हेतु दिनांक 14-४-०... से 31-३-०... तक की अवधि के लिए वशीकृत शर्तें पर अनुमोदन जारी किया जाता है।
| देशी मिर्ची समूह का नाम:.................................
| समूह में निर्भर लंबी की संख्या:.................................
| समूह में निर्भरित तुकनी का विवरण:.................................

| आज्ञा की तरह का एकांग्द:मुख्य मंत्री की गायक के साथ 21-3-06 अनुमोदन की पूरा पर एक ने दस से १२ जुलाई है जो 21-३-०६ के बाद उठाया गया है देशी मिर्ची समूहों पर लागू है।

| देशी मिर्ची खूदा विक्रय अनुमोदन (लाइसेंस) की तरीका:

1. राजस्थान अवसर अधिनियम 1950 एवं उसके अन्तर्गत विशेष अवधि की पहचान—
2. वार्षिक तरीके एवं एवं वर्षा तारीख तथा उत्तर दिनांक

¹. अर्थेत ब्राह्मण ३२ (४०) (१४६) आज/पुस्तक 05/06/1345 दिनांक 2-२-२००६ द्वारा प्रस्तुत।
Rajasthan Excise Act

2.2 Annuity share to be distributed to the holders of the 12.5 per cent shares rear 15-3-0 and to those of the share.

2.3.1 A 12.5 per cent share to be held by the registered company in the name of the registered company in the name of the registered company.

2.3.2 The same share to be held by the registered company in the name of the registered company in the name of the registered company.

2.3.3 The registered company to be held by the registered company in the name of the registered company in the name of the registered company.

2.4 The registered company to be held by the registered company in the name of the registered company in the name of the registered company.

2.5 The registered company to be held by the registered company in the name of the registered company in the name of the registered company.

3. The 12.5 per cent shares to be held by the registered company in the name of the registered company in the name of the registered company.

3.1 The registered company to be held by the registered company in the name of the registered company in the name of the registered company.

3.2 Annuity share to be held by the registered company in the name of the registered company in the name of the registered company.

3.3 The 12.5 per cent shares to be held by the registered company in the name of the registered company in the name of the registered company.

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5.7 The 12.5 per cent shares to be held by the registered company in the name of the registered company in the name of the registered company.
5.6 अनुमानशील, गैसींटी अनुप्रयोग वा हिडिंग बाली के 200 मीटर की परिधि में दूध नहीं लगा लेना। हिडिंग बाली के अनुसार इस परिसर में स्थानांतरण का नियम नहीं है अनुमानशील अवधि से अनुमानशील अवधि के अनुसार ही माना जाए।

6. प्रतिनिधित्व का संबंध तथा हटाना

6.1.1 दूध दुकान के लोग प्रति प्रात: 9 बजे से पाँच: 11 बजे तक होगा, पाँच अनुभागों से इस प्रकार आयोजित होगा जैसा कि इसके नियम प्रमाणावली में दिए गए हैं।

6.1.2 अनुमानशील नियम 4 दूध किसायें पर एवं प्रतिफल राष्ट्रीय अवधि अनुसार दिन के दूसरे दिन 8 बजे से 9 बजे तक नियंत्रण के अनुसार चलता है। इसके अनुसार दूध दुकान के अनुसार इस प्रकार चलता है।

6.1.3 रानी समस्या, आवश्यकता अनुप्रयोग अवधि अनुप्रयोग देवा व्यापारी अवधि से अनुप्रयोग अवधि को नियंत्रित किया जाएगा।

6.2 दूध बिकारी अवधि की अनुप्रयोग के अनुसार दूध दुकान के अनुसार राज्य सरकार द्वारा नियंत्रण के तात्कालिक अवधि से अनुप्रयोग अवधि को नियंत्रित किया जाएगा।
राजस्थान दर तथा भूमि का उपयोग वा स्वरूपकरण दार्जों पर संवाद होने और उसी का वेकर्स होने के लिए उसे काफी डीजल होगा।

6.7.1 अनुदार्तियों की शर्तें नहीं कोई नियम या निर्देश पर प्रदान किया जाएगा। जनजाति क्षेत्र में पांजाब उपमंडलों पर पाने भी दी दरिया की विधि की जा सकती है।

6.7.2 तथापित दुनिया के स्वामी भारत ने प्रतिक्रिया शासन करना/शासन पूर्वक, निर्देश दिया।

6.7.3 ऐसे अनुदार्तियों को देशी मदद की ही निर्देश करना चाहिए, आन्याशय स्वस्थता देखते हुए आवश्यक अनुदार्तियों को निर्देश करना है। केवल उसी दुनिया पर देशी मदद की पूजनी निर्देश की जा सकती है जिसे पहुँच दे "स्थान" में बेवर्ण मदद कर सके। कृपया पूर्वांश्चिक के लिए आवश्यक अनुदार्तियों का निर्देश दिया।

(अ) "स्थान" के लिए प्रतिक्रिया निर्देश देखते हुए स्वस्थता देखते हुए होगा।
1. एक लाख के उस से अधिक की आवश्यक मदद की मांग के लिए 20,000/-
2. एक लाख के कम जबाड़ी बाली नागरिकता क्षेत्र में 12,000/-
3. अन्य स्थान 8,000/-

(ब) आवश्यक के लिए निर्देश निर्देश देखते हुए करार होगा।
1. आवश्यक के लिए प्रतिक्रिया निर्देश देखते हुए निर्देश दिया जाएगा।
2. निर्देश प्राप्त करने के लिए आवश्यक मदद की आवश्यकता होगी।
3. अनुदार्तियों को उसके की लौकिक इस प्रकार राहत होगी कि वे जानें यह व्यक्ति को आवश्यक का फिर भारत में ध्यान दें।
4. आवश्यक का निर्देश आवश्यकता सवं अनुदार्तियों का होना चाहिए।

(स) "स्थान" में सूचना के जूझ बनाने के लिये एक जूझ जाने, जहाँ के शोधन बन विश्वसनीय की जिक्सा होगी, जिसे अपनी निजी आवश्यकता के बदले अनुदार्तियों आवश्यक होगे। बहुमुखी जनता लक्ष्य की दृष्टि से उपयोगी होगा और वह शहीदाबाद की समस्या का सामना करेगा।

6.8 अनुदार्तियों को अनुदार्तियों पर सांस्कृतिक रूप से 751205 देखने लगाता है। लगातार होता है।
9. वक्ता नियमों की व्यवस्था:—

अनुसंधान के विषय में थोड़ा भी प्रकाश का कोई आकारण नहीं बचना। यदि सबकी सज्जनों के लिए बिश्वास नहीं आता, तो आप उन्हें भू-भूतियों का दूर कर दें। ऐसा है कि अनुसंधान के विषय में थोड़ा भी प्रकाश का कोई आकारण नहीं बचना।

10. अन्य नियम

10.1 अनुसंधान के लिए एक अभिव्यक्ति होगा कि वह आकारण अभिव्यक्ति व् नामकों में उनके नाम और भूमिकाओं के रूप से उल्लिखित किया जाएगा।

10.2 इसके अनुसार अभिव्यक्ति, 1950 एवं इसके अन्य वक्ता के नियम के साथ विचार करके निर्मित किए गए नियम सरल होने वाले होते हैं।

10.3 इस अनुसंधान के संबंध में उल्लिखित वक्ता के नियम का नाम भू-भूतियों का अभिव्यक्ति साफ़ करना होगा।

10.4 अनुसंधान के शरीर में सीधी संशोधन के लिए 12 वर्ष से अधिक अनुसंधान हासिल है।

अनुसंधान देने वाले के हस्ताक्षर

प्रसिद्धिकरण

अनुसंधान संबंधों का जिला,

समूह का नाम,

पै/पै या या ऐतिहासिक अनुसंधान के संबंध में सबकी सज्जनों के लिए बिश्वास नहीं, तथा राज्यव्यवस्था आकारण अभिव्यक्ति, 1950 तथा उनके अनुसार नियम के नियम का नियम करके विचार करके निर्मित किया जाएगा। इसके अलावा, इसके अनुसार अभिव्यक्ति व् नामकों में उनके नाम और भूमिकाओं के रूप से उल्लिखित किया जाएगा।

हस्ताक्षर अनुसंधान

भी साधक सज्जन को आकारण अभिव्यक्ति

प्रति हस्ताक्षर

जिला आकारण अभिव्यक्ति

वृत्त........................
राजस्थान व्यापारी अधिनियम, 1950 राजस्थान व्यापारी नियम, 1956 तथा राजस्थान विदेशी मिठास (शोक, व्यापार तथा हदेश बाद: पान अनुमोदि प्रदाय) नियम, 1982 के अंतर्गत

(2) विदेशी मिठास एवं बीरध की खुदा की विदेशी मिठास (शेल ऑफ) के लिए अनुमोदि प्रदाय अनुमान संभाष.......

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<th>अनुमोदि का प्राप्ति मिठास शेल (कोट)</th>
<th>प्राप्ति पत्र का नाम</th>
<th>अनुमान</th>
<th>अनुमान</th>
<th>पूर्वोत्तर पत्र</th>
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उपरोक्त अधिनियम, बिना चिन्तित किए विदेशी मिठास एवं बीरध के अधिकुल प्राप्ति विविधता से शेल ऑफ के लिए अनुमोदि प्रदाय एवं बीरध प्राप्ति नहीं किया जाता है।

राजस्थान सरकार

राजस्थान व्यापारी अधिनियम, 1950, राजस्थान, उदयपुर

लेख संख्या 8 :-

(1) प्रतापक भक्ति के धरोहर राति जय करने हेतु हिन्द मोदित प्रदाय मिठास केवल हेतु के साथ की गई विदेशी मिठास के लिए प्रदाय किया जाता है।

(2) प्रतापक भक्ति विदेशी मिठास के लिए प्रदाय किया जाता है।

(3) प्रतापक भक्ति विदेशी मिठास के लिए प्रदाय किया जाता है।

(4) प्रतापक भक्ति विदेशी मिठास के लिए प्रदाय किया जाता है।

(5) प्रतापक भक्ति विदेशी मिठास के लिए प्रदाय किया जाता है।

उक्त कार्य मे से कोई भी किसी भी से विदेशी मिठास के लिए प्रदाय किये करने पर उसके द्वारा जना निजी तालिम अलावा पूर्वोत्तर की जा सकती है।
3. अनुसूचार की स्थानीय विदित:

3.1 अनुसूचार, अनुसूचार देने वाले अधिकारी की विदित स्थानीय के दिन किसी अन्य व्यक्ति की अनुसूचार हस्ताक्षर नहीं कर सकते। अनुसूचार की अभिभूत में अनुसूचार की स्थानीय हो जाती है अन्य अनुसूचार के बैठक समारोह का सकारात्मक अनुसूचार विविधता तथा फायदा कर सकता है।

3.2 “अनुसूचियों के मूल” के नाम जन अनुसूचार स्थानीय किसी अधिकारी की स्थिति में निर्धारित “अनुसूचियों के मूल” में समिलित हस्ताक्षर व्यक्ति जन अनुसूचार के नाम से सभी सीधे संबंधित होगा। इससे सीधे संबंधित हस्ताक्षर के नाम अनुसूचार के नाम से सभी हस्ताक्षर रहेंगे। अनुसूचार के अभिभूत समस्या उनकी अधिकारी व्यक्ति में स्थानीय निर्धारित संबंधित हस्ताक्षर के नाम अनुसूचार के नाम से सभी सीधे संबंधित होगा। इससे सीधे संबंधित हस्ताक्षर के नाम अनुसूचार के नाम से सभी हस्ताक्षर रहेंगे। 

3.3 अनुसूचियों के मूल” में समिलित व्यक्ति अनुसूचार के अधिकारी व्यक्ति में स्थानीय निर्धारित संबंधित हस्ताक्षर के नाम अनुसूचार के नाम से सभी सीधे संबंधित होगा। इससे सीधे संबंधित हस्ताक्षर के नाम अनुसूचार के नाम से सभी हस्ताक्षर रहेंगे। 

4. उपकरण की उपलब्धिता:

4.1 अनुसूचार की अभिभूत अनुसूचियों की अभिभूत अंश के लेखन और उसके लिए अधिकारी अभिभूत से कर लेना होगा। इसके स्थानीय संबंधित अनुसूचार के नाम से सभी सीधे संबंधित होंगे। इसके स्थानीय निर्धारित स्थानीय संबंधित हस्ताक्षर के नाम से सभी सीधे संबंधित होंगे। 

4.2 अनुसूचियों के मूल” के नाम जन अनुसूचार स्थानीय के नाम अनुसूचार के नाम से सभी सीधे संबंधित होंगे। इसके स्थानीय निर्धारित स्थानीय संबंधित हस्ताक्षर के नाम से सभी सीधे संबंधित होंगे। 

4.3 अनुसूचियों के मूल” के नाम जन अनुसूचार स्थानीय के नाम अनुसूचार के नाम से सभी सीधे संबंधित होंगे। इसके स्थानीय निर्धारित स्थानीय संबंधित हस्ताक्षर के नाम से सभी सीधे संबंधित होंगे। 

4.4 अनुसूचियों के मूल” के नाम जन अनुसूचार स्थानीय के नाम अनुसूचार के नाम से सभी सीधे संबंधित होंगे। इसके स्थानीय निर्धारित स्थानीय संबंधित हस्ताक्षर के नाम से सभी सीधे संबंधित होंगे। 

4.5 अनुसूचियों के मूल” के नाम जन अनुसूचार स्थानीय के नाम अनुसूचार के नाम से सभी सीधे संबंधित होंगे। इसके स्थानीय निर्धारित स्थानीय संबंधित हस्ताक्षर के नाम से सभी सीधे संबंधित होंगे।
5. अनुमति का संशोधन:—

5.1 ध्वनि बुखार लेने का राजस्थान प्रावधान: 9 वें से 11वें तक रोजगार, परतु आवश्यकता मुहूर्त के लिए पूरा किया जा सकता है।

5.2 वर्ष 2000—2001— हेट ध्वनि के संबंध में ध्वनि आधिकारिक आवश्यकता द्वारा नियंत्रित की जा सकती है। अधिकारी निर्देशन के आने, तथा ध्वनि के संबंध में ध्वनि आधिकारिक आवश्यकता द्वारा नियंत्रित की जा सकती है।

5.3 अनुमति के लिए या संशोधन के लिए आवश्यक साइन अथवा संशोधन प्राप्ति के लिए संबंधित अधिकारी को ध्वनि संबंध में नियंत्रण की जा सकती है।

5.4 अनुमति दी जाने के लिए आवश्यकता ज्ञापन के प्रभाव में ध्वनि का विधान का अंतिम तत्व है।

5.5 अनुमति के लिए या संशोधन के लिए ध्वनि आधिकारिक आवश्यकता का संशोधन हो सकता है।

6. अभियोजन का संशोधन:—

6.1 ऐसे केस में निहित संशोधन के लिए तत्व निरीक्षण के रूप में ध्वनि आधिकारिक आवश्यकता का अंतिम तत्व है।

6.2 अभियोजन का संशोधन के लिए तत्व निरीक्षण के रूप में ध्वनि आधिकारिक आवश्यकता का अंतिम तत्व है।

2. उपर्युक्त विवरणों के अनुसार प्राप्ति की यह स्पष्ट प्रतीत है, इस अनुदान की शरीर की स्थापना से प्राप्त हुआ है।

3. स्पष्ट हो रहा है कि यह अनुदान हाल के 1950 के वर्ष में दी गई थी।

4. अनुदान को प्राप्त करने वाले व्यक्ति के नाम का वर्णन किया गया है।
5. तुकाराम की अपमिति—5.1 अनुभवानी बापी का दूर विवेक अपनी निपुंश नृत्य की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। दिवालि नृत्य यूरोप का नृत्य धर्म का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.2 अनुभवानी की अवश्यकता के लिए एक बैठक की अवस्था में उनके गायन का हमला हो जा जाता है। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.3 अनुभवानी की अवश्यकता की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.4 अनुभवानी की अवश्यकता की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.5 अनुभवानी की अवश्यकता की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.6 अनुभवानी की अवश्यकता की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.7 अनुभवानी की अवश्यकता की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.8 अनुभवानी की अवश्यकता की अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया। यात्रा का अवश्यकता का अनुभव कर यात्रा के अनुसार निभाया।
5.9 अनुभवानी की अवश्यकता के अनुसार निभाया। यात्रा के अनुसार निभाया।
राजस्थान एक्सिस कानून, 1956

6.4 अनुपालक प्रमुख दल की सहभागी पदार्थ तथा अधिकृत मुख्य के संस्थापक को सहभागी पदार्थ एवं बोधक का हो नियुक्त

6.5 अनुपालक बोधक ने के चित्र, हाल के नियुक्ति अधिकृत ने संस्थापक के संस्थापक के पद पर नियुक्ति की

6.6 अनुपालक की नियुक्ति के अधिकृत तथा अनुपालक दल की भाषा अभियोजन और उनके लिए गठन की

6.7 अनुपालक की नियुक्ति के अधिकृत तथा अनुपालक दल का अधिकृत तथा अनुपालक की भाषा अभियोजन

6.8 अनुपालक की नियुक्ति के अधिकृत तथा अनुपालक दल का अधिकृत तथा अनुपालक की भाषा अभियोजन

6.9 अनुपालक की नियुक्ति के अधिकृत तथा अनुपालक दल का अधिकृत तथा अनुपालक की भाषा अभियोजन

6.10 अनुपालक की नियुक्ति के अधिकृत तथा अनुपालक दल का अधिकृत तथा अनुपालक की भाषा अभियोजन
राजस्थान जुड़वाणी एवं ज्ञापन अधिनियम,
1956
(स्थापना सन 1956) द्वारा राजस्थान भु-राजस्थान अधिनियम, 1956 ने राजस्थान विधानसभा की स्थापना की हो गई थी।

1. राजस्थान भु-राजस्थान अधिनियम, 1956
2. राजस्थान विधानसभा अधिनियम, 1956
3. उपर्युक्त अधिनियमों को निर्धारित राजस्थान बांधव से निर्धारित अधिनियमों द्वारा निर्धारित अधिनियमों को निर्धारित वर्षों में निर्धारित किया गया होता है।

1. राजस्थान जुड़वाणी एवं ज्ञापन अधिनियम, 1956
2. राजस्थान विधानसभा अधिनियम, 1956
राजस्थान ठकुरी प्रतियोता का संबंधत विविधता का सहायक अभिव्यक्ति के एंटर कार्य कार्यकाल होता है। इसके लिए भवन में नर्म लेखक में निर्देश अभियंता नहीं होते हैं। जब भी राजस्थान ठकुरी प्रतियोता का हाइयोर के द्वारा बनाया गया है। राजस्थान ठकुरी प्रतियोता का नियोजक के बारे में निर्देश अभियंता के लिए कोई संबंधित केवल हेतु रहता है। इसके लिए निर्देश अभियंता के माध्यम से तात्कालिक विविधता वर्ष का समाप्त होना होगा। इसके कारण इन निर्देश अभियंता के रूप में निर्देश अभियंता के लिए कोई संबंधित केवल हेतु रहता है।

6. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है। इसके लिए निर्देश अभियंता के लिए कोई संबंधित केवल हेतु रहता है।

7. (a) भवन का कार्यकाल तत्त्वज्ञानी को राजस्थान ठकुरी प्रतियोता का निर्देश अभियंता के लिए कोई संबंधित केवल हेतु रहता है।

8. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है।

9. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है।

10. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है।

11. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है।

12. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है।

13. राजस्थान ठकुरी प्रतियोता का हेतु रहने वाला अभियंता के द्वारा संबंधित केवल हेतु रहता है।
19. राजस्थान आसामियों का अधिनियम, 1950 अन्तर्गत अन्य किये जाने वाले अन्य आसामियों का अधिनियम, 1956, राजस्थान विज्ञापन अधिनियम (एक व्यक्ति तथा फ्रीडम अन्य व्यक्ति प्रदर्शन) अधिनियम, 1962 अन्य किये जाने वाले अन्य आसामियों का अधिनियम विषय में संबंधित विधेयकों की कविता भी प्रकाश की अनुमति देने के लिए नीतियों के कारण राजस्थान आसामियों का अधिनियम उसके नीतीश्वर्य अनुसार बनाए जाने पर लागू होता है। अतः अनुमान निर्देशांकन पर शेष अवधि की लापरवाही के साथ विरोधी समय नहीं होगी।

20. अनुमान अधिकार के उपर्युक्त माह का निर्देश अनुमान अधिकार वाली एवं आसामियों का माफिक मानदंड निर्धारित प्रमाण में आसामियों माह की 5 तयीय का शीर्ष अवधि अधिकारी निर्धारित न तथा अधिकारी अधिकारी की प्रस्तुति की जाती है।

21. अनुमान की अवधि समाप्त होने पर अवधि नीति के अन्तर्गत अनुमान द्वाेरा होने की नीति में अनुमान अधिकार को निर्देश दिया गया एवं लोग के लिए हुए माह एवं समय निर्देशों की पुष्टि अवलम्बन अपने क्षेत्रों के अधिकारी निर्देश के दी गई हो। यहां विस्तारित रूप से अधिकारी निर्देशों के कारण अभिप्राय जमा करने होगा। अधिकार का ऐसे अवधि द्वारा बना एवं मौजूद अधिकारी को लागू होगा। अधिकार का निर्देशांकन का ऐसी विधि पर आ, एवं बी, एवं ए, अधिकारी निर्देश से नीति के कारण अभिप्राय जमा करने होगा। अधिकार का निर्देशांकन पर शेष अवधि की लापरवाही के साथ विरोधी समय नहीं होगी।

22. अनुमान अधिकार का अधिकार होने के लिए अधिकारिक निर्धारित रूप से लागू रहना होगा।

23. राजस्थान आसामियों का अधिनियम, 1950 अन्तर्गत अन्य किये जाने वाले अन्य आसामियों का अधिनियम विषय में संबंधित विधेयकों की कविता भी प्रकाश की अनुमति देने के लिए नीतियों के कारण राजस्थान आसामियों का अधिनियम उसके नीतीश्वर्य अनुसार बनाए जाने पर लागू होता है। अतः अनुमान निर्देशांकन पर शेष अवधि की लापरवाही के साथ विरोधी समय नहीं होगा।

24. उन अनुमान के संबंध में उपर्युक्त प्रमाण विषय में उल्लेख के लिए नीतियों का कारण प्रस्तुति की जाती है।

प्रतिस्विमि:

अनुमान देने वालों के हस्ताक्षर

लिखा...

समय का प्रति...
आमकर्षित विधेयक राजस्थान, उदयपुर

(5) "धाराक्रम खुदरा विविध तालाब दिनांक (लाइसेंस) (राजस्थान आमकर्षित अधिनियम, 1950 की धारा 42 (ई) र राजस्थान आमकर्षित अधिनियम, 1956 की धारा 57 तथा राजस्थान नारायणलात द्रुम एवं साइकोस्ट्रोविक सम्बन्धित रूपस 1985 के अन्तर्गत)

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इन्हें अनुशासन की यात्रा संभालने के लिए उन्हें अनुशासन/अनुशासनों में:

1. स्वीकृत अनुशासन धारा 33.33% प्रतिशत धारण करें और जरूरत का कार्य तो है।
2. स्वीकृत अनुशासन धारा 10 दिनों के प्रति धारा के बाद से बैठक प्रस्तुत कर है।

उपरोक्त विविधताओं को सम्मानित मॉडल में भाग का लोक उपलब्ध होने तथा सम्मानित गोष्टि से विविधता के लिए प्रचार कर रहा वर्तमान अनुशासन धारा 1985 के अनुसार प्रचार का कार्य करीब 10 दिनों के प्रति कृपया प्राप्त करीब 10 दिनों के प्रति धारण करें और उनसे माफ़ हो।

उपरोक्त अनुशासन का सम्मानित गोष्टि में भाग का लोक उपलब्ध होने तथा सम्मानित गोष्टि से विविधता के लिए प्रचार कर रहा वर्तमान अनुशासन धारा 1985 के अनुसार प्रचार का कार्य करीब 10 दिनों के प्रति कृपया प्राप्त करीब 10 दिनों के प्रति धारण करें और उनसे माफ़ हो।

1. रजस्थान आवधकारी अधिनियम, 1950 एवं उनके अन्तर्गत आमकर्षित विविधताओं तथा नारायणलात द्रुम एवं साइकोस्ट्रोविक सम्बन्धित रूपस 1985 के अन्तर्गत:

अनुशासन, राजस्थान आवधकारी अधिनियम, 1950 (राजस्थान अधिनियम संभाल-2, 1950) एवं आंदोलन प्रबंधक म. 23 (1) अभ्यर्थी/पेशेवर 4-2-2006.
3.4 श्रेणी संबंधित है। यदि कोई अनुसंधानीय निश्चय अथवा तर्क को साथ लेकर "असाक्षीयों का पूर्ण" करता खाता हो तब अनुसंधानीय "संपत्ति के बहु" में अनुसंधानीय को संभाल ली जाय तो वह किसी भी विभिन्न प्रकार के तत्व अथवा तर्क को लेकर प्रारंभ अथवा "संपत्ति के बहु" में प्रतिस्पर्धा की गई नहीं होंगे।

3.5 श्रेणी संबंधित है। यदि कोई अनुसंधानीय निश्चय अथवा तर्क को साथ लेकर "असाक्षीयों का पूर्ण" करता खाता हो तब अनुसंधानीय "संपत्ति के बहु" में अनुसंधानीय को संभाल ली जाय तो वह किसी भी विभिन्न प्रकार के तत्व अथवा तर्क को लेकर प्रारंभ अथवा "संपत्ति के बहु" में प्रतिस्पर्धा की गई नहीं होंगे।

4. परिचय रिटर्न एवं बैंक गारंटी:-

4.1. परिचय रिटर्न प्राप्त तथा स्वीकृत अनुसंधानीय की 33.33 प्रतिशत होगी। विविध स्वीकृत ने परिचय रिटर्न प्राप्त करने के लिए विभिन्न प्रकार के तत्व अथवा तर्क को लेकर प्रारंभ अथवा "संपत्ति के बहु" में प्रतिस्पर्धा की गई नहीं होंगे।

4.2. बैंक गारंटी: अनुसंधानीय के निभाव विभिन्न प्रकार के तत्व अथवा तर्क को लेकर प्रारंभ अथवा "संपत्ति के बहु" में प्रतिस्पर्धा की गई नहीं होंगे।
5.10 अनुसारिकों को अपने तुलना पर दाता के बाद में समय 75%125 से जी. अनुक्रंत का एक चैंपियन का खिलाड़ी पर अनुसारिकों ने दिया जिन्हें पर अनुसारिकों का नाम, भाग निम्न का नाम या उक्त का स्फुरण से लिखा हो, लगातार होगा। अनुसारिकों ने तुलना का प्रमाण इस प्रकार होगा कि उसके नाम से भील के समय हालात सम्बन्धित देखा जा सके।

5.11 क्रिया व व्यवस्था की तुलना से खिलाड़ी तुलना की अवधारित तत्व व्यवस्था पर होने की आवश्यकता है जब तक उसे या उस तुलना का बाद संबंधित ना हो। यह समय अवधारित करने की आवश्यकता है। उक्त समय के अनुसार अनुसारिका के उपयोग का निरीक्षण नहीं होगा। अनुसारिका हमारे ग्राहक के लिए अधिकतम फीस को नहीं सकता। अनुसारिका की किसी मार्केट पर अनुसारिका का संदर्भ पर नहीं होगा। ग्राहक को मार्केट पर नहीं होगा।

5.12 अनुसारिका नियम-सुचना शीर्षक का पुनरावृत्ति करते हुए अवधारित करने की अवधारित से एक ही तुलना करते हुए दृष्टि का एक स्थान से दूसरे स्थान पर प्रयास्त प्रदर्शन कर सकता।

6. तुलनाओं का संबंधात्मक:-

6.1.1 अनुसारिका नियम या निर्देशदार समय के अनुसार तुलना तुलना से हो सकता। पहले अवधारित बुक अनुसार दिनें पूरी तुलना के समय में अपनाया साहित्य पूरी तुलना का बनाना हो।

6.1.2 दीर्घ 200 ग्राम या 200 दिन द्वारा पत्र अपने मंजिलों में राजा अवधारित/अवधारित तुलना के क्रम में किये गए हाफ में उक्त तुलना के बनाने को हाफ से त्यागी। क्रिया की दृष्टि से अनुसारिका एक नीति अभिषेक के लिए हाफ से त्यागी। साहित्य के अभिनव असहित तत्व से त्यागी। 

6.1.3 दीर्घ 200 दिन या अवधारित/अवधारित दिनों के अभिनव दिनों के द्वारा पत्र के मंजिलों को क्रिया हाफ के हाफ में पूरी तुलना के समय में अपनाया साहित्य पूरी तुलना का बनाना हो।

6.1.4 दीर्घ 200 दिन या अवधारित/अवधारित दिनों के अभिनव दिनों के मंजिलों के द्वारा पत्र के मंजिलों को क्रिया हाफ के हाफ में पूरी तुलना के समय में अपनाया साहित्य पूरी तुलना का बनाना हो।

6.2 अनुसारिका अपने तुलना पर राजकीय भाषाओं/अवधारित/अवधारित अवधारित तत्व के स्थान का समय ही या वक्त ही निर्देश प्रदान करना। यह बात वह भाषाओं/अवधारित से अपने मंजिलों ने संबंधित वातावरण में लाभ का समय के समय पर वक्त के समय में अपनाया साहित्य पूरी तुलना के समय में अपनाया साहित्य पूरी तुलना का बनाना हो।

6.3 तत्कालीन दृष्टि देखने अपने मंजिलों ने संबंधित अवधारित करने के अभिनव दिनों के मंजिलों को भी अवधारित होने से ठीक हो।

6.4 अनुसारिका अपने तुलना पर अभिनव तत्व के स्थान ही अभिनव होने से ही नहीं होने चाहिए। अवधारित अनुसारिका को किसी अनुसारिका के अभिनव अवधारित होने से ही नहीं होने चाहिए। अवधारित अनुसारिका के किसी अभिनव अवधारित होने से ही नहीं होने चाहिए।
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(6) भाग योगक अनुसार

अनुसारण संक्षेप............................दिनांक....................................
श्री/श्रीं श्रीं..................................................दिनांक..............................
नियमयी.................................................................को किया भाग मूलभल्य सम्पूर्ण के बारे में ............ ने स्फुरता अनुसारण के को उसके अंतर्गत पर प्रचार 10,000/- (रूपये दश हजार) के वार्षिक अनुसारण पर बारे में ............ के लिए भाग योगक अनुसारण नियम शर्तों पर प्रचार किया जाता है।

1. भाग योगक अनुसारण हेतु वार्षिक अनुसारण की परिभाषा 10,000/- अभ्यास करनी होगी।
2. भाग का भाग दीर्घता सामाजिक नियम आबादी अधिकारियों के अनुमोदन का आयोजन अधिकारी होगा।
3. इस अनुसारण के अन्तर्गत अनुसारण सामर्थ्य नियम आबादी अधिकारियों द्वारा गाई गई, जिनके अपने अभ्यास शर्ताओं में उचित भाग के भाग नियमों से रहकर अनुसारण नियम शर्तों पर तीन श्रेणियां का चयन करने होगा।
4. भाग अनुसारण के अन्तर्गत यह भाग का विज्ञापन अभ्यास सम्बन्धी कथा आबादी अधिकारियों द्वारा गाई गई, जिनके अपने अभ्यास शर्ताओं में उचित भाग के भाग नियमों से रहकर अनुसारण नियम शर्तों पर तीन श्रेणियां का चयन करने होगा।
5. आबादी के आयाम अधिकारी नियम, 1956 के नियम 69-श्री 1 में उल्लेखित विषय को बिना अभ्यास का नियमानुसार उपयोग करने होगा।
6. आबादी अनुसारण के भाग का स्थानान्तरण नियम आबादी अधिकारियों द्वारा गाई गई, जिनके अपने अभ्यास शर्ताओं में उचित भाग के भाग नियमों से रहकर अनुसारण नियम शर्तों पर तीन श्रेणियां का चयन करने होगा।
7. आबादी आबादी अधिकारी नियम, 1956 के नियम 69-श्री 2 में उल्लेखित विषय को बिना अभ्यास का नियमानुसार संबंधित करने होगा।
8. आबादी अधिकारी अनुसार के भाग का स्थानान्तरण नियम आबादी अधिकारियों द्वारा गाई गई, जिनके अपने अभ्यास शर्ताओं में उचित भाग के भाग नियमों से रहकर अनुसारण नियम शर्तों पर तीन श्रेणियां का चयन करने होगा।
9. आबादी अधिकारी अनुसारण, 1956 के नियम 69-श्री 3 में उल्लेखित विषय को बिना अभ्यास का नियमानुसार करने होगा।
10. आबादी अधिकारी नियम, 1956 के नियम 69-श्री 4 में उल्लेखित विषय को बिना अभ्यास का नियमानुसार करने होगा।
11. आबादी अधिकारी नियम, 1956 के नियम 69-श्री 5 में उल्लेखित विषय को बिना अभ्यास का नियमानुसार करने होगा।
12. आबादी अधिकारी नियम, 1956 के नियम 69-श्री 6 में उल्लेखित विषय को बिना अभ्यास का नियमानुसार करने होगा।

[राजस्थान बिल] राजस्थान बिल, 1956
(2) पीपीएसफीए एवं पूर्ण अनुसन्धान का रिकॉर्ड केन्द्र उन्ही व्यक्तियों को प्रिय या लक्ष्य किए निकले पाया था या पाया हो। पुरा विधेयक की प्रियतमीता भी से अधिक माना जाता था प्रियतमीता व्यक्ति के अनुसार ह्र व्यक्तियों को प्रिय करता था।

(4) ऐसे अभिविद्या के अनुसार उस क्षेत्र के प्रवेश या प्रवेश का प्रश्न किया जाता है और अनुसार विशेषता को प्राप्त किए जाते हैं जो उसके अनुसार में प्रवेश का प्रश्न किया जाता है, और उसने अनुसार विशेषता को प्राप्त किए जाते हैं।

(5) अनुसार विशेषता के अनुसार जीवन जीने वाले रूप दिखाते हैं।

(6) सत्संग या वास्तविकता जीवन जीने वाले रूप दिखाते हैं।

(7) अनुसार विशेषता अभिविद्या का अनुसार जीवन जीने वाले रूप दिखाते हैं।

(8) अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

(9) अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

(10) अनुसार अभिविद्या, जो सत्संग की प्रियतमीता से जीने के लिए प्रश्न किया जाता है।

(11) अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।

अनुसार विशेषता अनुसार बौद्ध विशेषता में जीवन जीने वाले रूप दिखाते हैं।
राजस्थान आयुक्त आयुक्त-पत (प्रभाव) 1956 के तथा जनवरी 1956 की तिथि 68(11) तथा तिथि 69(2) के अनुसार लाभ की गई है तथा अनुसूचित करने के माध्यम से मनोभावित किया जा रहा है -

dharama प्रतीति की बोलते भारे के लए अनुसार-पत

8. अनुसूचित भाग का एक रंग का भारे के लए अनुसार-पत

अर्पितमण सं. 15/शताब्दी/ए.एन/65, दिवंगत 18-3-1669, राजस्थान आयुक्त 4 (7) दिनांक
26-6-1969, प. 103-111.

1. जी.एच.ए.अर 28 - राजस्थान आयुक्त अधिवक्ता, 1950 (राजस्थान आयुक्त 2 तथा 1950) की तिथि 42 के साथ संख्या राजस्थान आयुक्त कर-अधिवक्ता, 1956 की तिथि 92 तथा चर्चा विषयों का प्रस्ताव करते हुए, जनक संख्या की पूर्व स्थिति में दिन 68(11) तथा तिथि 69(2) के अनुसार लाभ की गई है तथा अनुसूचित करने के माध्यम से मनोभावित किया जा रहा है -

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3. कैदमें कोई विनाशील कीट-बीटा (Foreign body insect) अपवाद कैसा भी कोई अन्य दृष्टि नहीं होना चाहिए। कैदमें के भागों के क्षेत्रों में भी कोई अन्य दृष्टि नहीं होना चाहिए। कैदमें भागों के क्षेत्रों में यथोत्पत्ति और चिह्नों भी साफ तथा अनुपस्पत रूप से भर दिया गया है।

4. ऐसा दृश्यमान हो सकता है। प्रत्येक कैदकारी, ऐसा ज्ञान भर कि उसकी अनुपस्थिति (Inspection of Compound) की जरूरत तथा कैदमें के भागों में एक युग्म बनाने के लिए होंगे कि उसे व्यक्तिगत रूप से भर दिया गया है।

5. कैदमें के भागों के उपर भरी हुई मस्ती (Mist) रोकरा देता है जो जमीन के अधिक अवधि पर भर का डालना (Capsule) का लगन दिया जाएगा। प्रत्येक कैद के उपर एक लेखा, विधेयक तथा उपस्थिति (Superscription) होना चाहिए कि अवधारणा अनुभूति होती है यहाँ तक उन्हें उन्हें यह दिखाया गया है।

6. कैदमें के केवल निर्माण प्राप्त और प्रकार की गिनती का ताल पर (Contents) निर्माण के निर्माण भरा गया -

7. कैदमें की दर (Capacity) निर्माण के लिए -

8. कैदमें के केवल प्राप्त अनुसूची (Superscription) निर्माण के निर्माण करते हैं -

9. कैदमें के केवल प्राप्त के प्राप्त अनुसूची, अनुसूची का प्राप्त अनुसूची की संख्या के प्राप्त अनुसूची के साथ निर्माण के निर्माण कहलाता है।

10. अवधारणा अनुभूति द्वारा इन कैदकारी द्वारा अनुभूति दरमार्ग एवं 1889 (दत्तेश्वर अनुसूचिक 4, 1889) के प्राप्तकारों का उपाध्य नहीं किया गया है।

11. इसकी अवधारणा देखती है कि उसकी अवधारणा भरा देखता है जो कैदकारी अनुभूति दरमार्ग एवं 1889 (दत्तेश्वर अनुसूचिक 4, 1889) के प्राप्तकारों का उपाध्य नहीं किया गया है।

12. अवधारणा संपत्ति के नुक्सान के तुलना बना कर दिया जाया जाना। प्रत्येक में आपके लिए तदा अभ्यास के अनुसूची की जरूरत होगी तथा अवधारणा अभ्यास का प्रमाण प्रदान होगा।

13. अवधारणा अनुभूति का पूर्व प्राप्त होने के बिना भरी गई नहीं किया जाएगा।

14. प्रत्येक अवधारणा अभ्यास का पूर्व प्राप्त होने के तहत अवधारणा अभ्यास के ताल पर निर्माण के निर्माण के लिए वित्तीय साधन के लिए वित्तीय साधन भर देने के लिए अपेक्षित हों, निर्माण के लिए अवधारणा प्रदान उनके अनुसार दी जाए।

15. अवधारणा अनुभूति अनुभूति का पूर्व प्राप्त होने के लिए प्रत्यक्षाधिकार के रूप में 1,000 रुपये (एक हजार रुपये) का राशि का वरदान इस प्रकार के रूप में प्राप्त होने के लिए वित्तीय साधनों का उपयोग किया जाए।

16. अवधारणा अभ्यास का पूर्व प्राप्त होने के लिए प्रत्यक्षाधिकार का उपयोग किया जाए।

17. अवधारणा अभ्यास के उक्त नामस्त्रों के या उसके संबंधी के या उसके लिए संबंधित करने हेतु किसी वृक्षता की वृक्षता की अवधारणा के दरमार्ग का प्राप्त होने के लिए लेखा जाए।

18. अवधारणा अभ्यास का पूर्व प्राप्त होने के लिए प्रत्यक्षाधिकार का उपयोग किया जाए।
हरी निर्मिति भाषा का उपयोग करके कोर्ट के लिए आरोप दर्ज करने की अधिकता अधिकारी के स्थान पर अनुपत्त बनाए जाएगा।

5. अनुपत्तधारियों को एक वर्ष भत्ता स्वीकार करने की अनुमति दी जाएगी, तथा वृत्त भरने के बाद वृत्त को पूर्णतः निर्मिति भाषा के संकेत पर भत्ता का सर्वकाल नहीं दिया जाएगा।

6. (१) कोर्टों में केवल निर्मिति भाषा का प्रयोग की जाएगी। 

(Contents) निर्मिति भाषा का प्रयोग:

(१) प्रयोग - 750 रुपए प्रति भत्ता
(२) प्रयोग - 550 रुपए प्रति भत्ता

(२) यह प्रयोग - 325 रुपए प्रति भत्ता कोर्ट के लिए मान्य किया जाएगा। 

(३) कोर्ट के लिए कोर्ट के ऊपरी पत्रों में सुझाव देंगे।

(४) सुझाव देंगे का लाभ प्राप्त होगा जब खाली करने के लिए उपयोग के समय अनुपत्त दिन के दिन निर्मिति भाषा के स्थान पर भत्ता का सर्वकाल नहीं दिया जाएगा।

(५) कोर्ट के लिए सुझाव देंगे के लिए उपयुक्त कार्यक्रम के दिन निर्मिति भाषा के स्थान पर भत्ता का सर्वकाल नहीं दिया जाएगा।

(६) कोर्ट के लिए उपयुक्त कार्यक्रम में सुझाव देंगे का लाभ प्राप्त होगा जब खाली करने के लिए उपयोग के समय अनुपत्त दिन के दिन निर्मिति भाषा के स्थान पर भत्ता का सर्वकाल नहीं दिया जाएगा।

(७) कोर्ट के लिए सुझाव देंगे के लिए उपयोग के समय अनुपत्त दिन के दिन निर्मिति भाषा के स्थान पर भत्ता का सर्वकाल नहीं दिया जाएगा।

(८) कोर्ट के लिए सुझाव देंगे के लिए उपयोग के समय अनुपत्त दिन के दिन निर्मिति भाषा के स्थान पर भत्ता का सर्वकाल नहीं दिया जाएगा।
राजस्थान खुदीया कानून, 1956

16. वौल्स जो अपने के दरार से खास लेने या खुदीया कानून में अन्य पाया करीब एक कार्यक्तियों देने वाला अन्य वौल्स के लिए खास लेने का यह संशयोग नन्हीं।

17. अनुसूचीय अधिकता की पूरी अनुमति के बिंदु लोटरी पुनः नहीं भी जाने।

18. अनुसूचीय अधिकता के अनुसार आचार्य की पूरी अनुमति के लिए बिंदु अनुसूचीय अधिकता के कारण नहीं जाने।

19. अनुसूचीय अधिकता के अनुसार आचार्य की पूरी अनुमति के लिए बिंदु अनुसूचीय अधिकता के कारण नहीं जाने।

20. अनुसूचीय अधिकता के अनुसार आचार्य की पूरी अनुमति के लिए बिंदु अनुसूचीय अधिकता के कारण नहीं जाने।
(10) आमकर्षक विनियम

आमुलखा संबंध F 18 (रेखा) 77, उद्योग विभाग स्थाना 18, 1997:

(उ.रू. 549) राजस्थान आमकर्षक विनियम, 1956 के मिशन 93 इसके एक प्रति संबंधित को। कार्य करने हेतु में आमकर्षक आरक्षक, आमकर्षक प्रदान के लिए परिस्थितियों या परिस्थितियों समान रहना और समस्त प्रयोग करने के लिए आमुलखा का, पुनःदर्शी, निचला दिशा साधारण करना।

आमुलखा प्रशिक्षण के लिए परिस्थितियों या परिस्थितियों प्रस्ताव का चुनने और उसका प्रयोग करने के लिए आमुलखा का प्रयोग। नियम 68 (2) (क) और (13)।

आमुलखा विनियम: काफी उच्च - उच्च, 1997, 1999 को समाप्त के बाद के दौरान सर्वश्रेष्ठ स्थाना 1999, इसके हेतु स्वत: सी. वी. जी. सी. निषेधान्त। यह अधिवेशन है: उक्त में उस प्रकार का एक सिद्धिकारों का साथ दी गया है।

1. आमुलखा के अनुसार इसके कार्यक्रम के अंतर्गत उन्नति नीति ने लिया संबंध।
2. आमुलखा परिस्थितियों या परिस्थितियों प्रस्ताव का उपयोग करने उन्नति व्यवस्था में को, जो स्थान आमुलखा अधिनियम के अनुसार प्राप्त करने के लिए उच्च रंग का।
3. आमुलखा प्रशिक्षण संस्था (क) अवधि विधिन आवश्यक विकल्प के बीच अवधि का निहित प्रशिक्षण का प्रयोग विधि के रूप में।
4. आवश्यकता के लिए स्थान में परिस्थितियों या परिस्थितियों प्रस्ताव का प्रयोग है उक्त में विशिष्ट सम्बन्धित, बी.ए.ए. और विद्यायता के अनुसार, न से उन्नति और उ विद्यायता के लिए ऊपर या दायरे। यह परिस्थितियों या परिस्थितियों भर में हुए सच्चिदानन्द ग्राम्य वह विकल्प के सहम में उक्त प्रशिक्षण (प्रशिक्षण) एक विधि हासिल कर सके।
5. आवश्यकता विभिन्न नीति के संबंध में उच्च- उच्च के लिए वातावरण के वातावरण का चुनाव।
6. आमुलखा अनुसार प्रशिक्षण में विवरण या विवरण के अनुसार हेतु करने के लिए व्यवस्था के नियम को अनुसार बाहर हो अवधि अधिनियम और नियमों में।
7. आमुलखा अधिनियम के विनियमों के लिए विवरण एवं उक्त प्रशिक्षण या विवरण प्रस्ताव का, कुल स्तर विधिन के लिए व्यवस्था।
8. आमुलखा उन्मादन के लिए विवरण और विवरण के मूल्य/मूल्य के एक दौरान साथ ही उक्त प्रशिक्षण या विवरण प्रस्ताव का, कुल स्तर विधिन के लिए व्यवस्था।
9. आमुलखा आवश्यकता अनुसार विवरण समान नियम 47 र विवरण प्रस्ताव का, (संस्था 148 (2) के अनुसार)।
10. आमुलखा स्थान में ही परिस्थितियों या परिस्थितियों प्रस्ताव का, कार्य के लिए रखना।

आमुलखा अनुसार इसके कार्य के लिए विवरण और विवरण के मूल्य/पूर्ण के एक दौरान साथ ही उक्त प्रशिक्षण या विवरण प्रस्ताव का, कुल स्तर विधिन के लिए व्यवस्था।

आमुलखा आवश्यकता अनुसार विवरण समान नियम 47 र विवरण प्रस्ताव का, (संस्था 148 (2) के अनुसार)।
राजस्थान नक्साली अधिनियम, 1950 व इसके अनुसार बनाये गये विनियमों के अनुसारः

(1) अनुसरणीय मे दर्शाया गया अन्तर्भाषित किया गया है।

(2) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(3) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(4) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(5) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(6) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(7) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(8) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(9) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(10) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

(11) अनुसरणीय में किसी भी अन्तर्भाषित की अनुसरणीय है।

सं. 12 और (10) अनुसार।
### The Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975

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The Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975

G.S.R. 230 - In exercise of the powers conferred by clauses (e) and (f) of Section of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government hereby makes the following rules, namely:

RULES

1. Short title & commencement — (a) These rules may be called the Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975.

(b) They shall come into force on their publication in the Rajasthan Gazette.

2. Definitions — (A) In these rules, unless the context otherwise requires:

(a) "Collector" means Collector of the district.

(b) "Liquor shop" means a shop for retail sale of country liquor and includes its sub-shop.

(c) "Panchayat" means a Panchayat established under the Rajasthan Panchayat Act, 1953.

(d) "Panchayat Circle" means the local area over which a Naya Panchayat exercises jurisdiction.

(e) "Sub-divisional Officer" and "Tehsildar" means officers appointed to hold charge of a revenue sub-division and Tehsil respectively.

(f) "Voter" means a person whose name is entered in the electoral roll of the Panchayat for the time being in force.

(g) "Year" means a financial year commencing on 1st April and ending on 31st March next following.

(B) Words and expressions not defined in these rules but defined in the Rajasthan Excise Act, 1950 would have the same meaning as assigned under the aforesaid Act.

3. Option of closure by voters of Panchayat — A liquor shop in any Panchayat may be closed if the voters in the Panchayat Circle opt for such closure with a less than 2/3 of the total number of voters of the Panchayat (Circle) voting for a closure of the shop in the manner hereinafter laid down, from the commencement the year immediately following the one in which such voting takes place.

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4. Application for closure — An application in Form 1 may be made by voters of any Panchayat circle to the concerned Sub-divisional Officer for obtaining public opinion on the question of closure of any or all liquor shops or sub-shops, functioning in the Panchayat circle:

Provided that no such application shall be entertained unless not less than one-tenth of the total number of the Panchayat circle have signed affixed their thumb-impressions on the application in support of the demand.

5. Enquiry by SDO on application and Report — On receipt of such an application, the Sub-divisional Officer shall make an on the spot enquiry and if he is satisfied that the number of applicants who are voters of the Panchayat circle who have actually signed affixed their impressions on the application is not less than one-tenth of the total number of voters of the Panchayat Circle, he shall send the application to the Excise Commissioner with his endorsement thereon to this effect.

6. Excise Commissioner to consider SDO’s Report — On receipt of the application along with the report of the Sub-divisional Officer under Rule 5, the Excise Commissioner shall, unless he considers that the application is not in accordance with the provisions of these rules or he deems it necessary to call for further report from the Sub-divisional Officer, ask the Collector concerned to ascertain the public opinion in the Panchayat circle on the question of closure of the liquor shop as demanded in the application by holding a poll:

Provided that if in the opinion of the Excise Commissioner the application is not in accordance with the rules, he shall send a report to the Government whose decision will be final and will be communicated to the Panchayat for informing the applicants.

7. Issue of public notice by Collector — The Collector shall thereupon issue a public notice of intended poll in Form 2 and shall public notice of the Board of the Panchayat and such other places in the Panchayat Circle as he deems fit. The Collector shall allow a period of at least fifteen days to intervene between the date of publication of the public notice in the Panchayat circle and the date of the poll.

8. Appointment of presiding officer — The Collector shall appoint a Presiding Officer not below the rank of the Tehsildar for conducting the poll and polling officers to assist him in the conduct of the poll.

9. Polling-Made of — The polling shall be conducted in their manner laid down for election of Panchas in the rules prescribed under the Rajasthan Panchayat Act, 1953 mutatis mutandis.

10. Ballot paper — The ballot paper used for the purpose of poll shall be printed in Form 3.

11. Counting — After the polling is over, the Presiding Officer shall count number of votes polled for and against the closure of the liquor shop, declare the result and send a report in duplicate to the Collector in Form 4 along with the record of the poll.

12. Report of the result of polling — The Collector shall forward one copy of the report to the Excise Commissioner with his remarks, if any.

Notification No. F. 2(3)/VI-X, 73 dated December 16, 1975 published in Rajasthan Gazette, Part IV-C, dated 8-1-1976, Pages 783 to 792.

13. Excise Commissioner's duty on receipt of report—On receipt of the report of the Presiding Officer, the Excise Commissioner shall if not less than two-thirds of the total number of voters of the Panchayat Circle had voted for the closure of the shop, order the closure of the shop in the Panchayat circle from the commencement of the year next following the year in which the voting took place.

14. Strength of voters favouring closure—If the poll is organised in the manner laid down above, not less than 2/3rd of the total number of voters in the Panchayat circle do not vote for a closure of any liquor shop or sub-shop, no application for ascertaining the public opinion in the Panchayat circle for closure of the same shop or sub-shop shall be entertained before expiry of a period of twelve months from the date on which such poll was last held.

15. Record of polling—The record of the poll including the electoral rolls and ballot papers used and unused shall be preserved for a period of twelve months after the date of poll unless otherwise directed by the Government or any competent court.

FORM 1

[See Rule 4 of the Rajasthan Excise (Closure of Country Liquor Shops by Local Option) Rules, 1975]

To

The S.D.O.

Sr.,

We, the following registered voters of the Panchayat

Tehsil—________ District—_________ demanded that the Country/Liquor Shop

within our Naya Panchayat—_________ (mention name of place)

Circle should be closed. We request that poll may be held to ascertain public opinion in our Panchayat Circle on the above demand.

Yours faithfully,

1. No Full name of voter
2. Number in Electoral Roll at which the voter’s name appears
3. Signature/Left hand thumb impression of the voter
4. 

FORM 2

[See Rule 7 of the Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975]

Notice of Poll

Notice is hereby given that a poll is to be held in the office of the Panchayat

Tehsil—_________ District—_________ to ascertain the public opinion in the Panchayat Circle on the question of closure of country liquor shop—_________ sub-shop—_________ situated in the Panchayat Circle on ________ between the hours of

Date—_________

Collector

District—_________
The Rajasthan Excise (Grant of Hotel Bar/Club Bar Licences) Rules, 1973

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INTRODUCTORY NOTE

(a) Rules—These Rules were originally applicable to Hotel Bars only. Thereafter in 1984 the club bars were included bars, but in 1994 "Restaurant Beer Bar" was also included in these Rules, but in 1999, the word "Restaurant Beer Bar" has been dropped and now these Rules are applicable only to—

(a) Hotel Bar
(b) Club Bar as defined in Rule 2, as a result of New Excise Policy of the Government.

Rules 1 enumerates the persons who are eligible for grant of these licences and provides for detailed procedure of granting such licences.

In case of default in payment of licence fee or failure to start sale, the sanction may be cancelled by the Excise Commissioner under R.U. Even on grounds of disqualifications mentioned under R. 3(8) or in case of fraud and questionable method of obtaining sanction, the licence may be cancelled after giving opportunity of hearing by Excise Commissioner.

Renewal of licences is dealt with in R. 7A. These rules have been given overriding effect over the Rajasthan Excise Rules, 1956 Vide Rule 8 of these rules.

Licence for Beer Bar, when found illegal—[Ss. 4, 41 and Rule 75(2) —Notification, dated 15.2.57] Licence for Beer Bar was granted. Beer is included in foreign liquor and there is prohibition under Rule 75(2) for running a retail shop of country or foreign liquor within area of 200 meters of school or institution. Held that grant of licence for Beer Bar was illegal, hence was quashed.3

(c) State Policy - Repeal of Licence—On various complaints that consumption of liquor in Bars resulted in law and order problems and women folk is being harassed, certainly in public interest the Government can take a decision to repeal the grant of bar licences. There is nothing unreasonable in it. Held, it is not necessary to constitute a committee for this purpose. It is matter of policy which the Government alone is competent to formulate. It is for the Government to see how best to augment its revenue.4

1. Notification No. 69/F(40)/(D)/T/1/71/4, dated 22-3-73 published in Reg. Gaz., Pt. IV(J), (3) Ext., dated 22-3-73.
2. Expression "Restaurant Beer Bar" which was inserted vide G.S.R. 89 dated 20-10-94 has now been deleted vide G.S.R.2 dated 1-4-99, published in Reg., Gaz.I(4-C)/1997 dated 1-4-99 pages 4-6.
Rule 3—Grant of Hotel Bar/Club Bar Licences Rules, 1973

[405]

(1) Provided that the Government may, if it soplease, set up a committee to make recommendations on an application for grant of Hotel bar licence/Club bar licence to any establishment even if it does not fulfill the criteria laid down in Rule 2 and other criteria with regard to eligibility of a hotel for hotel bar licence or Club for Club licence, which is deemed to be comparatively on par. The said rules and conditions may be issued by the Government from time to time.

2. Definitions—

(a) "Hotel" means all Tourist Bungalows and hotels run by the Department of Tourism and Hotel Corporation of the State Government and the Government of India including Hotels recognised by the Government of India as Heritage Hotels and shall include any other hotel with at least 20 bedrooms which is adjudged to be of at least Two Star Category by the Department of Tourism Government of India or any other authorities authorised specially for this purpose by the Government of India.

(b) "Hotel Bar/Club Bar Licence" means a licence to sell and supply foreign liquorgranted to a hotel which makes sales to foreign and Indian tourists staying or residing in it or for consumption in a room earmarked for serving purpose or dining hall or drawing room or such other part of the hotel as may be approved by the Government.

(c) "Club" means a duly registered association of persons for social and recreational purposes or for the promotion of some common interest on joint expenses.

(d) "Club Bar licence" means a licence granted to a club for retail sale of foreign liquor to such club members for consumption in the club premises.

3. Eligibility and procedure for grant of hotel licence—(1) Any person who owns a hotel as defined in these rules and who does not possess any of the disqualifications mentioned in sub-rule (8) below shall be eligible to apply for a Hotel Bar/Club Bar Licence.


Expression "Restaurant Bar" deleted by G.S.R. 2 dated 1-4-1999.

Clauses (a) & (d) inserted by G.S.R. 27 of 13-8-1984.

Clauses (dd) & (d) inserted by G.S.R. 89 of 24-6-1984, have been deleted by G.S.R. 2 dated 1-4-1999.

The text of these clauses was as under:

[dd] "Restaurant" means any restaurant the public are admitted in the consumption of food or drink, for consideration.

[dd] "Restaurant Licence" means a licence to sell and supply foreign liquor for consumption in a Restaurant.

Class (c) re-numbered as (d) by G.S.R. 27 of 13-8-1984.

Expression "Restaurant Bar" deleted by G.S.R. 2 dated 1-4-1999.

4. Inserted by G.S.R. 89 of 24-6-1984, have been deleted by G.S.R. 2 of 1-4-1999.
5. Text reproduced hereunder for reference.
6. (i) Any person who owns or runs a Restaurant as defined in these rules or the owner or category of town hotels for the purpose of grant of Restaurant Licence and who does not possess any of the disqualifications mentioned in rule 8 of these rules, shall be eligible to apply in that form in which it is possible to apply for a Restaurant licence.
7. The Government may at any time issue orders for the recommendation of which the Excise Commissioner grant a Club Bar Licence to a person, in accordance with the provisions of the Excise Act, 1956 (5 of 1956), as the Government of India and the State Government of Rajasthan have the power to do so.
Table: Initial fee for licence for year or part there of (Rs. In lacs)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Category</th>
<th>Initial fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A</td>
<td>Luxury Hotel/Train</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Five Star Hotel</td>
<td>5.00</td>
</tr>
<tr>
<td>2</td>
<td>Four Star Hotel</td>
<td>4.00</td>
</tr>
<tr>
<td>3</td>
<td>Three Star Hotel</td>
<td>4.00</td>
</tr>
<tr>
<td>4</td>
<td>Luxury Train</td>
<td>4.00</td>
</tr>
<tr>
<td>B</td>
<td>Heritage Hotel:</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Category A</td>
<td>5.00</td>
</tr>
<tr>
<td>2</td>
<td>Category B</td>
<td>1.00</td>
</tr>
<tr>
<td>3</td>
<td>Category C</td>
<td>0.50</td>
</tr>
</tbody>
</table>

(Note: The category of a heritage hotel shall be decided by a committee constituted by the State Government in this behalf, whose decision shall be final)

C Other Hotels:

1. Hotels situated in and within 10 Km. of the municipal or urban agglomeration limits which ever is the farther, of:
   a. Jaipur and Jodhpur
   b. Other Divisional Head Quarters, Mt. Abu and Jaisalmer

| 2     | Situated in other places not recovered by Clause 1 | 0.75 |

D CLUB BAR

1. In Jaipur
   2. In other Places

---

**Rule-3**

1. [xx Note Deleted]
2. [Provided that in case of restaurant, beer bar, the same fees, applicable for divisional headquarter towns and for cities with the population of 1 lac or more, shall be chargeable up to 10 Km. area contiguous to the said town/city.]
3. [Provided further that every application for a Hotel Bar licence where a duly constituted Committee is required to visit the site for recommending grant of Licence, shall be accompanied by the non-refundable process fee equivalent to an amount of 10% of prevailing initial fee or Rs. 10,000 whichever is higher.]

**Explanation**:

(i) The aforesaid initial fee [and process fee] shall be deposited in the State Treasury and a copy of the challan supplied by the Treasury to the applicant shall be enclosed by him with his application. Cheques shall not be accepted.

(ii) The application shall be signed - (a) by the individual if it is made in an individual capacity,
   (b) by each partner if the applicant is an unregistered firm, The name with parentage and correct address of each partner shall be mentioned in the application,
   (c) by the Managing Director or Manager if the applicant is a company, the registered name and address of the company shall be clearly mentioned in the application along with the names of the directors, managers, managing Agents,
   (d) by duly elected President or Secretary if the application is for or on behalf of a club. The application shall mention the registration number and address of the club along with the name and address of its President and Secretary,

(4) The District Excise Officer concerned shall initial the application noting the date of receipt and cause each application to be entered in a register in Form B. The particulars of each application entered in the register shall be attested by the District Excise Officer. The Register shall be pagated and each page shall bear the stamp of the office of the District Excise Officer concerned.

(5) Each application shall then be scrutinized by the District Excise Officer with regard to the suitability of the applicant for holding the licence for which application has been made. Thereafter the District Excise Officer shall forward the application to the Excise Commissioner with his recommendation. He shall also record a note whether or not the applicant is suffering from any of the disabilities to hold a licence mentioned in sub-rule (b) below.

3[6] The Excise Commissioner shall also cause all applications received by him through the District Excise Officer, concerned to be entered in a register prepared on

---

5. Substituted by G.S.R. 8 dated 18-5-83.
4. Cancellation of sanction for Default of the Applicant—(1) Where a person in whose favour a licence has been sanctioned does not deposit the fee prescribed under rule 7(1) of the Rajasthan Excise Rules, 1956 within 15 days of the receipt of the sanction, the [Excise Commissioner] may cancel the licence.

(2) Where a person in whose favour a licence has been sanctioned does not deposit within 15 days of the date of receipt of licence, the [Excise Commissioner] may cancel the licence and forfeit the amount of initial fee and also the fee deposited under rule 69(1) of the Rajasthan Excise Rules, 1956.

3. Where it is brought to the notice of the [Excise Commissioner] that:

(a) the applicant suffers from any of the disqualifications mentioned in sub-rule (8) of rule 3 above;

(b) the sanction fee for grant of licence has been obtained by the applicant by fraud and questionable methods: the [Excise Commissioner] shall after giving a reasonable opportunity of being heard to the applicant, cancel the sanction issued for grant of licence and forfeit the fees paid by him.

5. Exemption—The provisions relating to initial fee shall not be applicable in respect of persons holding licence for sale of foreign liquor on the premises of the hotel on the date of coming into force of these rules.

6. A person holding a licence under these rules may import into Rajasthan, foreign liquor from outside India under an import licence from the Chief Controller, Imports and Exports, Government of India, with the prior permission of the Excise Commissioner and after depositing necessary fee, as mentioned in sub-rule (1) of rule 69 of the Rajasthan Excise Rules, 1956.

[Provided that permission by the Excise Commissioner shall be subject to such restriction on the purchase of liquor by the bar licences as may be specified by the State Government from time to time.]

6. B Licence may be granted on special permission by Excise Commissioner to procure, store and sell draught beer on such fees, terms and conditions as may be determined from time to time.

6. Refund of initial fee for licence not sanctioned—In case an application for licence is not sanctioned and is rejected for no fault on the part of the applicant, the applicant shall be entitled to refund of initial fee paid by him; provided that the application for refund is made within six months of the date of the order of rejection.

7. Power of the [Excise Commissioner] to reject an application—Notwithstanding anything contained in these rules, the [Excise Commissioner] shall be competent to reject any application for licence without assigning any reason whatsoever.

9. A Fees for the renewal of licences—(1) A licence granted under the principal rule shall expire on the 31st day of March every year.

2. Substituted by G.S.R. 27 of 19-4-84.
3. Inserted by G.S.R. 23 of 22-3-86.
5. Inserted by G.S.R. 106 dated 9-7-98.
6. Inserted by No. 2 of 30-1-77.

Deleted by G.S.R. 8 dated 18-5-83.
Substituted by G.S.R. 8 of 36-10-84.

FORM A

[Rule 3(2)]

Form of application for Grant of Hotel Bar/Club Bar [XXX] Licences

Form—Name or names, age and the address or addresses of the person or persons lying if the applicant is a firm, the name and address of every partner of the firm if a company, the registered name and address thereof, the names of the Directors, managers and Managing Agents, and if there is a Managing Director, the name of such Director should be mentioned.

The Excise Commissioner,
Rajasthan, Udaipur.
Through : The District Excise Officer.

1. I, We……………………居住 at ……………………… District ……………………

2. I, We have deposited a sum of Rs…………. as initial fee for the above licence whereby ………… vide challan No………… dated ………… enclosed herewith.

3. I, We agree to abide by the provision of the Rajasthan Excise Act, 1950 and as framed thereunder.

4. I, We declare that I, We do not suffer from any of the disqualifications prescribed the rules which may render me/us ineligible to hold the licence applied for.

5. I, We declare that to the best of my/our knowledge and belief the information stated herein is true and complete.

Place…………………… Date……………………

Note - Please strike off the words which are not applicable.
Rajasthan Excise Act [Forms]

2. If at any time the fee assessed per litre exceeds the minimum fee paid such excess shall be paid by the licensee before he obtains liquor from the wholesale [or retail] dealer for sale.

[Provided that with the prior permission of the [District Excise Officer concerned], the licensee may also import into Rajasthan foreign liquor from outside India after obtaining an import licence from the Chief Controlling Officer and Exportation Goods of India, after depositing necessary fee as required under rule 5-A of the Rajasthan Excise Hotel Bar Club Rules [XXXI] Licences Act, 1953.]

[Provided further that the licensee may directly purchase wine from a wholesale licencee stating a licence under rule 47 (1) (a) of Rajasthan Excise Rules, 1956 on the basis of permit issued by the District Excise Officer. The licensee shall also have to pay wholesale licence fee prescribed under rule 69 (1) of Rajasthan Excise Rules, 1956.]

[Provided further that with the permission of Excise Commissioner, a bar licence can be transferred during the currency of licence, liquor to another bar licence after paying an amount at the same rate as prescribed for stock transfer in rule 69-D of Rajasthan Excise Rules, 1956.]

[Under this licence, including the duration of licence, is allowed to be consumed in whole at the licensed premises. The licensee shall however get the bar and store for liquor approved by the Excise Commissioner.]

3. Sale of liquor shall be made only at the licensed premises of the hotel. The Foreign Liquor shall be served to all customers and visitors who visit such hotel. Foreign Liquor shall be served to foreign and Indian tourists and visitors only in the room earmarked for the purpose or dining hall or drawing room or such other place in the hotel as may be approved by the Excise Commissioner.

[Provided that the service of liquor in dining hall shall be made only to the foreign tourists and visitors.]

4. Licensee shall be solely liable for the quality of duty-free liquor.

5. No refund of duty-free liquor shall be allowed on destruction of wine, for any reason whatsoever including deterioration of quality.

6. To preserve the quality of duty-free liquor, licensees shall have to manage for proper refrigeration of stock.

7. In regard to any matter arising out of this licence, the licensee will not be entitled to bring any action in a court at a place other than Udaipur.

8. In case of default or infringement by the licensee or his servant any condition of this licence or any provision of the Rajasthan Excise Act, 1950, or the provisions of the Opium Act, 1878 or rules framed thereunder of any other law passed by the Excise Commissioner, it shall be competent for the Excise Commissioner [xxx] to cancel this licence and to forfeit the initial fee and the licence fee and to impose on the licensee a penalty which may extend to [upto the amount of annual renewal fees] and to recover from him the amount of penalty as a matter of law.

Date of issue (under signature of Licensee).

FORM D

License for the retail sale of foreign liquor at club.

License No:

Location:

Name of off licence holder:

Name of approved salesman:

License for retail sale of foreign liquor is hereby granted to Shri... for sale of foreign liquor in the Club situated at premises... during the year ending March 31, 20... on payment of initial fee of Rs.... (in words).... (prescribed under Rule 69(1) of the Rajasthan Excise Rules, 1956 subject to the following special conditions and such other conditions as may be prescribed in this behalf from time to time by the Excise Commissioner and provisions of the Rajasthan Excise Act, 1950 and the rules framed thereunder.

SPECIAL CONDITIONS

1. The licensee shall in addition to the initial fee pay for the retail sale of foreign liquor per litre at the rate prescribed in Rule 69(1) of the Rajasthan Excise Rules, 1956 subject to the minimum fee of Rs. (in words).... per year or a part thereof which shall be paid before the grant of licence.

2. If any time the fee assessed per litre exceeds the minimum fee paid, such excess...
ll be paid by the licensee before he obtain liquor from the wholesale [for retail] dealer

1[Provided further that the licensee may directly purchase wine from a wholesale
ensect holding a licence under rule 47 (1) (a) of Rajasthan Excise Rules, 1956 and the per
mita be issued by the District Excise Officer. The licensee shall have to pay whole sale
once fee prescribed under rule 69 (1) of Rajasthan Excise Rules, 1956]

3. Sale of liquor shall be made only at the licensed premises of the club. The
right liquor shall be served only to the Bonafide members of the club and their guest.
le of liquor shall not be made to the minor members of the Club. Foreign liquor all
be served only in the room earmarked for the purpose of such other place in the
ub as may be approved by the Excise Commissioner.

4. Guest of the Club will be allowed to consume liquor on the Club-premises on
social occasion/function with the prior permission of the District Excise Officer provided
it such occasions/functions should not exceed twelve in one year.

5. Sale of liquor shall be made in glasses or by unused bottles only such bottles
II. on no account, be removed by the members from the premises.

6. No sales shall be made on dry days prescribed by the Excise Commissioner,
vided that this restriction shall not apply to the Foreign Embassy.

7. No sale shall be made after 11 P.M. and before 7 A.M.

8. A true and detailed account of the licence fee on the balance of stock on let
wil of every year and the quantity purchased after that date through permit till the
ke of application of every transport permit along with the amount deposited for the
ish intended purchase shall be submitted to the District Excise Officer concerned
n with the application of every permit for transport.

9. With regard to any matter arising out of this licence, the licensee will not be
titled to bring any action in court at place other than Udaipur.

10. In case of default or infringement by the licensee or his servant any condition
this licence or any provision of the Rajasthan Excise Act, 1950 or the provisions of
Opium Act, 1878 or rules framed thereunder or any order passed by the Excise
mmissioner it shall be competent for the Excise Commissioner to cancel this licence or
d to forfeit the initial fee and the licence fee and to impose on the licensee a penalty
which may extend to [upto the amount of annual renewal fees] and to recover from
m the amount of penalty as per rule of land revenue.

[XX FORM-E XX]

Excise Commissioner
Rajasthan, Udaipur

Licence No. ......... Club ......... Place .........

1. Licence No. ......... Club ......... Place ......... acknowledge the
receipt of the licence granted to me and do hereby accept and undertake to abide by
the terms and conditions.

Signature of licensee.

[Deleted w.e.f. 31-3-1997]

[Proviso - (1) Deleted]
Rule 4]

(d) Every bidder will be liable to be held to his bid whether it be the highest or not.

(e) The presiding officer shall, in accepting or rejecting the bids, exercise his discretion in such manner as to exclude bids which are the result of speculation or unhealthy rivalry or disproportionate with reference to the market value of the licence or which are likely to lead to undesirable monopoly or to malpractices. He shall have also discretion to reject bid by persons of doubtful solvency or with doubtful moral antecedents.

(f) Where the highest bid is not accepted the presiding officer shall record his reasons in writing.

(g) If the amount offered by highest suitable bidder is not adequate the grant of the licence may be held for re-auction at a subsequent date, or for grant on commission.

(h) After the bid has been accepted by the presiding officer, no subsequent bid at that auction shall be considered.

(i) The acceptance of the bid by any other alternative system by the presiding officer shall be subject to confirmation by the Excise Commissioner.

(2) (a) As soon as the auction has been held its result shall be reported by the presiding officer to the Excise Commissioner for sanction.

(b) The Excise Commissioner may either sanction the auction or pass such other orders as he may think fit regarding the disposal of all or any of the licences.

(3) Without prejudice to the provisions of sub-rule (1) of rule 4 of these rules, the following restrictions shall apply regarding persons who can offer bid at auctions:

(i) Former licensees who are in arrears to the Government as regards payment of Excise Revenue or who have been guilty of serious breaches of the Rajasthan Excise Act, 1950; the Opium Act, 1973, or any law repealed by either of these two Acts, any rule made under either of these two acts or under such repealed laws, or any conditions of any licence in respect of any excisable articles or opium, shall not be entitled to bid without the consent of the presiding officer.

(ii) An agent shall not be allowed to bid unless he holds a duly authority and is informed by the principal is present and authorises the agent to bid on his behalf.

(iii) Without the express sanction of the District Excise Officer, no person shall bid for a licence or exercise privilege who holds and who is the agent or servant of any person holding a similar licence in an adjoining area in any other State in India.

(iv) No person below the age of eighteen years shall be entitled to bid at auction.

(4) A copy of the notice issued for auction shall be made available before the commencement of the auction for the inspection of the intending bidders.

(5) Even District Excise Officer shall keep a register of licences auctioned by him.

(a) The Excise Commissioner may at his discretion direct the adoption in a particular type of cases of a method other than auction for the grant of a licence.

(b) In particular when a licence is cancelled under section 34 of the Rajasthan Excise Act, 1950 (Rajasthan Act 11 of 1950) a fresh licence may be issued on the previous approval of the Excise Commissioner, be granted by re-auction or on commission basis.
Rule 79

The Rajasthan Foreign Liquor Rules, 1982

Provided that where the licensing authority has renewed the licence for a part of the year, the licensee shall pay the prescribed proportionate fee for such part of the year and the excess amount, if any, deposited by him while applying for license for the whole of the year shall be refunded to him.

Provided further that no portion to whom a licence has been granted under these rules shall have any claim to the renewal of such licence or to any claim for compensation on the determination or non renewal thereof.

8. Rules to have overriding effect—In case there is any conflict between the provisions of these rules and the Rajasthan Excise Rules, 1956 the former shall prevail.

9. Repeat and Saving—The Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail of Licences) Rules, 1972 are hereby repealed.

Provided that any action taken and any licence granted under the rules so repealed shall be deemed to have been taken and granted under the provisions of these rules.

NOTIFICATION

[1] Notification No. 1(12) FD/EX/81, dated March, 24, 1982, G.S.R. 125—In exercise of the powers conferred by clause (a) of sub-rule (2) of Rule 7 of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail of Licences) Rules, 1982 the State Government hereby prescribes the following renewal fees for renewal of wholesale and Retail of licences of Indian Made Foreign Liquor. This will come into force the renewal of the licences with effect from 1-4-1982-

(a) Renewal fee for wholesale liquor licence.
(b) Renewal fee for Foreign Liquor retail off licence for the cities of Jaipur, Jodhpur, Ajmer, Kota, Bikaner and Sriganganagar.
(c) Renewal fee for Foreign Liquor retail off licence for the places other than those mentioned in (b) above.

Rs. 15,000.00 per annum.
Rs. 10,000.00 per annum.
Rs. 6,000.00 per annum.


[2] NOTIFICATION—S.O. 101—Dated May, 6, 1999—In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950) the Government of Rajasthan pleased to order that the minimum licence fees recoverable under rule 69(1) and 69(AA) of Rajasthan Excise Rules, 1956 and annual initial fee recoverable under second proviso to Rule 3(A)(2) of the Rajasthan Foreign Liquor (Grant of wholesale trade and Retail of Licences) Rules, 1982 for the licences granted under exclusive privilege system shall be recoverable on proportionate basis from the licences for the periods during which the licences were granted in the year 1996-97 and accordingly exempted from payment of these fees for the period for which licences were not granted.

[Pub. in Raj. Gaz. EO-IV Ga II—dated 12.5.99 page 113-114]
3] S.O. 108—July 9, 1998—In exercise of the powers conferred by section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), the State Government hereby makes the following rules further to amend the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail Off Licences) Rules, 1982 and order with reference to proviso to sub-section (3) of the said section that the previous publication of these rules is dispensed with as the State Government considers that they should be brought into force with immediate effect, namely:

1. **Short title and commencement**—(i) These rules may be called the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail Off Licences) (Amendment) Rules, 1998.

(ii) They shall come into force at once.

2. **Amendment of rule 3**—In second proviso to rule 3 of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail Off Licences) Rules, 1982, the expression Rs. 25,000/- shall be substituted by “Rs. 50,000/-”.


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**The Rajasthan Liquor Prohibition Rules, 1967**

1. Short title, extent & commencement

2. Definitions
   (a) Act
   (aa) Country Liquor
   (b) Foreign Liquor
   (c) Form
   (d) Government
   (e) Expression—Import—Transport—sale.
   (f) Medical Certificate
   (g) Prohibition area
   (h) Registered Medical Practitioner
   (i) Section

3. Possession, import and transport of liquor in prohibited area

4. Permits and licences for possession etc. of liquor

5. Import and transport of foreign and country liquor

6. Import or transport of brandy for hospital and dispensaries etc.

7. Sale of foreign and country liquor by licensee

8. Authority to grant licence

9. Procedure for grant of licence

9A. Fees for the Renewal of licence

10. Register of permits

11. Maintenance of accounts by licensee

12. Licensee bound by other rules under the Act

13. Fee for licence and other matters relating thereto.

Forms R.Pn. 1 to R.Pn. 7.
The Rajasthan Liquor Prohibition Rules, 1967

In exercise of the powers conferred by sub-section (1) of Section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), read with sub-section (4) of Section 19 thereof, the State Government hereby makes the Rajasthan Liquor Prohibition Rules, 1967 and notifies with reference to the proviso to sub-section (3) of said Section 41 that previous notification of these rules be dispensed with as the State Government considers that rules should be brought into force at once, namely:

THE RAJASTHAN LIQUOR PROHIBITION RULES, 1967

A—Preliminary

1. Short title, extent and commencement—(a) These rules may be called the Rajasthan Liquor Prohibition Rules, 1967.

(b) They shall apply to all prohibition areas in the State to which the Act extends.

(c) They shall come into force on and from the 2nd day of October 1967.

NOTIFICATION

G.S.R. 53—In exercise of the powers conferred by sub-section (4) of section 19 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), read with section 13 thereof, the State Government hereby rescinds with immediate effect, the following Notifications issued by the State Government under the said sections from time to time, namely—


Rule 2

The Rajasthan Liquor Prohibition Rules, 1967

2. Definitions—In these rules, unless there is anything repugnant in the subject or context—

(a) "Act" means the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950);

b) "Country Liquor" means such Liquor as has been declared to be a country Liquor under sub-section (2) of Section 4 of the Act;

(c) "Foreign liquor" means such liquor as has been declared to be foreign liquor under sub-section (2) of Section 4 of the Act;

(d) "Form" means a form appended to these rules;

(e) "Government" means the Government of the Rajasthan;

(f) the expression "import" "transport" or "sale" have the same meaning as are assigned to them under the Act;

(g) "medical certificate" means a certificate given by a registered medical practitioner to a person, certifying the quantity of ["foreign and country liquor"] to be possessed by the latter for his bonafide medicinal use;

(h) "Prohibition area" means any area where under Section 13 and sub-section (4) of Section 19 of the Act the State Government has by notification prohibited the possession (for sale or otherwise) & the import or transport of any kind of liquor save under the provisions made in these rules;

(i) "registered medical practitioner" means any person who is entitled to practice any system of medicine in the State under any law relating to medical practitioners; and

(j) "section" means a section of the Act.
B—Possession

3. Possession import and transport of liquor in prohibited area—Save as herein provided, no person shall possess (for sale or otherwise) and import or transport any kind of liquor in the prohibited area—:

(a) denatured spirit not exceeding 0.75 litres in denatured spirit not exceeding 1.75 litres;

(b) denatured spirit or denatured spirituous preparation for industrial, scientific, educational or other similar purpose, held under a permit granted by the District Excise Officer;

(c) rectified spirit in the possession of chemists, medical practitioners and persons-in-charge of laboratories under a licence granted under Rule 56 of the Rajasthan Excise Rules, 1956;

(d) rectified spirit and absolute alcohol for educational and scientific purposes in the possession of schools, colleges, institutions and hospitals, under a licence granted under the Rajasthan Excise Rules 1956;

(e) lawfully obtained liquor meant for members of the Armed Forces of the Union of India serving in prohibited area, and

(f) lawfully obtained liquor carried through or possessed in the prohibited area by the members of the Armed Forces of the Union of India while on leave shall be exempted into the following quantities:

<table>
<thead>
<tr>
<th>Personnel Type</th>
<th>Whisky Units</th>
<th>Brandy Units</th>
<th>Wine Units</th>
<th>Bear &amp; Cider Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.Os and equivalents—</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P.Os/Ps or Navy—</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senor N.C.Os or A.A. —</td>
<td>2</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other ranks</td>
<td>1</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kit for Senior Officers</td>
<td></td>
<td></td>
<td>2</td>
<td>48</td>
</tr>
<tr>
<td>Lower General</td>
<td>8</td>
<td>2</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Naibad equivalents—</td>
<td>6</td>
<td>2</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Sub P.Os or Navy—</td>
<td>4</td>
<td>2</td>
<td>48</td>
<td></td>
</tr>
</tbody>
</table>

Explanations—A unit means one quart bottle of spirit or liquor or three quart bottle of wines or vermouth or six quart bottles of malt liquors.

(i) liquor into the limit of private possession, as indicated below, in the possession of any foreigner residing in the prohibited area—:

(i) Foreign liquor whether imported or made in India.

One bottle of the capacity of 750 millilitres or up to 12 such bottles on payment of permit fee according to the following graduated scale for a financial year or a part

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Permit fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeding one but not exceeding three bottle each of the capacity of 750 millilitres</td>
<td>Five Rupees</td>
</tr>
<tr>
<td>Exceeding three but not exceeding six bottles each of the capacity of 750 millilitres</td>
<td>Ten Rupees</td>
</tr>
<tr>
<td>Exceeding six but not exceeding Twelve bottles each of the capacity of 750 millilitres</td>
<td>Twenty Rupees</td>
</tr>
<tr>
<td>(ii) Beer whether import or made in India</td>
<td>Six bottles each of the capacity of 750 millilitres</td>
</tr>
<tr>
<td>(iii) Cider (liquor manufactured by fermentation of the juice of any fruits)</td>
<td>Six bottles each of the capacity of 750 millilitres</td>
</tr>
</tbody>
</table>

(g) Liquor covered by necessary passes while in transit in the prohibition area transported for other area;

(h) liquor possessed by any Excise Officer of Government acting in his official capacity:

(i) Medical and toilet preparations.

(j) Consignments of liquor in transit by rail or road through the prohibition area for destinations outside such area, provided the consignments are not tampered with or used during transit.

(k) Foreign tourists, who are in possession of a liquor permit issued by the Director of Tourism or any competent authority of any State or Central Board of Administration of the Traffic Office in India or abroad or the Indian Missions abroad up to the quantities covered by liquor permits in their possession.

(l) Any person or institution may keep in his possession and use any liquor for a religious purpose in accordance with ancient custom, under a permit granted by the Excise Commissioner.

4. Permits and licences for possession etc. of liquor—Notwithstanding anything contained in Rule 3—:

(a) Any person on application may be obtained brandy on the authority of a permit in Form R.Pn.1 granted by the District Excise Officer or Assistant Excise Officer for the department of tourism for his bona fide medicinal use on the production of a medical certificate in Form R.Pn. 2.

Provided that no permit in Form R.Pn.1 shall be granted to any person who is 30 years of age and that the quality to be prescribed by a registered medical practitioner for medicinal use shall not exceed—

(i) two units at a time or six units in the aggregate during a month in the case of a person residing in the prohibition area:

(ii) two units at a time or six units in the aggregate during a month in the case of a person who has to travel frequently in the prohibition area:

(iii) one and a half unit at a time during a week or part thereof for a maximum period not exceeding one month in the case of a person coming from non-prohibition area of the State or from other States:

Provided further that a person having obtained certificate in Forces of the Union of India, who are stationed in the prohibition area or who visit the prohibition area on leave or otherwise:

Explanation—A unit means one quart bottle spirit of liquor or three quart bottles of wines or vermouth or six quart bottles of malt liquor.

(b) A medical practitioner in managing and supervising charge of Government, Local Fund, Railway or charitable hospital or dispensary, may possess brandy not exceeding the requirement of such hospital or dispensary for twelve months under a permit issued by the District Excise Officer [or Assistant Excise Officer].

C—Import and Transport of Brandy

5. Import and transport of [foreign] [and Country Liquor by licensed vendor]—A licensed vendor may import or transport [foreign] [and Country Liquor on the authority of a permit and a pass, as the case may be, granted by the District Excise Officer.

6. Import or transport of brandy for hospitals and dispensaries etc.—A medical practitioner in managing or supervising charge of Government, Local Fund, Railway, charitable hospital or dispensary may import or transport such quantity of brandy as may be specified in a permit issued by the District Excise Officer [or Assistant Excise Officer].

D—Sale of Foreign [and Country Liquor]

7. Sale of [foreign] [and Country Liquor] by licensee—A licensee shall sell foreign [and Country Liquor] to a person holding permit issued under these rules.

8. Authority to grant licence—The Excise Commissioner may grant a licence in Form R. Pt. 3 for retail vend of brandy.

9. Procedure for grant of licence—A person desirous of obtaining a licence in Form R. Pt. 3 shall apply to the Excise Commissioner through the District Excise Officers.


E—Maintenance of Account

10. Register of permits—A register in Form R. Pt. 5 showing the particulars of the persons granted permits under these Rules, shall be maintained in the office of the District Excise Officer or Assistant Excise Officer [Tourist Officer of the Department of Tourism].

11. Maintenance of accounts by licensee—The licensee shall maintain regular accounts of his daily transactions in Form R. Pt. 6 and shall submit a monthly return thereof in Form R. Pt. 7 by the 5th of the next month to the District Excise Officer.

12. Licensee bound by other rules under the Act—The licensee shall, in addition to these rules, be bound to observe all the rules under the Act, which may be applicable to his licence.

13. Fee for licence and other matters relating thereto—(1) The fee for the licence in Form R. Pt. 1 shall be the same and shall be assessed and recovered in the same manner, as is prescribed for a licence for sale of foreign liquor on the premises under the Rajasthan Excise Rules, 1956.


Comments

Raj. Excise Rules, 1955, R. 72 A—Renewal of Licence—No time limit prescribed in R. 9 or 72 A for filing an application for obtaining licence—No claim to renewal of licence held, no illegality committed when licence granted to Ganganagar Sugar Mills Ltd.

39—A Fees for the renewal of licence—(1) A licence granted under [these rules] shall expire on the 31st day of March every year.

(2) A person possessing a licence under the Rajasthan Liquor Prohibition Rules 1957 and seeking renewal of the same shall apply in accordance with Rule 72 A of the Rajasthan Excise Rules, 1956 and such application shall be accompanied by a treasury receipt showing the payment of (1) renewal fees of [Rs. 4000 four thousand] and (2) the usual licence fee payable under Rule 69 of the Rajasthan Excise Rules, 1956.
Rajasthan Excise Act

Rule 13, Forms

1. A The licence fee for a year or part thereof for the retail sale of Country Liquor for each shop in a village/town with the population mentioned below (according to 1971 census), shall be as under:
   (i) Up to 10,000 Rs. 500/-
   (ii) More than 10,000 but less than 50,000 Rs. 10,000/-
   (iii) 50 thousand and above Rs. 20,000/-

In all matters not specified in these rules, the Rajasthan Excise Rules, 1956 shall apply mutatis mutandis.

FORM R. Pn. 1

[Rule 4(a)]

Permit for Purchase, Possession and Transport of liquor in the Prohibition Areas.

District

Permit

Date of issue of permit

Name

Father’s Name

Profession

Residence

Street/Ward

Police Station

District (in which situated)

is permitted to purchase

Units (s) of foreign and country liquor at a time during a week/month

(place) for beneficial medicinal use.

Important Conditions

1. The permit-holder shall use the liquor only as medicine. Except without permission from the authority who issued the permit, the permit holder shall have no power to pass on the liquor to any one but member of the family.

2. The permit may be cancelled on breach of any of the conditions as written on the permit.

3. The permit-holder shall keep the liquor purchased under permit in his own custody.


FORM R. Pn. 2

[Rule 3]

Form of Medical Certificate to be granted under the Rajasthan Liquor Prohibition Rules, 1967

Certified that Shri Shri, son of Shri Shri, aged years (male or female) residing in House No. Police Station in Police Station is suffering from disease namely, and that (Unit (s) of foreign and country liquor at a time during a week/month) is prescribed as a medicine.

Date

Signature of Medical Practitioner

Registered No.

By order of the Governor.

FORM R. Pn. 3

[Rule 8]

Licence for the retail vend of brandy for consumption of the premises in prohibition area

District

Registered No.

This licence authorising the retail vend of brandy for off consumption only on the premises specified below and the period from

2. Substituted by ibid.
6. Inserted by No. F. 1(2) FD/Ex. 70, dated 16-11-70 vide GSR. 89. Published in Rajasthan Gazette, Part IV-C(1), dated 17-5-73.
Rajasthan Excise Act

 Forms j

The Rajasthan Liquor Prohibition Rules, 1967

5. Locality of the premises to be licenced
(Full particulars to be given)

6. Name of the shop or establishment
(Whether firm, society, partner
shop or company)

I do hereby declare that I shall abide by the law in force in respect of the import,
transport, possession and sale of brandy.

Date: 20

Signature of applicant

(This application is to be submitted to the Excise Officer of the district who shall
transmit it to the Excise Commissioner with comments)

FORM R. Pn. 4

(Rule 9)

Form of application for the grant of licence for the sale of
brandy in prohibition area

1. Name of applicant

2. Father’s Name

3. Resident of:
   (1) House No
   (2) Ward No
   (3) Town or City
   (4) Police Station

4. Brief history of the previous business

---

1. Added by No. F.377/RF&O. 77, dated 22.2.1980 vide G.S.R. 78, published in Rajasthan
   Gazette, Extraordinary Part IV C (1) dated 22.2.1980 page 559 w.e.f. 22.2.1980.
### FORM R.Pn. No. 6

**Register to be maintained by a person holding a licence [xxx] under the Rajasthan Liquor Prohibition Rules, 1967**

<table>
<thead>
<tr>
<th>Month &amp; date</th>
<th>Particulars of place whence and the pass under which each consignment of brandy was received</th>
<th>Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name and address of the distiller of the licensee from whom received</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No. and date of pass</td>
<td>Quantity</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


### FORM R. Pn. 7

**Register showing the particulars of persons granted permits under the Rajasthan Liquor prohibition Rules, 1967**

<table>
<thead>
<tr>
<th>Balance</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imported</td>
<td>Indian</td>
</tr>
<tr>
<td>Litres</td>
<td>Mililitres</td>
</tr>
<tr>
<td>12</td>
<td>13</td>
</tr>
</tbody>
</table>

**FORM R. Pn. 7**

*(Rule 11)*

<table>
<thead>
<tr>
<th>Name of the Licensee</th>
<th>Place</th>
</tr>
</thead>
<tbody>
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<table>
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<tr>
<th>Month &amp; year</th>
<th>Balance at the close of previous month</th>
<th>Receipt during the month</th>
<th>Total of columns 2 and 3</th>
<th>Sale during the Balance at the close of the month</th>
<th>Remarks</th>
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<td>1</td>
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Rajasthan Spirituous Preparations Import, Export, Transport, Possession & Sale Rules, 1989

- Introductory Note
- Short title
- Definitions
- Possession
  - (1) Allopathic Preparations
  - (2) Homoeopathic Preparations
  - (3) Ayurvedic & Unani Preparations
  - (4) Toilet Preparations
  - (5) Essences
  - (6) All kinds of Intoxicating Spirituous Preparations
- Import, Export & Transport
- Sale
- Approval, authorisation, licences, passes & permits
- Forms I.S.P. 1 to 6
- Notifications

INTRODUCTORY NOTE

These rules came into force w.e.f. 6-11-89 which deals with the above mentioned transactions relating to “Spirituos Preparations”

“Spirituos Preparations” - means such preparations declared by the Government to be “liquor” from time to time. The Government of Rajasthan declared all medicinal and toilet preparations and other spirituous preparations containing more than 20% proof alcohol to be liquor for the purpose of the Act and the Rules vide Notification S.O. 25 dated 8-5-1990.

The Government has approved the list of 26 intoxicating preparations to be for the purposes of R.26, incapable of being misused for portable purposes and therefore exempted from the operation of these rules vide S.O. 31 dated 23-1-1990.

Rule 5 provides for the following spirituous preparations which may be possessed without licence by various persons and registered practitioners of various pitiies within prescribed limits without a licence or permit:

- (1) Allopathic Preparations
- (2) Homoeopathic Preparations
- (3) Ayurvedic Preparations
- (4) Toilet Preparations
- (5) Essences
- (6) All kind of Intoxicating Spirituous Preparations

Rules 6 to 9 deal with the issuing permit or pass for import, export and transport of these preparations.

Sale of these preparations are to be regulated by licences, permits or passes issued the authorities in pursuance of Rules 10 to 23 of these Rules.

Infringement of provisions of these rules would be an offence under S. 54 of the Rajasthan Excise Act, 1950 as provided by Rule 24 (ii).

The District Excise Officer may also revoke the licence or permit on such infringement, but in cases of minor nature the District Excise Officer may restore such licence or permit on payment of an amount not exceeding Rs. 500/- by compounding the default.

Duty (Rules 25) - Where the duty is not leviable under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955, the provision of the Rajasthan Excise Act, 1950 shall apply and the duty may be imposed accordingly.
Exemption (Rule 26)—The Excise Commissioner will issue a list of preparations incapable of being misused for portable purposes and these Rules shall not apply to the preparations. Vide S.O. 31 dated 23-1-1990 a list of 26 such intoxicating preparations have been exempted from operation of these rules.

Forms—The following forms have been prescribed and appended to these Rules—
1. Application for issue of 1.S.P. licence for the sale of Ayurvedic Drugs.
2. Forms of Application for the grant of licence for the sale of Intoxicating Spirituous Preparations.
3. Licence for the Sale of Intoxicating Spirituous Preparations (Form I.S.P.1.)
4. Permit for the possession of Intoxicating Spirituous Preparations (Form I.S.P.2.)
5. Form of Permit for import/transport of Intoxicating Spirituous Preparations (Form I.S.P.3.)
6. Pass for the Export/Transport of Intoxicating Spirituous Preparations (Form I.S.P.4)
7. Register showing stock of each kind of Intoxicating Spirituous Preparations (Form I.S.P. 5)

RULES

Notification No. 14(2) FD/EX/89, G.S.R. 24 November 6, 1989—In exercise of the powers conferred by, Section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) the State Government hereby makes the following rules and orders with reference to the proviso to sub-section (3) of the said section, that previous publication of these rules is dispensed with, as the State Government considers that they should be brought into force at once, namely:

1. These rules may be called the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, Possession and Sales Rules, 1989
2. They shall extend to the whole of the State of Rajasthan.

DEFINITION

3. In these rules, unless the context otherwise requires—
(b) “Excise Commissioner” means the Excise Commissioner appointed by the State Government under the Act.
(c) “District Excise Officer” means the Officer appointed as such under the Act;
(d) “Form” means a form appended to these rules:
(e) “Homeopathic Practitioner”, for the purpose of these Rules means a practitioner whose name is for the time being entered in the Register Homeopathic Medicine, Rajasthan under the Rajasthan Homeopathic Medicine Act, 1969 or has been incorporated as a “listed” member on a separate register maintained by the said Board;
(f) The expressions, “Import, Export and Transport” shall have the same meaning as are assigned to them under the Act.


(g) “Intoxicating Spirituous Preparations” means the Spirituous preparations notified as liquor by the Government from time to time;
(h) “Licensee” means a person licensed to possess, manufacture or for dispensing or for selling intoxicating spirituous preparations.
(i) “Prescription” means a prescription given by a registered medical practitioner to a bonafide patient;
(j) “Private medical practitioner” means a medical practitioner of modern system of medicines holding a licence under The Drug and Cosmetic Act, 1940 and the Rules made thereunder;
(k) “Registered Practitioner” means a medical practitioner registered in any State in India over any law for the registration of medical practitioners.
(l) “Ayurvedic Unani Practitioner” means a practitioner registered under any law for the registration of Indian systems of medicine for the time being in force in any State.

B. Possession

4. No person shall have, except to the extent permitted by rule 5, in his possession any quantity of any intoxicating spirituous preparations except under authority and in accordance with the terms and conditions of a licence or permit granted under these rules.

5. The following intoxicating spirituous preparations may be possessed without a licence or permit by the persons and to the extent noted against each:

(1) Allopathic Preparations

(a) A patient on the authority and up to the extent of a prescription issued by a registered practitioner;
(b) A registered practitioner up to 9000 milliliter of each such preparation at any one time.
(c) A registered practitioner as Manager or Supervisor of a hospital, dispensary or clinic run either by private individuals or organisations or Government or Municipal Council/Board or any other local body upto the requirement of such hospital/dispensary/clinic for a period of 12 months.

A private medical practitioner may keep in his possession at any time such intoxicating spirituous preparations as mentioned in his Drug licence to the extent of 900 ml of each preparation for the purpose of dispensing his own prescriptions:

(2) Homeopathic Preparations

(a) A patient on the authority and up to the extent of a prescription issued by a homeopathic practitioner;
(b) A homeopathic practitioner up to 500 ml. of each such preparation at any one time.
(c) A homeopathic practitioner as Manager or Supervisor of a homeopathic hospital/dispensary/clinic run either by private individuals or organisation or Government or Municipal Council/Board or any other local body upon the requirement of such hospital/dispensary/clinic for a period of 12 months.
Rajasthan Excise Act

(3) Ayurvedic and Unani Preparations

(a) A patient, on the authority and up to the extent of a prescription issued by an Ayurvedic or Unani Practitioner,

(b) An Ayurvedic or Unani Practitioner up to 900 milli-liters of each such preparations at any one time,

(c) An Ayurvedic or Unani practitioner as Manager or Supervisor of an Ayurvedic or Unani hospital/Dispensary/clinic run either by private individuals or organisation's or Government or Municipal Council/Board or any other local body up to the retirement of such hospital/Dispensary/clinic for a period of 12 months.

(4) Toilet Preparations

A bonafide consumer, up to 275 milli-liters of each variety.

(5) Essences

(a) A bonafide consumer up to 110 milli-liters of each variety at any one time

(b) A manufacturer of aerated water, up to 4.5 liters of each variety.

(6) All Kinds of Intoxicating Spirituous Preparations

An excise officer of the Government, acting in his official capacity, up to any quantity.

C. Import, Export and Transport

6. A licensee, registered practitioner, homeopathic practitioner, private medical practitioner, Ayurvedic or Unani practitioner or a permit holder may, subject to rule 5 above, import, export or transport intoxicating spirituous preparations on the authority of a permit or a pass issued under these rules.

7. A registered practitioner of a homeopathic practitioner or an Ayurvedic or a Unani practitioner as Manager or Supervisor or a hospital/Dispensary/clinic run either by private individuals or organisation's or Government or Municipal Council/Board or any other local body may import and transport such quantities intoxicating spirituous preparations as may be specified on the indent but not exceeding the requirements for 12 months. The indent shall be valid only when countersigned by the Chief Medical and Health Officer for allopathic preparations by the District Ayurvedic Officer for Homoeopathic, Ayurvedic and Unani preparations. Indent for veterinary hospitals/dispensaries will be countersigned by the District Animal Husbandry Officer. A copy of the indent shall be furnished, in advance, to the District Excise Officer for record and for such action as he may deem expedient in relation to the indent in regard to the quantity to be imported or transported.

8. A permit holder may import such quantity of intoxicating spirituous preparations as may be authorized under the permit granted to him.

9. Subject to the provisions of rule 5 and 7 every consignment of intoxicating spirituous preparations imported, exported or transported shall be accompanied by a permit or pass issued under these rules.

D. Sale

10. A manufacture shall subject to the conditions of his licence, sell intoxicating spirituous preparations to:

E. Approval authorisation, Licences, Passes and Permits

15. The District Excise Officer on the recommendations of the Excise Inspector concerned may grant a licence in Form I.S.P. 1 to-

(a) any chemist and/or druggist holding a licence under the Drugs Control Act;

(b) a homeopathic chemist or homeopathic practitioner (for homeopathic preparations only); or

(c) any person engaged in sale of general stores or toilet preparations and/or essences, or Ayurvedic or Unani medicines

16. The licence fee shall be annual and as fixed by the Excise Commissioner, Rajasthan from time to time, subject to the approval of the Government.
Rajasthan Excise Act

17. A person desirous of obtaining a licence may apply in form I.S.P. 2 to the District Excise Officer. The District Excise Officer may, for reasons to be recorded in writing, refuse to grant the licence.

18. The District Excise Officer on the recommendations of the Excise Inspector concerned shall be competent to grant a licence for the possession and sale of intoxicating spirituous preparations.

19. (1) No permit for the possession of a spirituous preparation in excess of the quantities specified in rule 5 shall be granted except in respect of such kinds thereof, as are described in column 1 of the Schedule below to the persons specified in column 2 to the extent specified in column 3 and for the purpose specified in column 4 of the said Schedule.

(1) Allopathic Medicinal preparations

| (i) Manufacturer of Homoeopathic dilutions | 2.25 litre each | For manufacturing some other preparation |
| (ii) Any person | 550 ml each | For private home consumption |

(2) Toilet preparation

| (i) Institution | 2.25 litres each | For external use |
| (ii) Any person | 550 ml each | For private home consumption |

(3) Essences

| (i) Manufacturer of aerated water | 9 litres each | |
| (ii) Manufacturer of ice-cream | 2.25 litres each | |
| (iii) Any person for bonafide private consumption | 550 ml each | |

(4) Spirituous preparations

| (i) Institutions | As fixed by the Excise Commissioner | For bonafide home consumption |
| (ii) Any person | | |

20. (2) The permit holder shall maintain a correct account of receipt and consumption of spirituous preparations under his permit.

21. The Excise Commissioner, Rajasthan, may, by special order, authorise any officer of the Excise Department to issue export passes for the export of the spirituous preparations.

22. (i) The licensee, shall, in addition to these rules, be bound to observe all the rules under the Act applicable to his licence.

(ii) Any infringement of the provisions of these rules would be an offence under section 54 of the Act:

Provided that if the licence or permit holder infringes or causes or permits any person to infringe any of these rules or any of the conditions of his licence/permit the District Excise Officer may without prejudice to the remedy of prosecuting the offender, revoke the licence/permit.

Provided further that the infringement is of a major nature, the licence or permit, as the case may be, may be restored on payment of such sum not exceeding Rs. 500/- as the District Excise Officer may determine.

23. (i) In the matter of duty to be paid on spirituous preparations not leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 the provisions of the Rajasthan Excise Act, 1950 shall apply.

(ii) In all other matters not specified in these rules the provisions of Rajasthan Excise Rules, 1956 shall apply mutatis mutandis.

24. These rules shall not apply to the spirituous preparations -

(i) As are considered by the Excise Commissioner from time to time to be incapable of being misused for potable purposes and declared as such by him by issue of notification.

FORMS

To

The District Excise Officer,

Through: Excise Inspector

Subject: Issue of I.S.P. licence for the sale of Ayurvedic Drugs

Dear Sir,

I am enclosing herewith the following documents for the issue of I.S.P. licence for the sale of Ayurvedic Drugs.

We hope that you will find the documents in order and favour me by issuing the I.S.P. Licence at an early date.

1. Application in the form I.S.P.-II
2. Site Plan of the Shop (Two copies)
3. Bank Draft for Rs. 1000/- in favour of the District Excise Officer
4. Rent Receipt/proof of ownership of the property

Thanking you,

Your faithfully,
Form of application for the grant of licence for the sale of Intoxicating Spirituous preparation.

1. Name of the Applicant
2. Father's name
3. Resident of
   1. House
   2. Ward
   3. Town or City
   4. Police Station
4. Brief History of the Previous Business
5. Locality of the premises to be licenced
   (full particulars to be given)
6. Name of the shop or establishment
   (whether firm, society, partnership or company)
7. If convicted for any offence, details thereof
8. Details of criminal cases pending against the applicant, if any
9. Details of the sale of Intoxicating Spirituous Preparations made during the three years prior to application
10. Particulars of the Intoxicating Spirituous Preparations for which licence is required and quality of each such preparation

I do hereby declare that I shall abide by the laws in force in respect of the import, sort, transport, possession and sale of intoxicating spirituous preparations.

Dated: ____________________

(Signature of the Applicant)

FORM I.S.P. 1
(see Rule 15)

Licence for the sale of Intoxicating Spirituous Preparations

Licence for the sale of intoxicating spirituous preparations mentioned on the reverse

- Name of applicant: ____________________
- Address: ____________________
- Proprietor/Manager of
- Place of business: ____________________
- Period from: ____________________ to 31st March, 1999
- Payment of annual fee of Rs. ____________________
- Other details

FORM I.S.P. 2-A
(see Rule 19(2))

Permit for the possession of Intoxicating Spirituous preparations

No. of permit: ____________________
Date of permit: ____________________

Permit authorising the possession of intoxicating spirituous preparations in quantities only in the premises herein specified viz.

- Name of premises: ____________________
- Capacity: ____________________
- Other details

[Signature]
Dated: ____________________

(Licensing Authority)
FORM I.S.P. 3
(See Rule 20)

Form of permit for ———— of Intoxicating Spirituous preparations
Import
Transport

Number of permit
Date of permit
Name of Licensee

(or Registered Medical Practitioner)

licensed to sell intoxicating spirituous preparations at ———— in the ———— district, is hereby permitted to import the intoxicating spirituous preparations.

Transport

This permit is valid up to the ———— day of ———— 20.

District Excise Officer

Name of the Intoxicating spirituous preparations
Quantity
Rate of duty to be charged before issue (of any)
Remarks

(To be prepared in duplicate, one copy to be given to the applicant)
**Rajasthan Excise Act**

**FORM I.S.P.-6**

(See Rule 22)

(Monthly return to be submitted to the District Excise Officer)

<table>
<thead>
<tr>
<th>Name of the Licensee</th>
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<tr>
<td>Total Quantity</td>
<td>Total Quantity</td>
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<tr>
<td>Intoxicating spirit</td>
<td>sold during</td>
</tr>
<tr>
<td>preparation sold</td>
<td>the month</td>
</tr>
<tr>
<td>received during</td>
<td></td>
</tr>
<tr>
<td>the month</td>
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<tr>
<td>on hand at</td>
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<td>the close of</td>
<td></td>
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<tr>
<td>the preceding month</td>
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</tbody>
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<tr>
<th>Date:</th>
<th>Signature of the Licensee</th>
</tr>
</thead>
</table>

**NOTIFICATIONS**

1. No. F.D.102/EX/26/11, 1989 in exercise of the powers conferred by clause (i) Rule 26 of the Rajasthan Intoxicating Spirituous Preparations and Import, Export, Transport, Possession, and Sale Rules, 1989,Exercise Commissioner, Rajasthan hereby issues, with the prior approval of the Government, the following intoxicating spirituous operation to be for the purposes of rule 26 of the aforesaid rules, incapable of being used for portable purposes and, therefore, exempted from the operation of the said rules:

1. Tr. Acetate.
2. Tr. Belladonna.
3. Iodine.
4. Tr. Hyoscyamus.
5. Tr. Ipecac.
6. Iodine Solution Strong.
7. Iodine Solution Weak.
8. Tr. Levelling Ether.
11. Aromatic Spirit of Ammonia.
12. Cadaver Tinctoria Compound.
15. Liq. Est. of Nux vomica.
16. Ext. of Digitalis.

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3. Certain Intoxicating Spirituous preparations declared incapable for portable purposes ans exempted from operation of said rule.

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4. (Aryan Committee, Oct. 31, 1990—Rajasthan, Maha Shrigurukul Shrigurukul, Aryan, Maha Shrigurukul, Aryan, and Nishik Shrigurukul, 1989) in exercise of the powers conferred by sub-section (15) of section 3 and sub-section (1) of Section 4 of the Rajasthan Excise Act, 1950 (Raj. Act No. 2 of 1950), read with rule 3 (9) of the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, Possession, and Sale Rules, 1989 and in Constitutions of Notification No F.49/88, S.R. dated 15-2-1957, R.G.I.G (i) dated 28-2-57, the State Government is pleased to declare all medicinal and toilet preparations and other spirituous preparations containing more than 200 proof alcohol to liquor for the purpose of the said Act and Rules, as follows:

---

1. Tr. Atropine.
2. Tr. Belladonna.
3. Iodine.
4. Tr. Hyoscyamus.
5. Tr. Ipecac.
6. Iodine Solution Strong.
7. Iodine Solution Weak.
8. Tr. Levelling Ether.
11. Aromatic Spirit of Ammonia.
12. Cadaver Tinctoria Compound.
15. Liq. Est. of Nux vomica.
16. Ext. of Digitalis.

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17. Miconen Drops (Occhi).
18. Mopherenon Injection and Elixir.
19. Tonics containing up to 20 degree proof alcohol.
20. Tr. Ipecac.
21. Tr. Benzon Co. I.P.
23. Gum Paints.
24. Disinfectants, Antiseptics. Hair Tonics/Lotions Vitalizer. After Shave Lotion/ Sprays/Cologne and perfumes with cactins displaying the words "for external use only"
25. Homeopathic Dilutions.

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(Published in Raj. Gaz. Ex. ordl. 4 (Gal. (1)-Dt. 6-11-89 page 140)
The Rajasthan Brewery Rules 1972

1. Short title and commencement.

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   (b) Beer
   (c) Brewer
   (d) Brewery
   (e) Copper
   (f) Excise year
   (g) Fermenting vessel
   (h) Form
   (i) Gravity
   (j) Hops
   (k) Hop back
   (l) Licence
   (m) Licensee
   (n) Malt
   (o) Malt substitutes
   (p) Mashtun
   (q) Officer-in-charge
   (r) Backing or setting back
   (s) Under back
   (t) Worts

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5. Grant of licence for construction & establishment of a Brewery
6. Power to refuse or grant licence
7. Form of licence and licence fee for running a brewery
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9. Renewal of licence
10. Unrenewed licences to be void
11. Transfer of licence
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61. Brewer bound to report 462
List of forms prescribed under the Brewery Rules, 1972

☐ Forms-RB. I. to RB 18. 463-472

THE RAJASTHAN BREWERY RULES, 1972

NOTIFICATION

G.S.R. 56.—In exercise of the powers conferred by Section 42 read with Section 17 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Excise Commissioner with previous sanction of the State Government hereby makes the following rules, namely:

1. Short title and commencement—These rules may be called the Rajasthan Brewery Rules, 1972 and shall come into force with effect from the date of their publication in the Gazette.

2. Definitions—In these Rules, unless the context otherwise requires,—

(a) 'Act' means the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950).
(b) 'Beer' means any liquor prepared from malt or grain, with or without addition of sugar and hops and includes sale port and stout.
(c) 'Brewer' means a person holding a licence in form 2[R.B.I.(B)] for running a brewery.
(d) 'Brewery' means a building where beer is brewed and includes every place wherein or where beer is stored wherefrom it is issued.
(e) 'Copper' means any vessel in which either worts or water is boiled or heated in the course of brewing.
(f) 'Excise year' means the period commencing from 1st day of April and ending on 31st day of March following.
(g) 'Fermenting vessel' means any vessel in which worts are fermented by the action of yeast.
(h) 'form' means from appended to these rules.
(i) 'Gravity' means the proportion which the weight of a liquid bears to that of an equal bulk of distilled water, the gravity of distilled water at 60°F being taken to be 1000;
(j) 'Hops' means the ripe female flowers of the hop plant or its other parts used in brewing for giving bitter taste to beer and for preserving and clarifying it.

2. Substituted vide GSR 150 dated 26-8-75 Pub. in Raj. Gaz. (Engg. Sec) dated 4-9-75
2] Rajasthan Excise Act [Rule 2-5

(b) 'Hop back' means any vessel into which worts are run after boiling for removal of the spent hops;

(i) 'Licence' means a licence granted for a brewery under Section 16 of the Act;

(m) 'Licencee' means a holder of such licence;

(c) 'Malt' means the base germinated grain used for brewing obtained as result of diastatic fermentation or subjecting grain to the process of steeping and mashing;

(o) 'Malt substitutes' means sugars or starches mixed in proper proportion for being used as a substitute for malt for brewing purpose;

(p) 'Mash tun' means any vessel in which malt or grain is exhausted of its fermentable contents in the course of brewing;

(q) 'Officer-in-charge' means the Excise Inspector or any other officer of the Excise Department not below the rank of Excise Inspector appointed by the Excise Commissioner to hold charge of a brewery;

(c) 'Parking or setting back' means any vessel into which worts are passed from a fermenting vessel and run off into store vats or casks;

(s) 'Under back' means any vessel into which worts are run either from the Mash tun or hop back;

(f) 'Worts' means the liquor obtained by the exhaustion of malt or grain by the solution of saccharine in the process of brewing.

A Establishment of Breweries

[3. Grant of "No objection Certificate"—Any person desiring to construct and work a brewery shall first apply for grant of "no objection certificate" to the Excise Commissioner through the District Excise Officer concerned after having deposited the fee prescribed by the Excise Commissioner, subject to general or specific instructions of the State Government, may issue "no objection certificate."]

[4 Grant of permission for construction—The holder of "no objection certificate" shall apply for construction of brewery after having completed the formalities prescribed by the Excise Commissioner in this behalf and deposting the fee prescribed for this purpose. Along with the application, the applicant shall file an and full description of his premises and vessels, clearly specifying the purpose of, J distinguishing mark of each room and vessel. Excise Commissioner, if he is satisfied that there is no objection to doing so, may grant permission for construction by way of notice in form RB 1 (A).]

[5. Grant of licence for working of brewery—On receipt of intimation of completion construction from the person holding licence in form R.B. 1 (A) and after satisfying that prescribed for this purpose has been deposited and there is no objection to doing so, Excise Commissioner may grant licence in Form R.B. 1(B) for manufacture of beer."]

Substituted by Notification No.32 (B) (49) Ex/88/IV/3302 dated 28-01-2006.

6. Power to refuse or grant licence—The Excise Commissioner shall have power to grant or refuse any application for licence or for renewal of a licence having regard to actual requirements in the State.

["7. Permission for addition/alteration—Any addition to or alteration of brewery plant or building shall be made with the prior permission of Excise Commissioner and no such permission shall be granted unless the fee prescribed for this purpose has been deposited."]

8. Forfeiture of bond and deduction from the security deposit—In the event of any breach of the Excise laws for the time being in force being proved against the brewer or any person in his employ or acting on his behalf, the Excise Commissioner may forfeit the whole or part of the security and may also cancel the brewery licence. The Excise Commissioner may also direct deduction therefrom all sums which become due to the State Government by way of duty, licence fee, penalty or fine.

9. Renewal of licence—(1) Application for renewal of licence for the following Excise year shall be made to the Excise Commissioner through the District Excise Officer on or before February 28 each year. If there has been alteration in either plant or building, fresh application must be submitted. If there has been no alteration, a certificate to this effect from officer-in-charge should be attached with the application for renewal of the licence.

(2) The renewal of licences shall not be made a matter of course.

(3) In renewing licences the Excise Commissioner shall keep due regard to the following:

(a) any direction issued by the State Government on matters of Excise or prohibition policy;

(b) any alteration of plant or building by the brewer without the proper consent of the State Government; and

(c) contravention of any provision of the Act or the rules made thereunder.

10. Unrenewed licences to be void—Unrenewed licences shall be null and void and the beer produced in the brewery after the expiry of the licence shall be liable to seizure and confiscation and the parties working the brewery to the penalties provided by law for illicit brewing.

Provided that in the event of renewal of licence being refused, permission may be granted for continuing operations temporarily for a reasonable time, pending an appeal or revision, as the case may be, before appropriate authority.

11. Transfer of licence—Every licence shall be deemed to have been granted or renewed personally to the licence and no licensee shall be sold or transferred without obtaining the previous permission in writing of the licensing authority.

12. Removal of beer etc. after expiry of licence—On the expiry of his licence unless a fresh licence is granted to him licence is cancelled or suspended the brewer shall be bound forthwith to pay duty on and to remove all beer remaining within the brewery in

1. Substituted by Notification No 32 (B) (49) Ex/88/IV/3302 dated 28-01-2006.
Rule 21-27]

The Rajasthan Brewery Rules, 1972

21. Brewers to provide weights, scales and other appliances.—The brewer must provide and maintain adequate number of scales in good working order and weight of correct specification and other necessary and reasonable appliances to enable the officer-in-charge and other officers to take account of or check by weight gauge or measure, all materials and liquids produced in brewing and provide sufficient (lights, ladder and facilities to enable the excise staff to perform their duties.

C-Control of Breweries

22. Excise Commissioner to appoint officer-in-charge of brewery.—Every brewer shall be placed by the Excise Commissioner under the charge of an Excise Inspector to be designated as officer-in-charge of the brewery. The Excise Commissioner will further, appoint such other officers of the Excise Department as he may deem fit to the charge of brewers. The pay of all such officers shall be met by the Government.

23. Control.—The officer-in-charge will otherwise be directed to work under the supervision of and correspond with the District Excise Officer in whose jurisdiction the brewery lies. In all ordinary matters regarding the working of the breweries, the brewers should in the instance apply to the officer-in-charge, where if necessary, secure orders.

24. Control of officer-in-charge over admittance and behaviour of persons to brewery premises.—Rules governing admittance and behaviour of persons within distillery premises, shall apply mutatis mutandis to admittance within brewery premises of persons and their behaviour within the premises.

25. Hours of attendance and holidays to excise officials.—Rules governing the hours of attendance of excise officials posted to distilleries holidays allowed to them and overtime work by them shall govern excise official posted to breweries also.

26. Special duties of officer-in-charge posted to brewery.—It shall be the special duty of the officer-in-charge to see that—

(i) the brewer's licence in the prescribed Form R.B. 1-B is renewed in time;
(ii) the brewer makes entry of this premises and utensils in Form R.B. 3;
(iii) the vessels and rooms in the brewery are properly numbered and marked;
(iv) the entries made by the brewer in the brewing book in Form R.B 4, promptly and correctly made;
(v) no materials other than those entered by the brewer in the brewing book are used;
(vi) no waste are removed from the brewery until an account of them has been taken and
(vii) the rules prescribed for the management of breweries are strictly followed.

27. Instruments to be supplied.—The officer-in-charge shall place indent on Excise

1. Substituted vide GSR 158 dated 28-8-75.
Commissioner through the District Excise Officer for instruments, such as Saccharometers and thermometers, as are necessary and will maintain an account thereof in Form R.B.5. He will be responsible for their safe custody, and if any instrument is broken or lost for want of proper care, he may be required to make good such loss or damage.

28. Brewery open to inspection by officers—The brewer shall, at any time permit the Excise Commissioner, District Excise Officer or any officer of the Excise Department not below the rank of Excise Inspector, in whose jurisdiction the brewery lies, to inspect and examine his brewery, the premises, warehouse, utensils connected therewith, any room, place or utensils and the beer made or stored therein and shall render the inspecting officer all assistance in making such inspection and examination.

29. Notice before brewing—The Excise Commissioner may require any brewer to send to the officer-in-charge forty-eight (48) hours before brewing, a written notice of his intention to brew.

30. Use of deleterious matter prohibited—The Excise Commissioner may prohibit the use of any material in the manufacture of beer, which in his opinion, is of deleterious nature.

31. Analysis of sample—The officer-in-charge or any inspecting officer may take without payment for the purpose of analysis, samples of any beer of material used in the manufacture thereof, and all expenses connection with packing, despatch, chemical analysis etc. shall be borne by the brewer.

32. Sampling—All samples taken will be recorded by the officer-in-charge in the register in Form R.B.6 and will forwarded by him direct to the Chief Public Analyst Government of Rajasthan, Jaipur along with an advice note, stating the nature of the examination of analysis required.

D. Mode of Working

33. Brewer’s book—The brewer shall keep a book in Form R.B.4 and shall observe the following rules in relation to it and to the entries to be made therein:

1. He shall keep the book in some part of his licensed premises, ready at all times, for the inspection of the Excise Commissioner, the officer-in-charge or any other officer of the Excise Department, and shall permit any such officer who is authorised to inspect the brewery, at any time to inspect the same and take extracts therefrom.

2. He shall enter separately in the book the quantity of malt, corn, sugar, hops, and hops substitutes which he intends to use in his next brewing and also the days and hours when such next brewing is intended to take place.

3. He shall make such entry, so far as respects the day and hour of brewing, at least twenty-four before he begins to mash any malt or dissolve and sugar, and so as respects the quantity so malt, corn, sugar, hops and substitutes at least two hours before the hour entered for brewing.

4. He shall at least two hours before the hour entered for brewing enter the when all the worts will be drawn off the grained off the grains in the mash tun.

5. He shall within one hour of the worts being collected in the fermenting vessel or, if the worts be not collected before six in the afternoon before eight in the forenoon on the following day, enter the dip and gravity of worts produced from each brewing, and also the description and number of the vessels into the worts have been conveyed.

6. He shall at the time of making any entry, insert the date when the entry is made.

7. He shall not cancel, obliterate or alter any entry in the book or make therein any entry which is untrue in any respect, should it be necessary to correct any entry a line shall be drawn through the incorrect entry in such a manner as to leave it distinctly visible, and the amended entry shall be inserted above it; every correction shall be initialed by the person making it at the time.

34. Produce of any brewing not to be fixed with that of another unless accounted for—The brewer shall keep produce of any brewing separate from the produce of any brewing unless an account (regarding bulk and gravity) of each has been taken by the officer-in-charge.

35. Notice to be given when mixing to take place—The brewer shall not mix the produce to one brewing with that of another except in store vats or tanks, unless he shall have given previous notice in writing to the officer-in-charge. When Mixed the brewer shall specify the quantity and gravity of the resultant mixture.

36. Time prescribed for grain to remove in mash tuns after the worts are drawn off—All grain in a mash tun must be kept untouched for one hour after the time entered in the book at the time for the worts to be drawn off, unless the officer-in-charge has attended and taken account of such grain.

37. Worts to be drawn off in the order of production—All worts shall be removed successively, and in the customary order of brewing, to the under bock copper cooler and fermenting vessels and shall not be removed from the last named vessel until an account has been taken by the officer-in-charge or until after the expiry of twenty-four hours from the time at which the worts are collected in these vessels.

38. Time fixed for collection of the product of brewing—When worts shall have commenced running into a fermenting vessel, the whole of the produce of the brewing shall be collected within eighteen hours.

39. Extraction of spirit from refuse prohibited—No spirit except beer shall be manufactured in the brewery premises. No attempt shall be made to extract spirit from grain or the refuse of the brewery.

[Provided that Excise Commissioner, with the previous sanction of State Government.

1. No. F. 32(B) (105) Ex/L-96 dated 9-7-98 Pub in Raj. Gaz. E.O. IV (G) II dated 9-7-98 page 16(5) & (6).]
Rajasthan Excise Act [Rule 42-48]

(i) by payment in cash, either in the sub-treasury or in the treasury of the district if there is no sub-treasury in the station;

(ii) by book credit from any advance account kept for the purpose.

43. Mode of tendering duty in cash—If the brewer wishes to pay duty in cash he shall present an application in Form R.B. 7 in triplicate at the treasury or sub-treasury, as the case may be, correctly written out by the officer in charge. The Accountant of the treasury or sub-treasury shall, after verifying whether the amount tendered has been deposited with the treasurer, fill the form in the endorsement in all the copies of the application. He shall then present the officer-in-charge of the treasury or sub-treasury who shall sign them in token of receipt of the amount tendered and stamp them. One copy of the application shall be given to the applicant and the second copy forwarded to the officer-in-charge of the brewery and the third copy retained for record.

44. Payment of duty from brewer's advance deposit—Brewers are permitted to make advance payments on account of excise duty on beer to be removed from time to time from the brewery. Such removals shall be permitted up to the limit of the advance, without separate payment of duty on account of each consignment of beer removed. No original advance deposit shall be less than Rs. 3,000, and if each time an advance is replenished, it must be of a sum which brings it up to less than that amount.

45. Form of application for removal of beer against advance deposit—

(a) Applications for the removal of beer on which the duty will be debited against the advance will be in Form R.B. 9.

(b) The register of advance deposit will be in Form R.B. 9.

46. Removal of beer from brewery not permitted save under a pass—No beer shall be removed except under a pass in Form R.B. 10 granted by the officer-in-charge empowered in this behalf. The pass shall be issued either on proof of full payment of duty or on proof of execution of bond. It shall be in triplicate one copy shall be made over to cover the transport or export, the second forwarded to the District Excise Officer of the district of import or transport and the third retained for record.

47. Mode of issue of beer from brewery—Issues may be made from the brewery as under:

(i) On pre-payment of duty for transport to the wholesale premises of the brewers:

(ii) For export under bond to other States in India.

48. Pass required for export under bond—Any person may export under bond beer manufactured as a brewery in Rajasthan to any place in India under pass in Form R.B. 10 granted by the officer-in-charge of the brewery empowered in this behalf and in accordance with the rules relating to export of foreign spirit under bond. The general bond to be executed shall be in Form R.B. 11 and the special in Form R.B. 12.

F. Issues of Beer

41. Beer not to be issued until duty paid or bond executed—No beer shall be removed from a brewery until the duty imposed under Section 28 of the Act has been paid or until a bond under Section 18 of the Act in Form R.B. 11 or R.B. 12 has been executed by the brewer for export of beer outside the State, direct from the brewery.

42. Modes of realising duty—Duty shall be realised in either of the two ways,
F-Allowable Wastage and Refund of Duty

49. Destruction by accident—When any malt liquor on which duty has been charged or paid is destroyed by accident or other unavoidable causes while the same is on the specified premises of a brewer, as given in his entry, the State Government may on proof of such loss to their satisfaction, remit or order to be reported the duty so charged or paid.

50. Refund of duty—(1) When beers on which duty has been charged and paid becomes unfit for consumption as such, the Excise Commissioner may, order refund of duty provided such claim is preferred within six months of payment of duty.

(2) If the beer has been returned the fact must be reported to the officer-in-charge as soon as the invoice is received. The consignment shall on receipt be got checked by the officer-in-charge and claim preferred shall be got attested by him.

(3) The claim must contain (a) a declaration that the beer which is the subject of claim was brewed by the brewers, (b) a statement of the circumstances to which the claim is due, (c) a statement of date or dates on which as beer was brewed, and the quantity and the original gravity of each lot of beer referred to in the claim: (d) a statement that it is proposed to dispose of the beer either (i) by destroying or (ii) by converting into vinegar.

(4) When required to do so the brewer must give satisfactory proof or any fact mentioned in the claim.

(5) The Excise commissioner shall make the refund as soon as the District Excise Officer of the charge furnishes certificate in Form R.B. 13 or R.B. 14 that the beer has been (i) destroyed in his presence, or (ii) turned into vinegar.

51. Beer on which refund of duty is claimed may be examined—In the case of refunds on beer returned to the brewery of issue the District Excise Officer may require to applicant to produce, in whole or part the beer on which refund of duty is claimed and may have any portion of the beer on which refund is claimed tested or analysed in any way he thinks fit and may depute any officer to make any inquiry or examination concerning the said beer which the District Excise Officer may consider necessary.

52. Quarterly account—On the 7th of the first month after close of each quarter of the excise year, an amount in Form R.B. 15 shall be forwarded by every brewery to the District Excise Officer of the charge, in which shall be shown the total quantity of beer returned unsold to the brewery, and the amount claimed or received as refund of duty. The District Excise Officer shall after testing the correctness of the entries forward a copy to the Excise Commissioner for record in his office on the 15th of the month succeeding the close of the quarter.

G-Supervision

54. Inspection by District Excise Officer—The District Excise Officer-in-charge will inspect the brewery at least once in every two months.

55. Trade secrets—The officer-in-charge is strictly to abstain from divulging to any person the nature or extent of the brewer's operations.

56. Gauging of mash tuns—Mash tuns should be gauged by the dry method, the measurement being taken above the false bottom, but the tables should be worked out by the wet method, that is from the top of the false bottom, and no drip need be taken into account.

57. Intermediate gauges and gravities in breweries to be checked only—All gauges and gravities taken during the course of a brewing are to be deemed correct only, and should not form the basis of any charge for duty or calculation of out-turn.

58. Officer-in-charge not to ascertain dips and gravities for licensees—The officer-in-charge may not ascertain for the licensee the quantity or gravity of any work collected.

H-General

59. Registers to be maintained by the officer-in-charge and the brewer—The following registers shall be maintained in a brewery—

(a) by the officer-in-charge—

(i) Register in Form R.B. 6 showing details of malt and water taken for analysis.
(ii) Register of gauge table in Form R.B. 2.
(iii) Register in Form R.B. 9 of issues of beer against deposit of duty.
(iv) Register of manufacture and issue of beer in Form R.B. 16.
(v) Register in Form R.B. 17 of beer returned unsold to the brewery.

(b) by the brewer—

(i) Register in Form R.B. 3 showing details entry regarding premises and utensils.

60. Submission of Annual Statement of brewery—Every brewer shall submit to the District Excise Officer through the officer-in-charge a statement in the duplicate in
Rajasthan Excise Act

Form R.B. 1A relating to list of brewery in respect of the excise year by 1st July. The District Excise Officer after satisfying himself that the entries made are correct, shall forward one copy of the Statement to the Excise Commissioner by July 15. The Excise Commissioner shall submit to the State Government by August 15, a consolidated statement in Form R.B. 1B.

61. The brewer shall be bound to report to the officer-in-charge any case in which any person employed by him has been found to have committed any breach of the excise laws or of the terms and conditions of service regulating his employment.

List of Forms Prescribed under the Brewery Rules

<table>
<thead>
<tr>
<th>Form No.</th>
<th>Subject</th>
<th>Reference to Rules</th>
</tr>
</thead>
<tbody>
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<td>1</td>
<td>Licence to consumer and establish a brewery</td>
<td>4 and 5(a)</td>
</tr>
<tr>
<td>R.B. 1(A)</td>
<td>Licence to work a brewery in private</td>
<td>2(c), 5(b)</td>
</tr>
<tr>
<td>R.B. 2</td>
<td>Table showing capacity of each vessel</td>
<td>18, 59 (a) (ii)</td>
</tr>
<tr>
<td>R.B. 3</td>
<td>Entry of premises and utensils</td>
<td>26 (m), 59 (b) (i)</td>
</tr>
<tr>
<td>R.B. 4</td>
<td>Brewing book</td>
<td>26 (iv), 33, 59 (b)</td>
</tr>
<tr>
<td>R.B. 5</td>
<td>Account of instruments</td>
<td>27</td>
</tr>
<tr>
<td>R.B. 6</td>
<td>Register of samples</td>
<td>32, 59 (n) (i)</td>
</tr>
<tr>
<td>R.B. 7</td>
<td>Application by brewer for payment of duty in cash</td>
<td>43</td>
</tr>
<tr>
<td>R.B. 8</td>
<td>Application by brewer for removal of beer the duty on which shall be debited against advance</td>
<td>45</td>
</tr>
<tr>
<td>R.B. 9</td>
<td>Register of advance deposit</td>
<td>45, 59 (a) (iii)</td>
</tr>
<tr>
<td>R.B. 10</td>
<td>Pass for removal of beer from brewery</td>
<td>46</td>
</tr>
<tr>
<td>R.B. 11</td>
<td>General bond for export of beer</td>
<td>41, 48</td>
</tr>
<tr>
<td>R.B. 12</td>
<td>Form of special bond for export of beer</td>
<td>41, 48</td>
</tr>
<tr>
<td>R.B. 13</td>
<td>Certificate by D.E.O. that the beer has been destroyed</td>
<td>50(5)</td>
</tr>
<tr>
<td>R.B. 14</td>
<td>Certificate by the D.E.O. that beer has been turned into vinegar</td>
<td>50(5)</td>
</tr>
<tr>
<td>R.B. 15</td>
<td>Statement of account of the licensed brewery at the quarter</td>
<td>52</td>
</tr>
<tr>
<td>R.B. 16</td>
<td>Register of manufacture and issue of beer by the officer-in-charge</td>
<td>53, 59 (a) (iv)</td>
</tr>
<tr>
<td>R.B. 17</td>
<td>Register of beer returned unsold by the brewery</td>
<td>59 (21)(v)</td>
</tr>
<tr>
<td>R.B. 18</td>
<td>Annual statement of breweries</td>
<td>(vi)</td>
</tr>
</tbody>
</table>

1. Substituted vide GSR 158 dated 26-8-75.

Forms

The Rajasthan Brewery Rules, 1972

1 Form R.B. 1(A)

Rule 4 and 5 (a)

Licence to construct and to Establish a Brewery.

Name of the licence holder (s) ......... Licence is hereby granted to ......... resident(s) of ......... to construct and to establish a Brewery at ......... subject to Rajasthan Brewery Rules, 1972 and to such other rules as may from time to time be made by the Excise Commissioner.

The licence shall be valid for excise year ......... the licensee shall apply to the Excise Commissioner on or before February 28, in each year for renewal of their licence for the excise year following till the construction and establishment is complete and licence in Form R.B. 1 (B) is obtained by the licensee.

Dated ......... Excise Commissioner

Rajasthan, Udaipur

FORM R.B. 1 (B)

[Rule 2(c), 5(b), 7(1) and 25(1)]

Licence to work a Brewery in Private

Name of the licence holder (s) ......... Licence is hereby granted to ......... resident(s) of ......... to manufacture beer in brewery situated at ......... subject to Rajasthan Brewery Rules, 1972 and to such other rules as may from time to time be made by the Excise Commissioner for the security of excise revenue and for regulating the manufacture, sale, supply and price of beer.

The infringement of any of the rules here in before enumerated shall involve for forfeiture of the licence in addition to such other penalties as may be prescribed under the Rajasthan Excise Act, 1950.

The licence shall be valid for the excise year ......... The brewer shall apply to the Excise Commissioner through the District Excise Officer on or before February 28, in each year for renewal of their licence for the excise year following. Any modification or expansion of the plant, vessels and other apparatus may be made only with the prior permission of the Excise Commissioner.

Dated ......... Excise Commissioner

Rajasthan, Udaipur

2 FORM R.B. 1(C)

(Rule 5)

Licence for Manufacture and Bottling of Beer Under Franchise Arrangement

Under Rule 5 (C) of the Rajasthan Brewery Rules, 1972 and in consideration of an annual licence fee, of Rs. ......... this special licence is granted to ......... for manufacturing and bottling beer at premises described in schedule-I below situated

1. Substituted vide GSR 158 dated 26-8-75.
Rajasthan Excise Act | Forms

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L…………………… in Town of…………………… District……………… from……………… to……………… subject to the following conditions:-

CONDITIONS

The licensee shall pay licensing fee and other levies as may be prescribed from time to time.

The licensee shall produce only those brands/bottles that have been listed in Schedule-II annexed to this licence and for which he has been duly and specially franchised/authorized by……………….

All operations relating to manufacture and bottling of the brands listed in Schedule-II shall be conducted at the licensed premises as per the map plan approved by Excise Commissioner.

The labels pasted on the bottles shall specify all the details as per prevailing provisions and orders.

No ingredient injurious to health shall be used in manufacturing/bottling process.

The licensee may procure raw material from any part of India Subject to observance of prevailing legal provisions.

Beer manufactured in one operation shall be bottled and labelled immediately and shall be given the same batch number.

The licensee shall maintain day to day label-wise and bottle-wise true account of beer manufactured, bottled and disposed off.

He shall comply with Rajasthan Excise Act and rules made thereunder as well as instructions issued by the Excise Commissioner from time to time during the currency of this licence.

If R.B.1 (A) and/or R.B.1 (B) licence to which this licence has been granted stands suspended/cancelled or withdrawn, this licence shall automatically stand suspended/cancelled/withdrawn or discontinued, as the case may be.

The licensee shall be bound by all the conditions of licence granted in his favour.

On breach of any condition of licence or provisions of Rajasthan Excise Act, 1950 or rules made thereunder or order issued by the Excise Commissioner, this licence may be suspended or cancelled or compounded by the Licensing Authority.

Dated………………………….. Excise Commissioner:
Rajasthan, Udaipur

SCHEDULE-I

<table>
<thead>
<tr>
<th>Descriptions of the licensed Premises</th>
<th>Boundaries of the licensed premises</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>North</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

SCHEDULE-II

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Details of the brand/brands for which the licensee holds franchise</th>
<th>Full particulars along with complete address of the franchise</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Dated:

Excise Commissioner:
Rajasthan, Udaipur

R.B. 2. (Rules 18, 39 to (iii))

Register of Gauging Tables

<table>
<thead>
<tr>
<th>Depth</th>
<th>Diameters</th>
<th>Encumbrances</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 2 3 4 Mean</td>
<td>Depth</td>
<td>Area Gross Net</td>
</tr>
<tr>
<td></td>
<td>(2)(3)(4)(5)(6)</td>
<td></td>
<td>(9) (10)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>in litres</td>
</tr>
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<table>
<thead>
<tr>
<th>Fabulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dry centimetres</td>
</tr>
<tr>
<td>(12)</td>
</tr>
<tr>
<td>(15)</td>
</tr>
</tbody>
</table>

R.B. 3 (Rules 26 (ii), 39 (b) (i))

Brewer is in respect of premises and utensils licensed. We licensed brewer do hereby withdraw all former entries and do now make entry of the following rooms, places and vessels in my/our brewery situated at…………………… in the district of……………….

Name…………………………. Residence………………………… Date…………………………

Here enter Full particulars of each room, place or vessel.

A plan as required by Rule 3(2) of the Rajasthan Brewery Rules, 1972 is attached hereeto.

Name………………………… Date…………………………
Rajasthan Excise Act

[Forms]

Received by me this day of 20. Entry examined and checked with the places rooms and vessels shows herein and found correct with the following exceptions:

If incorrect the correct details should be here specified. If correct take out the words in brackets.

Officer-in-charge

Examined and passed ..........................

District Excise Officer

Chcage

R.B. 4

[Rules 26 (a), 33, 52 (b), (a)]

Brewing Book

Brewed entry made in (1) Hour (2)

Number of brewing (5)

Notice to mash malt or corn dissolv sugar Date (4) Hour (5) Date (6) Hour (7)

all Unmalted litres (8)

Quantity to be used of Corn sugar (9)

Kgs. (10)

Hops (11)

Hop substitute Kgs (12)

me when wort will be drawn off grants the mash tin (13) Hour 14

Wort collected When collected Date (15) Hour (16)

Vessels Number (17)

Inspector’s Initials (22)

Remarks (23)

R. B. 5

[Rule 27]

Account of Instruments

book of Government property for the office of the...

out and description of article (e.g. chairs almirahs, etc.)

Number of pieces Number of cost (purchase price)

Initial of officer-in-charge Date of inspection

Remarks about the condition of the article etc. as found at time of inspection orders regarding condemnation etc.

1 2 3 4 5 6

Date of disposal Value realised Number and date of Treasury challan

Initial of officer in-charge Remarks regarding reference to papers etc.

1 2 3 4 5 6

Date....20 (Signed) ....Checked by officer-in-charge.

Brewery, Number of challan Received Rs...

Date........20

Treasury or Sub-Treasury Officer

Note:—This application must be presented in triplicate. one copy will be retumed to the tenderer the second forwarded to the officer-in-charge. Brewery and third retained for record.

Forms 1

The Rajasthan Brewery Rules. 1972

Instructions

1. This form should be ruled on ordinary foolscap papers. The same stock book may be used for a number of years.

2. A separate page for more page than one, where a larger number of receipts of the article are expected should be assigned to each class of article.

3. Every article must be entered in the proper stock book immediately on receipt.

4. Every entry should be initialed by official concerned.

5. Whenever an article is condemned a note about the condemnation should be recorded in column 6.

6. The number of articles should be totalled at the end of each page and also on the expiry of the financial year.

R.B. 6

[Rules 52, 53 (a), (b)]

Register of Samples of malt worts etc. taken for analysis.

Serial No. Description of sample Purpose for which taken Date when taken If worts or beer initial Gravity Date of receipt of report from the chemical examiner Result of analysis

R.B. 7

[Rule 43]

Application for tendering duty on Beer

To the officer-in-charge of the Sub-Treasury or Treasury at...

Please receive Rs................................being the duty on..........................liters of beer as specified below to be removed from the..........................brewery in the district and to be consigned to here in the district of

Quantity contained in barrels, quarts, pints, half-pints etc (give description number etc.) on each

Rate of duty per bulk litre Total amount of duty to be realised

1 2 3 4

Date........20 (Signed) ....Checked by officer-in-charge.

Brewery, Number of challan Received Rs...

Date........20

Treasury or Sub-Treasury Officer

Note:—This application must be presented in triplicate. one copy will be returned to the tenderer the second forwarded to the officer-in-charge. Brewery and third retained for record.
R.B. 8

Application for issue of Beer against advance deposit

To the officer-in-charge, Brewery.

Sir,

Kindly grant us passes for the issue of beer as detailed below, the duty on which is to be debited against our advance deposit.

Yours faithfully, 

Date

(SD) 

(Brewers)

<table>
<thead>
<tr>
<th>Name and address of consignee</th>
<th>Description of beer with the name and number of containers</th>
<th>Quantity</th>
<th>Amount of duty to be debited against advance deposit</th>
</tr>
</thead>
</table>

R.B. 9

Register of Advance deposit

Register of issues of beer against advance deposit of duty for the month...20...

<table>
<thead>
<tr>
<th>Date</th>
<th>No.</th>
<th>Dated</th>
</tr>
</thead>
</table>

Deduct duty on issues shown hereunder. Balance carried forward.

Issues

|----------|------|-----------------------|----------|------|-----------------------|

R.B. 10

Pass for removal of beer from brewers

Name of consignor

Brewery

Date: 20

Pass for the removal of beer

Form Sarvashri

Date:

Current upto

1. Name of consignor
2. Name of consignee
3. Name of place to which issued
4. Description of the container with number of and quantity in each
5. No. & date of permit (if any)

R.B. 11

General Bond for Export of Beer

Form of general bond to be executed for the removal of beer from a brewery for export to other States in India without pre-payment of duty.

This INDENMTY BOND made the day of 20...between...son of...residents of...the brewer/the brewers which expression shall include his/her heirs, successors and assigns) of the part AND the Government of Rajasthan hereinafter called the Governor which expression shall include his successors and assigns of the other part.

Whereas under the rules of the Government of Rajasthan in the Excise Department the brewer/brewers are permitted from time to time to export beer from their brewery at any State in India without previous payment of duty on the brewer/brewers executing an indemnity bond on the terms and conditions hereinafter mentioned.

R.B. 12

Form of Special Bond for Export Beer

Form of special bond to be executed for the removal of beer from a brewery for export to other States in India without pre-payment of duty.

This INDENMTY BOND made the day of 20...between...son of...residents of...the brewer/the brewers which expression shall include his/her heirs, successors and assigns) of the part AND the Governor of Rajasthan hereinafter called the Governor which expression shall include his successors and assigns of the other part.

Whereas the brewer/brewers have been permitted to remove beer from...his/her brewery to any State in India, without previous payment of duty thereon the brewer/brewers executing an indemnity bond on the terms and conditions hereinafter appearing.

AND WHEREAS the duty on the said quantity of beer the present rate of Rs....per bulk litre amount to Rs....

NOW THIS BOND WITNESSES AND THE brewer/brewers hereby *covenants/covenant with the Governor as follows:-

(1) That the brewer/brewers shall on or before the expiration of...days from the date whereof or within such further time as may be granted by way of extension by the District Excise Officer of...District, deliver or cause to be delivered the above...
Rajasthan Excise Act

(2) That if the above mentioned... litres of beer, shall not have been delivered at the destination is hereinafter agreed, the brewer/brewers shall indemnify the Governor for any loss of duty which the Governor may suffer by reason of such non-delivery or short delivery by paying on demand the duty at the rate of Rs... per bulk live of beer live of beer not so delivered.

IN WITNESS WHEREOF the *brewer has/brewers have herein to set* this hand/ their hands the day and the year first above written. Signed by...*brewer/brewers in the presence of... and of...

R.B.13

[Rules 50 (4)]

Destruction Certificate

I hereby certify that... litres of beer, brewed by... licensed brewer... on which duty has been recovered, were this day taken account of by me under Excise Commissioner's Order No... date... and destroyed in my presence.

Dated this... day of... 20... District Excise Officer,

To The Excise Commissioner, Udaipur.

R.B.14

[Rule 50 (5)]

Certificate as to spolit beer used for conversion into vinegar

I hereby certify that... litres of beer, brewed by... licensed brewer... on which duty has been recovered, were taken into account of by me under Excise Commissioner's order No... and I further certify that the beer in question has been turned into vinegar.

Dated this... day of... 20... District Excise Officer,

To The Excise Commissioner, Udaipur.

R.B.15

[Rule 52]

Statement of Quarterly Accounts

Statement of account of the licensed brewery at... for the quarter...

<table>
<thead>
<tr>
<th>Month</th>
<th>Duty pre-paid</th>
<th>Issued from brewery under bond for</th>
<th>Duty pre-paid</th>
<th>Returned under bond for payment</th>
<th>Unsold issued total returned</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
</tr>
<tr>
<td></td>
<td>Litres</td>
<td>Litres</td>
<td>Litres</td>
<td>Litres</td>
<td>Litres</td>
</tr>
</tbody>
</table>

Notes - (1) The closing balance should be entered on any day on which either manufacture or issue takes place.

(2) When stock-taking takes place, a note of the actual balance ascertained should be made and this balance carried from the beginning of the next day.

R.R.17

[Rule 59 (a) & (b)]

Register for Beer Returned Unsold to the Brewery

<table>
<thead>
<tr>
<th>Quantity returned unsold</th>
<th>Original gravity</th>
<th>Date of issue</th>
<th>Date of return</th>
<th>Person by whom returned</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Place from which returned</th>
<th>Cause of return</th>
<th>How disposed of</th>
<th>Date of disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
<td>(9)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total for quarter</th>
<th>Litres</th>
<th>Rs.</th>
<th>Rs.</th>
<th>Rs.</th>
<th>Rs.</th>
</tr>
</thead>
</table>

Dated

Certify that the accounts of the brewery and the stock of beer in hand has been examined as required by Rule 52 and have found to be correct.

District Excise Officer

Here explain any difference between the issues in columns 2 and 3 and the duty realized during the quarter in column 8 & 9.
Rajasthan Excise Act

R.B. 18
[Rule 69.]
Annual Statement

Statement of Breweries on operation in ___________ during the year ___________

Name of town in which located... Year in which established... Average daily number of person employed during the year... Remarks... Estimated turn in litres of malt liquor during the year...

Notes: (1) The figures in column 1 should be taken from the statement prepared under the Factories Act or in the case of Breweries for which returns under the Factories Act are not required worked out by dividing the aggregate number of daily attendance of both permanent and temporary employees by the number of days in each year during which the factory or business was working.

(2) The same form is used in submitting the statement to the Excise Commissioner.

This Bond witnesses and the brewers hereby covenants to warrant the Governor as follows:

1. That the brewers shall not at any one time so export any quantity of beer or the duty on which at the rate prescribed thereon at the time of the aggregate of the duty as the aforesaid rate on any quantity previously exported and not yet delivered at destination shall exceed the sum of Rs. ... provided that any quantity of beer delivered at destination for which duty has been paid under clause (1) hereinafter following shall not be included in the calculation of the quantity not delivered at destination.

2. That the brewers shall deliver within the time mentioned in his/their pass in Form R.B. 10 issued by the officer-in-charge of the brewery on each occasion of the port of bear or within such further time as may be granted by way of extension by the District Excise Officer of the exporting district deliver or cause to be delivered to the Excise Officer of the exporting district, deliver or cause to be delivered the beer so exported in that occasion into the custody of the consignee mentioned in the pass.

3. That if the whole of or any quantity of beer exported on any occasion shall have been delivered at the destination as hereinafter agreed, the brewers shall indemnify the Governor of any loss of duty which Governor may suffer by reason of non-delivery or short delivery by paying to him on demand the duty at the rate on in force on any quantity of beer not so delivered IN WITNESS WHEREOF THE above bind/brewers have hereunto set this hand/their hands hereunder on the day and at first above written.

Signed by brewers/brewers in the presence of ___________ and of ___________.

Cancel whichever entry inappropriate.

The Rajasthan Distilleries Rules, 1976

1. Short title: 479
2. Definitions:
   (a) Act 479
   (b) Feints
   (c) Low wines
   (d) Obscurations
   (e) Officer-in-charge
   (f) Receiver
   (g) Receiver room
   (h) Spent less
   (i) Spent wash
   (j) Vat
   (k) Warehouse
   (l) Wash
   (m) Wash back
   (n) Form

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THE RAJASTHAN DISTILLERIES RULES, 1976

[Notification No. F. 32(b)/514/Ex/L/77-26, dated February 24, 1977]

G.S.R.99—In exercise of the powers conferred by section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950) read with section 16 & 17 thereof, the Excise Commissioner with the previous sanction of the State Government hereby makes the following rules, namely—

1. Short title—These rules may be called the Rajasthan Distilleries Rules, 1977, and shall come into force on their publication in the Gazette.

2. Definitions—In these rules, unless the context otherwise requires—

(a) “Act” means the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950).
(b) “Points” means impure spirit produced from the distillation of low wine,
(c) “Low wines” means impure spirit from the distillation of wash,
(d) “Obscurcation” means the difference, caused by matter in solution, between the true strength of spirit and the apparent strength as indicated by the hydrometer,
(e) “Officer-In-charge” means the Excise Inspector or Assistant Excise Officer-in-charge of a distillery,
(f) “Receiver” means any vessel into which the work of still discharges,
(g) “Receiver room” means the part of a distillery where the receivers are kept,
(h) “Spent less” is the residue left after impure spirit has been redistilled,
(i) “Spent wash” is the residue left after wash has been exhausted of spirit,
(j) “Vat” means any fixed vessel used for the storage of spirit,
(k) “Warehouse” means a warehouse in which spirit in a fit state of consumption is stored,
(l) “Wash” means a saccharine solution from which spirit is obtained by distillation, it includes fermented wash or wort,
(m) “Wash back” means a vessel in which fermentation is carried out,
(n) “Form” means a form appended to these rules.

A Establishment of Distilleries

1. Grant of "No objection Certificate"—Any person desiring to construct and work a distillery shall first apply for grant of no objection certificate to the Excise Commissioner through the District Excise Officer concerned after having deposited the fee prescribed for this purpose. The Excise Commissioner, subject to general or specific instructions of the State Government, may issue no objection certificate.

2. Grant of permission for construction—The holder of a no objection certificate shall seek the permission of the Excise Commissioner for construction of distillery after having completed the formalities prescribed by the Excise Commissioner in his behalf and depositing the fee prescribed for this purpose. Along with the application the applicant shall file for approval a description and plan of the building in which he proposes to establish his distillery; and also an inventory giving the description and size of the stills and all other permanent apparatus. These plans shall be drawn to scale showing the exact position and dimensions of each vessel to be used, and tracing the course of all pipes or channels in the colours which would actually be used under rule 34 together with elevations of all the more important parts of the distillery, such as the receiver room and warehouse. The Excise Commissioner, if he is satisfied that there is no objection to doing so, may grant permission for construction of distillery.

3. Grant of licence for working of distillery—On receipt of intimation of completion of construction from the person holding permission under sub-rule (2) and after satisfying that the fee prescribed for this purpose has been deposited and there is no objection to doing so, the Excise Commissioner may grant licence to work a distillery.

4. Permission for adding/alteration—Any addition to or alteration of distillery plant or building shall be made with the prior permission of the Excise Commissioner and such permission shall be given unless the fee prescribed for this purpose has been deposited.

Distillery Licence—A licence for the construction and working of a private distillery shall be granted in Form R.D.1. A licence to work a distillery in premises owned by Government will be in Form R.D.2. Persons who desire to construct and work a distillery for the purpose of manufacturing Indian Made Foreign Liquors shall be required to set up a patent still of good model to the satisfaction of the Excise Commissioner. Such a patent still should be new and not an old one.

The distiller who is licensed to manufacture Indian Made Foreign Liquors shall not be allowed to manufacture potable or non-potable products of any other kind on the same premises.

Commentary

Rajasthan Distillery Rules, 1977—R. 4 and Rajasthan Stock-taking and wastage of Liquor Rules, 1959-R. 4 (1) & (5)—Duty on Excess Wastage not tax or duty; but nevertheless, consideration for licence—Measure thereof—Validity of demand notice—The so-called duty on excess wastage as demanded in the instant case, is neither a tax nor a duty of excess imposed under section 28 of the Act. It is strictly speaking, not a fee in the name of a quasi pro quo for services rendered, but it is a price or consideration which the Government Charges to the licence holder for parting with the privilege of manufacturing liquor. There is no legal bar to the distiller agreeing to compensate loss of revenue which may be suffered by the State Government as a consequence of such excessive wastage by him in consideration of the privilege of manufacturing liquor granted to him by the State Government. The petitioner had agreed in the instant case to compensate the State Government for the loss of revenue which might have suffered on account of the excessive wastage of rectified spirit by the petitioner. The measure of the loss is the excess duty which the State Government would have earned on the excessively wasted rectified spirit if such spirit had been converted into IMFL for consumption by human being.

"Bottling"—What is it? It is a process of sale—liquor is to be bottled under a licence and such a licence has been obtained by the petitioner for the purpose of sale of liquor meant for human consumption. Whereby, it has been prescised what will be the strength of a particular quality of wine and what will be its colour and in what quantity it will be sold and will be its price. The Distilleries Rules, 1976 under which licence has been granted to petitioners also provide that in what conditions the liquor is to be sold. (Para 21)

5. Renewal of licences—Application for the renewal of licences for the following year must be made to the excise Commissioner through the District Excise officer on or before February 28. Each year accompanied by a treasury receipt showing payment of the prescribed fee. The application for renewal is not made within the prescribed period, it shall be accompanied by an additional fee equal to 25% of such fee. If there have been alterations in either plant or building plans must be submitted. No renewal of licence will be granted unless the certificate from the Officer-in-charge is forwarded with the application for renewal of the licence. If an application for renewal of licence is not properly submitted in time & renewal consequently delayed, the spirit produced in the distillery will be liable to seizure and confiscation, or the parties working the distillery will have to the penalties provided for by law for the illicit manufacture of spirit. Provided that in the event of a licence being refused for a distillery which had previously been licensed permission may be granted to continue operations temporarily for a reasonable time pending appeal.

6. Sale, Transfer or sub-letting etc. Prohibited—Except with the written permission of the excise Commissioner, the Distiller shall not sell, transfer or sub-let the right of manufacture conferred on him by his licence, nor shall he in connection with the exercise of the said right enter into any agreement of arrangement which is in the nature of a sub-lease. He shall not also admit any person and his partner in the concern without prior sanction in writing of the Excise Commissioner.

7. Removal of spirit etc. after expiry of licence—On the expiry of his licence (unless a fresh licence shall have been granted to him), or if his licence shall be cancelled or

suspended, every distiller shall be found guilty of the duty on and to remove all spirit remaining within the distillery in accordance with the rules in force, and he shall fail to do so within ten days of receipt of written notice from the District Excise Officer, the cost of any establishment which it may be necessary to employ at the distillery or warehouse may be recovered from the distiller. In the event of continuous neglect, the spirit shall be liable to be forfeited at the discretion of the Excise Commissioner.

8. Distiller to deposit security—Every distiller shall deposit with the Excise Commissioner the security not exceeding Rs. 10,000 as may be directed by the Excise Commissioner for the payment of all sums which may become due to the State Government by way of duty, rents, penalties, fines and under the provision of his licence or to which the distiller may be liable by law or by rules having the force of law or under any engagement or bond into which he may have entered. Securities to be furnished shall be in any one of the form of securities provided under General Finance and Accounts Rules.

9. Officer Accommodation—Distillers shall provide office furniture for the use of the Officer-in-charge of the distillery and his staff. If a distiller is established at a place suitable quarters for such officers are not available for hire at reasonable rates, the distiller shall provide suitable quarters to the satisfaction of the Excise Commissioner.

The distiller shall be bound to keep the quarters and their appurtenances in proper repair and not to interrupt or annoy any officer residing therein, in his uso or enjoyment thereof. In case any question should arise as to whether the rent demanded by the owner of such quarters is just and reasonable taking into consideration the nature and extent of the accommodation, the question shall be referred to the Excise Commissioner whose decision thereupon shall be final and binding on the distillery concerned.

10. Government not liable for loss of spirit in distilleries—Government shall not be liable for the destruction loss or damage of any spirit stored in distilleries by fire or theft, or by graving, or proof or by any other cause whatsoever. In case of fire or other accident in charge of distilleries shall immediately attend to open the premises at any hour by day or night.

11. Safe custody of stock of spirit—Shall be responsible for the safe custody of stock of spirit in their distilleries and shall be liable to make good any loss of revenue caused to Government by their negligence.

12. Fermentation and distillation efficiencies—The distillers shall be responsible for maintaining such minimum fermentation and distillation efficiencies as may be prescribed by the Excise Commissioner.

13. Noxious material & unhygienic water not to be used—(1) The material to be used in distilling shall be good quality and no ingredients noxious to health shall be used in the distillation or be put into the spirit. The spirit shall be subject to analysis on the order of the Excise Commissioner and the distiller shall be bound to take steps to remedy defects which the Excise Commissioner may consider material. If spirit found to be of inferior quality and unsuitable for the purpose for which it was made, it may be rejected, destroyed, or otherwise dealt with under the order of the Excise Commissioner.

Officers-in-charge of distilleries are empowered to stop pending the orders of the Excise Commissioner the issue of spirit which they consider bad, and are required to send samples of such spirit for analysis without delay.

14. Manufacture of Indian made Foreign Spirit—The distillers holding a licence in form RO-1 or RO-2 shall not be allowed to manufacture in their licensed distilleries, Indian Made Foreign Spirit for potable purposes from Neutral Spirit or Rectified Spirit Grade 1, which does not conform to the specifications laid down from time to time by the "Bureau of Indian Standards" in this regard.

15. Flavouring and colouring etc.—Except in the case of coloured rum the addition of any flavouring, colouring or similar matter is prohibited until the spirit has paid duty for issue. The addition of caramel to rum is regulated by rules 75 and 76.

The function of the Excise Commissioner is required to the use of any flavouring or colouring matter and to the proportionate quantity that may be added.

16. Distiller bound to report breaches of law, etc. committed by their servants—If it comes to the knowledge of a distiller that any person employed by him has committed any breach of the excise laws or of the engagements entered into by him, it shall be his duty to report the matter to the District Excise Officer and to comply with the directions of the latter officer requesting the continued employment of such person.

17. Accounts to be kept by distillers—Distillers shall keep regular daily accounts. The accounts shall show the quantities and descriptions of the materials used, the quantity of wash and spirit manufactured, the quantity of spirit passed out and the quantities of wash and spirit in store at each vat or other receptacle.

18. Distiller's accounts to be open to inspection—Such accounts shall be open at all times to the inspection of the Officer-in-charge distillery and of all superior officers.

19. Distillers bound to obey all rules already in force or which may hereafter be prescribed—Distillers shall be bound by all the general rules and the regulations of the Excise Commissioner with regard to individual distilleries, and shall cause all persons employed by them in the manufacture, issue etc. of spirit to obey all such rules.

20. Appointment of agents and other servants—(1) The appointment of Agents and other servants by the distillers shall be subject to the approval of the District Excise Officer who will have the power to order the removal from service or prohibit the appointment of any person whom he considers undesirable.

Provided that no order for the removal from service of person, covered by the definition of the term "workman" as given in section 2(e) of the Industrial Disputes Act.

___ Substituted by S.O. 256 dated 18-3-93.
47. (Act No X of 1947) shall be passed without prior consultation with the Labour Commissioner, Rajasthan.

Provided further that in the event of a difference of opinion between the Labour Commissioner and the District Excise Officer on any particular point relating to the removal of a person from service, the matter shall be referred immediately through the Excise Commissioner to the State Government for orders.

2. The order of removal passed by the District Excise Officer or his decision to exhibit employment of any person shall be appealable to the Excise Commissioner, Rajasthan.

3. Whenever any workman is suspected of pilferage of excisable goods and his immediate removal from the distillery is considered necessary to safeguard revenue interest in the interest of discipline, the contractors may be asked to depute the defaulting workman to some other section, which does not involve his entry into the Distillery pending receipt of the Labour Commissioner's concurrence for his removal.

B. Control of Distilleries

21. The Excise Commissioner to appoint Officer to the charge of distilleries—The Excise Commissioner will appoint such Officers of the Excise Department as he may think fit to the charge of distilleries. The pay of such officers will be met by Government provided that when the annual establishment charges exceed the sum of 10 per cent. of the duty leviable on the issues made from the distillery to districts in the State, or 60 percent of the export duty levied on all exports of liquor during the year, this excess shall be realized from the distillers.

22. Control—The Officer-in-charge will, unless otherwise directed, work under the supervision and correspond with the District Excise Officers in whose territorial charge distilleries lie. In all ordinary matters regarding the working of distilleries, the proprietor should, in the first instance apply to the officer-in-charge, who will, if necessary, apply for orders.

23. The admittance into distilleries of persons not having business therein—Distilleries shall be open only for the entrance and exit of persons who have business within them. No one except officers of the Excise Department and superior officers of other Government Departments, distillers, their servants and licensed vendees who have consented to purchase spirit shall be allowed to enter the premises, on any pretext. Others may only enter with the permission of the Officer-in-charge, provided that permission is not granted to persons whose admission to the distillery may be objected to the distillers.

24. Control over persons entering distilleries—All persons entering a distillery warehouse shall be under the orders of the officer-in-charge in receipt of the contractor, and shall be liable to search on their entering the premises, at the discretion of the officer-in-charge.

25. Guard posted to distilleries holding R.D. 2 Licence—In the case of distilleries working within Government buildings—

(1) If the Excise Commissioner considers it necessary an excise guard, consisting of one Janamdar and three constables, may be stationed at the distillery for watch and ward duty. It shall furnish a sentry to guard the gate day and night. A sheet prescribing the duties of the guard shall be in the possession of the Janamdar commanding the guard.

(2) The gate of the distillery shall be unlocked at day break for the admission of the distillery officials, distillers and workmen and shall be locked at sunset when all persons must leave the distillery. The key of the distillery gate shall remain with the sentry on duty and shall be in charge of the Janamdar. Ordinarily the gate of the distillery shall be kept closed, and it shall only be opened to allow authorised persons to pass in and out, for the admission of materials, fuel, or plant and for the passing out of spirit and waste products.

(3) A list of persons authorised to enter the distillery shall be made over to the Janamdar in charge of the guard by the Officer-in-charge of the distillery.

26. Ejection of riotous persons, etc.—The Officer-in-charge of a distillery or warehouse may eject and exclude from the premises any person as to whom he has reason to believe that he has committed or is about to commit any breach of these rules or of the Rajasthan Excise Act, 1950 or who is intoxicated or disorderly. All action taken by any such officer under this rule shall forthwith be recorded by him in writing in his official diary for the information of his official superiors.

27. Smoking prohibited—Smoking in any portion of a building used for fermentation, or of storage of spirit is forbidden. The use of naked lights within a distillery is strictly prohibited.

28. Hours of attendance of excise officials—The hours of attendance of the excise supervisory staff shall be the same as observed in the Distilleries under the Factory Act.

29. Holidays—The holidays allowed to officer-in-charge and clerks at distilleries shall be the same as fixed for the distiller for his staff under the Negotiable Instruments Act.

In case the excise staff stationed at a distillery is required to attend the distillery on any of the above mentioned holidays, or after working hours of the distillery, the distiller shall be required to pay to Government overtime fee according to the scale as is payable to their own staff of the status of Excise Staff posted at the Distillery.

The overtime fee so realized, shall be credited to Government and shall be paid to the Excise Staff according to the financial rules of the State Government.

30. Power to withdraw establishment—In case a distiller shall cease distilling or issuing spirit for a period exceeding one month, the Excise Commissioner may, by withdraw the establishment stationed at the distillery, except such staff as can be required for guard duties and may prohibit all further distillation and sale of spirit until the distiller has given the Excise Commissioner fourteen days notice in writing of the date on which he proposes to recommence distilling or issuing spirit, as the case may be.

C. General Arrangement and Management of Distilleries

31. Wash and spirit to be conveyed through closed pipes—Wash shall be conveyed from the wash backs to the stills in closed pipes. The distilling to the time when the spirit is issued from the store vats the distillate shall be contained in closed receptacles and conveyed through closed pipes.

Spirit wash and spent wash shall be carried off in closed pipes or covered drains.
32. Pipes to be visible throughout—Pipes intended for the conveyance of wash and spirit must be so fixed that they can be examined throughout their entire length.

33. Joints to be riveted or bolted—All joints in spirit pipes must either be riveted or be joined with bolts. In the latter case the flanges bolted together must have, in addition to the bolts, at least two holes for wires to pass through, which shall be secured with lead discs bearing a departmental seal.

34. Ends of the pipes to be securely fixed—The ends of still worms and all pipes which convey spirit or serve spirit receptacles shall be firmly fixed into the receptacles they serve.

35. Pipes to be painted—Pipes in distilleries must be painted as follows: If intended for conveyance of wash, green; if for the conveyance of spirit red; if for the conveyance of spirit, brown; if for the conveyance of spent wash or molasses, blue. The officers-in-charge will be held strictly responsible for the colour of every pipe being correct and be painted bright.

36. Distillers responsible for leakage from pipes—The distiller shall be responsible for preventing any leakage from pipes.

37. Lock fastenings to be on all spirit pipes and vessels—The charging and discharging pipes of stills, all spirit safes, all mellowers, casks or other openings in stills, spirit vats, spirit receivers and other receptacles for spirit shall be so fitted as to enable them to be secured by an excise lock of a pattern approved by the Excise Commissioner.

38. Storage rooms to be provided with Double Locks—The doors of all buildings or rooms which are used for the storage of spirit shall be provided with double locks, the keys of which are not interchangeable, and of which one lock shall be an excise lock in the charge of the officer-in-charge and the other a distillery lock in the charge of the proprietor.

39. Openings and cocks not opened for long period may be secured by wire and lead excise seal—With the approval of the District Excise Officer openings and cocks of stills, receivers, vats or connecting pipes which are not likely to be opened for long periods may be secured by means of wire and lead excise seals.

40. Locks on fastenings to be changed once a month—The locks used for the various parts of the distillery, etc., should be changed once a month at irregular intervals, so that the same lock may not be known to be continuously in use in any particular assembly.

41. Lock fastenings to be constructed—Lock fastenings are to be constructed as much as possible in one piece. When hinges in them are necessary the hinges must be fixed by welded joints and not by riveted pins, if a part of any fastening is attached to a vessel or utensil, it must be by rivets and not by screws. The fastenings for cocks must be fitted so closely as to admit of any cock being partly turned or opened, so that the plug or key lifted up or taken out, after the fastening is applied. Chain fastenings are not to be used except in cases where it would be impracticable to apply fastening of any other description.

42. Working fastenings—When it is necessary for the distillers operations the cocks upon closed pipes be left open when officer-in-charge is not present working fastenings must be provided. Such fastening must be so constructed that the excise lock shall not interfere with the free use of the cock, and so fitted that no obstruction of spirit is possible.

43. Locks not to be picked or forced but hasp filed—Should it happen at any time that a lock cannot be opened in the usual manner, it is not to be picked or forced. Locks opened by filing through the hasp, or if the distiller has no objection through the fastening. All defective locks should be sent with the Keys to the Excise Commissioner for examination and repair. On no account are they to be given out locally for repair.

44. Supply of ticket locks—Officers in charge of distilleries will be supplied with books of tickets in form R.D. 3 for use with the excise locks. Tickets must be used in the consecutive order of their number.

45. Instructions regarding use of lock ticket—Whenever an excise lock is affixed to any pipe, cock, receptacle, door, etc. the officer affixing it shall first take a ticket out of the book and enter on it and its counterfoil with his initial the date hour and minute of the affixing of the lock, after the word "on" with the description of the pipe, cock, etc. on which he is about to affix it. The hours should be numbered 1 to 24 and counted from midnight. He will then place the ticket in space provided for the purpose under the part of the flap which is hung on to the front of the lock taken care that the ticket is pierced by the spikes which stand up in the space in question. The flap should then be firmly closed on to the top of the ticket and the lock be locked on the pipe, cock, etc., as the case may be.

46. Entries on lock ticket and counter foils to be abbreviated—The entries on tickets and their counterfoils should be abbreviated thus:

For still, write S.
For receiver, write R.
For receiver room, write R.R.
and so on, the number of the still, etc., being added when there is more than one. Care should be taken to make the entries on the tickets in such part thereof that they may be defaced as little as possible by the revolution of the spikes and tearing of the tickets on the opening of the locks.

47. Instructions for removing lock from any pipe, etc., and for dealing with a case of tampering—When an excise lock has to be removed from any pipe, etc., the officer shall first remove the key hole cover on to one side so as to expose the ticket, which will be visible through the upper hole in the flap, and which he should carefully examine to ascertain if it has in any way been tampered with. If it should appear to have been tampered with, he should at once send for his immediate superior officer or for an officer of police or a superior officer of some other department or other trusted worthy person, and should cause such officer of person to make a careful note of the exact state of the ticket, after which the lock may be opened. In every case when a lock has been opened the officer will at once remove the ticket, enter on it the date hour and minute of removal with his initials, as shown after the word "off" carefully smooth it out, and gum it on the blank space left for the purpose at the edge of its counterfoil. A full report should be at once be made by the officer to the Excise Commissioner in every case in which a ticket has been found to have been tampered with a careful examination having previously been made as to whether any spirit has been removed or other Infringement of the law committed.
48. Number of ticket put on and taken off to be entered—In the form of diary (R.D. 5) prescribed for use by officer-in-charge, columns have been provided for the numbers of the tickets put on and taken off in connection with all operations. These columns must be filled up at the time when the various transactions take place.

49. Ticket book and keys of lock to be kept in personal custody of officer-in-charge—All ticket books and the keys of all locks whether in use or not, must be invariably be kept in the personal custody of the officer-in-charge when not actually in use they must be locked in the iron safe provided for the purpose. This safe must be securely with one of the locks, so that the officer-in-charge may have one key only to carry about with him. Tickets will be used with this lock as with all others, according to the above direction, the officer-in-charge will be held personally responsible for the safe custody of the key, and for its proper use.

50. Failure to use lock without ticket or make proper entries in diary treated as very serious offence—The use of a lock without a ticket or the failure to make the proper entries in a ticket or its counterpart, daily or to account for the use of ticket will be treated as very serious offences. Such occurrences must invariably be reported to the Excise Commissioner for orders. It will be the duty of inspecting officers to see that these orders are strictly carried out and that all pipes, cocks, etc. are so made and secured as to render the detection of spirit impossible without immediate detection. They should also examine the lock to see that no means have been resorted to by which the ticket box might be opened without breaking the ticket.

51. Recepietals to be used for wash and spirit—Vessels used as recepietals for wash and spirit may be constructed of any material approved by the Excise Commissioner. They shall be regular shape and covered vessels shall be fitted with proper manholes. In the case of every vessel proper arrangements shall be made for gauging by dipping rod and tables shall be provided showing the number of litres contained in each vessel when filled to every 1/10th of one cemiter. When the wet method of gauging is applied to any vessel a permanent dipping rod of a pattern approved by the Excise Commissioner must be provided by the distiller and fixed by him to such vessel in a manner approved by the Excise Commissioner.

No gauging rod shall be brought into use till it has been verified and approved by the officer-in-charge.

52. Rooms and vessels to be marked and numbered—The distiller shall cause to be painted with oil colour and shall keep so painted upon the outside of every room or place and upon a conspicuous part of every vessel and utensil the name of such room, place, vessel, or utensil, according to the purpose for which it is used, and when more than one room, place, vessel or utensil, is used for the same purpose, he shall also paint a progressive number on each, beginning with the number one. Each vessel or utensil shall also have its capacity painted on it.

53. Recepietals to be gauged and passed—(a) No receptacle whose contents are to be estimated by a gauge rod, shall be brought originally into use till it has been gauged and passed by the officer-in-charge and if any gauged receptacle is repaired or renewed it may not be brought again into use until it has been regauged and passed by the officer-in-charge.

(b) Dipping place or level of vessel not to be altered—The distiller shall not cause or allow the dipping place or level of any vessel to be altered or any devise to be used to deceive the officer-in-charge in taking the gauge or any vessel, or to prevent him from taking a true account of all wash or spirit in any vessel.

54. Recepietals to be fixed at proper height and fitted with cocks—Recepietals must be fixed at a proper height and be fitted with cocks so that they can be emptied without being moved. It is better that they should be placed on slightly sloped stands on foundations, so that they may drain away the wash without difficulty. The use of casks for storage purposes is forbidden except with the special permission of the Excise Commissioner.

55. Wash backs—The wash backs for the fermentation of wash shall be placed in a room or building exclusively set apart for them, which shall be kept securely locked if the Excise Commissioner to directs.

56. No wash except that prepared in distillery to be used, no wash to be removed from distillery—No wash shall be used except such as has been prepared within the distillery nor shall any wash be removed from the distillery.

57. Notice to be given to officer-in-charge when wash is to be prepared—When wash is about to be prepared the distiller shall give notice to the officer-in-charge and as soon as the wash is ready for gauging and proving, submit to him a declaration in writing on the prescribed form (R.D. 8) specifying the quantity of material used. The number of litres of wash made and its initial specific gravity corrected for temperature.

58. Officer-in-charge to verify wash declaration—The officer-in-charge on receipt of the distillers' declaration, shall proceed to verify the same, and enter the result in his diary.

59. Wash ready for distillation to be gauged by officer-in-charge—As soon as the wash is fully attenuated and ready for distillation the distiller shall again inform the officer-in-charge and that officer shall by gauging and the saccharometer, and the alcolahometer (where one has been supplied), ascertain the quantity and specific gravity of the attenuated wash and record the particulars in his diary. The initial gravity shall be determined by adding the degree of attenuation as ascertained by the alcolahometer to the actual gravity indicated by the saccharometer.

60. Stills to be securely closed—There shall be no openings into any still except those in connection with the charging and discharge pipes, condensers, manholes and air cocks or valves upon the breast of head. The external orifice of an air valve must be so constructed and covered by a perforated metal plate as to make it impracticable by means of it either to introduce wash or to abstract spirit, or to convey spirit vapour away for condensation elsewhere.

61. Re-distillation in pot-stills to be supervised by officer-in-charge—When a pot-still is being used for the re-distillation of unfinished spirit the number and the charging and discharge pipes shall be secured by the officer-in-charge with closed fastening and such still be charged and discharged only after notice has been given to the officer-in-charge & under his supervision. The officer-in-charge on being required to open the discharge cock for the discharge of spottles, shall satisfy himself that the spirit contained in the unfinished spirit with which the still was charged has been completely extracted by distillation.
In the case of continuous stills, re-distillation may be allowed by feeding the spirit to be re-distilled in the re-flowing column or mixing the spirit with the wash which has been fully attenuated and the alcoholic contents of which have been calculated or determined before mixing. In case unfinished spirit is not mixed with it should be put into a pump work and pumped up into wash charges for re-distillation, or other vessels in which it may be, for the purpose of avoiding the excess wasteage.

62. Safe to be fitted to stills—There shall be placed between every still and the receiver or receiver into which it discharges, a glass "safe" furnished with a hydrometer scale of showing the strength of liquid down to the zero of water. There may be separate safes between each still and its receiver or receivers, or a central safe which controls

63. Sampling apparatus—If desired, a sampling apparatus may also be used, which is so constructed that for every sample drawn off, and exactly equal quantity discharge into a closed and locked receiver. The samples shall be produced by the officer-in-charge, who on finding that they agree in measurement, strength, and corresponding quantity discharged into the receiver, shall pass them into store. Should a deficiency occur, the matter must be reported for orders.

64. Arrangement of still etc.—The distiller shall arrange his stills that spirit may be collected in closed and locked receivers of such pattern that no spirit can be moved from them unless they are unlocked. The Excise Commissioner may require the stiller to affix to any receiver an apparatus which will prevent the supply and discharge of

65. Size of Receivers—Should ordinarily be of sufficient size to hold all the spirit to be made in the stills during the 72 hours of continuous working and must be sealed that a free passage is left round them and a clear space below them to permit their being easily examined.

66. Working of cocks on charging and discharge pipes of receivers—Both the arcing and the discharge pipes of receivers must be fitted with cocks which can be opened. The cock on the charging pipe must be shut and locked whenever that on the discharge pipe is open and vice-versa, except when both are required to remain open simultaneously for repairs or for other proper reason; in which case either the whole apparatus must be disengaged from the still and be so secured and locked, that it cannot be used the officer-in-charge has removed the lock, or the still itself must be locked up that it cannot be used. When spirit runs from the receiver into the warehouse, that charge cock of the receiver is to be frequently tested to see that it does not permit leakage when shut and when for half an hour or longer the inlet cock at the still spirit collecting in the receiver, and ascertaining whether any accumulation takes place in the pipe. The date of such tests and their result should be entered in the diary.

67. All spirits to be run empty receiver—The spirit, whether finished or unfinished, produced by any one distillation shall be run into an empty receiver or receivers and the spirit shall be gauged and proved by the officer-in-charge in the receiver of the still to which it is produced, before it is passed out of such receivers or receivers and fed with spirit produced by any other distillation. The particulars of such gauging and proof will be recorded in the diary.

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68. Produce of distillation—The produce of a single distillation should not exceed the quantity that can be held in a single receiver, nor shall such produce consist of the distillate of the contents of a number of complete wash batches than has been run into the still for a period than seventy-two hours.

69. Store vats to be kept in warehouse—Store vats shall be kept in a room or building set apart entirely for them and provided with only one door, such rooms or building will be designated "the warehouse."

70. Separate store vats to be used for different kinds of spirit—Separate store vats are to be used for the storage of different kind of spirit. If issues are made direct to vendos of country spirit special vats must be provided for the issue of such spirit at the fixed strengths prescribed for such issues.

[70-A. With the previous sanction of the Excise Commissioner Country Spirit of Indian Made Foreign Spirit intended to undergo the process of maturing may be stored, without payment of duty, in case/ vat in a room within the distillery enclosed specially set apart and used only for this purpose and secured under the double lock of the officer-in-charge and the licensed. The spirit for maturation may be with the special permission of the Excise Commissioner, be kept in wooden vats and in spirit store-room, which shall for the purposes of this rule be deemed to be matured spirit house. Deposits in and withdrawals from the warehouse will be governed by the following rules:

1. An application for the removal of country spirit of Indian Made Foreign Spirit from the store-room to the matured spirit warehouse must be made in writing to the officer-in-charge. The application on presentation, must specify the serial number of each case/vat and before removal, takes place, must be completed by specifying for such case/vat its full capacity the quantity and strength of the spirit it contains.

2. Removals may be made at any strength not below the strength prescribed for the issue of spirit.

3. No case/vat of less than 36 litres capacity shall be removed for deposit in the matured spirit warehouse.

4. In preparation for removals, the rate or weight empty, of each case/vat must first be ascertained, the case/vat thereafter filled to the bunghole with the spirit intended for removal or the capacity determined in the manner prescribed by the Excise Commissioner.

5. All particulars of gauge and proof must be recorded at the time of removal in the appropriate columns of the warehouse register (in Form R.D. 10 B) instead of the pass as in the case of ordinary issues. The quantity removed (in proof litres) will be shown as transferred to the warehouse in the appropriate column of the issue register (in Form R.D. 10-A) but it is important that the removal should not be classed with the issue.

1. Inserted vide No. F. 37 (A) (7) Ex 75 GSR 74. Pub in Reg Gaz. 4(Gg) dated 9-1-80, page 240.
(6) On the outside of the heads of every cask/vat removed from the store room for deposit in the matured spirit warehouse must be legibly painted with oil, the progressive number of the cask/vat beginning with number one on the 1st April in each year, also the finishing year in the deposit is made, and the full capacity to the nearest tenth of a litre.

(7) No pass will be necessary to cover transport from the spirit room to the matured spirit warehouse but the distiller will have to declare the period for which he intends to keep the quantity of spirit for maturation.

(8) Immediately preparation for removal has been completed the officer-in-charge must see the cask/vat or casks/vats safely deposited in the warehouse.

(9) Each cask/vat deposited in the warehouse must be closed with a bung of hard wood, fitted flush with the outside of the bung slave. The licensee may, in his discretion, insert a spigot into the hard wood bung, to serve as a safety value.

Cask/vats must be so arranged in the warehouse as to allow easy access to them, in order that a correct account of their contents may be taken at any time, and leakages may be readily discovered.

(10) It will be unnecessary to take account of the spirit in stock in the matured spirit warehouse monthly as in the case of spirit in the store rooms. The stock of spirit in the warehouse will invariably be the total quantity in proof litres as shown in the warehouse register in Form R.D. 10-B. The officer of the Excise Department at their periodical visits should, however, check the quantity of spirit in a few of the cask/vats in the warehouse and record the result briefly in the register in Form R.D. 10-B, where they find that the deficiency is in excess of the seal prescribed under sub-rule 4 of Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 they should enquire into the cause and satisfy themselves that no illicit abstraction from the cask/vat has occurred. The officer-in-charge will be responsible that cask/vats while in the warehouse are not tampered with, unless in his presence, for necessary repairs or for examination of the spirit by the officers of the Excise Department, or his manager. The officer-in-charge should make, each month, a careful inspection of the apparent condition of each cask/vat lying in the matured spirit warehouse and arrange for the immediate transference of the contents of a cask found leaking. The result of each inspection should be briefly recorded in the warehouse register in Form R.D. 10-B and a note that the usual inspection has been made should also be entered in the officer-in-charge's diary in Form R.D. 5.

(11) Wherever cask/vat can be transferred to the new cask/vat whose full capacity has been frst ascertained, which must be marked the same number similar to the old one in the presence of the Officer-in-charge of the licensee. The role of such transfer will be made in the warehouse register.

(12) No removal of part of the contents of a cask/vat is permitted from the warehouse to the store room.

(13) Removal will be made from the warehouse to the store-room on the written application of the licensee specifying the progressive number of the cask/vat, the year when it was deposited in warehouse and (on its removal) the ullage quantity and strength.

(14) On receipt of licencee's application the Officer-in-charge will after taking account of the spirit the cask/vat by means of bung rod in the manner prescribed by the Excise Commissioner, see the cask/vat removed to the store-room from which the issue of matured spirit will be made under the ordinary rules and procedure. The actual quantity of spirit in proof litre removed from the warehouse to the store-room will be recorded in the warehouse register as passing in to the stock of the latter.

(15) The deficiency allowable during the period of storage in the warehouse is calculated according to the scale prescribed under the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959. In the event of the deficiency being in excess of the prescribed scale, the officer-in-charge will make a brief report in the warehouse register. From R.D. 10-B on the condition of the cork on delivery i.e. "apparent cause" in cases where the cask/vat is in apparently sound condition, and a few brief remarks where such cause as leaks defective staves broken hoops, porous wood, etc. might account for the excess any officer of Excise Department specially authorised by the Excise Commissioner to inspect the Distilleries of their inspection will enquire into the reasons given for the excess and if they are satisfied that will intimate the officer-in-charge's entry in the warehouse register in from R.D. 10-A. If they are not satisfied that the excess is due to natural of accidental cause they will submit a report recording their reasons at full length to the District Excise Officer so that action for recovery of duty on the excess may be taken.

71. Grogged liquor to be destroyed—Water which has been poured into empty liquor vats to prevent shrinkage of the wood, and has become alkaline by abstractions of the spirit absorbed by the wood should be run off into a sewer in the presence of the officer-in-charge. When water is added to a vat to prevent shrinkage, the vat should be kept locked.

72. Minor alteration in distillery arrangement—The previous sanction of the Excise Commissioner should be obtained in all alterations to buildings or permanent apparatus actually used in the preparation, conveyance or storage of liquor, except in the following case, in which officer-in-charge may sanction the alterations subject to immediate report to and subsequent approval by the Excise Commissioner:

(a) Additions, alterations or repairs to wash vessels, pipes used for the conveyance of wash, steam, gas or water, stills not actually in use furnaces and flues, mixing apparatus and wash or water pumps.

(b) Necessary repairs to glazed vessels or spirit pipes.

(c) Repairs of an emergent nature.

As regards works coming under head (a) the officer-in-charge may, on receipt of twenty-four hours written notice from the distiller or his authorised agent, permit the work to be proceeded with, but any case of doubt he should refer the matter to the Excise Commissioner. All such applications be filed for future reference.
In the case of works coming under head (b) the officer-in-charge may, on similar notice being given permit the work to proceed if he is convinced that any delay in proceeding with it would cause inconvenience. He will be held responsible that the work is performed without risk or loss to the revenue.

Repairs of an ostensibly urgent may be allowed to proceed immediately on receipt of a written application. Case must be taken to see that no risk to the revenue is involved.

73. Repairs etc. to be reported—In all cases a full report detailing the repairs, additions or alterations that have been permitted should be submitted to the Excise Commissioner within twenty-four hours of the grant of the permission, and the matter should also be noted in the diary of the officer-in-charge.

74. Blending and reduction of spirit—Blending and reduction of plain spirit is permitted in the store vats, provided such blending and reduction is done in the presence of the officer-in-charge and under his supervision. The officer-in-charge must see that admission has been affected and may, then, if the distiller do desires, prove the spirit to see the required strength has been obtained. He should, however, take no proof for the purpose of issue from a vat in which blending or reduction has taken place, until the lapse of at least twenty-four hours such blending or reduction. In cases of emergency this rule may be relaxed, but in no case can a proof for issue be taken until after lapse of two hours.

75. Colouring in store vats not permitted—The colouring of spirit in the store vats is not permitted.

76. Coloured rum warehouse—Spirit to which it is desired to add caramel at the time of strong, instead of at the time of issue, must be stored in a separate “Coloured Rum” warehouse.

After the gauging and proving of the plain spirit, the caramel will be added in such quantities as the distiller may desire.

The volume of the caramel added will be noted by the officer-in-charge in Form R.D. 14 and on the following day, the contents of the vat will again be gauged and proved. The apparent loss in proof litres due to evaporation will be shown as an issue in columns 8 and 16 of the Form 14. duty will be assessed on this apparent loss and will be debited against the distiller’s advance in Form R.D. 23 The fact that this has been done will be noted in the column of remarks in Form R.D. 14. The item must also be shown to register R.D. 11 although no pass is actually issued.

When spirit has been coloured and duty charged in the above manner no further addition of spirit can be made to the vat previous to its being emptied.

All spirit finally issued from the coloured rum warehouse will pay duty on the apparent strength at the time of issue.

77. Obscurcation and mode of taking sample for analysis—Great care must be taken that no sugar, salt, or other matter soluble in spirit and heavier than water is added to the spirit before it is proved so as to affect the action of the hydrometer, or in other words, to obscure the strength. If anything of the kind is suspected three samples of the spirit (of about 4 ounces) each shall be taken, wherever, one sample be sealed and sent for analysis one sealed and kept under lock any key until the result of the analysis is known. Each sealed & handed over to the distiller or his manager.

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of the three samples should be marked with the same distinctive mark or number and should be verified by the initials or signature of the officer-in-charge. The officer-in-charge must not in any case make the distiller aware of his intention to take samples, but he should request the distiller or his manager to be present at the time of taking them, and inform him that the samples are taken for the purpose of examination. These instructions as to the mode of taking samples apply also to cases in which district Excise Officer desire to take samples in order to ascertain whether substances deleterious to health although not such as to effect the indication of the hydrometer, are present in spirit.

78. Calculation of duty in case of obscuration—When it is known or suspected that saccharine or other matter of such a nature as prevent the true strength being ascertained by means of the hydrometer, is present in spirit, the number of degrees to be added to the apparent strength on account of obscuration shall be certified by the Chief Chemical Analyst, Government of Rajasthan. Report on analysis of a sample of the spirit submitted to him and duty shall be calculated on the quantity and strength of such spirit after the addition of the number of degrees of proof certified as necessary to be added to the apparent strength, as ascertained by the hydrometer.

79. Test for ascertaining presence Foreign matter—In cases in which the officer-in-charge suspects that salt, sugar or other substance likely to affect the indication of the hydrometer has been dissolved in the spirit, but his suspicions are not sufficiently definite to warrant his taking samples he should from time to time evaporate a small quantity of spirit in a watch glass when the presence of solid matter will be distinctly detected. Vegetable substances such as may be distinguished from salt by their being blanked and dissipated by heat and after the spirit and water have been driven off. Form of the ordinary impurities in the water used in the manufacture of spirit few samples will be found which do not leave some trace of solid matter after evaporation, but these may always be distinguished from foreign matter added in such quantities as would affect the strength indicated by hydrometer. It will be for officer-in-charge occasionally to apply this simple test even when they have no suspicion that such substances as salt, etc. have been dissolved in the distillery under their charge.

D. Denaturation of Spirit

1) (1) 2) [Spirit may be denatured in following ways, viz.:-

(i) With crotonaldehyde, Pyridine and Methylenedioxy pyridine and carbon tetrachloride, or
(ii) With wood naptha, or
(iii) With 1 per cent of caster oil and 5 per cent of caustic soda solution by volume, or

2) In other ways laid down by the Bureau of Indian Standards from time to time in this regard.]

1. Substituted by GSR 155 dated 3-9-83
2. Title substituted by S.O. 236 dated 18-3-93.
3. Inserted by S.O. 236 dated 18-3-93.
(2) The first kind of denatured spirit is meant for general use and may be issued to all licensed vendors of denatured spirit for sale in retail to the public. It shall be prepared by adding one half percent by volume of light camphor and one half per cent by volume of mineral pyridine bases to the whole volume of rectified spirit of strength not less than 60 overproof.

(3) The second kind of denatured spirit is intended for use in the manufacture of transparent soap only and may be issued to any manufacturer of transparent soap whom a licence in Form F.L. 19 has been issued by the Excise Commissioner in accordance with conditions of his licence. It shall be prepared by the addition of 5 per cent of approved wood naphtha to the whole volume of rectified spirit of a strength not less than 60 overproof.

(4) The third kind of denatured spirit is also intended for use in the manufacture of transparent soap only and may be issued to a holder of a licence in Form F.L. 9. It shall be prepared by the addition of 1 per cent of castor oil and 5 per cent of acetic acid to the whole volume of rectified spirit of a strength not less than 60 overproof.

[81. Specification or Prescribed denaturants—The specifications of the denaturants rotenolide, pyridine, methylene blue caustic camphor and naphtha and other denaturants shall be those as laid down by the Bureau of Indian standards from time to time in this regard.]

Provided that, if it be proved to the satisfaction of the Government that the above specified denaturants will render the spirit unsuitable for the industrial process or other purpose for which it is required, special sanction may be given the use of some other denaturant subject to such additional safeguards and conditions as may be deemed necessary under the special circumstances of the case.

83. Denaturant to be tested—All ingredients intended for denaturing spirit shall be tested with the officer-in-charge of the distillery and before any denaturant is brought into use that officer shall send samples (one point from each cask or drum) in a separate container and labelled to the Chief Chemical Analyst to Government of Rajasthan, Jaipur or such other officer as State Government may appoint in that behalf. For examination and report

Provided that if each cask or drum is presented to the officer-in-charge duly sealed with seal of the said Chief Chemical Analyst (or other officer duly appointed) and accompanied by a certificate from the officer that the denaturant contained therein complies with the specifications referred to in the preceding paragraph, the sending of a sample will not be necessary.

But all the denaturants which have been in store for a period exceeding six months after their test by the Chief Chemical Analyst of Government of Rajasthan, Jaipur or other duly appointed officer, shall not, in any case be allowed to be used unless they are re-examined by the above mentioned officer and certified to be fit for use.

A copy of the report shall be submitted to the Excise Commissioner. The denaturant assed for use shall remain in Excise custody untill consumed, while those rejected

Substituted by S.O. 238 w.e.f. 1-7-93.

Rule 82-83] The Rajasthan Distilleries Rules, 1976 shall be returned to the distiller. A correct account of all denaturants received into and used from the stores shall be maintained by the officer-in-charge.

83. Special process of denaturation for spirit used in manufacture of soap—The following additional rules are prescribed for the preparation of the second kind of denatured spirit to be used in the manufacture of transparent soap only:

1. All wood naphtha submitted for approval as suitable for denaturing purpose shall consist of substance or mixture obtained from any other source.

2. The wood naphtha must be sufficiently impure to impart to denatured spirits prepared by mixing 5 per cent of it with 95 per cent of spirit such amount of impurities as will, in the opinion of the Chief Chemical Analyst to Government of Rajasthan, Jaipur render such spirit unsuitable for being used as a beverage or of being mixed with potable spirits of any kind without rendering them unfit for human consumption. Wood naphtha submitted for approval should conform to the following test:

(a) Not more than 30 c.c. of the naphtha should be required to decolorise a solution containing 0.5 gram of bromine.

(b) The naphtha which must be neutral or only slightly alkaline to litmus should require at least 5 c.c. of decinormal acid to neutralise 25 c.c. of the spirit when methyl orange is used as the indicator.

3. No wood naphtha will be approved which contains:

(a) less than 72 percent by volume of methyl alcohol.

(b) more than 12 gm per 100 c.c. of acetic aldehydes, and higher ketones estimated as acetone by the formation of red form and according to Messenger's Method.

(c) more than 3 gm per 100 c.c. of esters estimated as methyl acetate by hydrolysis. Wood naphtha, which when fractionally distilled in the following manner, gives the indications stated below, will, as a rule, be found to contain a sufficient proportion of methyl alcohol, and to be from an excess of acetone or methyl acetate.

100 c.c. of the samples are to be slowly heated in a small copper flask fitted with a glass fractional column 7 inches high and 3.25 inches in diameter, filled to the extent of 4 inches of its height with small glass beads provided with a thermometer placed opposite the exit tube; about on inch above the heads, and connected with a spiral condenser. Not more than 10 c.c. of distillate should be collected in the receiver when the thermometer in the fractionating column marks a temperature of just under 149°F (65°C) from 80 c.c. to 85 c.c. should pass a temperature of just under 149°F (65°C) from 80 c.c. to 85 c.c. should pass between 149°F (65°C) and 162°F (72°C), and a total quantity of 79°F to 98°F should have been passed over before the thermometer marks 212°F (100°C).

4. Wood naphtha may be miscible or immiscible with water, but must be of a strength not lower than 50 O.P. as indicated by hydrometer and must not be used until a sample has been approved.

5. The spirit denatured with wood naphtha must be stored in a separate receptacle and accounted for separately.
84. The third kind of denatured spirit to be used in the manufacture of transparent soap only shall contain one part of kerosene oil and 0.5 part of caustic soda solution in 100 parts of spirits, all by volume. The caustic soda solution is to be prepared by dissolving one part of solid caustic soda of 98-99 per cent (NaOH) in 3 parts of water. Take the kerosene oil and add to it 1.5 times its volume of alcohol while stirring and finally add the soda solution. A clear solution will be obtained which is to be added to the bulk of the alcohol.

85. Separate premises to be provided for process of denaturation and for storage of the denaturing agents—Separate premises for the purpose by the Excise Commissioner shall be provided for the process of denaturation and for the storage of denaturing agents and the vessels and receptacles in the process. Denaturation shall take place in these premises only and issue and storage of denatured spirit shall only be made from or in these premises. The premises shall be secured by an exise lock and denaturation shall take place under the direct supervision of the officer-in-charge.

86. Spirit denatured to be tested—For the purpose of ascertaining that the spirit has been denatured in the prescribed manner the officer-in-charge of the distillery shall on each occasion that spirit is denatured, cause to be taken from each separate batch of denatured spirit a sample, amounting to one pint in a bottle sealed and labelled. and shall send such sample to the officer referred to in paragraph 82 for examination and report. The label on the bottle shall bear for number and date of the Chief Chemical Analyst's report passing the denaturants used. A copy of the report shall be submitted to the Excise Commissioner who will issue orders as to the disposal of spirit not denatured in the prescribed manner.

E. Issue of Spirit

87. Spirit not to be removed unless gauged and proved—No spirit shall be removed from a distillery unless it has been gauged and proved by the officer appointed for the purpose. Such gauging must be by actual measurement or by weighing.

88. Spirit not to be removed except under a pass—No spirit shall be removed except under a pass granted by the officer empowered in this behalf.

89. Maintenance of account of rectified and denatured spirit and absolute alcohol issued to purchase—The officer-in-charge of distillery shall maintain an accurate and up-to-date account of issues of rectified and denatured spirits and absolute alcohol made from the distillery in respect of all purchasers in the form prescribed by the Excise Commissioner.

The register for the purpose shall have separate pages allotted for individual purchasers arranged in alphabetical order.

The Officer-in-charge of distillery while issuing rectified spirit/denatured spirit or absolute alcohol to the purchaser shall see that the issues of such spirit already taken do not exceed the monthly or annual maximum quota, if any prescribed for the purchaser.

A copy of the entry in the above form shall also be made by the officer-in-charge immediately after making issues to the purchaser on the back of the licence or the permit.

Any attempt on the part of the licensee or permit-holder to obtain spirit fraudulently in excess of the monthly or the annual quota fixed for him shall make him liable to cancellation of the licence or permit in addition to the penalties that may be imposed under the Excise and other Acts for the time being in force.

90. When pass may be issued—A pass shall be issued only either on proof of full payment of duty or on proof of execution of a bond by persons permitted to remove spirit under bond may be for any quantity up to the quantity covered by the duty paid or the bond. Duty may be paid either by cash payment at the treasury in respect of such issue or by debit against advance deposit.

Provided that spirit which, by general or special order, is immovable free of duty or at a reduced rate of duty, may be issued in quantities of not less than 5 litres on production of the general or special order, permit or pass, as the case may be, to the officer-in-charge of the distillery.

91. Indian made foreign spirit or liquor (excluding beer) & country liquor of approved varieties and strength only to be manufactured, bottled and issued—(1) The distiller shall manufacture and bottle Indian made foreign spirit or liquor (excluding beer) and country liquor, when authorised to do so of such varieties and such strength as may be prescribed and approved by the Excise Commissioner.

(2) Issues of the above spirit shall be subject to the following exceptions:

(a) Issues of country spirit to shops, when a portion of the distillery has been constituted a bonded warehouse, must be made at the prescribed strengths only. A margin of 0.5 above these fixed strengths is allowed for error.

(b) The minimum strength for whisky, brandy and rum is 25 U.P. gin 35 U.P. rectified spirit 60 Q.P. and denatured spirit 50 Q.P.

[Provided that the Excise Commissioner may allow the manufacture of the liquor of lesser strength for supply to army units].

(3) Arrangement for bottling—The Excise Commissioner may specify wherever possible that mechanical arrangement may be for all operations up to the stage of bottling, and may also lay down that bottling operations must be carried on under proper supervision, in conformity with high standards of hygiene and the products should not be touched by human hand at any stage. The equipment shall be so designed that rodents, birds, lizards, beetles or other foreign matter do not get mixed up with the spirit at any stage of its manufacture of bottling.

92. Minimum stock for distillery and warehouse attached to it—The Excise Commissioner may prescribe the minimum stock of each kind of spirit to be maintained in distilleries and warehouse attached to them to ensure regular supply of spirit to the licensees.

93. What spirit may be issued—Issues may be made by distilleries as follows—

1. Plain spirit excised as country spirit for consumption in Rajasthan, may be issued only to bonded warehouses in the areas for which the distillers hold the supply contracts. If a portion of the distillery has been constituted a bonded warehouse, the issue therefore shall be in accordance with the rules applicable to bonded warehouses.

2. Plain spirit may be exported to any State or Union Territory in India (which has entered into reciprocal arrangement with the Rajasthan Government for refund of duty).

3. Plain spirit may be exported to any State or Union Territory in India in bond according to rules.

4. Rectified spirit may be issued in bond to persons holding L-1 licence under the Medical and Toilet Preparations (Excise Duties) Act, 1955 and Rules, 1956 made thereunder for the manufacture of medicinal and toilet preparations.

5. Indian Made Foreign spirit or liquor manufactured in the distillery may be issued in bond to persons and place as provided in the governing the export and transport of foreign liquor.

6. Indian made foreign spirit or liquor manufactured in distillery may be issued on payment of duty to—
   (i) The premises in respect of which the distiller holds a wholesale licence for the vend of foreign liquor.
   (ii) Army units in Rajasthan and in India holding a requisite licence as provided in the export and transport rules, on payment of duty as the prescribed rates.
   (iii) Persons holding L-2 licence for the manufacture of medicinal and toilet preparations entitled to purchase rectified spirit on payment of duty and production of licence.

7. Rectified spirit and absolute alcohol may be issued duty free to licensed institutions specifically entitled to its possession duty free.

8. Denatured spirit may be issued to—
   (i) Licensed wholesale vendors of denatured spirit in the State on payment of the prescribed duty provided that the issues shall not exceed the quantity, if any, specified on the licence.
   (ii) Hospitals, dispensaries, charitable and educational institutions and other State Government departments on payment of duty, up to a quantity allowed by the Excise Commissioner, under an excise permit issued by the District Officer.
   (iii) A person or firm, holding licence for the possession and use of specifically denatured spirit in the manufacture of soap on payment of the prescribed vend fee.
   (iv) Persons or institutions allowed to possess and use specially denatured spirit by the Excise Commissioner for special purposes on payment of the prescribed vend fee.

9. (a) If the distiller has a laboratory attached to his distillery and requires spirit for use in the laboratory he shall be entitled to remove from the laboratory, from the distillery fee of duty, from either, the safes or the stills or the spirit receivers of the spirit store, finished spirit, or unfinished spirit, to such extent as may be authorized by the Excise Commissioner in each case. Provided that the spirit so removed shall not be used in the laboratory of the distillery otherwise than for experimental work, connected with distillery operations only. The distiller shall keep a regular account of the disposal of such duty-free spirit which will be subject to examination by excise officers. All spirit which becomes waste in the laboratory and does not by the addition of any chemicals or otherwise become deleterious shall be returned to the distillery for redistillation.

(b) An application for every quantity of spirit required to be removed from the distillery which shall record thereon the quantity and strength of the spirit taken and make a note of the same in his diary other relevant distillery registers.

(c) If spirit removed under this connection is used otherwise than as permitted by sub-rule (a) of this rule the concession may be withdrawn.

94. Issue of country spirit under bond to contract supply areas—Issue of country spirit under bond to bonded warehouses in the contract supply areas of a distiller are regulated as follows:

1. The distiller shall execute a general bond in Form R.D. 15 in respect of each contract for such sum as the Excise Commissioner shall in each case direct. Applications for issue of passes shall be made to the officer in charge of the distillery in Form R.D. 18. The distiller shall also execute a special bond in Form R.D. 16 when required to do so by the Excise Commissioner.

2. The Officer in charge will then prepare a pass in triplicate in Form R.D. 24 and issue the spirit. One copy of the pass will be given to the distiller and one copy be posted to the officer-in-charge of the bonded warehouse who will endorse the result of his gauge and proof of the consignment on the back of the pass and return the same to the Inspector of the issuing distillery. The counterfoil of the pass will remain at the distillery.

3. In the case of issue in bond to contract bonded warehouses an advice in Form R.D. 25 will also be sent with form R.D. 24 and will be retained at the bonded warehouse until the necessary certificate on the back thereof has been obtained. The date of its return to the distillery should be noted in column 17 of form R.D. 11.

95. Issue to vendors in distiller's contract area may be made from distillery warehouse—Where a distillery is situated in the distiller's contract area, issue to shop-keepers in that district will generally be permitted from the distillery bonded warehouse direct.

96. Issue under bond for export—Issue under bond for export are governed by the Rajasthan Excise Rules, 1956. The Officer-in-charge will issue pass in Form R.D. 24. The duplicate copy of the pass will be sent directly to the officer-in-charge of the warehouse to which export takes place and advice in Form R.D. 25 will be sent to the officer granting to the authority to import.

97. Issue of duty paid foreign spirit to be made on passes and only to the distiller's wholesale premises—Except in the case of issue of foreign spirits (other than denatured spirits) issued free of duty or at a reduced rate of duty, all foreign spirit on which is paid, will be made on passes and to the premises in connection with which the distiller holds a licence for the wholesale vend of foreign spirit. The subsequent treatment to such spirit will be the same as that applying to imported foreign spirit.

98. Procedure for payment of duty—The Distiller shall deposit duty in cash by challan prescribed under the financial rules in the State treasury and present the receipted copy to the Excise Officer-in-charge of the Distillery so as to secure issues or spirit or liquor as the case may be.
99. Issue of spirit on production of receipted application—On production of the copy of the receipted Treasury challan, the officer-in-charge of the distillery shall verify that the duty deposited is correct before R.D. 24, one copy being given the distiller, the second being forwarded to the officer concerned at the destination and retaining the counterpart.

100. Issue against advance deposit of duty—Distillers are permitted to make advance payments on account of duty or on spirit to be removed from time to time from their distilleries. Such removals are permitted up to the limit of the advances, without separate payment of duty on account of each separate consignment of spirit removed. No original deposit advance payment shall be less than Rs. 2000/- and each time an advance is replenished it must be by a sum which will bring it up to not less than that amount.

Application for the removal of spirit the duty on which will be debited against the advance will be in form R.D. 19.

101. Advances to be paid into headquarters treasury—Advances must be paid in the treasury at the headquarters of the district in which the distillery is situated by means of challan prescribed under the financial Rules and the particulars as to rate of duty, description of spirit, etc. and mentioning the words 'advance duty'.

102. (a) Institutions authorized to receive supplies to rectified spirit free of duty—Inspecting officer in the date of the district shall send their permit together with their indent to the distillers, who shall present it along with the application in form R.D. 20 to the officer-in-charge of the distillery. The officer-in-charge of the distillery shall make the issue under the conditions laid down in the permit. The duplicate will be sent to the District Excise Officer of the district to which the spirit is consigned and the counterpart will be retained for record. The officer-in-charge will also make necessary endorsement in the permit as required under rule 90 supra.

(b) On arrival of the spirit at the destination the Excise Inspector or the district whose jurisdiction the premises are situated or such other officer as may be authorized by the Excise Commissioner in this behalf shall examine and verify the contents. The officer after recording the result of his verification on the pass will return it to the officer-in-charge of the distillery who, if he finds that there is no excess transit wastage, will report the case to the District Excise Officer under whose charge the distillery lies. The District Excise Officer will report the case with the explanation of the distillers and his own views to the Excise Commissioner for orders.

(c) A register of duty free issues will be maintained in form R.D. 23 which will enable the officer-in-charge to see that the quantity sanctioned is not exceeded.

(d) Permits in form F.I. 32 will be issued by the Excise Commissioner, Rajasthan, in favour of officers and institutions authorized to receive duty-free supplies of rectified spirit except—

(i) when indents have to be countersigned by heads of departments, or
(ii) under rules in force in other States or Union Territories, permits are issued by officers in those states or Union Territories, under the authority of their respective Government.

103. The officer granting passes in respect of issues must—(a) in the case of duty paid spirit see that the correct amount of duty has been prepared or debited against the advance deposit before issues.

(b) In case of spirit under bond or duty free, see that spirit leaves the distillery, the issue of which is not covered by the bond executed by a general or special permit of the Excise Commissioner of the importing State or Union Territory:

(c) No issue shall be made when the amount leviable on the spirit has not been properly levied and paid;

(d) No issue shall be made when the amount leviable on the spirit has not been properly levied and paid.

Any case of neglect of these instructions will be taken serious notice of.

104. Vessels in which spirit may be issued—Spirit other than demerit spirit may be issued from distilleries in (1) casks, and (2) metal tanks or drums, in quantities not less than 25 litres unless issued duty-free or at a reduced rate of duty. Bottling of spirit in bond is permitted only in case of (a) spiced country spirit and (b) plain country spirit. Provided that such bottled spirit shall be issued only to warehouses in the area for which the distiller holds a contract for supply.

105. Proving of spirit before issue—If the casks or receptacles in which removal is to be made are to be filled from a vat, it will suffice to prove the strength of the spirit in such vat, once for all, before any of the receptacles are filled. But in such case the officer-in-charge must be careful to see that no addition to the contents of the vat is made while the filling of the receptacles is in progress. If such vat is in communication with any other room or part of the distillery, by a pipe through which liquor can be passed into it such pipe must be closed during the operation of filling cask, etc. for issue be securely closed by a valve or stop cock on which an excise lock has been fixed. If these conditions are not complied with the liquor in every cask or receptacle must be separately proved before it is passed out.

106. Margin of strength allowed—In proving spirit issued at fixed strengths of 25%, 35% and 50% it will be sufficient for the officer-in-charge to satisfy himself that the strength is within 0.5% over the reputed strength. The issue of spirit below the fixed strength is not permitted.

107. Gauging of issues—The gauging of issues may be by the litre measure, by both authorised measuring appliance or by weight, all litre measures must be compared with the standard litre measure at least once a month. Other sanctioned measuring appliances must be tested at the beginning of each week. Where gauging is made by weighment distillers must provide the necessary scales and weights, the correctness of which should be frequently tested by officer-in-charge, and by inspecting officers. In testing platform weighing machines, the arm weights should be adjusted as accurately as possible against standard dead weights placed on the platform. No machine in which the error amounts to or exceeds 0.5 per cent should be permitted to be used until it has been properly adjusted.
108. Making of casks and metal drums—Casks or metal drums after being filled at issue, must have legible cut, branded or marked in oil paint on one head the capacity in litres, the consecutive number of the cask and the name or other distinctive mark or trade mark of the distillery.

109. Registering of casks etc.—Numbers may be assigned to casks in series in the order that they are filled for issue thus-A 1 to A 1,000, B 1 to B 1,000 and so on instead of from 1 to 10,000 or higher number. The full capacity may be 1 to 10,000 or higher number. The full capacity may be weighed.

110. Casks and drums returned to distillery to be regauged and renumbered—cask or drum on being returned to the distillery for refilling must be gauged and unnumbered as if an entirely new receptacles.

111. Procedure in gauging by weight—The procedure to ascertain the capacity of a cask or a drum by weight is given in the Technical Excise Manual paragraph 7. The register referred to therein is prescribed in form R.D. 10.

112. Selling of issue vessels—All vessels containing spirit, other than duty paid re-weigh spirit shall, before issue be sealed by officer-in-charge before issue of a pass. Then spirit passes through a higher duty zone to a lower duty area. Issues shall only be allowed when casks free from the necessary holes. The holes actually in use in casks must be sealed in all cases. The duty of preparing the cask for sealing to the officer-in-charge falls upon the distiller. The duty of the officer-in-charge is simply to seal the cask. The seal used shall be hollow lead disc, which, on compression, the seal supplied by the department, will confine the strands of wire and will be impregnated with the excise mark. Where the cask is cut level with the staves, instead of using retched wire and lead seal, it is permissible to use a tape or string stretched across the cask and sealed at both ends by impressed scaling wax. The wax must lie in counter ink holes and the tape and seals must be protected by having a piece of tin tracked over them.

F-Instruction for Maintaining Forms and Registers

113. General rules to be observed—The prescribed registers and Forms of account are not to be diverted from or added to without the special orders of the Excise Commissioner. Fractions of litres and of degree of strength are to be shown to the nearest first digit of decimals. To preserve uniformity the system of increasing the first figures of casks by one when the second is 5 or more should be adopted in proof conversions. Overwriting and erasures forbidden any; necessary corrections must be clearly and must be initialed.

114. Certain registers open to distillers—Distiller or their authorised agents should have a written requisition to the Officer-in-charge be permitted to see the registers R.D. 7,9,10,11,13,14 and B.W.L. 2. They are at liberty to bring to notice and to appeal in writing against any entry therein to which they may object, but this must be done within 2 weeks of the date of the entry having been made. If any corrections are necessary these registers they must be made in red ink, and must be initialed and dated by the Officer-in-charge and the distiller or his authorised agent, must be simultaneously noted by written notice to note them.

115. Stock register of Government Property—(1) A stock book of all property belonging to Government and kept at the distillery must be maintained in form R.D. 4. Separate pages should be allotted to—
(a) furniture;
(b) excise lock sets;
(c) hydrometers, saccharimeters, barmometers and test glasses;
(d) litre measures, bungrods and other measuring appliances;
(e) books; and
(f) miscellaneous.

All set of instruments in boxes should be recorded as complete set and not by items. No items is to be written off except under the signature of the District Excises Officer.

(2) Whenever an Excise Inspector/Assistant District Excise Officer takes charge of distillery, he must verify each article in the stock register and give a formal certificate that his has been done, should any article be missing or be unfit for use, he should report accordingly to the District Excises Officer.

(3) All loss, damage or breakage should be reported at once to the District Excises Officer concerned under intimation to the Excise Commissioner;

(4) At his periodical inspections the District Excises Officer shall examine the stock book and he should compare not less than once a year all appliances used for proving and gauging with the standard instruments and measures in his possession. No showing the result of the comparison should be made in the column of remarks.

116. Officer-in-charge's diary form R.D. 5.—A diary in form R.D. 5 is to be kept by the officer-in-charge. It in he will record in ink the date, the exact hour of his arrival at, and departure from, in the same manner, record therein all gauges, proofs and gravities taken in surveying the manufacturing operations of the distillery, the various transactions in connection with lock tickets the particulars of his visit to the distillery (which should be made not less often than twice a week at irregular intervals and between the hours of 10 a.m. and 6 p.m.) and all other action taken by him in reference to his duties. Particular attention must be given to this book as it forms the basis for the maintenance of form R.D. 9 the various entries must be made on the spot and the time, a short explanatory note being made in the 'remarks' column opposite each. One line must be allotted to each entry and no interlineation or erasure is allowed. Alterations must be made in red ink and initialed. Superintendents inspecting distilleries should invariably initial the diary after entry of such remarks as they find necessary and should append to their initials the hour and date of their visits.

117. Monthly report by the Officer-in-charge.—The Officer-in-charge of a distillery shall once in every month, carefully inspect the entire distillery, enclosure to ensure that there is no opening, passage or crack in any building receptacle or pipe through which liquor could be extracted unlawfully. Every such inspection should be noted in the Officer-in-charge's diary. Any defects noted in the course of the inspection should be reported immediately to the District Officer.

118. Gauge register of receivers, vats and wash back forms R.D. 6 and 7.—Gauge registers of receivers, vats and wash backs must be compiled from the figures obtained...
n the gauging of vessels. Receivers and vats will be entered in register R.D.6 whilst in the case of wash back, where the measurements are in dry centimetres from the top, register R.D.7 will be used.

119. Distillers declaration of wash form R.D.8—Distillers must thoroughly dissolve the saccharin materials used by them when they set up the wash and declare in form 1.D.8 the kind and quantity of material used, the actual saccharin gravity corrected or temperature before fermentation commenced and the total quantity of wash made.

120. Wash and spirit out turn form R.D.9—All data for the maintenance of the wash and spirit out turn register will be got from records R.D.5 & 8 the results of each distillation being entered from time to time as it is completed.

Unless otherwise directed, the officer-in-charge need only ascertain the gravities on the day when the wash is put up and when it goes to the still.

The ‘attenuation’ of the wash is the number of degrees on the Saccharimeter y which the highest or initial gravity and the final or lowest one. Thus in the case of wash initial gravity 60° and final one 20° the attenuation would be 40° and the calculation for column 20° would be as follows-

Multiply the proof litres of spirit out turned (column 18) by 100; divide the product by the number of litres of wash made (Column 4), by the figures thus obtained divide the degrees of attenuation (column 5 minus column 6) the quotient will be the result squared i.e. the degree of attenuation for each litre of proof spirit per 450 litres of wash.

Example: 1200 litres of wash initial gravity 60° final gravity 20° proof spirit out turned 96 litres.

\[ \text{Thus} \ 96 \times \frac{100}{60-20} \text{ giving} \ 40 \text{ for column} 20° \text{ proof spirit out turned} \]

122. Wash and spirit out turn form R.D.9—All data for the maintenance of the wash and spirit out turn register will be got from records R.D.5 & 8 the results of each distillation being entered from time to time as it is completed.

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Multiply the proof litres of spirit out turned (column 18) by 100; divide the product by the number of litres of wash made (Column 4), by the figures thus obtained divide the degrees of attenuation (column 5 minus column 6) the quotient will be the result squared i.e. the degree of attenuation for each litre of proof spirit per 450 litres of wash.

Example: 1200 litres of wash initial gravity 60° final gravity 20° proof spirit out turned 96 litres.

\[ \text{Thus} \ 96 \times \frac{100}{60-20} \text{ giving} \ 40 \text{ for column} 20° \text{ proof spirit out turned} \]

In other words the out-turn of proof spirit is 8 litres per 100 litres of wash and the production of this percentage is accompanied by a loss of gravity of 40° the wash has attenuated 5° for each litre of proof spirit obtained.

Where the working is satisfactory and the wash thoroughly exhausted its spirit out turn result should invariably be between 4 and 5, never above the latter figure in other words the out-turn should never be below the minimum yield. Any grant variation from standard should be explained in column 21, as should also considerable variation in the spirit out-turn from either single or combined distillation.

When the spirit from two or more lots of wash is collected in one receiver the quantities of wash used (column 4) should be bretted together and the spirit out turn be shown, together with all the necessary calculations, on one line only. The average attenuation would, of course, be calculated on the whole of the wash used.

Office-in-charge should ensure the thorough mixing of the raw materials in the wash before taking the initial gravity. The highest gravity, as declared by the distiller, found by the Office-in-charge is to be taken as the basis of assessment.

In order to ascertain the yield from a single distillation, the number of litre of spirit distilled should first be multiplied by the degree of attenuation; the product should then be divided by 400 to give the maximum yield and be 500 to give the minimum yield basis is the example given above if the out-turn had not been known.

Rule 120-125 ]

The Rajasthan Distilleries Rules, 1976

(a) the maximum yield should be 120 L.P.
(b) the minimum yield should be 96 L.P.

Note: Paragraph 29 to 35, 55 to 58 and rule 119 may be relaxed in the case of distilleries working with post still by the permission of the Excise Commissioner.

121. Fermentation and distillation register R.D. 9-A and the monthly statement in respect thereof—With a view to improve the efficiency of distilleries, all the distillers will maintain a Fermentation and Distillation Register in form R.D. 9-A. In order to ensure watch over the improvement in the working of distilleries: relevant in formation from this register will be furnished to the Excise Commissioner. Accordingly a monthly statement of fermentation and distillation efficiency in the distilleries in the form prescribed shall be submitted to the Excise Commissioner, Rajasthan, by every distiller.

122. Weighing register, form R.D. 10.—Issue by weigheight are recorded in the weighing register, the object being to ascertain the contents of each cask or drum as consigned. Before any spirit is put into drum or cask, the weight of each empty with its screw plug or bung, should be ascertainment and recorded in column 3 of the register. After the cask or drum is filled to thebung, the distiller may be permitted to draw off, a measured quantity from the full cask before the bung is finally inserted. In such cases, the quantity drawn of should be recorded in column 9. The gross weight of the cask or drum shall then be ascertainment and recorded in column 4. The other columns are self explanatory. Columns 11 and 12 need not be filled in when issue are made in metal drums.

123. Register in form R.D.11—All issues, other than at fixed strengths, whether on pass or not, will be recorded in register R.D.11. Gauge and proof of each issue must be recorded therein immediately after it are taken. After issues are completed, the appropriate entries in register R.D.12, 13 and 14 must be made. Issues at fixed strengths will be recorded in register B.W.L. 2 and the totals thereof in R.D.12.

Abstract of registers R.D.11 and B.W.L.5 will be forwarded to the Distillery Excise Officer of the District in which the distillery is situated as the close of each month. They must show the total issues ex-distillery to the district and be supported by copies of treasury challan showing amount of duty deposited by the distiller and distiller’s application in form R.D. 18, 19 and 20 and by the ‘account current’ in form R.D.22. These enclosure except treasury challan will after examination be returned by the District Excise Officer to the distillery and deposited there.

Issues to other districts must be shown underneath the district abstract in full detail.

124. Warehouse ledger for plain and rectified spirit form R.D.12—The register for plain and rectified spirit is maintained to show how much and rectified spirits are disposed off after receipt into the warehouse stock.

The entry in columns 2 must be made in From R.D.9. Other columns need no instructions. At the end each calendar month actual balance must be taken from B.W.L. 5 and monthly wastage ascertainment and recorded.

125. Ledger for denatured spirit Form R.D.13—In maintaining the ledger for denatured spirit the figures for column 1 are obtained from form B.W.L. 5
Issues of spirit from the warehouse or from the spirit receiver to the denaturing agent or for denaturing will, in the first place, be recorded in the appropriate columns of register R.D. 11, the total LP litres being recorded thereafter in column 5 of register R.D. 12 and columns 6 of this register (R.D. 13). Accounts taken for issues after denaturing shall be recorded in the appropriate columns of R.D. 11 after which the entries appropriate to each issue will be recorded in the columns provided for the purpose in this register (R.D. 15). Stock is taken monthly in accordance with paragraph 12.

126. Ledger for sophisticated spirit—The figures for column 1 of R.D. 14 will be recorded in from register B.W.L. 5. Issues of plain spirit from the warehouse for sophisticated spirit in bulk at time of issue or in for subsequent issue will, in the first place, be recorded in columns 8, 9, 10 and 11 of register R.D. 11. The appropriate entries being made, thereafter in column 5 of register (R.D. 12) and column 6 to 8 of this register (R.D. 13). Issue after sophistication will be recorded in columns 7, 8, 9, 10 and 11 of R.D. 11 afterwards in the appropriate columns of this register (R.D. 14). This stock of sophisticated spirit remaining at the end of each month will be taken in accordance with paragraph 12 and a balance struck in this register.

127. Stock book, form B.W.O. 5—The particulars of the gauges, etc., taken at monthly stock-taking will be recorded in form B.W.O. 5. A total will be made of the Liters remaining of each of spirit to enable balance to be struck in forms R.D. 12 and 14.

128. Register of bond, form R.D. 17—The register of bonds will be maintained in accordance with R.D. 17 and every issue in bond will, on the day it is made, be entered in this register. On the receipt of intimation that the consignment has arrived at column 5 the register will be filed in, and the bond, so far as that consignment is concerned, be discharged.

As soon as the entries relating to a consignment are complete, the officer-in-charge shall add a note to the entry saying that the spirit is in transit, and to restrict issues to the amount covered by the bond.

129. Register of issue of spirit against advance deposit of duty—Form R.D. 21—following instructions are to be observed in maintaining form R.D. 21. On the strength of the receipt granted at the foot of form R.D. 19 the officer-in-charge of the distillery will make the necessary entries in form R.D. 21 by crediting the distiller with the amount of the advance and debiting him with the duty on the quantity of spirit removed from time to time. As each entry is made, the amount of all the issues made on the same will be totalled, and it will be the duty of the officer-in-charge to see that such total is not allowed to exceed the total of the entries of balance and of advances appearing at the head of the page. He should also daily send a memorandum to the manager of the distillery of the amount standing to the distiller's credit so that after may replenish his advance, if necessary. No balance need ever be struck in register except when the bottom of a page is reached in which the balance then standing to credit will be carried forward to a fresh page. Particulars of issues made in advance payment will be entered in the register of issues R.D. 11. In the usual way, the word advance will be noted. At the end of each month the officer-in-charge will submit to the District Excise Officer together with the abstract of R.D. 11 an 'account' of excise duty paid in advance in form R.D. 22.


130. Dip-books—Particulars of all gauges and proofs taken in connection with all transactions in receivers and vats should be recorded in form B.W.L. 4. Separate pages should be allotted to each receiver or vat and all entries will be made by the officer-in-charge as soon as the gauges and proofs are taken.

In addition to the above, B.W.L. 2 and will be maintained where issues are made directly from the warehouse to shops in the distiller's contract area under paragraph 94.

131. Abstract of issues—A return of issues in form R.D. 26 showing in abstract the total issues for the month under head will be forwarded monthly to the Excise Commissioner, the date for filling in the form will be obtained from register R.D. 12, 13 and 14.

R.D. 1
(Rule 4)

Licence to work a Distillery in Premises

Name of licence-holder(s).................................................................
Period for which licence is granted.............................................
Licence is hereby granted to.....................................................
(1) to manufacture spirit in their distillery situated at...................
(2) to supply it to warehouses within her/his contract area.
(3) to sell it to State Government or to such licensed vendors and
other persons as are entitled to purchase spirit direct from distillery,
and (4) to use according to quota fixed in the manufacture of Indian
made foreign liquors if a licence to that effect is held subject to
the conditions and restrictions contained in the Rajasthan Excise
Rules, 1956 (a) rules relating to the manufacture of spirit in
distilleries and (ii) to such others rules as may from time to time
be made by the Excise Commissioner and the State Government for
the security of excise revenue and for regulating the manufacturing,
sale and prices of Indian-made foreign liquors, including rectified
spirit, denatured spirit, power and fuel alcohols. The infraction of
any of the rules hereinbefore enumerated shall involve forfeiture of
the licence and or part or whole of security by the licensee in addition
to such other penalties as may be prescribed under the Rajasthan
Excise Act 1956.
Dated....................................................
Excise Commissioner
Rajasthan

R.D. 2
(Rule 4)

Licence to work a Distillery in Government Premises.

Name of licence-holder(s).................................................................
Period for which licence is granted.............................................
Licence is hereby granted to.....................................................
(1) to manufacture spirit in the distillery situated at...................
(2) to supply it to warehouses within her/his contract area.
(3) to sell it to such licensed vendors and other persons as are entitled
to use it according to quota fixed in the manufacture of spirit direct
from distillery, and (4) Indian made foreign liquor of a licence to that effect is held subject
R.D. 11 an 'account' of excise duty paid in advance in form R.D. 22.
CONDITIONS

The State Government will erect and maintain in proper order all permanent building wells, water channels and drains necessary for a distillery.

The licensee shall, subject to the previous approval of the Excise Commissioner, supply and erect all plant and appliance necessary for the production, storage and transport of spirit.

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

The licensee shall make such arrangements as may be directed to remove waste water and refuse or to abate any nuisance caused in working the distillery.

The licensee shall pay rent as may be specified by the State Government.

The licensee shall be responsible for all damage to Government property beyond that done by fair wear and tear.

At the expiration of the contract for the supply of country spirit in connection with which this licence is granted, the licence will be entitled to demand that all sanctioned plant used at the distillery in connection with the manufacture and storage of country spirit be brought from him by the succeeding contractor at a valuation made either by mutual settlement or under the orders of the Excise Commissioner.

Provided--

(i) that if the licensee wishes to claim the benefits of this clause, he shall give notice of his intention six months before the expiry of the contract.

(ii) that the claim under this clause shall be permissible only such plant as was necessary and regularly used for the manufacture and storage of country spirits for supply under this agreement.

Similarly the licensee shall be bound to purchase the above mentioned articles from the outgoing contractor on the above conditions. Commissioner the contract shall be liable to be cancelled and the Excise Commissioner may pay the price to the outgoing contractor from any sum which may be lying to the credit of the new contractor in any Government treasury in Rajasthan.

As security for the due fulfilment of the conditions of this licence, the licence shall deposit with the Excise Commissioner Rs. 10,000/- in Government promissory notes of equivalent market value or in such other form as the Excise Commissioner may approve.

Excise Commissioner,
Rajasthan.

1 FORM R.D.-2A
(Rule-6)

LICENSE FOR MANUFACTURE AND BOTTLING OF BEER UNDER FRANCHISE ARRANGEMENT

Under Rule 6 (C) of the Rajasthan Distillery Rules, 1977 and in consideration of an annual licence fee of Rs. ........., this licence is granted to ......... for manufacturing and bottling foreign liquor at premises described in schedule-I below situated at ...... in Town of ...... District ...... from ...... to ...... subject to the following conditions:

CONDITIONS

1. The licensee shall pay bottling fee and other levies, if any, prescribed from time to time.

2. The licensee shall manufacture/bottle only those brands/labels that have been listed in Schedule-II annexed to this licence and for which he has been duly and specially franchised/authorised.

3. All operations related to manufacture and bottling of the brands listed in Schedule-II shall be conducted at the licensed premises as per the map plan approved by the Excise Commissioner.

4. The labels pasted on the bottle shall specify all the details as per prevailing provisions and orders.

5. No ingredient injurious to health shall be used in manufacturing/bottling process.

6. The licensee may procure spirit from any Distillery situated in India or being permitted by the Excise Commissioner, for manufacturing the permitted brands of Foreign Liquor. He may also be permitted to import specially blended/flavoured spirits for blending purposes.

7. All Foreign Liquor manufactured in one operation shall be bottled and labelled immediately and shall be given the same batch number.

8. The licensee shall maintain day to day brand/labelwise and container-wise true account of Foreign Liquor manufactured, bottled and disposed off. He will also maintain an accurate account of spirit used.

1 Appendixed by S.O. 108 dated 9-7-1990.
9. He shall comply with Rajasthan Excise Act and rules made thereunder as well as instructions issued by the Excise Commissioner from time to time during the currency of this licence.

10. If R.D.-1 and/or R.D.-2 licence to which this licence has been granted stands suspended, cancelled or withdrawn, this licence shall automatically stand suspended/cancelled/withdrawn or discontinued, as the case may be.

11. The licensee shall be bound by all the conditions of licence granted in his favour.

12. On breach of any condition of licence or provisions of Rajasthan Excise Act, 1950 or rules made thereunder or order issued by the Excise Commissioner, this licence may be suspended or cancelled or compounded by the Licensing Authority.

Dated: ........................................

Excise Commissioner,
Rajasthan, Udaipur.

---

### SCHEDULE-I

<table>
<thead>
<tr>
<th>Descriptions of the Licensed Premises</th>
<th>Boundaries of the licensed premises</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>North</td>
</tr>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

---

### SCHEDULE-II

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Details of the brands/brands for which the licensee holds franchise</th>
<th>Full particulars alongwith complete address of the franchise</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

### Lockticket

<table>
<thead>
<tr>
<th>Date</th>
<th>Number of pieces</th>
<th>Initial cost (Purchase Price)</th>
<th>Initials of Officer-in-Charge</th>
<th>Date of Inspection</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

Remarks about the condition of the article, property of pieces etc., as found at time of inspection orders regarding condensation etc.

<table>
<thead>
<tr>
<th>Remarks regarding reference to papers etc.</th>
<th>Value realised</th>
<th>Number and date of challan</th>
<th>Remarks regarding reference to papers etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

### Instructions

1. This form should be ruled on ordinary foolscap paper. Spare specimen copies of the form can be obtained from the Superintendent, Printing and Stationery. The same stock book may be used for a number of years.

2. A separate page or more pages than one,  where a large number of receipts of the articles are expected should be assigned to each class of article.

3. Every article must be initialed by the official concerned.

4. Every entry should be initialed by official concerned.

5. Whenever an article is condemned, a note about the condemnation should be recorded in column 6.

6. The number of articles should be totalled at the end of each page, and also on the expiry of the financial year.
### R.D. 5

*(Rule 116)*

Officer-in-charge's Diary

<table>
<thead>
<tr>
<th>Date</th>
<th>Hour</th>
<th>No. of Bub</th>
<th>Gauge, Gravities and Proofs taken</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Bubs (Prefermenters)</td>
<td>As declared by Distiller (b)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Dip</td>
<td>Quantity</td>
</tr>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(a)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### GAUGE, GRAVITIES AND PROOFS TAKEN

Wash backs (fermenters) (4)

<table>
<thead>
<tr>
<th>No of</th>
<th>As declared by Distiller (b)</th>
<th>As found by Officer-in-charge (c)</th>
<th>Gravities taken by the Officer-in-charge before going to still</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Dip</td>
<td>Quantity</td>
<td>Gravity</td>
</tr>
<tr>
<td>(a)</td>
<td>(b)</td>
<td>(c)</td>
<td>(d)</td>
</tr>
</tbody>
</table>

#### GAUGE GRAVITIES AND PROOF TAKEN

Spirit (5)

<table>
<thead>
<tr>
<th>No. of lock ticket (6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of receiver or vat</td>
</tr>
<tr>
<td>(a)</td>
</tr>
</tbody>
</table>

#### GAUGE, GRAVITIES AND PROOF TAKEN

Defects noted and action taken (7)

<table>
<thead>
<tr>
<th>Storage of raw materials</th>
<th>Dilution</th>
<th>Fermentation House</th>
<th>Distillation House</th>
<th>Receiver Storage issue rooms</th>
<th>Bottling and casking room</th>
<th>Any other place in distillery premises</th>
<th>Remarks</th>
<th>Officer-in-charge's</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>(b)</td>
<td>(c)</td>
<td>(d)</td>
<td>(e)</td>
<td>(f)</td>
<td>(g)</td>
<td>(h)</td>
<td>(i)</td>
</tr>
</tbody>
</table>
**R.D. 6**  
(Rule 118)  
Gauge register of receivers and vats

<table>
<thead>
<tr>
<th>Table of dimension</th>
<th>Wet Centimetre</th>
<th>LITRES</th>
<th>Tenths of a centimetre</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

**R.D. 7**  
(Rule 119)  
Gauge register of wash-backs

<table>
<thead>
<tr>
<th>Table of dimension</th>
<th>Dry Centimetres</th>
<th>Litres</th>
<th>Area of tenth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**R.D. 8**  
(Rule 120)  
Distiller's declaration of wash.

I hereby declare that the gravity of wash made this day is according to the prescribed acclimeter for temperature ________ degrees, that the total quantity made is ________ litres and that the quantity of materials used is as follows:

<table>
<thead>
<tr>
<th>Quintals</th>
<th>Kilograms</th>
<th>Number of wash back</th>
<th>Quantity of wash in litres</th>
</tr>
</thead>
</table>

Jar
Vat
Wash

Dated this ______ day of ______ 20__  
Distiller or Manager.

---

**Statement of Wash made and spirit obtained therefrom**

<table>
<thead>
<tr>
<th>MATERIAL USED</th>
<th>OUT TURN</th>
<th>L.P. Litres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wash</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### SECTION I

**Fermentation and Distillation Register.**

**Amount of Molasses (and other used for fermentation)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Batch No</th>
<th>Total percent invert sugar (as reducing sugar)</th>
<th>Per cent (fermentable sugar)</th>
<th>Per cent (Unfermentable sugar)</th>
<th>PH</th>
<th>Vessel No</th>
<th>Quantity of molasses/bases used</th>
<th>Quantity of molasses/bases used in yeast vessels</th>
<th>Molasses/bases used in fermenters</th>
<th>Molasses/bases used in all-fermenters.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>(b)</td>
<td>(c)</td>
<td>(d)</td>
<td>(e)</td>
<td>(f)</td>
<td>(g)</td>
<td>(h)</td>
<td>(i)</td>
<td>(j)</td>
<td>(k)</td>
</tr>
</tbody>
</table>

### SECTION II

**Wash Tanks**

<table>
<thead>
<tr>
<th>When set up</th>
<th>When ready</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Date</td>
<td>(b) Time</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------</td>
</tr>
<tr>
<td>(18)</td>
<td>(19)</td>
</tr>
</tbody>
</table>

**Alcohol content (Lithis 100 per cent)**

- Per cent unfermented sugar in wash (in Quarts)
- Per cent fermentable sugar
- Per cent fermentable sugar in wash

**Theoretical fermentation yield of alcohol from fermentable sugar**

- 2.096

**Fermentation loss per cent of theoretical fermentation yield**

- 24 minutes on 1860

**Fermentation efficiency per cent**

- 78

**Sludge discarded (in B.L.)**

- Total quantity of molasses/bases used

**Wash (in B.L.) sent to distiller**

- Total quantity of molasses/bases used
## SECTION III

<table>
<thead>
<tr>
<th>Date</th>
<th>Batch No.</th>
<th>Dehydrated alcohol</th>
<th>Rectified spirit</th>
<th>Potable spirit</th>
<th>Equivalent volume in L. P. Liters.</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>b</td>
<td>Dehydrated alcohol</td>
<td>Rectified spirit</td>
<td>Potable spirit</td>
<td>Overall efficiency per cent.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a)</td>
<td>(b)</td>
<td>(c)</td>
<td>(d)</td>
</tr>
<tr>
<td>Equivalent volume</td>
<td>liters 100 per cent alcohol</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dehydrated alcohol</td>
<td>(e)</td>
<td>Rate of production</td>
<td>(f)</td>
<td>Quantity in B.L.</td>
<td>(g)</td>
</tr>
<tr>
<td>Rectified spirit</td>
<td>(h)</td>
<td>Base of alcohol</td>
<td>(i)</td>
<td>Quantity in B.L.</td>
<td>(j)</td>
</tr>
<tr>
<td>Potable spirit</td>
<td>(k)</td>
<td>Time</td>
<td>(l)</td>
<td>Quantity in B.L.</td>
<td>(m)</td>
</tr>
</tbody>
</table>

## QUANTITY OF ALCOHOL PRODUCED

### SECTION I

<table>
<thead>
<tr>
<th>Date</th>
<th>Batch No.</th>
<th>Dehydrated Alcohol</th>
<th>Rectified spirit</th>
<th>Potable spirit</th>
<th>Permeageate reaction time (min)</th>
<th>Alcohol 100 per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>b</td>
<td>(a)</td>
<td>(b)</td>
<td>(c)</td>
<td>(d)</td>
<td>(e)</td>
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<td>Dehydrated alcohol</td>
<td>Rectified spirit</td>
<td>Potable spirit</td>
<td>(f)</td>
<td>(g)</td>
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</table>

## PRODUCTION AND LOSS ACCOUNT SECTION V

<table>
<thead>
<tr>
<th>Date</th>
<th>Batch No.</th>
<th>Fermentation loss% Col. 23 -X 100 Col. 21 of section 11</th>
<th>Distillation% Col. 8 of section IIIx Col. 21 -of section 11</th>
<th>Alcohol lost with sludge% Col. 26 -X 100 Col. 21 of section 11</th>
<th>Total loss % (col. 34.5)</th>
<th>Overall efficiency %</th>
</tr>
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<tbody>
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</table>
**Register R.D. 10-A**

*Storage Warehouse, Rule 70 (A)*

<table>
<thead>
<tr>
<th>Date</th>
<th>Dip in C.M.</th>
<th>Opening Balance</th>
<th>From vat or Receiver or other</th>
<th>Receipt</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<table>
<thead>
<tr>
<th>Issues</th>
<th>Duty Paid</th>
<th>Under Bond</th>
<th>Wastage</th>
<th>Closing Balance</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>14</td>
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<table>
<thead>
<tr>
<th>Blending</th>
<th>Storage</th>
<th>Total</th>
<th>Bl</th>
<th>L.P.</th>
<th>Bl</th>
<th>L.P.</th>
<th>Bl</th>
<th>L.P.</th>
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<tr>
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1 Inserted vide GSR 74 dated 9-1-1986 pub. in Raj. Gaz. 4(Ga) (1) dated 9-1-86. page 249.
## R.D. 10B

*Maturation Warehouse Rule 70(A)*

<table>
<thead>
<tr>
<th>Date</th>
<th>Dec. in C.M.</th>
<th>Opening Balance</th>
<th>From Vat or Receiver</th>
<th>Receipt</th>
<th>Total</th>
<th>Issue</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>B.L.</td>
<td>Strength</td>
<td>L.P.</td>
<td>B.L.</td>
<td>Strength</td>
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### WASTAGE

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<tr>
<th>Strength</th>
<th>For distillation</th>
<th>Total issues</th>
<th>Blending</th>
<th>Maturation</th>
<th>Total Wastage</th>
<th>CLOSING BALANCE</th>
</tr>
</thead>
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<td>B.L.</td>
<td>L.P.</td>
<td>B.L.</td>
<td>L.P.</td>
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</table>

1. Inserted vide GSR 74 dated 9-1-1986.

## R.D. 11

*(Rules 123)*

**Register of Issues of Spirits other than Country Spirits at fixed Strengths**

<table>
<thead>
<tr>
<th>Number</th>
<th>Issue on Pass</th>
<th>Bulk Littres</th>
<th>L.P. Littres</th>
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</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Destination purpose of issue and address of consignee</th>
<th>Number of vessel in which issue made</th>
<th>Other spirit (including rectified spirit)</th>
<th>Distilled Spirit</th>
<th>Sophisticated Spirit</th>
<th>Temperature</th>
<th>Indications</th>
<th>Strength</th>
<th>Rate of Duty</th>
<th>Amount of duty realised</th>
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<tbody>
<tr>
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</tbody>
</table>
### R.D. 12
(Rules 123 & 124)

**Ledger for Plain Spirit (Including Rectified Spirit) and spiced Spirit**

<table>
<thead>
<tr>
<th>Date</th>
<th>From spirit receiver</th>
<th>From other sources</th>
<th>Total receipt L.P. Column 2 plus column 3</th>
<th>At full rate</th>
<th>At reduced rates</th>
<th>To Rajasthan</th>
<th>To other State</th>
<th>Total issues L.P. Litres</th>
<th>Duty paid</th>
<th>Duty free</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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</table>

Issue in L.P. gallons as per register of issues from country spirit bonded ware-houses.

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### R.D. 13
(Rules 125)

**Ledger for Denatured Spirits**

<table>
<thead>
<tr>
<th>Stock</th>
<th>Issues (From Register R.D 11)</th>
</tr>
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<tbody>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Denaturing materials (Litres)</th>
<th>Received</th>
<th>Issued</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Denatured spirit L.P. Litres</th>
<th>Cochnochrome</th>
<th>Potine</th>
<th>Other denaturants</th>
<th>Date</th>
<th>Paint spirit received from the ware house and denaturated L.P. Litres</th>
<th>Cochnochrome</th>
<th>Potine</th>
<th>Other denaturants</th>
<th>Date</th>
<th>Destruction</th>
<th>L.P. Litres</th>
<th>To Rajasthan</th>
<th>To other State</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
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</table>
From of general bond to be executed for the removal of spirit from distilleries for the transport/export without pre-payment of duty

THE INDEMNITY BOND made the __________ day of ________

BETWEEN __________, son of __________, resident of __________ (hereinafter called *the distiller* the distillers which expression shall include his/their heirs, representatives, successors and assigns) of the one part AND the Governor of Rajasthan (hereinafter called "the Governor") which expression shall include his successor and assigns) of the other part.

WHEREAS under the rules of the Government of Rajasthan in the Excise Department the *distillers/distillers are permitted from time to time to transport/export spirits from his/their distillery at .......... to all or any of the bonded warehouses mentioned in the pass covering such transport/export without previous payment of duty on the distillers/distillers executing an indemnity bond on the terms and conditions hereinafter mentioned.

NOW THIS BOND WITNESS the *distillers/distillers hereby covenants/covenant with the Governor as follows—

1. That the *distillers/distillers shall not at any one time so transport/export any quantity of spirits the duty on which at the rate prescribed thereof at the time of the aggregate of such duty and the duty at the aforesaid rate on any quantity previously transported/exported and not yet delivered at destination shall exceed the sum of Rupees __________ provided that any allowance sanctioned for drying and wastage and any quantity not delivered at destination for which duty has been paid under clause (3) hereinafter following shall not be included in the calculation of the quantity not delivered at destination.

2. That the *distillers/distillers shall within the time mentioned in *his/her pass issued by the Officer-in-charge of the distillery on each occasion of the transport/export of spirits or within such further time as may be granted by way of extension by the District Excise Officer of the transporting/exporting district, deliver or cause to be delivered the spirits so transported/exported on that occasion into the custody of the officer-in-charge of the bonded warehouse mentioned in the pass.

3. That if the whole quantity of spirit transported/exported on any occasion after deducting such allowance for drying and wastage as may be sanctioned shall not have been delivered at the destination as hereinafter agreed the *distillers/distillers shall indemnify the Governor for any loss of duty which the Governor may suffer by reason of such non-delivery or short delivery by paying to him on demand the duty at the rate when in force on any quantity of spirits not so delivered after making the allowance aforesaid.

IN WITNESS WHEREOF the *distiller has/distillers have hereunto set his hand/their hands hereunder on the day and the year first above written.

Signed by: __________

Distiller/ Distillers
Rajasthan Excise Act

**R.D. 16**

(Rules 94 and 96)

Form of special Bond to be executed on the removal of spirit from distilleries to for transport/export without payment of duty

**THIS DEEMITY BOND MADE THE...day of...**

BETWEEN...

...son of...

...resident of...

...resident of...

hereinafter called "distiller/distillers which expression shall include his/her heirs, representatives, successors and assigns) of the one part AND THE GOVERNOR of Rajasthan...

WHEREAS THE distiller has/distillers have been permitted to remove...litres of spirits of the strength of...degree under cover from his her distillery...

...without previous payment of the duty thereon on distiller/distillers executing an...bond on the terms and conditions hereinafter appearing;

AND WHEREAS THE duty on the said quantity of spirits at the present rate of Rs...per L.P. Litres amounts to Rs...

NOW THIS BOND WITNESS AND the distiller/distillers hereby covenants/ covenant with the Governor as follows:

1. That the distiller/distillers shall...before the expiration of days from the...hereof or within such further time as may be granted by way of extension by the...Officer of the district...deliver the custody of the Server or...in-charge of the said bonded warehouse.

2. That the above mentioned...litres of spirits after deducting such...allowance for drayage and...be sanctioned shall...not have been delivered to the destination as herein before agreed the distiller/distillers shall identify the Governor or any loss of duty which the Governor may suffer by reason of such...deliver or...paying him on demand the duty at the rate of Rs...per L.P. Litres of spirits not so delivered after making the allowance aforesaid.

IN WITNESS WHEREOF THE distiller has/distillers have hereunto set his hand/...hand the day and the year first above written.

Signed by...

...distiller/distillers.

R.D. 17

(Rule 128)

Register of Bonds

<table>
<thead>
<tr>
<th>Form of bond</th>
</tr>
</thead>
<tbody>
<tr>
<td>name of distiller</td>
</tr>
<tr>
<td>age of period of bond</td>
</tr>
<tr>
<td>amount of bond</td>
</tr>
<tr>
<td>district to which transport in bond is covered</td>
</tr>
</tbody>
</table>

Cancel whenever entry is inappropriate

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**R.D. 18**

(Rule 123)

Application for issue of spirit under bond.

No...dated...20...

To

...Officer-in-charge...

KINDLY grant us a pass for the issue under bond of...litres of...strength...of spirit...

...This issue is under our general bond, dated...

...The issue is under a special bond which is herewith enclosed.

Yours faithfully.

---

**R.D. 19**

(Rules 100, 123 and 129)

Application for issue of spirit against advance deposit.

No...dated...20...

To...

...Officer-in-Charge...

...Distillery...

...Sir,

KINDLY grant us passes for the issue of spirits as detailed below the duty on which is to be debited against our advance deposit.

Yours faithfully.

---

<table>
<thead>
<tr>
<th>Name of consignee</th>
<th>Description of spirit</th>
<th>Quantity</th>
<th>From Vat No.</th>
</tr>
</thead>
</table>

---
R.D. 20

[Rules 102(6) and 123]

Application for issue of spirit duty free

No. ........................................ dated ........................................ 20 .................

To,
The Office-in-Charge,

Distillery.

Sr,

KINDLY grant us pass, duty free for the issue of ........................................ litres of spirit as required for the use of the ........................................ as per original letter enclosed, No. ........................................ from ........................................

Yours faithfully,

Signed ........................................

R.D. 21

(Rule 129)

Register of issue of spirits against advance deposited for duty.

Rs.  P

Balance of advance outstanding to the credit of the distiller

Amount paid in advance as per challan No. and date

Ditto

Total

Reduce duty on issue shown hereunder

Balance carried forward

R.D. 22

(Rule 123 and 129)

Account current of Excise duty paid in advance.

Month

Year

To issues as per passes attached. The balance forward from previous month.

Amount of advance paid into treasury.

To issue by obliteration

Balance to credit of distiller at end of month

Signed ........................................

Office-in-charge

R.D. 23

[Rule 102 (c)]

Register of duty free issues.

Designation of Official or Institution ........................................

Quantity sanctioned

Litres Rectified Spirit

Litres absolute alcohol

<table>
<thead>
<tr>
<th>Issue absolute alcohol</th>
<th>Issue</th>
<th>Rectified spirit</th>
</tr>
</thead>
</table>

Number of pass | Date | Quantity | Number of pass | Date | Quantity

* Here enter description of spirit (Country, foreign etc.)

* Here enter description of spirit.
<table>
<thead>
<tr>
<th>Pass for the removal of spirit from Sarvashti</th>
<th>Pass for the removal of spirit from Sarvashti</th>
<th>Pass for the removal of spirit from Sarvashti</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distillery No</td>
<td>Distillery No</td>
<td>Distillery No</td>
</tr>
<tr>
<td>Dated 20</td>
<td>Dated 20</td>
<td>Dated 20</td>
</tr>
</tbody>
</table>

Current to:
1. Name of consignor.
2. Name of consignee.
3. Name of place to which issued.
4. Description of spirit.
5. Number and date of permit (if any)
6. Duty paid Rs. P
   | Duty free |
   | In bond |
7. For details, see reverse.

Officer-in-charge

---

**REVERSE**

**Received**

<table>
<thead>
<tr>
<th>Mark and number</th>
<th>Weight of cask containing spirit as consigned</th>
<th>Contains in bulk litres</th>
<th>Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 2 3 4 5 6 7</td>
<td>1 2 3 4 5 6 7</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Received**

(Rule 94 & 96)
Advice to accompany pass in the case of Issue under Bond

.................................................. Distillery.
Dated ...........................................

Sir,

THE undersigned .................................................. casks of ............................................. spirits have this day delivered from this distillery under the bond of ............................................. for removal to .................................................. The time allowed for transit is ............................................. days. Kindly examine the casks on arrival and note the result on the reverse.

Your faithfully
Officer Incharge
Distillery

<table>
<thead>
<tr>
<th>Number of casks</th>
<th>Weight of cask empty</th>
<th>Weight of casks containing spirits as consigned</th>
<th>Vacuity of any</th>
<th>Contents of each cask in bulk litres</th>
<th>Temperature</th>
<th>Indication</th>
<th>Strength</th>
<th>L.P. litres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
</tr>
</tbody>
</table>

REVERSE SIDE

.................................................. Bonded warehouse
Dated ...........................................

Certified that the .................................................. casks of ............................................. spirits, detailed on the other side hereof have this day been received and examined. The result of the examination is given below.

.................................................. Officer Incharge
.................................................. Bonded warehouse

Certified that ............................................. proof litres have been credited to the stock of above warehouse.

.................................................. District Excise Officer
Dated .............................................

<table>
<thead>
<tr>
<th>No. of bulk litres casks</th>
<th>Litres</th>
<th>Weight of cask containing spirit on verification</th>
<th>Contents of cask bulk litres</th>
<th>Temperature</th>
<th>Indication</th>
<th>Strength</th>
<th>L.P. litres</th>
<th>Loss free</th>
<th>Loss chargeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spirits coloured of sophisticated to resemble imported spirit</td>
<td>Denatured</td>
<td>Rectified spirits of wine</td>
<td>Country Spirit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------------------</td>
<td>-----------</td>
<td>--------------------------</td>
<td>----------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To Rajasthan</td>
<td>To other States</td>
<td>To Rajasthan</td>
<td>To other States</td>
<td>To Rajasthan</td>
<td>In bond</td>
<td>To other States</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duty paid (L.P. Litres)</td>
<td>Duty paid (L.P. Litres)</td>
<td>Duty paid</td>
<td>Duty paid</td>
<td>Duty paid</td>
<td>L.P. litres</td>
<td>Duty paid</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount of duty</td>
<td>Amount of duty</td>
<td>Amount of duty</td>
<td>Amount of duty</td>
<td>Amount of duty</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Export duty</td>
<td>In bond (L.P. Litres)</td>
<td>To Rajasthan in (Bulk Litres)</td>
<td>At full rate (L.P litres)</td>
<td>At reduced rate (L.P. litres)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rs P</td>
<td>Rs P</td>
<td>Rs P</td>
<td>Rs P</td>
<td>Rs P</td>
<td>Rs P</td>
<td>Rs P</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[10]


☐ Rules of 1964 Superseded
[Notification No. F.32(B)159/EX/L/96/1526, dt. 18.3.97]

In pursuance of the powers conferred by Sec. 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act B.No. 2 of 1950), the Excise Commissioner with the previous sanction of the State Government hereby supersedes Rajasthan Issue & Sale Price of Country liquor Rules, 1964 with following Rules 2.e.f. 1.4.97 namely:

1. (1) These rules may be called ‘The Rajasthan Issue & Sale Prices of Country liquor, Indian Made Foreign Liquor & Beer Rules, 1997’.

(2) They shall come into force on and from the 1st April, 1997.

2. Issue Prices-(i) The issue price for different varieties of country liquor manufactured by the Rajasthan State Ganganagar Sugar Mills Ltd. shall be determined by the Excise Commissioner, from time to time.

(ii) The issue price in respect of country liquor manufactured by private manufacturers and brought for supply at the warehouses of Rajasthan Ganganagar Sugar Mills Ltd. shall be determined by the Excise Commissioner with the prior approval of the State Government.

3. The Excise Commissioner shall be competent to fix minimum or maximum retail price both, chargeable by a retail by licensee, with the prior permission of the State Government.

☐ COMMENTARY

Rajasthan Issue & Sale Prices of Country Liquor Rules

[Please also refer “Rajasthan Excise Rules”-Chapter 7-A & 7-B]

Guarantee Amount—Recovery of deficit amount- Failure was due to non-supply of liquor from Govt. Warehouse being not available there Amount deducted is less than the security deposits of petitioners - Held, petitioners cannot be held liable for entire amount of deficit due to short fall- Demand notices and attachment proceedings quashed - so held, petitioners entitled to refund of balance of security deposit after deduction of amount of deficit for which they are found liable (Writ allowed).2

Guarantee System-Sale of Liquor—State could not supply stock of liquor demanded by petitioners- Stock Register not produced in District Court- Adverse inference drawn against State - Even no oral evidence as to stock of liquor was produced. The judgment of District Judge upheld & Appeals of State dismissed.1

Shortfall in Supply of Country liquor due to “chharna” at Mandore distillery—Condition No. 2(Ka) of the Licence considered- No default of petitioner- Held, respondents not entitled to demand shortfall amount (Writ allowed).2

Guarantee System—Recovery of guaranteed sum not levy of excise duty- Terms of contract not fulfilled- Bald and vague allegations of non-supply due to non-availability of liquor not accepted. Held petitioner is liable to pay shortfall amount. (Writ dismissed).3

Guaranteed Amount—Licence holder liable to pay when he did not lift liquor as per conditions No 2 and 24 of the Licence. Held, notice of demand not invalid. (Writ dismissed).4

Guarantee System—Held, Government cannot charge shortfall amount which is nothing but excise duty on unpurchased stock.5

Suit for refund of deposit when decreed— When liquor was not issued due to non-availability of bottles in the Warehouse and endorsement on challan revealed this fact which was not rebutted by defendant. Plaintiff’s suit was, therefore, decreed.6

Retail sale of Country Liquor—Tenders invited—Earnest money deposited Petitioner withdrawn the tender—Tender accepted—Security Deposit not deposited—Held, the forfeiture of earnest money was valid as per classes of the tender.7

Validity of the Rules when upheld—There is no restriction on retail sale price under exclusive privilege system, whereas maximum retail sale price has been fixed by these rules in Tribal sub-plan areas and Tehsils ‘S’ & ’K’. Held, there is no discrimination as they Form a separate class. The High Court declined to enter into enquriy of questions of facts involving Fixation of price.8

Claim of Plaintiff decreed—Refund of deposit—Challan showing endorsement that liquor was not issued as the bottles were not available in the warehouse. This evidence as not rebutted by state.9

No Fundamental right available to a citizen—Privilege of Selling liquor-Contractual obligation—Where all formalities of tender completed, the contract was concluded and exclusive privilege granted- Action of Excise Commissioner was held not just, nor unfair, nor arbitrary, nor malafide, nor against public interest. Held, it does not contravene Art. 14 of the Constitution. Scope of judicial Scrutiny in the matter of Government policy is, held to be limited.10

10. And Kumar Sunil Kumar v. State of Rajasthan, 1993 (1) WLN 313.
The Rajasthan Issue and Sale Prices of Bhang Rules, 1964

1. Short title & commencement—(1) These rules may be called the Rajasthan Issue and Sale Prices of Bhang Rules, 1964.
   (2) They shall come into force on and from 1st April, 1964.

Latest Amendments

1. Notification G.S.R. 45, July 24, 1997—In exercise of the powers conferred by clause (c) of Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), the Excise Commissioner, with the previous sanction of the State Government hereby amends the following amendment in the Rajasthan Issue & Sale Price of Bhang Rules, 54 with effect from 1-6-1997, namely:

2. In the said Rules, existing rule 2 shall be substituted by the following:

   "Rule 2.—The issue price of Bhang, that is the price at which Bhang will be issued from the Government Warehouses to the Retail Licensees shall be [Rs. 37/- (Rupees Thirty seven only) per Kg.]

AMENDMENT—2000

2(4) In the said rules, existing rule 2 shall be substituted by the following—

"Rule 2—The issue price of Bhang, that is the price of which Bhang will be issued from the government warehouse to the retail licensees shall be Rs. 42/- (Rupees forty two only) per Kg."

3. Rule 3—[× × ×] deleted.

Editorial Note

Chart showing Various Rates

<table>
<thead>
<tr>
<th>Years</th>
<th>R. 2 Issue Price</th>
<th>R. 3 Sale Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rs. 18.00 Per kg.</td>
<td>Rs. 37.80 Per kg.</td>
</tr>
<tr>
<td>1984</td>
<td>Rs. 19.00 Per kg.</td>
<td>Rs. 39.00 Per kg.</td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 20.25 Per kg.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rs. 21.00 Per kg.</td>
<td>Rs. 40.00 Per kg.</td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 23.00 Per kg.</td>
<td>Rs. 42.00 Per kg.</td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 24.50 Per kg.</td>
<td>Rs. 43.50 Per kg.</td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 26.00 Per kg.</td>
<td>Rs. 45.00 Per kg.</td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 28.25 Per kg.</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 30.00 Per kg.</td>
<td>9[R.3. deleted]</td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 35.00 Per kg.</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 37.00 Per kg.</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 40.00 per kg.</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>Rs. 42.00 per kg.</td>
<td></td>
</tr>
</tbody>
</table>

6. GSR 57 dated 2-7-1986.
7. S.O. 8 dated 2-3-89.
8. GSR 62 dated 26-6-89.
9. No. F. 38/(B)/1 P Ex 90-91 dated 9-3-90, published in Raj. Gaz. Ex. ordin. 4(Ga) (1)-Di 10-8-90 Page 260
10. संमाचार ए. 38 (म) 1/भारत 1991 वार्षिक रिपोर्ट 7-8-1991 राजस्थान राज्य, भारत 83 (म) 1 वार्षिक
22-8-91 या प्रकाशित पर
11. GSR 27 dated 20-8-92.
12. S.O. 387 dated 21-2-95- Pub. on 7-3-95.
13. S.O. 301 dated 5-12-96- Pub. on Page 212
The Rajasthan Sacramental Wine Rules, 1970

1[Notification No. 58(2-A) Ex/L/59, dated 7-1-70]

GSR 18.—In exercise of the powers conferred by Section 42(a) of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Excise Commissioner with the previous sanction of the State Government, hereby makes, with immediate effect, the following rules, namely:

RULES

1. Short title—These rules may be called the Rajasthan Sacramental Wine Rules, 1970.

2. Definitions—Unless there is anything repugnant in the subject or context,
   (a) “Act” means the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950);
   (b) “Priest” means a priest of the Roman Catholic or Anglican Church consigned as Governor of a diocese;
   (c) “Manufacturer” means the person or body specified in the licence for the manufacture of sacramental wine, and;
   (d) “Sacramental wine” means wine required for offering the Holy Sacrifice of Mass in a Roman Catholic Church or Holy Communion in an Anglican Church in Rajasthan and prepared from raisins.

3. Restriction of grant of licence.—No licence for the manufacture or sale of sacramental wine shall be granted unless the applicant is a Bishop or a Priest of a Roman Catholic or Anglican Church.

4. Application for licence.—(1) An application for a licence for the manufacture of sacramental wine shall be made in writing to the Excise Commissioner through the District Excise Officer concerned.
   (2) The application shall be accompanied by—
      (a) a short description of the place where it is proposed to manufacture sacramental wine;
      (b) maximum quantity of sacramental wine which is proposed to be manufactured and the names of the diocese and churches for which the wine shall be utilised, and
      (c) an undertaking to the effect that the applicant shall abide by the provisions of the Act and the rules and orders made thereunder and the conditions of licence.

1. Published in Rajasthan Gazette, Part 4-C (1), dated 14-5-1970.
Rajasthan Excise Act

3. The licence shall not carry out any alterations in the said manufactory except with the previous sanction of the Excise Commissioner.

4. The licensee shall hang up the licence at conspicuous place in the said manufactory.

5. The said manufactory shall be kept under separate locks and keys, at the officer-in-charge and the licensee.

6. The licensee may authorize in writing a priest in place of the licensee and he shall be responsible for the manufacture, storage and sale of sacramental wine carried out at said manufactory.

7. This licence may be suspended or cancelled in accordance with the provisions of Section 34 or 35 of the Rajasthan Excise Act, 1950.

8. In case the licence is suspended or cancelled during the currency of licence period or is not renewed on its expiry, the whole stock of sacramental wine in balance with the licensee on the date of such suspension, cancellation or non-renewal, as the case may be, shall forthwith be surrendered to the Excise Commissioner.

9. The licensee shall comply with all orders and instructions issued to him by the Excise Commissioner, or the District Excise Officer.

10. The licensee shall abide by the provisions of the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder & the conditions of this licence.

Signed this:.................day of:.................of:.................

Seal of the Licensing authority

Licensing Authority

Signature of the Licensee

NOTIFICATION

Duty Free Import of Sacramental Wine

[No. F. 1 (4) FD/Ex84 S.O. 116, November 7, 1985]

In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act 11 of 1950), the State Government being of the opinion that reasonable ground exist for doing so, hereby permits the duty free import of Sacramental wine as defined in the Rajasthan Sacramental Wine Rules, 1970 from outside Rajasthan on the condition that each import from outside Rajasthan shall be against the import to be issued by the District Excise Officer concerned with the approval of the Excise Commissioner and shall not exceed 750 Bulk litres per distillery per year.

[Published in Raj. Gaz. EO-4 (Ga) I dated 9-11-85, page 254]

[Rules Regarding Stock Taking & Wastage of Liquor (At Distilleries and Warehouses) Rules, 1959]

1. Short title and commencement—(1) These rules may be called the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959.

2. Definitions—(1) In these rules, unless there is anything repugnant in the subject or context-

(a) Officer-in-charge means the Excise Inspector or Excise Clerk as the case may be who is in charge of a distillery or warehouse;

(b) "litre" means any specified vessel used for the purpose of spirit;

(c) "Waste" means a building, either part of a distillery or independent of it, in which spirit in a fixed place is stored.

3. Words and expressions not defined in these Rules but defined in the Rajasthan Excise Act, 1950, shall have the meaning assigned to them in the aforesaid Act.

4. For the purposes of these rules, spirit or rectified spirit shall also include "concentrated I.M.F.L." which means rectified spirit compounded by colour and essence which is capable of reduction to 40% Indian Made Foreign Liqueur of prescribed strength.

5. Stock to be taken monthly—On the last working day of every calendar month after all issues for that day are made, the officer-in-charge shall gauge and prove the stock in each vat in order to verify the stock and ascertain the wastage on each class of spirit at the distillery and warehouse. He shall enter the results in this own handwriting separately in the page then in use in the vat account register in Form D-12 and in the Bottling Account Register in Form D-13, sign the entry, tally with the entries of the contractor, accounts, compile stock-taking statement of monthly receipts, issue and spirit stock account in Form D-22 and despatch it to the Assistant Commissioner of the District.

6. Wastage allowance—(1) The free allowance for the wastage for different kinds of spirit, stored in distillery or warehouse shall be as follows:

1. Published in Rajasthan Gazette, Part III-A, dated 15-2-1950
Rule 4-5] Stock Taking & Wastage of Liquor Rules, 1959

<table>
<thead>
<tr>
<th>For periods</th>
<th>80 gallons or 363.68 litres and upward per cent</th>
<th>Under 80 gallons or 363.68 litres per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Not exceeding 1 month</td>
<td>1.5</td>
<td>2.0</td>
</tr>
<tr>
<td>Exceeding 1 month but not 2 months</td>
<td>3.0</td>
<td>4.0</td>
</tr>
<tr>
<td>Exceeding 2 months but not 6 months</td>
<td>5.0</td>
<td>7.0</td>
</tr>
<tr>
<td>Exceeding 6 months but not 1 year</td>
<td>7.0</td>
<td>9.0</td>
</tr>
<tr>
<td>Exceeding 1 year but not 2 years</td>
<td>9.0</td>
<td>12.0</td>
</tr>
<tr>
<td>Exceeding 2 year but not 3 years</td>
<td>10.0</td>
<td>13.0</td>
</tr>
<tr>
<td>Exceeding 3 years but not 4 years</td>
<td>16.0</td>
<td>17.0</td>
</tr>
<tr>
<td>Exceeding 4 years but not 5 years</td>
<td>19.0</td>
<td>21.0</td>
</tr>
</tbody>
</table>

For every succeeding year or part of a year, an allowance of 2% shall be allowed irrespective of the size of cask.

(4) If the total wastage on any kind of spirit does not exceed 5% duty will be charged by the Excise Commissioner on the net wastage in excess of the free allowances, or if the total wastage exceeds 5% duty shall be liable to be charged by the Excise Commissioner to the whole wastage (without allowing for the free allowances) at the rate of duty leviable on the spirit.

(5) An allowance for the wastage during the course of maturing a spirit stored in the matured spirit warehouse shall be as follow—

Substituted by S.O. 164 dated 15-7-98.
Substituted for "0.25%" by S.O. 164 dated 15-7-98.
Subs. by GSR 81 (2) vide No. F. 73 (A) (2) Ex W 73-1-39 dated 14-3-73.
(2) The allowance to be made under this rule will be determined by deducting from the quantity of spirit despatched from the distillery, the quantity received at the rate of destination, both quantities being stated in terms of London Proof. The allowance will be calculated on the quantity contained in each cask or other receptacle comprised in a consignment after actually gauging and proving.

(3) Duration of journey will be reckoned from the date of issue from distillery to date of taking account at destination, both dates inclusive. Officer-in-charge shall take account with as little delay as possible after arrival of spirit at destination.

(4) The following examples will illustrate the making of calculations under this rule:

(a) Wooden Casks—

Date of issue from distillery
Date of taking account at destination
Duration of Journey
Allowance admissible according to scale
Quantity issued from distillery
Quantity received at destination
Loss admissible
Excess loss

4-

March 2, 1957
March 11, 1957
Ten days
4%
56.6 L. P. Gallons
50.2
2.3 L. P. Gallons
4.1 L. P. Gallons

Fe: Four per cent on 56.6 L. P. Gallons 56.6 X 4/100 = 2.254, and when the centesimal figure in the result is 5 or over, the decimal figure is increased by 1, that is correct loss admissible is 2.3.

(b) Metal Vessel

Date of issue from distillery
Date of taking account at destination
Duration of Journey
Allowance admissible according to scale
Quantity issued from distillery
Quantity received at destination
Actual wastage
Maximum Admissible Loss

April 2, 1988
April 2, 1988
2 days
0.4%
100.0 L. P. Litre
99.7 L. P. Litre
5 L. P. Litre
6.4 L. P. Litre

[5] If the report of the Excise Officer by whom the consignment of spirit has been gauged and proved at its destination, shows that wastage has occurred above the maximum limit allowable, the consignee shall be liable to pay duty on so much of the deficiency as is in excess of the allowance at such rate not exceeding the current rate payable at the time, as may be ordered or as may be specified in the bond conveying consent.

The order for charging duty on the deficiency in excess of the permissible allowable shall be passed by the district Excise Officer of the District of destination when the

Rule 5, 5A]

Stock Taking & Wastage of Liquor Rules, 1959

percentage of spirit in the consignment of spirit is upon three percent in the aggregate and by the Excise Commissioner where the percentage of wastage in the consignment of spirit is more than three per cent, in the aggregate.

Provided that before passing such order the District Excise Officer concerned or the Excise Commissioner, as the case may be, shall afford a reasonable opportunity to the owner of the consignment of spirit transported under bond to be heard and in case it is found that the wastage was due to an accident involving no negligence on his part or due to any other reasonable cause beyond his control no duty shall be charged.

5A Allownce for loss in Re-distillation—(1) For the purposes of these rules, re-distillation means re-distillation of spirit carried out for single rectification of weaker spirit produced in pot still and also includes re-distillation.

(a) On account of manufactured spirit not conforming to the prescribed specification or failing in strength or having such defect as may be in the opinion of the District Excise Officer justify re-distillation.

(b) For the purpose of manufacturing fruit spiced spirit or Silent Spirits required for manufacture of Indian Made Foreign Liquors and other quality Liquors.

(2) Free allowance for wastage in the process of re-distillation subject to the conditions given below shall be as under:

(a) In patent stills up to a maximum of 1.5 per cent.
(b) In pot stills up to a maximum of 2.00 per cent.

Provided that such an allowance for wastage under clause (b) of sub-rule (1) above shall be as under:

(i) In patent stills up to a maximum of 2.00 per cent.
(ii) In pot stills up to a maximum of 2.5 per cent.

Provided further that in the case of the manufacturer of kesar kasturi an additional free allowance for wastage in the process of re-distillation to the extent of 2% shall be permissible.

(3) The Excise Officer in charge of the distillery shall maintain proper accounts of spirits sent for re-distillation, spirits under-going re-distillation and finally distilled spirits.

(4) The re-distillation shall be allowed only with the prior permission of the Excise Commissioner, and only such actual wastage accrued by the process of re-distillation as may be certified by the Excise Officer in charge of the Excise Commissioner, under whose supervision the operation of re-distillation is carried out shall be allowed.

(5) Subsequent re-distillation wherever necessary may be allowed with the prior permission of the Excise Officer in charge of the Excise Commissioner but the limit of wastage allowance mentioned in sub-rule (2) above shall be the maximum limit for free allowance irrespective of the fact whether one or more re-distillation of the same spirit are carried out.

(6) When the wastage calculated in terms of London Proof at the end of final re-distillation does not exceed the maximum limit given in sub-rule (2) above no action

eed be taken by the Officer-in-charge but if wastage exceed the prescribed maximum limit, the officer in charge must obtain a written explanation from the distiller and forward his statement to the District Excise Officer concerned. The District Excise Officer, after proper scrutiny shall send the same with his recommendations to the Commissioner for orders.

Provided that the duty on such excess wastage shall be liable to be recovered at the highest rate leviable on such spirit.

(7) Past cases of re-distillation may be decided by the Excise Commissioner on the merits of each case and free allowance may be allowed to be extended above.

1[^52] B: Allowance for loss in transit of Country Liquor in bottles—Transit allowance upto 0.25% of total bottles of a consignment of country liquor to be transported within the State from one bonded warehouse to another, be allowed once by the Distt. Excise Officer concerned, provided the loss is not due to negligence on the part of supplier or any employee. In case of increase of actual wastage, the case would be referred for decision by the Excise Commissioner.

2[^5] C: Allowance for loss in transit of Country Liquor in pouches—Transit allowance upto 0.4% of total pouches of a consignment of country liquor to be transported within the State from one bonded warehouse to other, shall be allowed once by the Distt. Excise Officer concerned, provided the loss is not due to negligence on the part of supplier or any employee. In case of increase of actual wastage, the case would be referred for decision by the Excise Commissioner.

6. Power of Excise Commissioner to reduce or disallow wastage—The Excise Commissioner may reduce or totally disallow the wastage of any of the warehouse or distillery in a particular case.

7. Statement of wastage—Statement of wastages on each class of spirit at the distillery and warehouses shall be prepared by the officer-in-charge for each month in Form C.L.3 and shall be sent to the [District Excise Officer] concerned in the first week of the following month, who will prepare a consolidated statement in Form C.L.3 warehouse wise and [send the same to the Excise Commissioner]. Half-yearly and yearly statements showing different wastages and also showing the excess wastages shall be consolidated at each warehouse and distillery by the officer in-charge and shall be submitted by him to the District Excise Officer of the district by the 10th day of October and April each year. Office copy of these statements shall be kept on the file at each distillery and warehouse. By the 15th April each year the [District Excise Officer] concerned shall prepare a consolidated statement separately for each warehouse and distillery in his charge and shall send the same in Form C.L.3 to the Excise Commissioner through the Deputy Commissioner of the division.

Rule 8 ] Stock Taking & Wastage of Liquor Rules, 1959

8. Storage—Spirits may be stored in distilleries and warehouses at any strength but to minimise evaporation wastage it is advisable to avoid strong spirit overproof. In warehouse strong spirits will as far as possible be broken down to issue strength and stored in all available wooden vats. Spirit shall not be stored in iron drums. Special liquor like jagniyan & kesar kasturi shall be stored in bottles, jugs and mugs only at warehouses.

[ COMMENTARY ]

Rajasthan Stock taking and Wastage of Liquor Rules, 1959

—R. 4(1) & (5) and S. 28—Excess Wastage Duty held not a tax or a duty, but consideration for licence—Demand notice cannot be invalidated on the ground of not mentioning the provision of law under which it was issued.1

Defective Packing by Distiller—Breakage of liquor bottles in transportation Liability of distiller for duty—In appeal, the Board of Revenue held that issue of past ipso facto does not mean the conclusive proof of satisfactory packing of goods. The plea that roughness of roads also cannot help the distiller to exempt from payment of duty and penalty. Rule 5 does not envisage special allowances for losses in transit when transport is in bottles. He can claim allowance only when he succeeds to prove loss due to an unavoidable cause beyond his control. Negligence in packing is not an unavoidable cause nor the long route or rough road can save him from liability. The distiller ought to have provided improved packing. There is nothing on the record. Held Excise Commissioner justified in refusing allowance under rule 5.2

Levy of Excise duty on Rectified spirit & IMFL - (Sections 9-A,17,41-42: Excise Rules, 1959 & R. 5(5) Raj. Stock Taking & Wastage of Liquor Rules, 1959) Wastage during transit-contractual obligation alone is to prevail—Condition No. 33 of the licence provided for levy of excise duty on wastage of IMFL at par rules. Nature of contract being statutory and petitioner having accepted the licence now cannot wriggle out from contractual obligations arising out of the conditions of licence. Held that the State is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of the contract. In the instant case, the Rules of 1959, held not applicable and as such enquiry under R.5 (5) was out of question. (Special Appeal dismissed).3

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The Rules Regulating the Wastage in Transit, Issue and Storage of Hemp Drugs in a Warehouse, 1959

(Rule 3-4) Wastage in Transit, Issue & Storage of Hemp Drugs

[Notification No. F. 326(5/6) Ex. 4404, dated September 12, 1959]

In exercise of the powers conferred by clause (b) of Section 42 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950), the Excise Commissioner, with the previous sanction of the State Government does hereby make the following rules relating to the wastage in transit, issue and storage of hemp drugs in a warehouse:

RULES

1. Verification of stocks—On the last working day of every calendar month after an inspection for the day are over, the warehouse in charge shall after verifying the stock in the warehouse proceed to close the accounts of the month. The actual stock shall consist of the unopened bags and packages standing as unopened in the prescribed register and the quantity remaining in any bag or package from which issues are being made. The incharge shall verify the stock by comparison of entries opposite the unopened bags and packages in the said register with the entries on the card attached to the bags of packages.

2. Wastage defined—(a) Transit wastage—Means the loss in gross weight during the period beginning from the despatch of the drugs till their weighments on arrival at the warehouse of destination.

(b) Issue wastage—Means the loss in net weight during the period beginning with the opening of the package or bags for issue till the contents of that package or bag are exhausted.

(c) Storage wastage—Means the loss in gross weight during the period beginning with the arrival of the drugs in the warehouse weighment of the drugs for issue.

3. Allowances for wastage—The allowances for wastage may be allowed as under:

<table>
<thead>
<tr>
<th>Drug</th>
<th>Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ganga</td>
<td>1.0%</td>
</tr>
<tr>
<td>Bhang</td>
<td>2.0%</td>
</tr>
<tr>
<td>Antra</td>
<td>0.6%</td>
</tr>
<tr>
<td>1-5%</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

4. Procedure when wastage exceeds the permissible limit—(a) If there is any excess wastage than the one fixed in Rule 3 above, a report along with the reasons thereof shall be submitted by the warehouse-in-charge in every monthly wastage statement, to the Assistant Commissioner of the district concerned, who will enquire into the matter and submit the same along with his comments to the Deputy Commissioner of the division for necessary order, provided that when such wastage are higher than the permissible limit enumerated in sub-rule (3) by 10% the matter shall be reported by the Deputy Commissioner in the Excise Commissioner for necessary orders who shall decide it under the financial powers delegated to him in such cases.

(b) Increase in weight—If there be any increase in weight such increase should be entered into the register matrix for the purpose and full details shall be reported through proper channel to the Deputy Commissioner.
The Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960

1. Short title
2. Definitions
   (a) Act
   (b) Form
   (c) Neera
   (d) Section
   (e) Tree
3. Application for licence
4. Period of licence
5. Fees for licence
6. Place of manufacture or of sale
7. Intelligibility of Licence
8. Condition of tapping
9. Marking and numbering the trees
10. Nokamama
11. Time
12. Use of Neera
13. Transport of Neera
14. Inspection of Trees
15. Accounts
16. Inspection of the place of manufacture or sale
17. Penalty.

Form A.N.1 - Form of Application
Form No. L.N. 1 - Licence for the tapping of neera producing trees
Form No. L.N. 2 - Licence to tap neera producing trees & draw Neera for domestic consumption
Form No. L.N. 3 - Licence for retail sale of Neera for consumption on premises
Form No. L.N. 4 - Licence to tap and draw neera from Neera producing trees for the supply of neera to persons manufacturing gur or any other articale
Rule 3-5 | The Rajasthan Neera Rules, 1960 | 359

The Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960

1. Short title—These rules may be called the Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960 and shall come into force on their publication in the Rajasthan Gazette.

2. Definitions—In these rules, unless there is anything repugnant in the subject or context:

(a) "the Act" means the Rajasthan Excise Act, 1950;
(b) "form" means the form appended to these rules;
(c) "neera" means unfermented juice drawn from any coconut, palm, date or any other palm tree;
(d) "section" means a section of the Act; and
(e) "tree" means a neera producing tree.

3. Application for licence—(1) Any person desiring :
(a) to tap a tree and draw neera therefrom
(b) for the manufacture of gur or any other product which is not a moxican;

(ii) for the supply of neera
(A) to persons licensed to manufacture gur or any other article which is not moxican from neera,
(b) to persons licensed to sell neera by retail for consumption on premises;
(iii) for domestic consumption with the prior permission of the Excise Commissioner;
(b) to sell neera by retail for consumption on premises, may make an application in Form A, N 1 for a licence to the District Excise Officer at least three months before the date of tapping a tree or the sale of neera, as the case may be. An application for tapping tree situated on any Government land shall be accompanied by a no objection certificate from the Government department concerned.

2. On receipt of an application under sub-rule (1) the District Excise Officer shall make such enquiries as he deems necessary and if he is satisfied that there is no objection in granting the licence applied for, he may on payment of cash security of Rs. 200 and subject to the orders of the Excise Commissioner, grant the applicant a licence in Form L, N, I, III, or IV, as the case may be, ordinarily within three months from the date of receipt of the application but he may, for any special reasons to be recorded in writing, issue the same after the expiry of the said period.

3. Provided that the Excise Commissioner, if he thinks fit in public interest so to do, may exempt any person or class of persons from the payment of cash security.

4. Application for renewal of licence in Form L, N, I, II, III, and IV, shall be made within two months before the expiry of the licence. If the District Excise Officer, decides to renew the licence, he shall ordinarily do so, in the first fortnight of June. If refusal to renew a licence is not communicated, the same will be held to be valid till a reply is received by the holder thereof.

4. Period of licence—A licence granted under sub-rule (2) of Rule 3 shall remain in force for a period of one year from the 1st day of April to the 31st day of March following (both days inclusive):

Provided the licence granted on a date subsequent to the 1st day of April shall be granted only for the period from that date to the 31st March following.

5. Fees for licence—No fee shall be charged for a licence to tap trees for the manufacture of gur or any other product which is not a moxican or for domestic consumption of neera but such fee as the Excise Commissioner may prescribe from time to time shall be charged for licence for:

(a) the sale of neera by retail, or
(b) the supply of neera for sale.

NOTIFICATION
[Notification No. E/16/OP/A/474 dated, 23-10-1965]

In exercise of the powers conferred by the Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960, the Excise Commissioner, hereby prescribed the undersigned fees for the following classes of licences, namely—

<table>
<thead>
<tr>
<th>Fees per year or part thereof</th>
<th>1965</th>
<th>1966</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Licence for the sale of Neera by Retail.</td>
<td>Rs. 5/-</td>
<td>Rs. 15/-</td>
</tr>
<tr>
<td>(2) Licence for the supply of Neera for sale.</td>
<td>Rs. 5/-</td>
<td>Rs. 15/-</td>
</tr>
</tbody>
</table>

3. Amended vide GSR 1 dated 28-3-1983.
6. Place of manufacture or of sale—(1) The manufacture of gur or any other article which is not an intoxicant shall be carried on at the place specified in the licence (hereinafter called "the place of manufacture"). Neera shall be sold at the place mentioned in the licence (hereinafter called "the place of sale").

(2) A licence shall generally be issued for drawing neera trees in selected taps within a radius of half a mile from the place of manufacture or the place of sale.

Provided that the Assistant Excise Commissioner may, subject to approval of the Excise Commissioner, grant a licence for the tapping of trees beyond such radius, if it is satisfied that for any special reasons such licence is necessary.

7. Intelligibility of licence—No licence to tap trees and draw supply of sale neera shall be issued to any person who holds or has any direct or indirect interest in any country liquor shop.

8. Condition of tapping—The licensee shall not tap any tree in excess of the number which he is licensed to tap. No tree which is less than five feet in height from the ground level shall be tapped nor shall neera be drawn therefrom. No pot shall be attached for such purpose to any neera producing trees more than five feet in height until the licence therefor has been issued and until the trees have been marked and numbered in the manner specified in Rule 9. Neera shall be drawn and collected only in receptacles as have been treated in the following manner.

They shall be completely washed with water and then be half-boiled with water, heated to boiling point and kept on boiling for at least fifteen minutes. They shall be emptied and heated on bare flame to kill any residual yeast or cells and then be soaked over burning straw and leaves. 87.6 grams of time per gallon or 1.1 grams of time per litre of neera in finely powdered state shall be placed in the receptacles to keep the neera in unformed state.

The depth and width of incision shall not exceed 1/3 of the diameter of the tree at the point of inclusion and the length of it shall not exceed 26.72 centimetres.

The incision shall not be made at any point within 2 centimetres from the ground or 45.72 centimetres from the top of any incision.

In case of date or palm trees the central spikelike clusters of leaves shall not be touched of the lateral leaves, not less than 2 layers of leaves shall be left, reckoning from layers immediately next to the central clusters down to the top line of incision or in other words above the top line of incision, less than 8 leaves shall be left excluding the central spikelike clusters on the face of the tree on which the incision is made.

9. Marking and numbering the trees—No trees shall be tapped and neera drawn herefrom unless it has been marked with a deep coloured two inches brooding and the serial number of the trees above this ring in the same manner as in the case of other art producing trees. The marking will be done by an Excise Officer.

10. Nakarmal—Every agent or tapper employed by the licensee in connection with his licence shall be provided with a Nakarmal signed and dated by the licensee. The name of such employee together with the date on which is appointed shall be


561 Rajasthan Excise Act | Rule 6-10

Rule 10-17 | The Rajasthan Neera Rules, 1960

communicated forthwith in writing to the licensee to the Assistant Commissioner-in-charge of the area in which the place of manufacture or the place of sale, as the case may be, is situated. The maximum number of employees which a licensee may employ at a time shall be fixed by the Assistant Excise Commissioner on consideration of the number of trees tapped and other relevant circumstances.

11. Time—Neera shall be taken down from trees except between sunrise and sunset unless otherwise sanctioned by the Excise Commissioner.

12. Use of Neera—Neera drawn from trees tapped under a licence and intended to be utilised in the manufacture of gur or any other article, which is not an intoxicant, shall be kept at the place of manufacture till sunrise of the next day unless it is boiled, and no such boiled neera shall be kept for more than 24 hours from the time it is boiled.

13. Transport of Neera—Neera drawn under a licence shall not be mixed or adulterated with today or any substance or liquid or taken to an any place other than the place of manufacture or the place of sale, as the case may be unless a special permit for such removal has been obtained previously from the Assistant Excise Commissioner-in-charge of the area.

Provided that no such permit shall be granted to person other than a person holding a licence for the tapping trees and for drawing neera therefor for the manufacture of gur or any other article which is not an intoxicant.

14. Inspection of trees—Any person tapping trees or drawing neera there from under these rules shall bring down the receptacle attached to any of the trees so tapped for inspection on demand by any Excise Officer responsible for checking the breach of the conditions of the licence.

15. Accounts—The licensee shall maintain an account-book showing the number of trees tapped under his licence every day, the total quantity of neera drawn therefrom every day, the quantity of neera, if any, obtained by him every day from a person holding a licence for the supply of neera and the quantity of neera, if any, sold by him every day. Such account book shall also show the quantity of gur or any products manufactured by him everyday. The daily accounts shall be totalled every month to get the monthly figures.

16. Inspection of the place of manufacture or of sale—(1) The place of manufacture or the place of sale as well as the account-book shall be opened to inspection by an Excise Officer not below the rank of Inspector. The officer shall record his observations in the inspection book maintained by the licensee.

(2) A licensee shall always keep ready six test tubes, one test tube stand, a pair of tongs for holding test tubes, one spirit lamp, spirit, one cleaning brush and one funnel in the clean condition at his own expenses and shall produce them on demand by the inspecting officers for testing whether neera kept at the place of manufacture or sale has fermented or not.

17. Penalty—In the event of any provisions of these rules or any of the terms or conditions of a licence granted under these rules, the licence shall be liable to be cancelled or suspended under Section 34 of the Act without prejudice to any other penalty to which the licensee may be liable under the said Act or under any other law for the time being in force.
FORMS

FORM No. A N-1
Form of Application
(See Rule 3)

To

[The District Excise Officer]

Sir,

1. I, the undersigned s/o ...................................................................................................................................................................................... living at ............................................................................................................................................................................................................., desire—

(a) to tap the neera producing trees described in the Schedule here to and draw neera therefrom;

(i) for the manufacture of gur or any other article which is not an intoxicant;

(ii) for the supply of neera—

(A) to persons manufacturing gur or any other article which is not an intoxicant from neera;

(B) to persons licensed to sell neera by retail for consumption on premises;

(iii) for domestic consumption,

(b) to sell neera for consumption on premises and accordingly apply for the necessary licence.

2. Number of members in my household who drink neera are—

3. I hereby undertake to use the neera for the above-mentioned purpose.

4. I hereby declare that—

(i) No licence was ever refused to me.

(ii) No similar licence previously granted to me was ever revoked or suspended.

(iii) No renewal of a similar licence was ever refused to me owing to a breach of law relating to Excise Revenue, opium or intoxicating drugs.

5. I declare that, to the best of my knowledge and belief, the information furnished herein is true and no material fact has been suppressed by me.

Place............................... Date............................... Signature of the applicant.

2. Subs. by ibid dated 13-5-1971
3. The licensee shall convey the entire quantity of the neera drawn by him from the said trees under this licence to the place of manufacture by a direct route and to no other place.

4. No neera shall be kept till the sunrise of the next day unless it is boiled, provided that no such boiled neera shall be kept for more than hours.

5. The licensee shall carry on the business either personally or by an agent duly authorized by him in this behalf by a written Nakarnama signed by himself. The name of each agent and the date of his appointment shall be communicated forthwith in writing by the licensee to the Assistant Excise Commissioner having charge of the area in which place of manufacture is situated. The licensee shall be responsible for the breach of any of the conditions of this licence by any person so authorized. The total number of employees at a time shall not exceed the number fixed by the Assistant Excise Commissioner in this behalf.

6. The license shall abide by the conditions of the licence and the provisions of the Rajasthan Act, 1950 and the rules, regulations and orders made thereunder and shall give an undertaking to that effect.

7. The licensee, his heirs, legal representatives or assignees shall have no claim whatsoever to the continuance of renewal of this licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of the Assistant Excise Commissioner to permit or not the assignee of the licensee, in case of sale or transfer, or the heir or legal representative of the licensee in case of death, to have the benefit of the licence for the unexpired portion of the term for which it is granted.

8. Infraction of any of the above conditions will render the licensee liable to forfeiture and to all or any of the penalties prescribed by law or rules.

**Particulars of trees in respect of which the licence is granted**

<table>
<thead>
<tr>
<th>Village and Survey No.</th>
<th>Description of field or garden</th>
<th>Number and kind of trees licensed to be tapped</th>
<th>Consecrated Palm, Date, &amp; Species</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Day of</th>
<th>20</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
</table>

Granted this... Day of... 20

Seal of the Licensing Authority.

**Conditions**

1. Each of the said trees hereby licensed to be tapped shall be marked and numbered by the Excise Authorities in the manner specified in the Rajasthan Neera (Unfermented Juice of Palmyra) Rules, 1950. The Licensee shall not tap or cause to be drawn neera therefrom, until the said trees shall have been marked and numbered as aforesaid.

The licensee shall not tap, or cause to be tapped or drawn neera from any tree not licensed to be tapped by him. Neera shall be drawn and collected only in receptacles after treating the same in the following manner:

They should be completely washed with water. They should then be half boiled with water, he lead to boiling point and kept on boiling for at least fifteen minutes. They should be emptied and heated on bare flame to kill any residual yeast or cells. They should then be smoked over burning straw and leaves after it ferments. Neera which is fermented shall be destroyed forthwith. Neera shall be kept till sunrise of the next day unless it is boiled, provided that no such boiled neera shall be kept for more than 24 hours.

3. The licensee shall not sell neera to any body, not shall be given to anybody except to a person belonging to his household for such person's personal consumption only.

4. The licensee may by a written Nakarnama signed by him authorize any other person to tap the trees hereby licensed and to transport the neera drawn from them. The licensee shall communicate such person's name and date of his appointment to the
Assistant Excise Commissioner having charge of the area in which the said trees are situated:

5. The licensee shall abide by the conditions of this licence and the provisions of the Rajasthan Excise Act, 1950 and the rules made thereunder and shall be given an undertaking to that effect.

6. The licensee, his heirs, legal representatives or assignees shall have no claim whatsoever to the continuance or renewal of this licence, after the expiry of the period for which it is granted. It shall be entirely within the discretion of the Assistant Excise Commissioner to permit or not the assignee or the licensee, in case of sale or transfer of the interest or legal representative of the licensee, in case of death, to have the benefit of the licence for the unexpired portion of the term for which it is granted.

7. Infraction of any of the above conditions will render the licence liable to forfeiture and to all or any of the penalties prescribed by law or rules.

Explanation—For the purposes of this licence, a household shall mean a group of persons residing and earning jointly as the members of one domestic unit.

### SCHEDULE

<table>
<thead>
<tr>
<th>Number and kind of trees to be tapped</th>
<th>Number and situation of field or garden and village</th>
<th>Number of field or garden Survey No.</th>
<th>Owner’s name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 1 | 2 | 3 | 4 |

Granted this .................................. Day of .................................. 20

Scale of the Licensing Authority Licensing Authority

**FORM No. L. N. III**

(See Rule 3)

Licence for the retail sale of Neera for consumption on premises

Licence is hereby granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, made thereunder and the condition of the licence to Shri .............................................................. thereinafter called "The licensee" residing at ................................... on payment of a fee of Rs. .............................................................. authorising him during the period commencing from ................................... (both days inclusive) to sell neera by retail for consumption on his premises situated at ................................... (hereinafter called "the said place of sale").

The licence is granted subject to the following conditions namely:-

**CONDITIONS**

1. The licensee shall not sell or sale neera unless:-

   (i) it is pure according to the standard of quality prescribed by the Excise Commissioner

   (ii) it has been obtained either from his own tree or from a supplier approved and licensed by the Assistant Excise Commissioner and at a rate not exceeding that fixed by the Commissioner of Excise from time to time.

2. The license shall not keep, sell or expose for sale neera which has begun to ferment or which was not drawn on the same day or which is adulterated.

3. The licensee shall forthwith destroy all neera which is not in accordance with the standard prescribed and he shall not be entitled to any compensation thereof.

4. The licensee shall sell neera only at rates not exceeding those fixed by the Excise Commissioner from time to time.

The licensee shall not keep or store neera in any place other than the said place of sale nor shall be allow any one to remove any quantity of neera from the said place.

Provided that the unsold neera may be removed to the place of manufacture of gur or any other article which is not intoxicant if a separate place is approved for the purpose and stored thereafter it is boiled in the manner prescribed.

5. The licence shall not stock or sell neera in a fermented state

6. No neera shall be sold or served outside the said place of sale which shall be kept clean and no one shall be allowed to remove the neera sold to him outside the place of sale. No neera shall be sold before sunrise or after sunset. The unsold balance of neera may be used for manufacture of gur or any other article which is not an intoxicant before it is fermented. Neera which is fermented shall be destroyed forthwith.

No neera shall be kept till sunrise of the next day unless it is boiled provided that no such boiled neera shall be kept for more than 24 hours.

7. The licence shall be bound to supply at his cost sample of neera received or sold by him whenever required for analysis. The report of the analysis shall be binding on him for the purposes of dealing with him, either under the conditions of his licence or under the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder.

8. The Licences shall provide himself with all the requisite receptacles, vessels, containers and glasses and standard measure of such metal and capacity as may be prescribed by the Excise Commissioner. All the copper and brass pots used in the storage or selling shall be properly trimmed from inside and kept clean.

9. The licence shall be hung up in a conspicuous position in the said place of sale and a sign board of the size and description specified by the Commissioner of Excise shall be affixed on the outside of the said place of sale. On such sign board the following words in Hindi shall be painted:-

"Licence to sell Neera by retail"

10. The licensee shall enter every day in the book of the supplier the quantity of neera received by him daily from such supplier & shall sign his name under such entry in token of his having received such quantity of neera. Similarly the licensee shall enter such quantity in the book maintained by him and obtain below such entry the signature of the supplier of his authorised agent in token of his having supplied such quantity of neera.

11. The licensee shall not sell neera except at the premises previously approved by the Assistant Excise Commissioner. Such premises, all stock of neera contained therein and all accounts relating to the sale of neera, shall at all reasonable times be opened to inspection by an officer of the Excise Department or below the rank of an Inspector or any other officer or person duly authorised in this behalf.
12. The licensee shall maintain such accounts as may be prescribed. He shall also maintain visit book serially page for the remarks of the inspecting officers.

13. The licensee shall submit such returns as may be prescribed on the 17th of every month.

14. The licensee shall furnish two sumptuaries for the sum of Rs. 100 each as a guarantee of his good behaviour and adherence to the terms of this licence.

15. The licensee shall carry on the business either personally or by an agent duly authorised by him in this behalf, by a written Nakarnama signed by himself. The name of each agent and the date of his appointment shall be communicated forthwith in writing to the licensee to the Assistant Excise Commissioner having charge of the area in which he said place of sale is situated. The licensee shall be responsible for the breach of any of the conditions of this licence committed by any person so authorised.

16. No partnership entered into by the licensee after the granting of the licence shall be recognised for the purpose of the licence, unless the Assistant Excise Commissioner in receipt of an application from the licensee agrees in writing to enter the name of partner in the licence.

17. The licensee shall abide by the conditions of this licence and the provisions of the Rajasthan Excise Act, 1950 and the rules, made thereunder and shall give an undertaking that he shall:

18. The licensee, his hirers, legal representatives or assignee shall have no claim whatsoever to the continuance or renewal of this licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of the Assistant Excise Commissioner to permit or not the assignee of the licence in case of sale or transfer the heir or legal representative of the licensee, in case of death, to have the benefit of the licence for the unexpired portion of the term for which it is granted.

19. Infraction of any of the above conditions will render the licence liable to forfeiture ad to all or any of the penalties prescribed by law or rules.

Granted this the ... day of ...

Seal of the Licensing Authority.

Licensing Authority

FORM No. L.N. IV
(See Rule 3)

Licensee to tap and draw neera from neera producing trees for the supply of neera to persons manufacturing gur or any other article which is not an intoxicant from neera or to persons licensed to sell neera by retail for consumption on premises.

Licence is hereby granted under the subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, made thereunder and the conditions of this licence to ... (hereinafter called "the licensee") residing ..., on payment in advance the sum of Rs ..., authorising him during the period commencing from ... to ..., both days inclusive, to tap and draw neera for the ... trees specified in the Schedule hereinafter appended (hereinafter referred to as "the said trees") growing within the limits of the village of ..., in the police stations of ..., in the district of ..., and in the survey numbers specified in the Schedule for the purpose of supply thereof to persons manufacturing gur or any other article which is not an intoxicant from neera or to persons licensed to sell neera by retail for consumption on premises.

The licence is granted subject to the following conditions, namely:

CONDITIONS

1. Each of the said trees shall be marked and numbered by the Excise Authorities in manner specified in Rule 9 of the Rajasthan Neera (Unfermented Juice of Palms) Rules, 1960. The licensee shall not tap or cause to be tapped any of the said trees or draw or cause to be drawn neera therefrom until the said trees are marked and numbered as aforesaid.

2. The licensee shall convey neera drawn by him from the said trees to the place of manufacture or place of sale, as the case may be, of a licensee holding a licence in Form No. L.N.I or Form No. L.N.II by a direct route and to no other place.

Provided that he may, with the written permission of the [District Excise Officer] or any other duly authorised Officer, collect neera drawn from trees in different parts of groves at a convenient central place before conveying it to such place. The licensee shall not draw neera from the said trees before sunrise or after sunset and shall not except with the written permission of the District Excise Officer convey the neera from the said trees at any time after 5 p.m. (Standard time).

3. Neera shall be drawn in receptacles into which a sufficient quantity of lime or any other preservative approved by the State Government is placed so as to keep the neera in an unfermented state.

4. The licensee shall carry on the business either personally or by an agent duly authorised by him in this behalf, by a written Nakarnama signed by himself. The name of each agent and the date of his appointment shall be communicated for with in writing to the District Excise Officer, having charge of the area in which the said place is situated. The licensee shall be responsible for breach of any of the conditions of this licence committed by any person so authorised.

5. The licensee shall not adulterate or mix neera with any foreign substance or liquid whatsoever. He shall supply the neera to persons holding a licence in Form No. L.N.III at a rate not exceeding that fixed by the Commissioner of Excise from time to time under the Act.

6. No neera shall be kept till the day following that on which it is drawn. The unsold balance of neera may be used for manufacturing gur or any other article which is not an intoxicant before it is fermented. Neera which is fermented shall be destroyed forthwith.

7. Any officer of the Palm Gur, Excise, Revenue or Police Department shall have free access at any time by night to the trees hereby licensed to be tapped.

8. No neera shall be kept till sunrise of the next day unless it is boiled provided that no such boiled neera shall be kept for more than 24 hours.
9. The licensee shall abide by the conditions of this licence and provisions of Rajasthan Excise Act, 1950 and the rules made therein shall have effect to that extent.

10. The licensee, his heirs, legal representatives or assignees shall have no claim whatsoever to the continuance or renewal of this licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of District Excise Officer to permit, or not the assignee of the licensee, in case of sale or transfer of the heir or legal representatives of the licensee, in the case of death to have the benefit of the licence for the unexpired portion of the term for which it is granted.

11. Infraction of any of the above conditions will render the licence liable to forfeiture and to all to any of the penalties prescribed by law or rules.

**SCHEDULE**

<table>
<thead>
<tr>
<th>Number and kind of trees to be tapped</th>
<th>Place and situation of field or garden and village</th>
<th>Number of field or garden Survey No.</th>
<th>Proprietor’s name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

Granted this the................ Day of ........ 20

Seal of Licensing Authority

Licensing Authority

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[16]

The Rajasthan Fixation of Retail Sale Price of Denatured Spirit or Denatured Spirituous Preparations Rules, 1987


Whereas it is in the public interest to fix the Retail Sale price of Denatured spirit and spirituous preparations, therefore, in exercise of the powers conferred by clause (e) (iii) of Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Excise Commissioner with the previous sanction of the State Government makes the following rules, namely,-

**RULES**

1. **Short title and commencement**—(i) These rules may be called the Rajasthan Fixation of Retail Sale Price of Denatured Spirit or Denatured Spirituous Preparations Rules, 1987.

   (ii) They shall come into force with effect from the date of publication in Rajasthan Gazette, Extra Ordinary.

2. **Retail Sale price**—The Retail Sale price chargeable by retail licensees of denatured spirit or denatured spirituous preparation shall not exceed the actual price paid by such Retailer to the wholesaler plus profit of 20% on such price.

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The Rajasthan Molasses Rules 1985

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The Rajasthan Molasses Rules, 1985

INTRODUCTORY NOTE

(a) Molasses declared an Excisable article—Molasses is the mother liquor produced at the final stage of the manufacture of sugar. The Central Government has made Molasses control Order, 1961 with regard to Molasses. There is now provision in the Rajasthan Excise Act, 1950 in respect of Molasses in definition clause 5.3, clause 17-A defining molasses as follows.

"Molasses (N3 (17-A)) means the mother liquor produced in the final stage of the manufacture of sugar or Khandsari sugar by the vacuum pan process or open pan process from sugar can or gur."

This definition was added by the Rajasthan Act No. 8 of 1985, Section 41 (2) empowering the State Government to make rules relating to molasses. The Government of Rajasthan vide Notification No F. 1 (1) FD/EX.61, S.O. 55 dated 15.10.1986 has pleased to order that Molasses shall be deemed to be an excisable article w.e.f. 4.5.1985 and import duty was imposed w.e.f. 1-4-1969 on import of molasses for the manufacture of jaggery.

(b) Validity of the Molasses Rules

Wires of Molasses Rules challenged—Rules held to be intravires—(Molasses Rules, 1985-Rec. 8, 9, 11 & 17 Rajasthan Excise Act, 1954-Sa. 3 (17-A), 41) When the regulation is controlled by Section 41 and molasses have been included in the definition clause 5.3(17A) and it has also been included under S.41, then the State Government has all powers to frame rules and regulations. The State Government is authorised frame rules about molasses in the parameters that are prescribed by S.41 (Part 9) (Petition is dismissed).

G.S.R. 47—In exercise of powers conferred by Sec. 41 of the Rajasthan Excise Act, 1950 (Raj. Act II of 1950), the State Government hereby makes the following rules and order with reference to the proviso to sub-sec. (3) of the said section that previous publication of these rules is dispensed with, as the State Government considers that they should be brought into force at once, namely:

1. Short title and commencement—(1) These rules may be called the Rajasthan Molasses Rules, 1985.
   (2) They shall extend to the whole of the State of Rajasthan.
   (3) They shall come into force at once.

2. Definitions—(1) In these rules, unless the context otherwise requires,-
   (a) 'Act' means the Rajasthan Excise Act, 1950 (Act II of 1950).
   (b) 'Excise Commissioner' means an officer defined as such in the Rajasthan Excise Act, 1950;
   (c) 'Factory' means a place where Sugar, Khandsari sugar, or Gur is manufactured.
   (d) 'Form' means a form appended to these rules.
   (e) 'Khandsari Unit' means any premises, including the land godowns or out houses appurtenant thereto wherein, or in any part of which the production of Khandsari sugar is underway. If sugar cane or gur is in open pans is carried on with or without the aid of power.
   (f) 'Licensed premises' means a person holding a licence under these rules.
   (g) 'Molasses' means molasses as defined in Rajasthan Excise Act 1950 (Raj. Act II of 1950).
   (i) 'Producer of Molasses' means the owner or a person in charge of a factory where molasses is produced in a process of manufacture of Sugar or Gur.
   (j) 'Occupier' means any person who has control over the affairs of a distillery, sugar factory of Khandsari Units.

3. Words and expressions not defined in these rules shall have the meaning respectively assigned to them in the Act.

Possession and sale of Molasses—(1) Any person who is producer of molasses and desires to possess and sell molasses shall make an application to the District Excise Officer for a licence in this behalf. The application shall contain the following particulars, namely:

(a) Name and address of the applicant;
(b) Name of the Sugar/Gur factory;
(c) Exact location of the Sugar/Gur factory, and the name of the village Tehsil and District in which such factory is situated;
(d) Whether the applicant is the owner or a person in-charge of the factory;
(e) Details of the use or uses which molasses will be put to;
(f) Quantity required annually for each of such uses (in Quintals);
(g) Details of arrangements for storage of molasses whether pucca built tanks or steel tanks are provided for the storage;
(h) Period for which the licence is required.

(2) On receipt of an application under sub-rule (1), the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may, with the previous approval of the Excise Commissioner, grant the applicant a licence in Form M-I on payment of fee of Rs. 100/- in advance per annum.

1 Substituted by Notification No. GSR F. 4 (62) FD/EX.61 dated 31-3-1997, w.e.f. 1-4-1997.
4. (1) Any person other than a producer of molasses desiring to possess and use molasses shall make an application to the District Excise Officer for a licence on that behalf. The application shall contain the following particulars, namely—

(a) Name and address of the applicant;

(b) Place where molasses will be kept and the name of the Village, Tehsil and District in which such place is situated;

(c) approximate stock of molasses on the commencement of the require licence in quintals;

(d) total quantity of the molasses that would be received during the terms of the licence in quintals;

(e) maximum quantity of molasses to be possessed at any one time in quintals:

(f) (i) Details of purpose for which molasses will be used;

(ii) Quantity required annually for each such purpose in quintals.

(g) Period for which the licence is required.

(2) On receipt of an application under sub-rule (1), the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may, grant a licence in Form M-II on payment of the annual fee as specified below—

(i) licence for any Government purpose of educational, scientific, medicinal or sample purpose: ₹100/-

(ii) licence for an agricultural purpose (subject to the condition that the molasses possessed under this licence shall be mixed with liquid [or to the extent of at least 10 per cent]) ₹100/-

(iii) licence for cattle feed: ₹100/-

(iv) licence for any other purpose: ₹50/-.  

5. (1) Any person other than a producer of molasses desiring to possess and sell molasses shall make an application to the District Excise Officer for a licence in that behalf. The application shall contain the following particulars, namely—

(a) Name and address of applicant;

(b) Place where molasses will be kept and sold and the name of the Village, Tehsil and District;

(c) Special reasons, if any, why the licence should be granted;

(d) Approximate total quantity of molasses intended for sale during the period of the licences in quintals;

(e) Approximate total quantity of molasses intended for sale during the period of the licences in quintals;

(f) Period for which the licence is required.

(2) On receipt of an application under sub-rule (1), the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may, grant a licence in Form M-III on payment of a fee of ₹100/- in advance and shall fix the total quantity of molasses which the licensee may be allowed to sell during the period of the licence.


Rule 5-12

The Rajasthan Molasses Rules, 1985

(3) No licence in Form M-III shall be renewed unless the District Excise Officer is satisfied that—

(i) molasses are supplied to licensees at reasonable rates, and

(ii) there is a need to continue the licence.

6. (1) Notwithstanding anything contained in the foregoing rules any person other than a producer of molasses desiring to purchase, possess and use hogo-molasses for purposes of cattle feed only shall make an application in this behalf stating the quantity of such molasses required by him per month.

(2) On receipt of an application under sub-rule (1), the District Excise Officer shall make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant of licence applied for by him, may, grant the applicant licence in Form M-III-A on payment of a fee of ₹500/- for individual & ₹1000/- for institutions.

7. The District Excise Officer shall—

(i) in the case of licence in Form M-I fix for the licence period the aggregate quantity of molasses which may be allowed to the licensee for all the uses to which molasses is to be put; and

(ii) in the case of a licence in Form M-II, fix—

(a) the maximum quantity of molasses which the licence may be allowed to possess under the licence at any one time and to use in a month;

(b) the aggregate of the quantity of molasses at the commencement of the licence and of the quantities of molasses to be received by the licensee from time to time during the period of the licence.

8. No licence in Form M-I shall be granted unless such licence is required by a producer of molasses in respect of molasses produced in his factory as a by-product in the process of manufacture of sugar, Khandaari Sugar or Gur.

9. No licence in Form M-I shall be granted unless, such licence is required for molasses to be used for any of the following purposes, namely—

(i) distillation of spirit in a distillery established or licensed under the Act,

(ii) manufacture of power alcohol in distillery established or licensed under the Act,

(iii) Cattle feed;

(iv) any Government purposes.

(v) any bonafide scientific, industrial, agricultural, educational, medicinal or sample purpose.

10. No licence in Form M-I, M-II or M-III shall be granted for a period beyond the 1st day of March next following the date of commencement of the licence.

11. No person shall sell molasses unless he is holding a licence in Form M-I or M-II.

12. Import—Any person desiring to import molasses shall make an application to the District Excise Officer for a licence in that behalf. The application shall contain the following particulars, namely—

15. (1) On receipt of an application under rule 14 the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may grant a licence in Form M-V on payment of a fee of Rs. 500/-:

(2) The licence shall be in four parts and shall be dealt with as under—

Part I shall be kept on the record in the office of District Excise Officer granting the licence.

Part II shall be kept by the person supplying molasses.

Part III shall be handed over to the applicant for sending with the Consignment and thereafter shall be kept by the person receiving molasses.

Part IV shall be forwarded to the District Excise Officer or Excise Authority of the place to which molasses are to be exported.

16. No licence in Form M-I-V or M-V shall be granted unless it is required by a person holding a licence for the possession or sale of molasses.

17. The person holding a licence in Form M-I-V or M-V shall remove molasses under excise escort during its transit by road through the limits of the State of Rajasthan.

18. Transport—Any person desiring to transport molasses shall make an application to the District Excise Officer or any other authorised officer in that behalf. The application shall contain the following particulars, namely—

(a) Name and address of the applicant;
(b) Kind of the licence held in respect of molasses by the applicant and its number and date;
(c) Quantity of molasses permitted for possession at any one time under the above licence in quintals;
(d) Place from which molasses are to be exported;
(e) Name and address of the person from whom molasses are to be sent.
(f) Route (State the place up to which removal of molasses will be by road during its transit in the State);
(g) Period for which the licence is required;
(h) Reasons for exporting molasses.

19. (1) On receipt of an application under rule 18 the District Excise Officer or the authorised officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the permit applied for, he may grant a permit in Form M-VI on payment of a fee of Rs. 100/-:

(2) The permit shall be in four parts and shall be dealt with as under—

Part I shall be kept on the record in the office of District Excise Officer or the Officer granting the permit.

Part II shall be sent to the person supplying molasses.
Part III shall be handed over to the applicant for sending with the consignment and for record thereafter with his accounts.

Part IV shall be forwarded to the Excise Officer of the place to which molasses to be transported.

20. No permit for the transport of molasses shall be granted unless it is required by a person holding a licence for the possession or sale of molasses.

21. The permit holder shall transport molasses under excise escort during its transport.

22. Nothing in Rule 21 shall apply to molasses transported by aforesaid route in tankers locked with the excise locks the loading and unloading and locking and unlocking of tanks being made by a person holding a licence for the possession or sale of molasses under the supervision of the Excise Officer as the case may be.

23. Storage and supply. All licensees shall store molasses in manner which shall prevent its leakage and deterioration by admixture with water or any other extraneous substance.

24. (1) All storage tanks or pits of molasses shall be gauged and their capacities found out for every centimetre of their height gauged. Rods gauging tables as in the case of spirit are prepared showing dimensions and volume in litres per centimetre of height.

(2) All drums, tins or other receptacles used for the storage of molasses shall be painted or labeled adequately showing the true weight, capacity and the actual weight of molasses in the container.

25. No supplies of molasses shall be made to any person unless its weights is ascertained by actual weighing of by finding out its volume and density.

26. For the purposes of weighing all licensees shall maintain a weighing machine or scale.

Additional Regulation For Factories

27. A producer of molasses shall store molasses in leak-proof tanks or pits which shall be kept in good condition. All storage tanks and pits shall be completely covered. All openings and doors and windows leading to the storage tanks or pits shall be fitted with expanded metal and secured with Excise Locks, the keys of which shall be kept by the Officer appointed by the Excise Commissioner for supervision (Hereinafter referred to as the Officer). Provided that the Excise Commissioner may, on such condition as he may impose according to the circumstances prevailing at the producer's sugar factory, permit a producer of molasses to store molasses in Kutchi pits, if such a producer has stock of molasses in excess of an estimated production of molasses of one season.

28. The producer of molasses shall weigh molasses before it is stored in the storage tanks or pits. For this purpose he shall install a weighing machine at his factory. In the absence of such a weighing machine, weight may be ascertained by the volume and density of molasses.

29. The tanks for measuring or weighing molasses at the factory shall be covered by expanded metal lids and locked with excise lock. Molasses for measurement or weighing shall be pumped to the measuring or weighing tanks after it is separated by centrifuges. The end portions of the troughs and receiving tanks shall be covered by expanded metal so that molasses cannot be easily reached at.

30. Molasses from the measuring or weighing tanks shall be run to the storage tanks through a closed pipe or hose. Any fittings and connections for steam pipe on this closed pipe shall be properly sealed or locked with excise locks.

31. The storage tanks shall have only one or two inlets for receiving molasses and only one outlet for emptying molasses. The inlets and outlets shall be locked with excise locks.

32. If molasses are supplied in tank wagons by a producer of molasses, he may install overhead, underground or surface closed tanks for housing tank wagons. He shall keep the tanks in good condition to prevent leakage or deterioration of molasses. The inlet and outlet connections of such tanks shall be secured with excise locks.

33. The key of excise locks in all the above cases will remain with the store officers.

Molasses Returns

34. (1) The license holder in Form 'M-II' granted under the Rajasthan Molasses Rules, 1985 shall maintain, from day to day true and correct account of molasses separately for each storage, tank, pit or receptacle in Form 'A' appended to these rules. He shall also maintain, from day to day, true and correct account of the total stock of molasses held by him at his licensed premises in Form 'B' appended to these rules. He shall submit to the Excise Officer through the Excise Inspector the monthly return of the distillery attached to the factory by the 7th of every month.

(2) The licensee holding a licence in Form 'M-II' granted under the Rajasthan Molasses Rules, 1985 shall maintain from day to day, true and correct account of the stock of molasses held by him at his licensed premises in Form 'D' appended to these rules. He shall submit to the Excise Officer through the Excise Inspector, by the 7th of every month, a statement in Form 'E' appended to these rules showing the opening balance, receipts and closing balance of molasses during the preceding month.

(3) The license holder in Form 'M-III' granted under the Rajasthan Molasses Rules, 1985 shall maintain, from day to day, true and correct accounts of receipts, sales and balances of molasses in Form 'F' appended to these rules. He shall submit to the Excise Officer through the Excise Inspector by the 7th of every month, a statement in Form 'G' appended to these rules showing the opening balance, receipts, sales and closing balance of molasses during the preceding month.

35. (1) The licensee shall not admit losses or dry losses in molasses in storage or in transit -

(i) without the sanction of the District Excise Officer when the losses or dry losses exceed 1 per cent, but do not exceed 2 per cent and

(ii) without the sanction of Excise Commissioner, when the losses or dry losses exceed 2 per cent.
(2) When the losses or dryages in storage or in transit are up to 1 per cent, the licence shall admit losses but he shall report it to the Excise Inspector.

36. The Excise Commissioner may subject to such conditions as he may specify exempt any licensee from all or any of the provisions of these regulations.

37. Rules for licences holding a licence in Form M-I, M-II, or M-III—All storage tanks or receptacles of molasses shall be serially numbered by the licensee.

38. The licensee shall keep his premises, tanks and other receptacles for the storage of molasses clean and in good condition and shall take all reasonable precautions to prevent deterioration of the quality of molasses through admixture with water or any extraneous substance. He shall destroy or dispose of the deteriorated molasses in the manner ordered by the Excise Commissioner.

39. The premises, tanks or other receptacles used for the storage of molasses, accounts, permits, licence and the stocks of molasses shall at all times be open to inspection by the District Excise Officer or any officer duly empowered in that behalf. The licensee shall explain any discrepancy or irregularity noticed by the inspecting officer and shall comply with the orders issued by the District Excise Officer in the connection therewith if he is required by the inspecting officer or measure molasses by any method which may be suitable or practicable.

40. The licensee shall not remove nor shall permit any person to remove any molasses from the storage tanks or receptacles except under a valid transport permit.

41. (1) The licensee shall maintain at his licensed premises a register containing the names or the manager and all other persons employed by him for carrying on the operation of receipt, storage, issue, removal or sale of molasses and shall furnish in writing the District Excise Officer the list of persons so employed for carrying on the said operations.

(2) Every person either permanently or temporarily employed by the licensee shall be provided with a round badge bearing a consecutive number and the name of the licensee. The licensee shall issue instructions to all persons employed by him to show demand their badge to the Officer.

42. (1) The Excise Commissioner may appoint such supervisory staff as in his opinion is necessary for the proper supervision of all arrangements and operations connected with the receipt, storage, issue, removal and use of molasses.

(2) No molasses shall be received into or issued by the licensee from the storage tanks or other receptacles except under the supervision of the officer, if any such officer is appointed by the Commissioner. All storage tanks and receptacles of molasses, in that case, shall be locked by the licensee and the officer with separate keys.

Provided that nothing contained in this sub-rule shall apply to the carrying on of operations by the holder of a licence in Form M-I connected with receipt and storage of molasses which are produced at his factory.

43. The licensee shall not, except with the previous permission of the Excise Commissioner, or the supervisory staff, appointed under sub-rule (1) of the rule 42 above,arry on any operations connected with the receipt, storage, issue or removal of molasses on Sundays and public holidays sanctioned by Government nor on any day before or after the working hours fixed by the Excise Commissioner for this purpose.


Provided that nothing contained in this rule shall apply to the carrying on of operations by the holder of a licence in Form M-I connected with receipt and storage of molasses which are produced at his factory.

44. In case the licensee wants to wind up his business. He shall give one clear calendar month's notice to the Excise Commissioner through the District Excise Officer of his intention to do.

45. The license shall allow the officer appointed to supervise his operation or any other inspecting officer to take samples of molasses free of cost from any place, tank or receptacle whenever he considers it necessary for the purpose of chemical analysis by the Chemical analyst to the Govt. of Rajasthan or to the Government of India to test the purity of molasses or to determine its quality.

46. The licensee shall display his licence conspicuously at his licensed premises.

47. The licensee shall maintain at his licensed premises a visit book, signed and stamped with the seal of the District Excise Officer or any other officer authorised in that behalf by the District Excise officer to which inspecting Officer may record their remarks. The licensee shall, on the termination of the licence, deliver the visit book, the licence, the accounts and the permits to the Excise Inspector.

48. Except with the permission of the District Excise Officer the licensee shall not sell, transfer or sub-let the right conferred upon him by his licence nor shall in connection with the exercise of the said right, enter into any agreement which, in the opinion of the District Excise Officer, is of the nature of sub-lease.

49. No person shall be recognised as a partner of the licence for the purpose of his licence, unless the partnership has been declared to the District Excise Officer before the licence is granted and the names of the partners have been entered jointly in the licence or, if the partnership is entered into after the granting of licence, unless the District Excise Officer agrees, on application made to him, to enter the licence and to add the name or names of the partner or partners in the licence.

50. The licensees, his heirs and assigns shall have no claim whatsoever to the continuance or renewal of his licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of the District Excise Officer whether or not to permit the heir, in case of death, or the assignee of the licence, in case of sale or transfer. To have the benefit of the licence for the unexpired portion of the licence period.

51. (1) The licensee shall abide by the provisions of the Act, rules and orders made thereunder from time to time.

(2) The licensee shall comply with all lawful orders and directions issued to him by the Excise Commissioner within such time as may be.

52. The licensee shall give an undertaking in writing to the District Excise Officer to abide by the provisions of the Act, the rules, and orders made thereunder and the conditions of his licence.

53. Licensee holding a licence in Form M-I—(1) The licensee holding a licence in Form M-I shall leave sufficient space in the cover of the tanks or receptacles to scoop out samples.
(2) Molasses from the storage tanks or other receptacles required for use in any process at the factory or for use in the distillery attached to the factory shall be taken there through pipe connections under the supervision of the officers, but before doing so, the licensee shall give an intimation to the officer stating the quantity of molasses so required, the tank or receptacle from which required and also the time when required.

54. Licensee holding a Licence in Form M-II—(1) The licensee shall not receive his supplies of molasses from any person other than—
   (i) a person who holds in the State of Rajasthan a licence in Form M-I or M-III; or
   (ii) a person who is directed by the State Government to sell molasses to him; or
   (iii) a person outside the State of Rajasthan.

(2) All molasses received by the licensee at his premises shall be covered by a valid transport permit if brought from any place in the State of Rajasthan or by a valid import licence if brought from any place outside the State of Rajasthan.

(3) Except as directed by the State Government under any law for the time being in force, the licensee holding a licence in Form M-II shall not sell or transfer any molasses possessed by him under the licence.

(4) The licensee shall maintain in a book, pagged and sealed with the seal of the District Excise Officer such accounts and submit such returns as may be prescribed by the Excise Commissioner.

55. Licensee holding a licence in Form M-III—(1) The licensee holding a licence in Form M-III shall not receive his supplies of molasses from any person other than—
   (i) a person who holds in the State of Rajasthan a licence in Form M-I or M-III; or
   (ii) a person who is directed by the State Government, the Excise Commissioner or the District Excise Officer to sell molasses to him; or
   (iii) a person outside the State of Rajasthan.

(2) All molasses received by the licensee at his premises shall be covered by a valid transport permit if brought from a place in the State of Rajasthan or by a valid import licence if brought from any place outside the State of Rajasthan.

(3) The licensee shall maintain in a book pagged and sealed with the seal of the District Excise Officer such accounts and submit such returns as may be prescribed by the Excise Commissioner.

56. Possession or transport for domestic purposes—Notwithstanding anything contained in the foregoing rules, it shall be lawful for any person to possess or transport without a licence or permit, as the case may be, molasses not exceeding such quantity as the Excise Commissioner may specify for any local area, as the permitted quantity for domestic purposes.

57. Disposal of adulterated or deteriorated Molasses as waste—The contents of any tank or pit intended for the storage of molasses, not being molasses having a density of less than so fixed and a fermentable sugar content (expressed as reducing sugars) of not less than 37 per cent, shall, if the Excise Commissioner, by order in writing so directs, be disposed of as a waste or in such manner as may be specified by the Excise Commissioner.

FORM M-I
[See rule 31]

Licence No.

Licence for possession and sale of molasses by a producer of Molasses.

Licence is hereby granted, under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder to the licensee to sell molasses during subject to the following conditions, namely:-

CONDITIONS

1. The licensee shall not except with the written permission of the District Excise Officer, keep or sell molasses at any place other than the licensed premises.

2. Except with the written permission of the District Excise Officer, the licensee shall not receive or keep at his licensed premises molasses other than those produced at the said premises.

3. (1) The licensee shall not sell molasses—
   (i) except to a person who holds a licence in Form M-II, M-III or M-III A;
   (ii) exceeding the quantity prescribed under rule of the Rajasthan Molasses Rules, 1985.

4. (2) The licensee shall not sell molasses at a price in excess or the maximum selling price which may be fixed by the Government of India under the Molasses control order.

(3) Notwithstanding anything contained in sub-condition (1) and (2), the licensee shall, when directed by the State Government under any law for the time being in force, sell molasses held on the licensed premises and/or at the storage tanks or other receptacles for any purpose except for the following purposes:

   *(i)* Distillation in a distillery established or licensed under the Rajasthan Excise Act, 1950.
   *(ii)* Manufacture of power alcohol in a distillery established or licensed under the Rajasthan Excise Act, 1950.
   *(iii)* Any Government purposes.

*(iv)* the bonafide scientific purpose of ................................ (here state the purpose)

Rajasthan Excise Act 1950

*(v) the bonafide industrial purpose of ............. (here state the purpose)  
*(vi) the bonafide agricultural purpose of ............. (here state the purpose)  
*(vii) The bonafide educational purpose of ............. (here state the purpose)  
*(viii) Any medicinal purpose, viz.,............. (here state the purpose)  
*(ix) Sample purpose  
*(x) Cattle-feed  

*The inapplicable entries should be struck off.

(2) Nothing in sub-condition (1) shall apply to molasses removed from storage tanks or receptacles for purpose of sale.

5. The licensee shall pay to the State Government in advance at the beginning of each quarter commencing from the date of the licence such cost of the Excise Staff as may be fixed by the Excise Commissioner.

6. (1) The licensee shall provide suitable office accommodation, with sanitary arrangements, for the Excise Officer and such staff as may be appointed by the Excise Commissioner within the licensed premises and shall supply such furniture and other articles for the use of the officer at the District Excise Officer may consider necessary. The licensee shall afford the officer all reasonable facilities and assistance as may be required by him for carrying out his duties of supervision and inspection.

(2) The licensee shall provide the Excise Staff so appointed residential quarters as approved by the District Excise Officer in his behalf near the licensed premises and shall also provide the following subsidiary services if available, namely:

Sanitary electric and water supply, and may charge rent not exceeding ten per cent of the pay of the staff for quarters and also reasonable charges for the water supply. Sanitary and electric supply services provided by the licensee, in case of dispute as to whether the charges are reasonable or not the Excise Commissioner shall decide the question and his decision shall be binding on the licensee and the staff.

7. This licence may be suspended or cancelled in accordance with the provisions of Sec. 34 or 35 of the Rajasthan Excise Act, 1950.

Granted this ............. day of ............. 20........

District Excise Officer.

FORM M-II  
[See Rule 4(2)]

Licence for possession of molasses to persons other than producers of molasses.

License is hereby granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules regulations and orders made thereunder to ............. (hereinafter called "licensee") on payment of a fee of Rs ............. in advance into the Government Treasury at ............. authorising him to have in his possession molasses at his premises situated at ............. in the district of .............

(hereinafter referred to as the licensed premises) during the period from ............. to ............. subject to the following conditions, namely:

1. The licensee shall, except with the written permission of the District Excise Officer keep molasses at any place other than the licensed premises.

2. The licensee shall not have in his possession more than ................ Quintals of molasses at any one time, and he shall not use more than ............. Quintals of molasses in any calendar month during the period of this licence.

3. The aggregate of the opening balance of molasses held by the licensee at the commencement of this licence and the quantities of molasses received by him from time to time during the course of the period of this licence shall not exceed ............. Quintals.

4. The licensee shall not use the molasses removed from the storage tanks or receptacles for any purpose except for the following purposes only in quantities not exceeding those specified against them, namely:

*(i) Distillation of spirit in a distillery established or licensed under the Rajasthan Excise Act, 1950.................. Quintals per year.

*(ii) Manufacture of power alcohol in a distillery established or licensed under the Rajasthan Excise Act, 1950.................. Quintals per year.

*(iii) Any medicinal purpose, viz.,............. (Quintals per year)

*(iv) The bonafide scientific purpose of ............. Quintals per year (here state the purpose).

*(v) The bonafide industrial purpose of ............. year. (here state the purpose).

*(vi) The bonafide agricultural purpose of ............. Quintals per year

*(vii) The bonafide educational purpose of ............. Quintals per year (here state the purpose).

*(viii) Any Government purposes, viz.,............. Quintals per year

*(ix) Sampler purpose ............. Quintals per year

5. The licensee shall pay to the State Government in advance at the beginning of each quarter commencing from the date of licence such cost of the Excise staff appointed within the licensed premises as may be fixed by the Excise Commissioner.

6. The licensee shall provide suitable office accommodation with sanitary arrangements, for the Excise Officer or such staff as may be appointed by the Excise Commissioner within the licensed premises and shall supply such furniture and other articles for the use of the officer at the District Excise Officer may consider necessary. The licensee shall afford the officer all reasonable facilities and assistance as may be required by him for carrying out his duties of supervision and inspection.

7. This licence may be suspended or cancelled in accordance with the provisions of section 34 or 35 of the Rajasthan Excise Act, 1950. Granted this ............. day of ............. 20........

District Excise Officer.

*The inapplicable entries should be struck off.
FORM M-III
[See rule 5(3)]
Licence No. ...

Licence for the sale of molasses

Licence is hereby granted, under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder to ............ residing at ............. (hereinafter called "the licensee") on the payment of a fee of Rs. ...... in advance into the Government Treasury at ............. authorising him to sell, and to have his possession for sale molasses at his premises situated at ............. in the district of ............. (hereinafter referred to as 'the licensed premises') during the period from ............. to .............

CONDITIONS

1. The licensee shall not except with the written permission of the District Excise Officer keep, or sell molasses at any place other than the licensed premises.
2. The licensee shall not have in his possession at any one time molasses exceeding ............. Quintals.
3. (1) The aggregate of the opening balance of molasses held by the licensee at the commencement of this licence and the quantities of molasses received by him from time to time during the course of the period of this licence shall not exceed ............. Quintals.
(2) The licensee shall not sell (a) at all molasses exceeding ............. Quintals during the term of his licence.
4. The licensee shall not sell molasses:
   (i) except to a person who holds a licence in form M-II M-III or M-III-A unless the sale is for export or export across a frontier.
   (ii) exceeding the permitted quantity prescribed under rule of the Rajasthan Molasses Rules, 1985 to a person requiring it for a domestic purpose.
   (2) The licensee shall not sell molasses at a price in excess of the maximum selling price which may be fixed by the State Government from time to time under any law for the time being in force.
7. Notwithstanding anything contained in sub-conditions (1) and (2), the licensee shall, when directed by the State Government under any law for the time being in force, sell molasses held by him in accordance with the terms of direction.
5. The licensee shall not, except under a licence in Form M-II or M-III A use molasses for any purpose other than sale.
6. The licensee shall pay to the State Government in advance at the beginning of each quarter commencing from the date of the licence such cost of the Excise staff as may be fixed by the Excise Commissioner.
7. The licensee shall provide suitable officer accommodation, with sanitary arrangement, for the Excise Officer or such staff as may be appointed by the Excise Commissioner within the licensed premises and shall supply such furniture and other

FROM M-III-A
[See rule 6(2)]

Licence for purchase, possession or use of Bago Molasses for purposes of cattle-feed.

1. License No. ............. Dated .............
2. Name and address of the licensee.
3. Number of working bullocks, milch buffaloes and cows possessed.
4. (1) Maximum quantity of Bago molasses allowed to be used for cattle-feed in a calendar month.
   (ii) Maximum quantity of bago molasses allowed to be possessed at any one time for a cattle-feed.
5. The name of the licensee from whom bago molasses may be purchased.
6. The period for which the licence shall be valid.
7. This licence is granted under and subject to the provisions of Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder on payment of fee of Re. 1/- subject to the following conditions:

CONDITIONS

(i) That the consignment of bago molasses is not broken in transit from the licensed premises of a M-I or M-III licensee to the premises of the licensee.
(ii) That the licensee complies promptly with all orders and directions which may be issued to him by the District Excise Officer under the Rajasthan Excise Act, 1950 and the rules made thereunder.
(iii) That the licensee shall not use bago molasses for any purpose other than cattle feed.

Seal of the Officer granting the licence. (Signature and designation of Officer granting the licence)

FORM M-IV
[See rule 13(1)]

Licence for the Import of molasses

No. ............. Dated .............

1. Name and address of the licensee.
2. Quantity of molasses to be imported (in Quintals).
3. Name and address of the person from whom molasses is purchased.
Rajasthan Excise Act

4. Place from which molasses is to be imported.
5. Place to which molasses is to be removed.
6. Route (State also the place from which removal of molasses to its destination will be by road in the State).
7. Date upto which this licence shall be valid.

This licence is granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules made thereunder on payment of a fee of Rupees 1/- authorising the above import of molasses subject to the following conditions namely-

CONDITIONS

1. The whole quantity of molasses shall be imported in one consignment only and its bulk shall not be broken in transit.

Provided that the District Excise Officer may, by special permission in writing and subject to such conditions as he may deem fit to impose, allow the consignment to be exported in parts under cover of transport permits in respect of each such part issued by a duly authorised officer.

2. The licensee shall pay in advance such cost of the excise escort as the District Excise Officer may decide.

3. The licensee shall give an undertaking in writing to the District Excise Officer to abide by the above conditions.

FORM M-VI
[See rule 19(IIB)]

Permit for the transport of Molasses

No. ............ Date ..........

1. Name and address of the permit-holder.
2. Kind of the licence held by the permit-holder under the Rajasthan Molasses Rules, 1985, and its number.

3. Quantity of molasses to be transported (in Quintals)
4. (a) Place from which molasses is to be transported
(b) Place to which molasses is to be transported.
5. Name of the person authorised to transport molasses.
6. Name and address of the person from whom molasses is obtained.
7. Route (State also the places from and to which transport of molasses will be by road).

8. Date upto which the permit shall be valid. This permit is granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules made thereunder on payment of a fee of Rs ........ authorising the above transport of molasses subject to the following conditions namely-

CONDITIONS

1. The whole quantity of molasses shall be transported in one consignment only and its bulk shall not be broken in transit.

(2) The licensee shall pay in advance such cost of the excise escort as the District Excise Officer may decide.

(3) The permit holder shall give an undertaking in writing to the District Excise Officer or the Officer granting the permit to abide by the above conditions.

Seal: District Excise Officer

(Or State here the designation of the officer granting the permit).
**FORM 'A'**  
(See Rule 34(1))

Name of the M.I. Licensee: ........................................

<table>
<thead>
<tr>
<th>Date</th>
<th>Opening Balance</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>From the Sugar/Factory as a by product</td>
<td>From outside</td>
</tr>
<tr>
<td></td>
<td>Corresponding weight in quintals</td>
<td>Corresponding weight in quintals</td>
</tr>
<tr>
<td></td>
<td>Height of Molasses in Centimeters</td>
<td>Height of Molasses in Centimeters</td>
</tr>
</tbody>
</table>

**Total**  

<table>
<thead>
<tr>
<th>Date</th>
<th>Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For sale</td>
</tr>
<tr>
<td></td>
<td>For other purposes specified in the licence</td>
</tr>
<tr>
<td></td>
<td>For destruction</td>
</tr>
<tr>
<td></td>
<td>Dryage or wastage</td>
</tr>
<tr>
<td></td>
<td>For use in the case of receipt outside</td>
</tr>
<tr>
<td></td>
<td>For use as specified in the licence</td>
</tr>
<tr>
<td></td>
<td>For other uses as specified in the licence</td>
</tr>
<tr>
<td></td>
<td>For use in the case of receipt outside</td>
</tr>
<tr>
<td></td>
<td>For other uses as specified in the licence</td>
</tr>
<tr>
<td></td>
<td>For the process at the Sugar/Factory</td>
</tr>
</tbody>
</table>

**FORM 'B'**  
(See Rule 34(1))

Total Number of Storage, Tanks or Receipients: ........................................

<table>
<thead>
<tr>
<th>Number of Storage, Tanks or Receipients</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

1B - Separate entry should be made for each tank or receptacle if the operations of receipt or issue relate to more than one tank or receptacle on any day

**FORM C**  
(See rule 34(1))

Name of the M.I. Licensee: ........................................

Monthly statement of Molasses received and issued during the month of ........................................

<table>
<thead>
<tr>
<th>Date</th>
<th>Opening Balance</th>
<th>Quantity of molasses produced during the month</th>
<th>Quantity used at the Sugar Factories for</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>From other factory</td>
<td>Gains due to admixture of water for any causes</td>
<td>Distillation</td>
</tr>
<tr>
<td></td>
<td>if any</td>
<td>Gains due to other causes</td>
<td>Total (Columns 7, 8, 9, 10 and 11)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>8</td>
<td>9</td>
</tr>
</tbody>
</table>

Quantity used at the Sugar Factories for: ........................................
### FORM 'E'

[See Rule 34(3)]

Name of the (M-I) Licensee

Monthly statement of molasses received and issued during the month of ________________ 20__________

<table>
<thead>
<tr>
<th>Issues</th>
<th>Opening</th>
<th>Received</th>
<th>For sale if any as directed by the State Government</th>
<th>For the purpose specified in the licence</th>
<th>Dyeing or wastage</th>
<th>Closing balance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Qntls</td>
<td>Qntls</td>
<td>Quintals</td>
<td>Quintals</td>
<td>Quintals</td>
<td>Quintals</td>
</tr>
<tr>
<td></td>
<td>Qntls</td>
<td>Qntls</td>
<td>Quintals</td>
<td>Quintals</td>
<td>Quintals</td>
<td>Quintals</td>
</tr>
</tbody>
</table>

Dated ________________ 20__________

(Signature) ________________  Licensee

### FORM 'F'

[See rule 34(3)]

Name of the Licensee (M-II)

Form of Account to be maintained by the holder of the licence in Form M-III (other than producer of molasses) for possession and sale of molasses

<table>
<thead>
<tr>
<th>Receipts</th>
<th>Quintals</th>
<th>Quintals</th>
<th>Quintals</th>
<th>Quintals</th>
<th>Quintals</th>
</tr>
</thead>
</table>

Dated ________________ 20__________

(Signature) ________________  Licensee

<table>
<thead>
<tr>
<th>Date</th>
<th>Opening balance</th>
<th>Name of the sugar factory purchased</th>
<th>No. of permit with date</th>
<th>Quantity advised</th>
<th>Quantity received</th>
<th>Loss Gain</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
</tr>
</tbody>
</table>
Rules Regarding Sale of Ganja, 1951

[Section 42(e)(iii)]

[Notification No. C-108, dt. 27-9-1951] - In exercise of the powers conferred by sub-clause (iii) of clause (c) of Section 42 of the Rajasthan Excise Act, 1950, the Excise Commissioner, with the previous sanction of the Government, pleased to make the following rules, namely:

No hemp drugs retail licensee shall sell Ganja in Rajasthan for a price in excess of Rs. 1/4/- per tola.

This shall take effect from the 1st October, 1951.

II Case Law

1. Charas & Ganja—“Charas” is not cannabis plant, but it is resin obtained therefrom, whereas “Ganja” is flowering or fruiting top of cannabis plant excluding its seeds and leaves when not accompanied by tops. (Para?)

2. Auction System—Meaning of “Fixed Fee”- The term “Fixed Fee” is a fee determined by the Excise Commissioner in lieu of “Licence Fee”

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1. Manjoe v. State, 1996(2) WLC 405
Rajasthan Heritage liquor Rules, 1998

1. Short title and commencement
2. Definitions
3. Application for a licence
4. Heritage liquor licence
5. Working of the manufacture
6. Sale, transfer or sub-letting etc., prohibited
7. Security & other levies
8. Officer’s accommodation
9. Government not liable for any loss on manufacture
10. Herbs, spices etc., and chemical examination thereof
11. Control
12. Maintenance of the accounts and records
14. Disposal of product

Notifications

S.O. 104 (July 9, 1998) — In exercise of the powers conferred by section 42(a) (6) of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 11 of 1950), the Excise Commissioner, with the previous sanction of the State Government hereby makes with immediate effect, the following rules, namely:

1. Short title and commencement—(1) These rules may be called the Rajasthan Heritage Liquor Rules, 1998.

(ii) They shall come into force at once.

(2) Definitions—In these rules, unless the context otherwise requires,

(a) ‘Act’ means the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950);
(b) ‘herbs’ means leaves, flowers or seeds of a plant which add flavour, colour and taste to eatables or potables;
(c) ‘licensing authority’ means authority for granting and renewing herbal liquor licence;
(d) ‘Heritage Liquor’ means such alcoholic beverage as defined in Rajasthan Excise Rules, 1956;
(e) ‘manufactory’ means the building or premises specified in the licence for the manufacture of heritage liquor;
(f) ‘Officer in charge’ means the Excise Inspector, or any other Officer of the Excise Department not below the rank of Excise Inspector appointed by the Excise Commissioner to hold charge of heritage liquor manufacture.

3. Application for a licence—Any person desiring a licence to establish a heritage liquor manufacture shall apply to Excise Commissioner stating therein and satisfying upon

(1) Applicant name, parentage and permanent address
(2) Details of technical know-how for the manufacture of heritage liquor such as:
(a) Methods of manufacture.
(b) Raw materials to be used and proportion of yield therefrom.
(c) Herbs or spices to be used and proportion thereof to either raw material alongwith stages at which these would be added.
(d) Duration of fermentation and distillation alongwith process to be followed.
(e) Details as to bottling process and labelling.
(f) Name of brands and their effects after use, if any.

(3) Product profile such as marketing capacity in and outside Rajasthan and revenue prospects for the State.

(4) Manufactory details such as systematic profile of plant and its working.

(5) Details regarding place of establishment of manufactory, such as ownership, commercial conversion, availability of water and its suitability or fitness and availability of water and its suitability or fitness and availability of electricity as per requirements.

(6) Pollution and Environment factors, if any, clearance from the concerned department.

(7) NOC by the District administration.

(8) Registration with the Industry Department.

(9) Certificate by PHED and RSEB regarding supply as per demand of the manufactory.

(10) Eligibility details supported by documents for holding the licence such as:

(a) Age not below 18 years.

(b) Not in default of Excise Department.

(c) Has never been found guilty of any serious lapse pertaining to Rajasthan Excise Act, 1950 or NDPS Act, 1985.

(d) Financial soundness as per the satisfaction of the licensing authority.

4. Heritage Liquor Licence—A licence for the manufacture of heritage liquor shall be granted in prescribed form and renewed thereafter by the Excise Commissioner for a period ending 31st March of each year on such fees, terms and conditions as are determined from time to time.

5. Working of the manufactory—The procedure prescribed for working of a distillery as per Rajasthan Distillery Rules, 1977, shall be applicable mutatis mutandis in the working of a manufactory of Heritage Liquor.

6. Sale, transfer or sub-letting etc. prohibited—Except with written permission from the Excise Commissioner the licensee shall not sell, transfer, sub-let or mortgage the right of manufacture conferred upon him nor shall he in connection with the exercise of the said rights enter into any agreement or arrangement for any sale, lease, or mortgage. The person responsible for the licence shall not be held responsible for the acts of any person as partner in the licence without prior sanction in writing of the Excise Commissioner.

7. Security and other levies—Every licensee of herbal liquor manufactory shall pay such taxes, duties, fees, and other levies as may be prescribed from time to time.

8. Officer's accommodation—The licensee shall provide for office establishment and residential accommodation for an officer in charge at his own premises or in the proximity. He shall be bound to maintain one establishment in order and worth use.

9. Government not liable for any loss on manufactory—If any loss or damage occurs in building or material by any reason whatsoever, the Government shall not be held responsible for the same.

10. Herbs, Spices, etc., and Chemical Examination thereof—The licensee shall provide advance a list along with samples of Herbs, Spices, etc., and proportion thereof to be added in each brand of heritage liquor proposed to be prepared by him. It shall be the responsibility of the licensee to get the herbs, spices, etc., to be used in the manufactory process chemically examined so as to satisfy the fitness of these items for human consumption. The licensee shall be responsible for its consequences and shall be dealt with as per prevailing legal provisions including cancellation of licence.

11. Control—The Officer-in-charge appointed by the Excise Commissioner shall have the overall control of the manufactory without whose prior permission no material shall be taken in or out of the premises of the manufactory.

12. Maintenance of the Accounts and records—The licensee shall maintain such accounts and records as directed by the competent authority from time to time which shall be open for inspection by the Officer-in-charge and his superior officers.

13. Observance of Provisions—The licensee shall be bound to comply with the provisions of the Act and the Rules made thereunder as well as the administrative orders issued by the competent authority from time to time. Any violation thereof by the licensee or his representatives shall attract legal action against the licensee including cancellation of licence.

14. Disposal of product—The licensee shall market and sell or dispose off the product in the manner directed by the competent authority from time to time.

NOTIFICATIONS
Heritage Liquor—Excisable Article
S.O.112. In exercise of the powers conferred by sub-clauses (v) of clause (4) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act no. 2 of 1950), the State Government hereby declares the heritage liquor as an excisable article for the purpose of the said Act.


S.O.113. In exercise of the powers conferred by clause (15) of section 3 and sub-section (1) of Section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), the State Government hereby declare the heritage liquor to be liquor for the purpose of the said Act.

Conditions & Restrictions on establishment or licence of Bonded Warehouse

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[Notification under Rule 17(d) of the Rajasthan Excise Rules, 1956]


S.O.167.—In exercise of the powers conferred by clause (b) of Section 17 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950) read with rule 2 of the Rajasthan Excise Rules, 1956, the State Government hereby prescribes the following conditions and restrictions in respect of establishment or licence of a Bonded Warehouse for the receipt and storage of liquor or any other excisable article under bond, both bottled and in bulk of Indian Manufacture, transported or imported into Rajasthan from any place within the Indian Union as approved by the Excise Commissioner for his [compounding], [blending], reduction, bottling transport or export in bond or on payment of duty within or outside the Rajasthan State, namely—

1) 1-A. Application for "No objection Certificate"—Any person desiring to construct and work a bonded warehouse in his own premises wherein liquor or any other excisable article may be deposited and kept under bond without payment of excise duty shall first apply for grant of "No objection certificate" to the Excise Commissioner through the District Excise Officer concerned after having deposited the fee prescribed for this purpose. Excise Commissioner, subject to general or specific instructions of the State Government, may issue "No objection certificate."

1-B. Grant of permission for construction.—The holder of "No objection certificate" shall seek the permission of Excise Commissioner for construction of bonded warehouse after completing the formalities prescribed by Excise Commissioner in this behalf and depositing the fee prescribed for this purpose. The applicant shall file for approval, description and plans of the building in which he propose to establish bonded warehouse. Excise Commissioner, if he is satisfied that there is no objection to doing so, may grant permission for construction of bonded warehouse.

1. Inserted vide S.O. 83 dated 26-4-69
2. Inserted vide S.O. 61, dated 24-6-95.
1-C. Grant of licence—On receipt of intimation of completion of construction from the person holding permission under condition 1-B and after satisfying that fee prescribed for this purpose has been deposited and there is no objection to doing so, Excise Commissioner may grant the licence in Form B.W.H.2 subject to the deposit of such security not exceeding Rs. 25,000/- as may be directed by the Excise Commissioner for the payment of all sums, which may become due to State Government by way of duty, rents, penalties fines and under the provisions of his licence or to which licensee may be liable by law or under any agreement or bond into the form of which he may have entered or securities to be furnished in any one of form securities provided under General Financial and Accounts Rules.

1-D. Permission for addition/alteration—Any addition to or alteration of bonded warehouse plant or building shall be made with the prior permission of Excise Commissioner and no such permission shall be given unless the fee prescribed for this purpose has been deposited."

2. Period of Licensee—The licence may be granted or renewed on payment of the fee as prescribed under Rule 68 of the Rajasthan Excise Rules, 1956 for a period not exceeding one year and ending away on the 31st March, following the date of grant of renewal; Provided that before the grant or renewal of the licence the licensee shall be required to furnish the security in Form B.W.H.3 in addition to the licence fee as mentioned in Condition 1C.1 equivalent to 25 per cent of the amount of Excise duty on the maximum quantity of liquor allowed to be stored at any one time.

3. The bonded warehouse shall be established at the premises approved by the Excise Commissioner, and no additions or alterations shall be made without obtaining his prior written permission.

4. The licence shall have to pay Supervision charges to the department every month as fixed by the Excise Commissioner in advance before the commencement of the following month.

5. Liquor may be obtained in bond under permit issued by the District Excise Officer concerned, without payment of duty from any distillery or warehouse having permission for the manufacture from Ministry of Industry Development and Ministry of Chemicals and Fertilizers Govt. of India or Registration with Directorate General of Technical Department in Rajasthan or outside under permit, issued by the Distt. Excise Officer concerned.

6. (1) No liquor shall be received in the bonded warehouse except accompanied by a pass from the Officer-in-charge of the distillery or bonded warehouse from which it has been imported or transported.

(2) Immediately on arrival of a consignment at the bonded warehouse the Officer-in-charge shall be informed and the consignment shall not be opened until the same has been examined and verified with the pass by the Officer-in-charge who shall also note the details in the register maintained for the purpose and also on the pass covering the consignment and one copy of the pass with entries of Receipt shall be immediately returned to the Officer who issued the pass and the other copy with entries thereon shall be kept in the bonded warehouse.

1. Substituted vide S.O. 61 dated 24-6-95.
Rule 2 | Conditions & Restrictions on Estb. of Bonded Ware House

21. All registers and forms prescribed under these rules shall be supplied by the licensee free of charge, forms bound together shall bear printed serial and consecutive numbers loose sheets of such forms as are necessary shall also be supplied to the Officer-in-charge by the licensee.

22. Stock taking of liquor, bottled or bulk, shall be made by the Officer-in-charge on the last working day of each month after all the transactions for the day have been completed. This stock would also be checked on the last working day of each month by the District Excise Officer in whose district the bonded warehouse is situated.

23. If the licensee infringes or abets the infringement of any of the conditions of his licence, the Excise Commissioner may revoke, cancel and determines the licence and forfeit to Government the whole or any part of the security deposited.

Provided that if the infringement is of a minor nature, the licence may be restored and other forfeiting the security may be set aside on payment of a sum not exceeding Rs. 1,000.

24. All fittings or articles connected with the supply, storage, gauging, handling and issue of liquor including vats, casks, tank, pumps, pipes, cords, measure vessels etc. shall be provided by the licensee. The licensee is responsible for the safe custody of the stock of liquor.

25. All process for the storage, bottling and issue of liquor must be conducted within the warehouse premises under the direct supervision of the Officer-in-charge.

26. Each vessel for storage of liquor shall be of regular shape and each vessel shall have legibly printed on it, its number, its capacity and the use to which it is applied. The vats shall bear tickets in Form R.D. 3 showing details of receipt and issue of liquor.

27. All vessels and packages in which consignments of liquor are issued, shall be sealed by the Officer-in-charge with his official seal before they are allowed to leave the warehouse. The vessel and packages shall bear a label, in which the following particulars shall be specified:

(a) Name of the Licensee.
(b) Contents including quantity in proof and bulk liquid.
(c) Kind of liquor contained.
(d) In bond of duty paid.

ACCOUNTS

28. (1) The Officer-in-charge shall maintain a register in Form R.D. 5 in which he shall record from day to day all entries regarding operation carried on in the warehouse.

(2) The Officer-in-charge shall maintain a General Register in Form B.W.H. 4.

(3) The Officer-in-charge shall maintain a list in Form B.W.H. 6 containing the particulars of all employees in the warehouse, furnished by the licensee.

29. The instrument for determining the alcoholic contents of spirit, Excise locks and gauging rods shall be supplied by the Excise Commissioner on cost. No receptacle or vessels shall be brought into use unless it has been gauged and passed by the Officer-in-charge and a table book in Form B.W.H. 3, has been prepared for it. If a gauged vessel is repaired or is moved it may not be brought into use again till it has been regauged and passed by the Officer-in-charge and a revised table book has been prepared.
30. The Licensee shall have in stock adequate quantities of empty bottles, labels, Capsules, corks, pillar-proof seals, cassetes and corks, required in connection with bottling of liquor. The accounts of stock of empty bottles shall be maintained in form B.W.H.7.

[[STORING AND PASSING OUT OF LIQUOR FOR BLENDING AND/OR BOTTLING PURPOSE]]

31. [Blending and Bottling] operations shall be carried out in separate rooms for country Spirit and Indian Made Foreign Liquor and like-wise storage of these liquors shall be effected in separate rooms called bottled spirit, store room, for country Liquor and Indian Made Foreign Liquor, set apart for the purpose near the respective [blending and bottling] rooms. The Licensee shall set up such apparatus for [blending and bottling] and processes connected therewith as may be needed bottling vats may be created and liquor stored there in the blending and bottling] rooms.

[Explanation]. For the purpose of these conditions blending means mixing together of two or more spirits of different strengths.


33. No liquor shall be issued till its quantity and strength have been verified by the officer-in-charge.

34. The licensee shall if required to do so by the Excise Commissioner issue liquor only in specified strength either generally or for particular class of purchasers.

35. No liquor shall be issued except under a pass granted by the officer-in-charge.

36. Officer-in-charge shall issue on the same day liquor demanded to his order received by him up to 1 p.m. No liquor shall however, be issued outside the working hours of the warehouse. Any inden which cannot be complied with on the same day, shall be complied with on the next working day.

37. The licensee who have permission to undertake blending of spirits shall establish a fully equipped laboratory for testing purposes and use Extra Neutral Alcohol (ENA) and other spirits conforming to the 1. S.I. specifications as laid down by the Bureau of Indian Standards from time to time.

FORM B.W.H.1

APPLICATION FORM FOR A LICENCE UNDER SECTION 42 (a) (iv) READ WITH SECTION 17 (d) OF THE RAJASTHAN EXCISE ACT, 1950
(RAJASTHAN ACT II OF 1950)

To,

The Excise Commissioner,
Rajasthan Through the Distt. Excise Officer

Application for licence to...

Dated...

Place:

FORM B.W.H.2

BONDED WAREHOUSE OF BOTTLING PLANT LICENCE

Licence is hereby granted to M/S. .......... under section 17(d) of the Rajasthan Excise Act, 1950 (Act 2 of 1950) to establish and run a bonded warehouse for the receipt and storage of Indian Made Foreign Liquor and Beer under Bond, whether bottled or in bulk or both of Indian Manufacture transported or imported into Rajasthan from any place within the Indian Union as approved by the Excise Commissioner for its [(compounding

1. Substituted by S.O. 61 dated 24-6-95.
Rajasthan Excise Act

1. The licensee shall observe the provisions of the Rajasthan Excise Act, 1956, and all rules made and instructions issued under any other law, for the time being in force applicable to the storage, bottling and issue of spirit.

2. A plan showing the location of the building including store rooms and offices, etc., will be supplied by the licensee for approval before the start of the work.

3. The licensee intending to undertake bottling operations shall establish a fully equipped laboratory for testing purposes before such operations are undertaken and use Extra Neutral Alcohol (ENA) and other spirits conforming to the ISI specification as laid down by the Bureau of Indian Standards from time to time.

4. The licence shall not without the previous sanction of the Excise Commissioner make any material change in the building premises after it is approved.

5. The licensee shall at all times maintain in a state of efficiency and good repair of the building to the satisfaction of the District Excise Officer.

6. He shall furnish true statement as may be required by the Excise Commissioner, District Excise Officer and the Officer-in-charge of the warehouse from time to time.

7. He shall comply with all directions of the Excise Commissioner, regarding the character and purity of the liquor to be stored, the stock of spirit or material to be maintained and all other matters in which compliance is prescribed by rules made and instructions issued under the Rajasthan Excise Act, 1956 [Act 2 of 1956].

8. He shall not discontinue the working of the warehouse (Except in the case of closure for cleaning and repairs) without giving a week’s notice in writing to the District Excise Officer of his intention to cease work. He shall continue to fulfill the conditions of his licence during the currency of the notice.

9. If the licensee infringes, or causes permit any person to infringe, any of the conditions of the licence, the District Excise Officer may forthwith revoke and determine the licence and forfeit to the Government to whole or any part of deposit made by the licensee under Rajasthan Excise Rules, 1956.

10. The Excise Commissioner may give a notice to the licensee in writing that the licence will be determined at the expiry of one month from the date of the notice.

11. If the licensee from any cause, physical or mental becomes incapable of carrying on business, or dies or becomes insolvent, or in case the licensee is a company wound up or dissolved, the Excise Commissioner may either cancel the licence or (2) continue in the name of any other suitable person or persons.

12. Upon the revocation, cancellation or determination of the licence under the preceding conditions, the licence or his representative shall forthwith cease working.

---

FORM B.W.H.3
LICENSEE’S BOND

This indenture made this day of 19... Between... Senor... Cast... Read of... (hereinafter called to Mortgage) of the one part AND the Governor of Rajasthan (Hereinafter called the ‘Government’) of the other part.

19... grants a licence to run a warehouse at... in accordance with the Rajasthan Excise Rules which said... Licence is in trust B.W.H.2 attached to the said conditions.

And whereas by Conditions No. 2... of the said conditions the Mortgagee is required to execute a Mortgage bond for the due discharge of all payments which may be due, from time to time, become payable by him to the Governor on account of the work of the said warehouse.

Now this Indenture Witness that in compliance with a Condition No. 2 said consideration the said licence to run the said warehouse at... the Mortgagee hereby covenants with the Governor, to pay to the Government such payments as may be due from time to time become payable in connection with the work of the said warehouse the days that due payments shall fall due and in full compliance with Conditions No. 2 and for the same consideration asforesaid the Mortgagee as full proprietor hereby grants, conveys, and assigns, all these hereditaments and premises... and more particularly described and specified in the Schedule hereto attached and delineated on the plan hereto annexed and thereon coloured... together with the stock of spirit, apparatus and utensils employed in the storage of liquors now or hereafter from time to time be brought on in the said premises, together with all easements, rights, and things appurtenant or reputed appurtenant to the said premises, of all the estates, right, title, claim and demand whatsoever of the Mortgagee and upon the said premises and the said stock of Liquor, apparatus and utensils and every part thereof, to be the same into the use of the Governor his successors in office and assigns in full and entire possession for ever subject to the proviso for redemption hereinafter contained, and the Mortgagee for himself, his heirs, legal representatives and assigns, hereby covenants with the Governor his successors in office, and assigns, that the said Mortgagee now has good right, grant the hereditaments, and premises and stock of liquor, apparatus, and utensils hereafter granted or expressed to be unto and to the use of the Governor, his successors in office and assigns in manner aforesaid and that free from encumbrances.

And that whatsoever in exercise of the powers hereinafter reserved to the Governor his successors, in office and assigns, sale shall be made of the said premises, stock of liquor, apparatus, and utensils hereby granted or expressed so to be or at any part then...
Rajasthan Excise Act

Governor his successors in office and assigns, and any other person or persons whose the same, their heirs, legal representatives and assigns shall pay at all times and from time to time any lawful or unlawful, or any person or persons shall pay at all times to forthwith possess and enjoy the same and receive the rents and profits thereof so far any lawful eviction, interruption, claim or demand whatsoever from or by the mortgagee or any person rightfully claiming from under or in trust for him and that free of all encumbrances:

And further that the Mortgagee and all other persons having or lawfully or equitably having or any estate or interest in the said hereditaments, and premises, stock of liquor, apparatus, and utensils any part thereof shall from time to time and at all times thereafter, is or their own cost, during the continuance of this security and afterwards at the request of any person or persons requiring the same, do and execute or cause to be done executed all such acts, deeds and things for further and more perfectly assuring the hereditaments and premises, unto and to the use of the Governor, his successors office, assignees and other persons aforesaid in manner aforesaid, as shall or may be necessary required and it is hereby agreed that if the Mortgagor shall, during the continuance of the said licence, make to the Governor, all such payments, in respect of working of the said warehouse, as may be or from time to time become payable by the Mortgagor to the Governor, shall on the determination of the said licence but subject to proviso hereinafter contained at the request and cost of the Mortgagor, his heirs, legal representatives convey and reassing the said hereditaments and premises, stock of liquor, apparatus and utensils hereby granted unto the Mortgagor, his heirs, legal representatives, as he or they shall and in the due payments aforesaid, the Mortgagor shall continue in possession and receipt of the rents and profits of the said hereditaments and premises and the stock of spirit apparatus, and utensils therein. And hereby agreed and declared and the true intent and meaning of the parties hereto at if default shall be made by the Mortgagor, in the due payments aforesaid or any sum, then and in such case and immediately thereafter or at any time, thereafter from time to time as occasion shall require. It shall be lawful for the Governor his successors in office or assigns or his or their officers or servants, duly authorised in behalf, and notwithstanding the dissent or opposition of the Mortgagor, his heirs, legal representatives, to enter into and upon and (whether in or out of possession) take and possess absolutely dispose of the said hereditaments and premises, a stock of spirit apparatus and utensils hereby granted or expressed so to be or any part thereof at public auction or private contract and for such price or prices as to the Governor, successors in office, assignees shall appear reasonable with liberty to buy, the same in part thereof for and for effectuating any such sale it shall be lawful for the Governor, assignees in office, or assigns to do, make and enter into all necessary acts, deeds, conveyances and assurances whatsoever, AND it is further declared by the between parties hereto that acts, deeds, conveyances, and assurances done, made or executed, or by virtue of these presents, shall be goods, valid and effectual and whether Mortgagor, his heirs or legal representatives, shall or shall not join herein or assent to and shall bind the Mortgagor, his heirs or legal representatives, and all other ons claiming under him or them AND it is hereby further agreed and declared that

The power of sale hereinbefore contained shall and may be exercised and that all things to be done in pursuance thereof shall be good, valid and binding notwithstanding that no decree or any court of law or equity for barring for or closing the equity of redemption of the mortgagee, his heirs or legal representatives, shall have been previously obtained but his power of sale is given in addition to the ordinary remedies of foreclosure AND that the receipts in writing of the Excise Commissioner for the time being for all moneys to be raised by any such sales shall be good and sufficient discharge to the persons paying the same and shall exonerate such persons from all responsibility in respect of any act, omission or neglect or any breach of the condition hereinbefore, shall be discovered after conveyance and assignment.

Provided always that the reconveyance at any time of the said premises hereby granted or expressed so to be shall not be deemed to affect the right of the Governor to take proceeding against the Mortgagor in case any breach of the conditions hereinbefore, shall be discovered after conveyance and assignment.

IN WITNESS whereof the parties to these presents have hereunto set their hand on the dates hereinafter mentioned respectively.

Signed and delivered by the said.......On the day of......in presence of Witnesses:-

1
2

Signed by......The District Excise Officer.......for and on behalf of the Governor of Rajasthan this........day of......20...

FORM B.W.I.4

General Register

(To be maintained by the Officer-in-charge of the bonded warehouse and to be written and brought up to date annually in June)

PART I

Building

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Detailed description of building</th>
<th>Purpose for which used</th>
<th>Condition</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### PART-II

**Machinery**

<table>
<thead>
<tr>
<th>Description of Machinery</th>
<th>Purpose for which installed</th>
<th>Location</th>
<th>Condition</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
</tbody>
</table>

### PART-III

**Locks**

<table>
<thead>
<tr>
<th>Lock No</th>
<th>When and by whom received</th>
<th>When taken into use</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

### PART-IV

**Instruments**

<table>
<thead>
<tr>
<th>Kind of Instrument</th>
<th>When and by whom received</th>
<th>No. of instrument if any</th>
<th>When taken into use</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How disposed of</th>
<th>In case of breakage responsibility</th>
<th>Signature of receiving</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
</tr>
</tbody>
</table>

### PART-V

**Conditions & Restrictions on Entry of Bonded Ware House**

<table>
<thead>
<tr>
<th>General No.</th>
<th>Description of article</th>
<th>When and by whom received</th>
<th>Condition at the time of receipt</th>
<th>Under the use of</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>By whom taken</th>
<th>How disposed of</th>
<th>Signature of the receiving official</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
</tr>
</tbody>
</table>

### PART-VI

**Lock Ticket Books**

<table>
<thead>
<tr>
<th>Number in hand</th>
<th>Number received and source of receipt</th>
<th>Date of Receipt</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Used books</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>6</td>
</tr>
</tbody>
</table>
**FORM B.W.H. 5**

Table Book spirit Vat

(To be maintained by every Officer-in-charge of a warehouse)

**SPIRIT VAT No.**

<table>
<thead>
<tr>
<th></th>
<th>Table of dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>no.</td>
<td>Area in millimeters</td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

**TABLE**

<table>
<thead>
<tr>
<th>Date</th>
<th>Bottles of 750</th>
<th>Bottles of 600</th>
<th>Bottles of 500</th>
<th>Bottles of 375</th>
<th>Bottles of 300</th>
<th>Bottles of 250</th>
<th>Bottles of 180</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
</tr>
<tr>
<td></td>
<td>of 750</td>
<td>of 600</td>
<td>of 500</td>
<td>of 375</td>
<td>of 300</td>
<td>of 250</td>
<td>of 180</td>
</tr>
<tr>
<td></td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
</tr>
</tbody>
</table>

**FORM B.W.H. 6**

List of Persons employed in the Bonded warehouse

(To be maintained by every Officer-in-charge)

<table>
<thead>
<tr>
<th>serial No.</th>
<th>Name of Person</th>
<th>Father’s Name</th>
<th>Residence</th>
<th>Capacity in which employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

**ANNOUNCEMENT**

<table>
<thead>
<tr>
<th>commencement employment</th>
<th>Termination of employment</th>
<th>Reason of termination</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
</tr>
</tbody>
</table>

**FORM B.W.H. 7**

Licensee’s Stock Register

(To be maintained by the Licensee to be available all times for inspection by the Officer-in-charge of the warehouse and by any Inspection Officer)

**STOCK OF EMPTY BOTTLES**

<table>
<thead>
<tr>
<th>Date</th>
<th>Bottles of 750</th>
<th>Bottles of 600</th>
<th>Bottles of 500</th>
<th>Bottles of 375</th>
<th>Bottles of 300</th>
<th>Bottles of 250</th>
<th>Bottles of 180</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
<td>capacities</td>
</tr>
<tr>
<td></td>
<td>of 750</td>
<td>of 600</td>
<td>of 500</td>
<td>of 375</td>
<td>of 300</td>
<td>of 250</td>
<td>of 180</td>
</tr>
<tr>
<td></td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
<td>Milliliters</td>
</tr>
</tbody>
</table>

**FORM B.W.H. 8**

Register of Receipt and disposal of spirit received in bond from the distilleries in the bonded Warehouse

At

<table>
<thead>
<tr>
<th>Pass under which received</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of the Distillery from which received</th>
<th>No of pass</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>
Rajasthan Excise Act  

| Forms |

spirit entered in the kind of spirit

<table>
<thead>
<tr>
<th>Bulk</th>
<th>Liqueurs</th>
<th>Strength</th>
<th>Proof Liqueurs</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
</tr>
</tbody>
</table>

Quantity of Spirit as ascertained by measurement

<table>
<thead>
<tr>
<th>Strength</th>
<th>Proof Liqueurs</th>
<th>Wastrast in Transit (proof litres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>11</td>
<td>12</td>
</tr>
</tbody>
</table>

of spirit passed to store

<table>
<thead>
<tr>
<th>Remarks</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Strength</th>
<th>Proof Liqueurs</th>
<th>Balance in hand proof litres how disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>15</td>
<td>16</td>
</tr>
</tbody>
</table>

प्राप्ति विष. 6

राजस्थान सरकार
विदेशी शराब के आयात/विभाग/परिवहन के लिए अनुमति-पता

का ( ) का नाम, पता और अनुमति-पता सं...

देखी ( ) का नाम, पता और अनुमति-पता सं...

देखा का विवरण..........

की कब्ज़ा शक्ति दफ्तर शुल्क अनुमति अभिवृद्धि म

<table>
<thead>
<tr>
<th>म</th>
<th>निदर्शन</th>
<th>शुल्क</th>
<th>अनुमति</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
</tbody>
</table>

ब्रांड का संक्षेप

का आयात/विभाग/पता..........................

ब्रांड का विवरण..........................

प्राप्ति ( ) दफ्तर में निर्माण किया गया...

ब्रांड का नाम संक्षेप..................

प्रति 250 कि. एम. अतिरिक्त शुल्क प्राप्ति की शर्त

प्राप्ति के हस्तांतर व अभिवृद्धि दफ्तर

प्राप्ति के हस्तांतर व अभिवृद्धि दफ्तर
dिवान...

1. निदेश आयातकारी/अधिकारी (पत्र दूर) ............. नाय सरकार का अधिकारी डटित करने से भरी जाती है
Procedure & Conditions for

REGISTRATION OF CONTRACTORS

[Notification under Rule 63 of the Rajasthan Excise Rules, 1956]

[1] LATEST NOTIFICATION

1. Those person(s) already registered with the Excise Department on the date of this notification, shall be deemed to have been registered under this Notification.
2. The person(s) applying for registration should be otherwise eligible to be a contractor under Rajasthan Excise Act, 1950 and rules made thereunder.
3. The Excise Commissioner, Rajasthan, Udaipur shall be competent authority to grant registration.
4. Eligible person/association of persons/firm/company/HUF etc. seeking registration shall apply to the competent authority in the Form as specified by the Excise Commissioner.
5. The competent authority after such enquiry, as is deemed necessary, may grant the registration in the from as specified by him.
6. Registration granted under this notification shall remain in force until the registered person/association of persons/firm/company/HUF etc. do not become defaulter of excise revenue or black listed or licence granted is suspended or cancelled under the provisions of Rajasthan Excise Act, 1950 and rules made thereunder.

[No. 4(12)FD/Ex/2001 part II]

Now Superseded by above
S.O. 345—Under sub rule (5) of Rule 63 of the Rajasthan Excise Rules, 1956 the State Government hereby prescribed the following procedure and conditions for registration of contractors in the Excise Department—

Registration of Contractors
1. It shall be necessary for a person/firm/Company/HUF etc., to get itself registered as a Contractor with the State Excise Department to become eligible for taking part in the
tenders/auctions of shop or group of shops of excisable articles.

2. The Competent Authority for registration shall be the Excise Commissioner, Rajasthan, Udaipur.

3. The Applicant shall be: in case of—
   (i) an individual, the person himself;
   (ii) a HUF, the Karta;
   (iii) a firm, any of the partners;
   (iv) a company, the Managing/Executive Director, and
   (v) others, one of the constituents having major share.

4. For registration, application in the prescribed form (Appendix ‘A’) shall be submitted to the Competent Authority by the notified date. The Competent Authority may accept application for registration after the notified date.

5. The application shall be accompanied by—
   (a) Solvency Certificate in the prescribed form (Appendix ‘B’). This certificate should not be more than 15 days old on the date of application.
   (b) A spare copy of passport size photograph of the applicant, with his signature affixed thereto, duly attested by the Executive Magistrate/District Excise Officer of the area/district to which the applicant belongs.
   (c) Challan or Bank Draft of the prescribed amount of registration fee.
   (d) No dues certificate of the State Excise Department if the applicant has been or is a licensee of the Department in Rajasthan.
   (e) No dues certificate in respect of sales tax, if the applicant is registered with the Commercial Taxes Department of Rajasthan.
   (f) Copy of the latest Income Tax Assessment Order, if the applicant is an income tax assessee.

6. Following registration fee shall be deposited in cash in the Bank or a Bank draft drawn in favour of the Excise Commissioner, Rajasthan, Udaipur shall be attached with the application. The Registration Fee shall not be refundable.

<table>
<thead>
<tr>
<th>Category of Contractors</th>
<th>Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractors for country liquor, IMFL &amp; Beer</td>
<td>2,00,000</td>
</tr>
<tr>
<td>Contractors for LPH &amp; Bhang and other excisable Articles</td>
<td>3,00,000</td>
</tr>
</tbody>
</table>

7. The Competent Authority after making or causing to be made enquiries as deems fit to satisfy himself about the information contained in the application and the adjudge suitability of the applicant, may grant registration to the applicant in the prescribed form.

8. Validity—The registration certificate will be valid for 2 years.

9. Provisional Registration—If the Competent Authority is of the opinion that same case or cases the enquiries envisaged under clause 7 are likely to take much time whereby an applicant may be deprived of taking part in the tender/auction, he may grant provisional registration certificate in such cases valid for 3 months provided the applicant is prima facie found suitable and has not incurred any of the disqualifications. An applicant, however, shall be required to obtain a registration under clause 7 prior to finalisation of a contract, if any, with the Excise Department.

10. Renewal of Registration—The registration certificate may be renewed each time for a further period of 2 years. The application for renewal of registration shall be in the prescribed form and all the provisions of initial registration shall mutatis mutandis be applicable. Renewal fees however, shall be equivalent to [R(xx)] of the amount c Registration fee prescribed in clause 6 and shall be non-refundable.

11. Furnishing of Solvency with Bids/Tenders—The registered contractors shall be required to furnish solvency of amount not less than 5% of the reserve price of the contract with the bids/tenders. One or more registered contractors shall however be eligible to participate jointly in tender/auction and their solvency amount out of the tender shall be considered against the required 5% of the reserve price of the Contract.

General Conditions

12. The applicant should not have been convicted under the provisions of Rajasthan Excise Rules and prosecution under the Excise Rules should not be pending against him.

13. Registration of contractor may be cancelled by the Competent Authority, if it is found that the Registration Certificate has been obtained by fraud or by furnishing false information by the applicant. In addition to cancellation of registration he will also be liable to Criminal Prosecution.

14. The competent authority shall be empowered to cancel registration of the contractor in case he violates any provisions of Excise Act/Rules made thereunder.

15. If the applicant is blacklisted under Rajasthan Excise Act/Rules he will not be eligible for registration.

16. In the matters of dispute decision of the Competent Authority shall be final.

The above procedure and conditions will come into force with immediate effect.

APPENDIX ‘A’

GOVERNMENT OF RAJASTHAN
STATE EXCISE DEPARTMENT

APPLICATION FORM FOR REGISTRATION OF CONTRACTOR

(To be submitted to the Excise Commissioner, Udaipur)

1. Name of Applicant
2. Name of Father/Husband
3. Name of the Firm/Company, if any, represented by the Applicant
4. [Passport/Driving Licence/Any other identity card]
5. Permanent Residential Address of the applicant
6. House No. Colony Village City District State
7. Enclose certificate of Bonafide Residence from Judicial/Executive Magistrate


1. Substituted while S.O. 858 dated 10-2-95 Published in Raj. Gaz. EO-4(GA) I dated 14-2-95, Page 441
Appendix I  Procedure & Conditions for Registration of Contractors  

DECLARATION

I, __________________________________, do hereby solemnly declare that the above information is true to the best of my knowledge and belief.

Signature

(APPLICANT OR AUTHORIZED REPRESENTATIVE OF THE FIRM/COMPANY)

APPENDIX - "B"

SOLVENCY CERTIFICATE FOR TENDERER/BIDDER AND GUARANTOR

(To be furnished to Rajasthan State Excise Dept.)

PART-I

1. Name: ____________________________

2. Father's Name: ___________________


4. Occupation: ______________________

AFFIDAVIT

(On Rs. 5/- Non-Judicial Stamp Paper)

1. I, __________________________________, do hereby solemnly declare that the above information is true to the best of my knowledge and belief.

Signature

(APPLICANT/FIRM/COMPANY)

Note: If any other person signs the application on behalf of the applicant, he should be so by a valid power of attorney and a certified copy of such power should be enclosed.

Substituted vide S.O. 208 dated 10-2-95.
3. In support of the contents of para 2, certified copies of the documents (e.g., latest available Jamabandi, Title deeds, etc.) mentioned below are also enclosed:

(i) .................................................................
(ii) .................................................................
(iii) .................................................................

Face: .................................................................
Signed: .................................................................

VERIFICATION

I, ................................................................., So ................................................................., Age ................................................................., Occupation .................................................................,

Jo. ................................................................., Village/Town ................................................................., Tel. ................................................................., Police Station ................................................................., Dist. ................................................................., hereby do hereby verify that the contents of para No. 1 to para No. 3 are correct and true to the best of my knowledge and are based on documents. Nothing is false and nothing has been concealed. So help me God.

Face: .................................................................
Signed: .................................................................

So solemnly sworn and affirmed before me this day of ................................................................., 199 ................................................................. by

Jo. ................................................................., So ................................................................., identified by Shri .................................................................,

Jo. ................................................................., explained to the deponent who having understood the same as put his Signature/Thumb impression in my presence at .................................................................:

Judicial Magistrate/Executive Magistrate
Full Name: .................................................................
Seal: .................................................................

PART-II

I certify that after due enquiry I find that Shri ................................................................., R/O ................................................................., Tel ................................................................., Police Station ................................................................., District ................................................................., is solvent to the extent of Rs. ................................................................. (in figures) ................................................................. (in words) Rs. ................................................................., and the details of properties furnished by him are correct. The approximate market value of immovable properties based on the enclosed title deeds, etc., and current market value relating thereto, mentioned is Rs. .................................................................

Tel ................................................................., Tax Assistant/Revenue Officer
Full Name .................................................................
Seal: .................................................................

Countersigned by

Additional Collector/Sub-divisional Officer

Face: .................................................................
Signed: .................................................................
"The Rajasthan Excise (Grant of Restaurant, Bar Licences) Rules, 2004"

G.S.R. 51.- In exercise of the powers conferred by section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government is hereby pleased to make the following rules with reference to provide for the said section previous publication of these rules be dispensed with as the State Government considers the said rule be brought into force at once, namely:

1. Short title and commencement.—(1) These rules may be called the Rajasthan Excise (Grant of Restaurant, Bar Licences) Rules, 2004.

(2) They shall come into force with immediate effect.

2. Definitions.—In these rules, unless the context otherwise requires—

(a) 'Restaurant Bar Licence' means a retail on licence for the sale of beer (including ale, stout, porter, wine and other alcoholic beverages) ready to drink (R.T.D.) for consumption on the premises being the restaurant.

(b) The words and expressions defined in the Rajasthan Excise Act, 1950 and Rajasthan Excise Rules, 1956 and not defined in these rules shall have the meaning as assigned in the Rajasthan Excise Act, 1950 and Rajasthan Excise Rules, 1956, as the case may be.

3. Eligibility and procedure for grant of licence.—(1) Only the following shall be eligible to be appointed as the Manager of a restaurant:

(a) A restaurant owner shall be eligible to be appointed as the manager of a restaurant on his own application;

(b) A restaurant owner shall be eligible to be appointed as the manager of a restaurant in the following order of preference:-

(i) The person who is the registered owner of the restaurant which is the subject of the application for the grant of a licence;

(ii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(iii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(iv) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(v) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(vi) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(vii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(viii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(ix) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(x) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xi) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xiii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xiv) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xv) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xvi) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xvii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xviii) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xix) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(xx) The person who is the registered owner of a restaurant which is the subject of the application for the grant of a licence;

(2) Every application for the grant of a licence shall be accompanied by a sum of Rs. 5000/- and an amount equal to the following amount of initial fee which shall be payable under rule 69 (1) of the Rajasthan Excise Rules, 1956:

<table>
<thead>
<tr>
<th>No.</th>
<th>Place where restaurant is situated</th>
<th>Initial Fee (Rs. in lac)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Restaurant situated in and within 5 Kms of municipal or urban agglomeration Limit, Which ever is further of:</td>
<td></td>
</tr>
<tr>
<td>a)</td>
<td>Jaipur and Jodhpur</td>
<td>2.00</td>
</tr>
<tr>
<td>b)</td>
<td>Other Divisional Headquarters, Mt. Abu and Jaipur</td>
<td>1.67</td>
</tr>
<tr>
<td>c)</td>
<td>Other District Headquarters</td>
<td>1.24</td>
</tr>
<tr>
<td>d)</td>
<td>Other Municipalities and Ht. Wadi (District Alwar)</td>
<td>1.00</td>
</tr>
</tbody>
</table>

2. Other places not covered by S.No.1 | 0.50 |

4. Deposition of minimum licence fee and grant of licence.—(1) As soon as the applicant receives the sanction letter from the Gamuty, he shall within 15 days, deposit into the Treasury the minimum licence fee prescribed in rule 69 (1) of the Rajasthan Excise Rules, 1956.

(2) The District Excise Officer, after satisfying himself that the minimum licence fee has been deposited into the Treasury shall issue the licence in the form of a grant of a licence under the Act 1950, providing the details of the premises where the beer, R.T.D. and Wine are to be sold and the counter where it is to be sold and submit his report to the District Excise Commissioner, who will issue the licence accordingly.

5. Cancellation of sanction/Licence.—A sanction for grant of licence or the licence issued under these rules shall be liable to be cancelled:

(i) If the amount of minimum licence fee is not deposited within 15 days from the date of receipt of information of sanction of licence.

(ii) If any of the provisions of Rajasthan Excise Act, 1950, Rajasthan Excise Rules, 1956 are not complied with.

(iii) For any breach of conditions of the licence.

(iv) If it is found that the licence has been obtained by fraud or misrepresentation of facts.

5. Renewal of licence.—A licence granted under these rules shall expire on 31st day of March every year. A person seeking renewal of a licence granted to him shall apply in accordance with Rule 72-A of the Rajasthan Excise Rules and shall be...
Rajasthan Excise Act

accompanying a treasury receipt showing the payment of renewal fee equivalent to initial prescribed in rule 3 (5) of these rules, and the minimum licence fee payable under rule (1) of the Rajasthan Excise Rules, 1956.

9. Rules to have overriding effect.— In case there is any conflict between the visions of these rules and the Rajasthan Excise Rules, 1956, the former shall prevail.

[Rule 3 (5)]

The Excise Commissioner,
Rajasthan, Udaipur

Through: The District Excise Officer,

1. I/we..........son of.......... residing at........District........request that I/we may be granted Restaurant Bar Licence for the retail sale of beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) liquor and wine for consumption on the premises of our restaurant situated at........for the year ending 31st March........

2. I/we have deposited a sum of Rs..........towards the process fee and initial fee for the above licence in Treasury........vide challan........No........dated........(enclosed herewith).

3. I/we agree to abide the provisions of the Rajasthan Excise Act, 1950 and Rules framed thereunder.

4. I/we declare that I/we do not suffer from any of the disqualification prescribed by the Rajasthan Excise/grant of Restaurant Bar Licences Rules, 2004 which may render me/us ineligible to hold the licence applied for.

5. I/we declare that to the best of my/our knowledge and belief the information furnished herein is true and complete.

Place:
Date:

Signature(s) of the applicant(s)

[Form B]
[Rule 4 (2)]

Licence for the Retail Sale of Beer, ready to drink (R.T.D.) Liquor and Wine at Restaurant

I/n the name No.

Licence for retail sale of beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) liquor and wine is hereby granted to........for his Restaurant situated at........during the year ending March 31........on payment of initial fee of Rs. (in words........) prescribed under sub-rule (3) of Rule 3 Rajasthan Excise, (Grant of Restaurant Bar Licences) Rules, 2004 and minimum fee of........(in words........) prescribed under rule 69 (1) of the Rajasthan Excise Rules, 1956 subject to the following special conditions and such other conditions as may be prescribed in

Procedure & Conditions for Registration of Contractors

this behalf from time to time by the Excise Commissioner and the provisions of the Rajasthan Excise Act, 1950 and the rules framed thereunder.

Special Conditions

1. The licensee shall, in addition to initial fee, pay licence fee at the rate prescribed in Rule 69 (1) of the Rajasthan Excise Rules, 1956 subject to the minimum fee of Rs. .......... (in words........) per year or a part thereof.

2. If at any time the fee assessed exceed the minimum fee paid such excess shall be paid by the licensee before he obtains for sale Beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) liquor and wine from the person authorized to make such a sale to him. Provided that with the prior permission of the Excise Commissioner, the licensee can also import into Rajasthan beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) liquor and wine bottled in other countries from outside Rajasthan. Licence shall be allowed to sell draft beer from the breweries on such terms and conditions as Excise Commissioner may specify.

3. Sale of Beer other than strong beer, R.T.D. Liquor and Wine shall be made only at the licensed premises of the Restaurant. These varieties of liquor shall be served to the consumer only in the room earmarked for the purpose of dining or such other places in the Restaurant as may be approved by the Excise Commissioner.

4. No sales shall be made on dry days.

5. No sales shall be made after zero hours in the night.

6. No sales shall be made to a visitor below the 18 years of age.

7. Licensee shall have to keep his 'store' where he intends to store beer, R.T.D. liquor and wine approved by the District Excise Officer. No liquor shall be stored in a place other than 'store' approved by the District Excise Officer and the dining hall. A true account of beer, R.T.D. liquor and wine stored in the 'store' shall be maintained. Necessary entries in the stock register would be made on arrival of fresh stock or while removing a part of it to 'dining hall' for the purpose of sale.

8. A true and detailed account of the balance of stock on 1st April of every year and the quantity purchased after that through permits till the date of application of every transport permit along with the amount deposited for fresh intended purchase shall be submitted to the District Excise Officer concerned along with application of every permit for transport.

9. In case of default or infringement by the licensee or his servant of any condition of this licence or of any provisions of the Rajasthan Excise Act, 1950, or the provisions of the N.D.P.S. Act, 1985 or Rules framed thereunder or any order passed by the Excise Commissioner it shall be in the competence of the Excise Commissioner to cancel this licence and to forfeit the initial fee and the licence fee.
Rajasthan Excise Act

10. The licensee shall be under obligation to provide all necessary information and cooperation to the officials of Excise Department visiting the restaurant during the course of official duty.

11. The licensee shall provide neat and clean seating arrangement.

12. The Restaurant must be attached with well-equipped sanitary facilities and separate toilets for men and women in running water.

13. Any dispute arising out of this licence or with regard to any term and condition of this licence shall be subject to the jurisdiction Udaipur only.

Date of Issue: ________________________

Excise Commissioner
Rajasthan Udaipur

Licence No. ………………….. (Licence No. ………………….. of Restaurant ………………….. ).

Place: …………………..

I, ………………….. (Name of licensee), …………………….. (Name of licensee), hereby accept and undertake the terms and conditions.

Signature of licensee
sons have assembled at such place for the purposes of smoking opium or of preparing
um for smoking purposes.

6. Penalties for opium smoking, etc. - Whoever—

(a) smokes opium;

(b) gathers, keeps or possesses appliances, pipes, apparatus or instruments
for the purpose of smoking of opium or of preparing opium for smoking purposes,
will be punished with imprisonment for a term which may extend to six months
with fine which may extend to one thousand rupees or with both.

7. Penalty for being member of opium smoking assembly. - Whoever is
member of an opium smoking assembly shall be punished with imprisonment for
term which may extend to six months, or with fine which may extend to one thousand
rupees or with both.

8. Penalty for opening, keeping or having charge of place used for such
assembly.— Whoever opens, keeps or uses any place or permits any place to be opened,
kept or used, for the purposes of an opium smoking assembly or has the care or
management of or in any way assists in conducting the business of any place used
kept for the purposes aforesaid shall be punished with imprisonment for a term
which may extend to six months, or with fine which may extend to one thousand
rupees, or with both.

9. Penalty when owner fails to give notice of use of place for such
assembly.— Whoever being the owner of any place and knowing or having reason
believe that such place whether in his actual occupation or otherwise, is being
used to be used for the purposes of an opium smoking assembly fails, either
himself or through his agent or manager, to give the earliest possible notice of
such seductive or belief to the Collector or the officer in charge of the nearest police
tion or to an Excise Officer shall be punished with a fine which may extend to
hundred rupees.

10. Enhancement of punishment on second conviction.— Whoever having
in previously convicted of an offence under this Act is again convicted of an offence
der this Act shall be liable on such subsequent conviction to twice the punishment
ich might be imposed on a first conviction for such offence.

11. Search warrants and powers to search. — If a District Magistrate, a
Divisional Magistrate or a Magistrate of the First Class upon information received
after such inquiry (if any) as he considers necessary, has reason to believe that
place is being used or is likely to be, used for the purposes of an opium smoking
assembly he may issue a warrant to an officer of the Excise Department not below
rank of an Inspector, authorising him (a) to enter such place by day or night
th any persons whose assistance such officer may consider necessary; (b) to search
parts of such place in which such officer has reason to believe that any opium
any appliances or apparatus for the preparation of opium or for opium smoking
are concealed and all or any persons whom he may find in such place; (c) to arrest
all persons whom such officer may find in such place, whether they are actually
engaged in smoking opium or not; (d) to seize all opium and, apparatus, instruments
and appliances for opium smoking or for the preparation of opium which may be
found in such place.

12. Application of the Code of Criminal Procedure, 1898 to warrants and
searches.— The provisions of the Code of Criminal Procedure, 1898 of the Central
Legislature shall apply to the execution of warrants and to searches made
under section 11.

13. Bail and security.— When any person arrested under this Act is prepared
to furnish bail he shall be released on bail or at the discretion of the officer making
the arrest on his own bond.

14. Aid to Excise Officers.— Every officer of the Police and Land Revenue
Departments shall be bound to give reasonable aid to any Excise Officer in carrying
out the provisions of this Act upon notice given and request made.

15. Report to be made in case of arrest or seizure. — Whenever any
officer makes any arrest or seizure under this Act he shall without delay and in any
case within forty eight hours forward every person arrested and everything seized
with a full report of all particulars of the arrest or seizure to the Magistrate by whom
the warrant was issued.

16. Confiscation and destruction of opium.— On the conviction of any
person for an offence under this Act the Court may order that any opium or any
instrument, apparatus or appliance in respect of, or by means of which such offence
has been committed, or any receptacle, package or covering in which such opium,
instrument, apparatus or appliance was found, and any other contents of such receptacle,
package or covering, shall be confiscated or destroyed.

17. Offences to be triable by the First Class Magistrate only.— No Magistrate
other than a Magistrate of the First Class, shall try any offence punishable under this
Act.

18. Bar of certain suits.— No suit shall lie in any Civil Court against the
[State Government] or any Collector or Excise officer for damages for any act in good
faith done or ordered to be done in pursuance of this Act.

19. Power to make Rules.— (1) The [State Government] may make rules
to carry out objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power,
such rules may

(a) regulate the disposal of things confiscated under this Act, and

(b) prescribe and regulate the payment of rewards out of fines imposed under
this Act.

1. Omitted by Rajasthan Act No. 27 of 1957.
2. Substituted by Rajasthan Act No. 27 of 1957.
20. Tender of pardon to accused persons turning approver.—(1) Whenever one or more persons are prosecuted for any offence under this Act, the Magistrate, if for reasons to be recorded by him, he thinks fit, tender to any accused a loan on condition of his making a full and true disclosure of all facts connected with the offences.

(2) Such accused person, shall, on accepting the tender, be a competent witness in the case and shall not be liable to punishment so long as the pardon remains in force.

21. [(x x x)]

THE RAJASTHAN OPIUM SMOKING PROHIBITION RULES, 1957


As amended by the following:

In exercise of the powers conferred by section 19 of the Rajasthan Smuggling Act, 1950 (Act No. VII of 1950), the Government of Rajasthan makes the following rules, namely:

I. INTRODUCTORY

1. (1) These Rules may be called the Rajasthan Opium Smoking Prohibition Rules, 1957.

(2) They shall come into force at once.

2. In these rules the words "the Act" shall mean the Rajasthan Opium Smoking Prohibition Act, 1950.

II. DISPOSAL OF THINGS CONFISCATED

3. Upon confiscation under section 16 of the Act, the court may order that any x x x opium or any instrument or apparatus or any receptacle packs or covering confiscated shall be made over to the District Excise Officer or Assistant Commissioner, Excise after the period of appeal has expired or if an appeal has been preferred to the knowledge of the court, against the order of confiscation, then until the appeal is disposed of:

Provided that if any article is of perishable nature, it may be disposed of immediately and the court or the said Excise Officer, as the case may be, by giving reasons in writing for such disposal and the sale proceeds shall be credited to the Government treasury as deposit till the period of appeal expires or until the appeal is disposed of as the case may be.

Omitted by Rajasthan Act No. 27 of 1957.

Explanation. - Perishable articles are those in respect of which arrangement cannot be made to keep them in the same condition as they were at the time of seizure, till the time of final decision or proper arrangement cannot be made for their safe custody.

4. Articles received from the Magistrate under rule 3, shall be in the following manner:

(1) Sum other than prepared opium shall be disposed of in accordance with the provisions of the Rajasthan Opium (Disposal of Confiscated) Rules, 1956:

(2) Any prepared opium and smoking apparatus shall be destroyed by the Assistant Commissioner, Excise so as to make them totally unfit for use.

[(x x x)]

6. Disposal of articles in cases not covered by the above rules shall be in such manner as the Excise Commissioner, Rajasthan, may be general or special order, direct.

7. All sale proceeds shall be credited to Government treasury under proper such as Excise Revenue immediately after the sale under these rules.

III. REWARDS

8. (a) On final decision of a case resulting in a conviction or pardon under section 20 of the Act, the Deputy Commissioner, Excise of the Division concerned may grant reward on the recommendation of the Assistant Commissioner, Excise of the District up to Rs. 100 in each case to all such persons who have contributed in any way leading to the detection of the case or conviction of the accused person or persons.

(b) If the Deputy Commissioner, Excise considers that in any particular case the amount of Rs. 100 is not sufficient, he may with the previous sanction of the Excise Commissioner, Rajasthan and the Administrative Department of the Government grant a larger reward not exceeding Rs. 250 and Rs. 500 respectively in each case.

THE RAJASTHAN PREVENTION OF JUVENILE SMOKING ACT, 1950

(Act No. VI of 1950)

[Made by His Highness the Rajpramukh on the 22nd day of May, 1950]

As amended by the following:

1. Rajasthan Act No. 27 of 1957, w.e.f. 1-9-1957.

An act to prevent Juvenile from smoking tobacco.

WHEREAS it is expedient to make provision for the prevention of smoking
juveniles in [the state of Rajasthan] it is hereby enacted as follows:

1. Short title, extent and commencement. - (1) This Act may be called the
(2) It extends to the whole of the State of Rajasthan.
(3) It shall come into force at once.

2. Definitions. - In this Act, unless there is anything repugnant in the subject
context—
(i) "Tobacco" means tobacco in any form and includes any smoking mixture
used as a substitute for tobacco.
(ii) "Public place" means any place other than residential quarters to which
public for the time being has access whether on payment or otherwise and includes
public street, bazar, lane, bye-lane, railway station, railway carriage and any
vehemence plying on hire.
(iii) [xxx]

3. Penalty for selling tobacco to children.—If any person sells or gives or
endeavors to sell or give to a person who appears to be under the age of sixteen years,
ept on the written order of the parent, guardian or employer of such person, any
acco he shall be liable, on conviction in the case of first offence to a fine not
cending twenty-five rupees, in the case of a second offence to fine not exceeding
rupees, and in the case of third and every subsequent conviction to a fine not
cending one hundred rupees.

4. Seizure of tobacco being smoked by juvenile in public place.—If any
son, apparently under the age of sixteen years, be found smoking or attempting
smoke tobacco in any public place it shall be lawful for any Patel, Lambardar,
cher of a School or College, Member of Municipal Committee, Member of a Village
coy, Legal Practitioner, Registered Medical Practitioner, Member of Parliament
State Legislature or Magistrate to seize such tobacco as may be found in his
ession and destroy it.

5. Summary jurisdiction.—Notwithstanding anything contained in the Code
Criminal Procedure, 1898 of the Central Legislature [x x x] offences under this
may be tried by any Magistrate or Bench of Magistrates in the manner provided
summary trial in that Code.

6. [x x x]
7. [x x x]

PART-IV

Important
NOTIFICATIONS
Under
THE RAJASTHAN EXCISE ACT, 1950,

Editorial Note—CAUTION Please note that—
1. Some relevant notifications have been reproduced in the commentary of section
concerned. Some remaining important notifications are being reproduced here
under section-wise. Please consult the Rajasthan Gazette in case of any doubt.
2. Due to difficulties of frequent amendments, several amendments, notifications
are nottraceable even from Gazette, Rajasthan Law Times, Rajasthan State Current
Statutes etc. Please excuse us and inform the lapses, if any, so that it may
be rectified in the next supplement.

SECTION-9

11) Additional Commissioners appointed as Excise Officers
incharge of areas. (As amended.)

11) अधिकारियों का यह नाम खेत्रों के अधिकारी उपचारियों या क्षेत्रों.
### Section 9

<table>
<thead>
<tr>
<th>No.</th>
<th>Designation of the officers</th>
<th>Area of which the officer shall be incharge</th>
<th>Headquarters</th>
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<tbody>
<tr>
<td>1</td>
<td>District Excise Officer, Udaipur</td>
<td>Revenue District of Udaipur &amp; Rajasmand</td>
<td>Udaipur</td>
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</table>
(c) Delegation of Powers

[S.R. 50.—In exercise of the powers conferred by sub-section (1) of sec. 9 of the Rajasthan Excise Act, 1950, the Government of Rajasthan is pleased to delegate the Excise Officers not below the rank of Inspector with the powers under sections 43, 44 and 47 of the said Act.

[S.R. 50.—In exercising of the powers conferred by sub-sec. (3) of S 9 of the Rajasthan Excise Act, 1950, the Government of Rajasthan is pleased to authorize the Excise Commissioner to delegate the following subordinate officers all or any of his powers under mentioned against them, namely.

1. Deputy Excise Commissioner—
   Section 15, 60, 64 and 67 (1) (b) in so far as the complaint, or report is not for
   offences under sections 60 and 61.

2. Assistant Excise Commissioners—
   Section 15 (Power to grant passes for Import and transport) sections 46(a), 67
   (1)(b) in so far as it relates to provisions other than sections 60 and 61.

3. Excise Inspectors—
   Section 15 (Powers to grant passes for transport)
   (Superseded by Notification dated 26-[20-67])

[S.R. 50.—In exercise of the powers conferred by notification No. F. 49(1), dated 15th May, 1951 under sub-section (3) of section 9 of the Rajasthan Excise Act, 1950, I hereby authorize the Deputy Excise Commissioners to exercise my powers under section 15 in respect of grant of passes for the export of Foreign and Indian made Foreign Liquors.

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1. एक्समेन 348 में,प्रमा 11(65) दिवस /अध्याय /शिक्षा 22-12-98 द्वारा विद्वान—(प्रमाण कार्य) लाभ 4 भंडार 11 में, 2. एक्समेन 289 दिवस 5-11-97—प्रमा 11(61) दिवस /अध्याय /शिक्षा 1-12-97 द्वारा विद्वान—(प्रमाण कार्य) 4 भंडार 11 में,
Assistant Excise Officers my powers under section 46(a), section 47(1)(b) in so far as complaint or report is not for offences under sections 60 and 61 and section 69(3) of the Rajasthan Excise Act, 1950 (Act 11 of 1950), to be exercised within its respective jurisdiction.

SECTION 12

[13] [Section 12. (4) (62) विषय/अर्थ अधिक 31.3.97 राज. राज.-प्रदेश, विशेषांक बारे 4(II) विनिर्देश 11.4.97 पुस्तक 19 प्रकाशयम्]

अधिकूर्त पुस्तक अधिक 31.3.97 राज. राज.-प्रदेश, विशेषांक बारे 4(II) विनिर्देश 11.4.97 पुस्तक 19 प्रकाशयम्]

अधिकूर्त पुस्तक अधिक 31.3.97 राज. राज.-प्रदेश, विशेषांक बारे 4(II) विनिर्देश 11.4.97 पुस्तक 19 प्रकाशयम्]

SECTION 14

[14] [Section 14. (4)(6) विषय/अर्थ अधिक 31.3.97 राज. राज.-प्रदेश, विशेषांक बारे 4(II) विनिर्देश 11.4.97 पुस्तक 19 प्रकाशयम्]

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 1950 (Act 11 of 1950), and in supersession of this Department Notification No. F.1(681) E & T/S9-I, dated 22nd January, 1959 (published in the Rajasthan Gazette, Part IV-C, dated 12th May, 1959) the State Government hereby prescribe

(1) In relation to the following excisable articles, the maximum quantities specified against them are under which may be imported or exported without a pass for personal use throughout the territories of the State of Rajasthan to which the said Act extends

(a) Country liquor 0.75 litres.

(b) (i) foreign liquor (other than Beer, fermented liquor and rectified spirit) 1.50 litres.

(ii) Beer and fermented liquor 4.50 litres.

(c) Bhair 100 gram.

(2) The maximum quantities of all excisable articles which may be transported without a pass for personal use to be those as declared under subsection (1) of section 5 of the said Act at the time of sale by retail.
liquor permits issued by Indian Missions abroad or by the Directors/Assistant
ors in the Government of India Tourist Officers abroad or by Director or Assistant
or of the Government of India Tourist Offices, Bombay, Calcutta, Delhi or Madras.

Note—One unit for the purposes of this notification shall be construed as equal
of the following or the metric equivalents thereof, namely—
(i) One quart bottle of spirit, or
(ii) Two quart bottles of wine, or
(iii) Nine quart bottles of fermented liquors of a strength exceeding two percent
of alcohol by volume, or
(iv) Twenty seven quart bottles of fermented liquors of a strength not exceeding
two per cent of alcohol by volume.

SECTION 17 (d)

[16] Conditions & Restrictions on Establishment or licence of the BONDED
EHOUSE.

[Please see with Rules at S.No.(21).

[17] अधिकारको—राजस्थान भू-राजस्थान अधिनियम 1956 (सं. 1956 का राजस्थान अधिनियम
13 का पारा 260 की उत्तर (1) के प्रभाव (9) द्वारा प्रदत्त तत्वों के प्रभाव के हुए तथा
वाट प्रदत्त विषय में है कि वैसे तो वह अनुच्छेद बोध तथा 
में विनिमय अधिनियमों द्वारा कर्त्तरों तथा उनसे प्रदत्त मामलों का श्रेणी 3 में विनिमय अधिनियमों 
द्वारा प्रदत्त मामलों के भीतर राजस्थान अधिनियम की अधिनियम 1950 (सं. 1950 का राजस्थान अधिनियम
2 के अंतर्गत वातावरणीय अधिनियम से सम्बन्धित तथा वातावरण श्रेणी का अधिनियम कर्त्तरों
सम्बन्धित है) तथा अधिनियम (पाणिक नागरिक सहित हार्ड अधिनियमों के अधिनियम कर्त्तरों
के संबंध में विनिमय है।

अनुसूची

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   E.O. Part 4 (Ga) II dated 24-4-2001.
SECTION-28
Notifications Imposing Excise Duty

Introdutory Note
There are three sets of Notifications out of which two are not in force:

I. S.O. 252, dated 30-3-1977
   [Superseded by S.O. 232 dated 9-12-96]
II. S.O. 232 dated 9-12-96
    [Superseded by S.O. 15 dated 31-3-97]
III. S.O. 15 dated 31-3-97 (in force)
    [Please refer to commentary of section 28, supra for details along with latest text of this notification]

Note: Notifications sets I & II are being reproduced hereunder alongwith some pertinent notifications for reference.

Notification-set I
[Superseded by S.O. 232 dated 9-12-96]


In exercise of the powers conferred by S.28 of the Rajasthan Excise Act, 1950 (at 1950), and in supersession of notification Nos. F.3 (15) F/D/Ex/74, dated 21-11-1974 129-1-1995, the State Government hereby imposes excise duty on the following excisable liquids manufactured in Rajasthan under any licence granted under the aforesaid Act rules made thereunder or in any distillery, pot still or brewery established or licensed under the aforesaid Act or rules made thereunder and countervalues duly on such excisable liquids imported into the State at the rate specified below:

1. Excise Duty
   (A) When exported out of the State
      (i) Indian made foreign liquor except denatured spirit and denatured spirituous preparations:
         \[Rs.5.60 per L.P. L.tre.\]
         Re. 0.03 per litre
      (ii) Denatured Spirit
          Re. 0.25 per litre
      (iii) Denatured Spirituous preparations prepared from spirit, distilled in the same distillery:
          Re. 0.65 per litre
      (iv) Denatured Spirituous preparations not covered by (iii):
          Re. 0.65 per litre

   (B) When consumed in the State
      (i) Indian made foreign spirit including liquors and fermented liquors except denatured spirit and denatured spirituous preparations:
         \[Rs.10.00 per L.P. L.tre.\]
         \[Rs.25.00 per L.P. L.tre.\]
      (ii) Indian made Rum for Defence Service
         \[Rs.4.60 per L.P. L.tre. on bulk and Rs. 5.00 per L.P. L.tre. on bottled \]

2. Controlling Duty-To be paid before import or its Import is under Bond to be paid when the Bond is broken.

3. Particulars not available

   \[[Rs. 4.60 per L.P. L.tre. on bulk and Rs. 5.00 per L.P. L.tre. on bottled ]

4. Substituted vide Noti. dated 17-8-95 w.e.f. 1-8-95.
5. Added vide Noti. dated 3-8-88.

1. Substituted vide Noti. dated 17-8-95 w.e.f. 2-2-83.
2. Substituted vide Noti. dated 3-8-88.
3. Substituted vide Noti. dated 17-8-95 w.e.f. 2-2-83.
5. Added vide Noti. dated 3-8-88.

Personnel stationed in Rajasthan obtained and supplied under the following conditions, namely:-

The supply is according to the scale sanctioned by the Government of India and is through the Canteen Stores Department (India) and not through any other source, the supply labels with the letters 'CSD' embossed on them and bearing labels with the words 'For Military Personnel only' conspicuously printed on them with red letters and separate account is maintained for such supplies.

(ii) Indian made Rum for Border Security Force

Personnel stationed in Rajasthan obtained and supplied under the following conditions, namely:-

(1) the quantity of Rum imported for consumption by the said personnel stationed in Rajasthan shall not exceed 2 [11.621] bottles per month
(2) the supply is in bottles bearing labels with the words 'For Border Security Force in Rajasthan only' conspicuously printed on them with red letters
(3) separate account is maintained for such supplies:
(4) the supply is solely for personal use of Border Security Force Personnel stationed in Rajasthan and is certified as such by the competent authority.

2.iii. A) India made Rum for the Ex-Military Personnel residing in Rajasthan obtained and supplied under the following conditions, namely:

2[Rs.35 per L.P. L.tre.]

The supply is according to the scales sanctioned by the Government of India and is through the Canteen Stores Department (India) and not through any other source, the supply is in bottles with letters C.S.D. embossed on them and bearing labels with the words 'For Ex-Military Personnel only' conspicuously printed on them with red letters and separate account is maintained for such supplies.

2.iv. Beer and Indian made fermented liquor

(a) If the strength is upto 8.75% of proof spirit
   Rs. 6.40 per bulk litre
(b) If the strength is more than 8.75% and upto 15% of proof spirit
   Rs. 9.60 per bulk litre
(c) Denatured spirit and denatured spirituous preparations:
   Rs. 1.40 per litre.
Notifications – Set II

(20) अधिनियम एस.ओ. 231—दिसम्बर 9, 1996 [Superseded vide S.O. 15 ed.31.3.97]

विनियम (अवधारणा) विवाद

1. अवधारणा पूरक—

(i) विनियम सिद्धांत सिद्धांतकार नियमिता को घोषणा भारत में सिद्धित विनियम साधन

3.00/- रु. प्रति एल.पी. लिस्टर

(ii) सिद्धांत के तौर पर गठित विनियम सिद्धांतकार नियमिता के अनुसार भारत में सिद्धित विनियम साधन

1.00/- रु. प्रति एल.पी. लिस्टर

(iii) विनियम के तौर पर गठित विनियम सिद्धांतकार नियमिता का अनुसार भारत में सिद्धित विनियम साधन

1.00/- रु. प्रति बलक लिस्टर

3.00/- रु. प्रति किताब

2. नागरिक—

(क) आपल्लों होने के पूर्व संदर्भ किया जाय या वैदिक आयात बोके के अन्तर्गत हो तो संदर्भ किया जाय नब बोक नमोकर हो।

3. अवधारणा—

(क) आपल्लों होने के पूर्व संदर्भ किया जाय या वैदिक आयात बोके के अन्तर्गत हो तो संदर्भ किया जाय फिर बोक नमोकर हो।

(ह) जीवन बन्द गणी भारत में सिद्धित विनियम साधन हो 5.00/- रु. प्रति एल.पी. लिस्टर

(भ) भारत में सिद्धित विनियम साधन के बलक 4.00/- रु. प्रति बलक लिस्टर

(च) विनियम 3.00/- रु. प्रति बलक लिस्टर

(इ) बोक लिस्टर हो 20.00 प्रति बोकलाहर

(ई) विनियम बोकलाहर 5.00 प्रति किताब

Section 41


S.O.324-In exercise of the powers conferred by Section 41 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950), the State Government hereby withdraws: the Notification

1. एस ओ. 333 से एक 4 (62) किसी अभिलेख 31-3-1997 देने की आदेश
2. Substituted vide Notification No. F. 4(62) FD/EX/96 dated 23-5-97, w.e.f. 31-3-97
Section 71-Exemptions

LATEST NOTIFICATIONS

[24] S.O.346.-December 30, 1994 In exercise of the powers conferred by Section 71 (2) of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950) the Government of Rajasthan is pleased to exempt from the payment of Excise Duty of Indian made Foreign liquor manufactured in the State and exported to a place outside India M/S. Amarpali Agencies Pvt. Ltd. Jaipur, Jaipur on the following terms and conditions:

1. Payment for the liquor exported shall be received in foreign currency only.
2. The exporting company shall enter into bond with such surety or security to such extent and in such manner as may be laid down by the Excise Commissioner, Rajasthan in this behalf.
3. The bond shall be discharged only if proper proof of the goods having duly exported to the satisfaction of the Excise Commissioner is furnished within a period of 90 days failing which full amount of export duty leviable on such goods shall be realised.
4. All the rules, regulations, and direction issued by the Government of India in this respect shall be complied with.

[No.F.4(39)/FD/EX/94 dated 30-12-1994]


In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950) the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempt from the permit fee on import of rectified spirit by the Rajasthan State Government Sugar Mills Ltd. to the extent to which rate of permit fee on import of rectified spirit exceeds Rs. 3.00 Per Bulk Litre w.e.f. 25-7-98.


NOTIFICATION

[26] In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempt from the payment of surcharge on beer by the--

1. Rajasthan Tourism Development Corporation.
2. Rajasthan State Hotel Corporation.

From 1-10-98 to 31-3-99 or coming into Force of the Finance bill whichever is earlier.

Provided that the surcharge on beer so realised from consumers by above licensees from 1-10-1998 to 31-3-1999 shall have to be deposited with the Excise Department.

[No.F.1(13)/FD/EX/98 dated 22-3-99]
Rajasthan Excise Act

NO.F.1(21) FD/Ex.98. dated 6-5-99—In exercise of the powers conferred by 
(2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2) 
the Government of Rajasthan is pleased to order that the minimum licence fees 
under rule 69(1) and 69(AA) of Rajasthan Excise Rules, 1956 and annual 
recoverable under second proviso to Rule 3-A (2) of the Rajasthan Liquor 
wholesale and retail off licences Rules, 1982 for the licences granted 
exclusive privilege system shall be recoverable on proportionate basis from the 
for the periods during which the licences were granted in the year 1996-97 
duly excepted from payment of these fees for the period for which licences 
granted.

8) S.O. 175—In exercise of the powers conferred by sub-section(2) of section 
Rajasthan Excise Act, 1950, (Act No. II of 1950), the State Government being 
union that reasonable grounds exist for doing so, hereby exempts the Rajasthan 
from the payment of licence fee prescribed under rule 54 of the Rajasthan 
rules, 1956 for occasional licence on the occasion of World Cup Polo matches 
d from 24-9-2000 at to 01-10-2000 Jaipur.


9) S.O. 379—In exercise of the powers conferred by sub-section(2) of section 
Rajasthan Excise Act, 1950 (Act No. II of 1950), the State Government being 
union that reasonable grounds exist for doing so, hereby exempts Canteen Stores 
from payment of additional fee prescribed under rule 72-A in respect of renewal 
licences granted under rule 47(1)(b) of the Rajasthan Excise Rules, 1956 for the 
97-98 and 98-99.


[30] S.O. 446—In exercise of the powers conferred by sub-section of section 71 
Rajasthan Excise, 1950 (Act No. II of 1950) State Government being of the opinion 
reasonable grounds exist for doing so, hereby exempts with effect from 1-4-2001,
(i) such retail licencees who have been granted licence under exclusive privilege 
from the payment of fee prescribed under rule 69-B of the Rajasthan Excise Rules, 
to the extent to which it exceed the amount of Rs. 0.50 per bulk litre.
(ii) such wholesale licencees who have been granted licence under rule 47(1)(a) 
Rajasthan Excise Rules, 1956 and who manufacture IMFL/Beer outside Rajasthan 
the payment of fee prescribed under rule 69(1) of the said rules.

622-26.

[31] S.O. 113.—July 6, 2001—In exercise of the powers conferred by sub-section (2) 
of section 71 of the Rajasthan Excise Act, 1950 (Act No 11 of 1950), the State Government 
being of the opinion that reasonable grounds exist for doing so, hereby exempts the Rajasthan State 
Ganganagar Sugar Mills Ltd., in respect of the unlifted country liquor shops 
run by it in the tribal area of the State during the years 1999-2000 and 2002-2003 from 
payment of annual licence fee and composite fee subject to the condition that any amount 
already deposited against these leaves shall not be refunded.


[32] S.O. 114.—July 6, 2001 In exercise of the powers conferred by sub-section (2) 
of section 71 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950), the State Government 
being of the opinion that reasonable grounds exist for doing so, hereby exempts the 
Rajasthan State Ganganagar Sugar Mills Ltd., in respect of the unlifted Indian made foreign 
liquor and Beer wholesale and retail shops run by it during the year 1999-2000 and 2002-2003, 
from the payment of—

(1) excise surcharge prescribed by Notifications No. F 4 (72) FD/Ex/96 Dated 
09-12-96 as amended from time to time.
(2) Minimum licence fee payable under rule 69 (1) of the Rajasthan Excise Rules, 
1956.
(3) Annual licence fee and brand fee payable under the Rajasthan Foreign Liquor 
(Grant of Wholesale Trade and Retail off Licences) Rules, 1982, and
(4) Supervision-charges payable by wholesale licensees.

Subject to the condition that any amount already deposited against these leaves 
shall not be refunded.


[S.No. 39 & 40 Published in Raj. Gaz. E.O.-4 (Ga) II dated 10-7-2001, page 165.]

[33] In exercise of the powers conferred by sub-section (2) of section 71 of the 
Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government being 
of the opinion that reasonable grounds exist for doing so, hereby exempts with effect from 1-
4-2002 the manufacturers of IMFL and beer in the State from the payment of 75% 
and 50% of the amount of bottling fee respectively prescribed under rule 69 (2) of Rajasthan 
Excise Rules, 1956 in respect of the quantity exported by them in such a manner as may 
be prescribed by the Excise Commissioner.

Part-IV (c) dated i-4-2002]

[34] S.O. 347—In exercise of the powers conferred by sub-section (2) of section 
71 of Rajasthan Excise Act, 1950 (Act No. II of 1950), the State Government being of the opinion 
that reasonable grounds exist for doing so, hereby exempts hotel bar/club bar 
licencees from payment of additional fee prescribed under rule 72-A of Rajasthan 
Excise Rules, 1956 in respect of renewal for the year 1994-95 of the licence granted to them under 
the Rajasthan Excise (Grant of Hotel Bar/Club Bar Licences) Rules, 1997.

[Notification No. F. 1(9) FD/Ex/2001 dated 6-2-2002 Published in Raj. Gaz. 
Part-IV (c) dated i-5-2002 Page 446]
[35] In exercise of the powers conferred by sub-section (2) of section 71 read with section 72 of the Rajasthan Excise Act, 1950 (Act No.11 of 1950), the State Government being the opinion that reasonable grounds exist for doing so, hereby exempts such retail on licences on the payment of additional fee prescribed under rule 72-A of the Rajasthan Excise Rules, 1956 in respect of renewal for the year 1994-95 who had deposited the renewal fee by 31-3-94.

[Notification No. FA(14)FD/Ex-03 dated 31-7-2003]

[36] In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No.11 of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts such retail on licences on the payment of 30% additional fee prescribed under rule 72-A of the Rajasthan Excise Rules, 1956 in respect of renewal for the year 1994-95 who had deposited the renewal fee by 31-3-94.


[37] In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No.11 of 1950) and in supersession of the department notification No. F.4(12)FD/Ex-2001 Pt-I dated 31-3-2001 the State Government being of the opinion that reasonable grounds exist for doing so hereby exempts with effect from 1-4-2004:

(i) such retail licences who have been granted licence under exclusive privilege system from the payment of in excess of IMFL and beer under rule 69-B of the Rajasthan Excise Rules, 1956 to the extent to which it exceeds the amount of Rs. 1.00 per half litre. Deleted

(ii) Rajasthan State Ganganagar Sugar Mills from the payment of in excess of IMFL and beer under rule 69-B of the Rajasthan Excise Rules, 1956 to the extent to which it exceeds the amount of Rs. 1.00 per half litre. Deleted

(x) [deleted]

(b) Licence fee prescribed under S. No. 13 A of the table appearing below rule 68 of the Rajasthan Excise Rules, 1956 for wholesale vend of the country liquor.

(iii) all such wholesale licences having licence under rule 47 (1) (a) or rule 47 (4) who deal exclusively in wine, ready to drink liquid or foreign liquor bottled in other countries (popularly known as B/O) from the payment fee prescribed in rule 68 of the Rajasthan Excise Rules, 1956 or elsewhere to the extent to which it exceeds Rs. 3,60,000.

(iv) all wholesale licensees of IMFL and beer from the payment of brand fee payable under proviso (2) to rule 3 of the Rajasthan Foreign Liquor (Grant of wholesale Trade & Retail off licences) Rules, 1983 in respect of wine, ready to drink (RTD) liquor and foreign liquor bottled in other countries (popularly known as Bottled-In-Original or B/O) to the extent to which it exceeds Rs. 10,000/- per brand.


[38] In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No.11 of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts, with immediate effect:

(a) All distilleries, breweries and bottling plants from the payment of licence fee prescribed in rule 68 of the Rajasthan Excise Rules, 1956 in respect of the laboratory licence held by them.

Section 28, 41 ]

Notifications

(u) Manufacturers of country liquor from the payment of 50% amount of the bottling fee on country liquor sold and sent out of the State.

(ii) manufacturers of IMFL and beer, manufacturing outside Rajasthan from the fee prescribed under rule 68 of the Rajasthan Excise Rules, 1956 if they are making supplies in Rajasthan through Rajasthan State Beverages Corporation Limited only.

(iv) Distilleries situated in Rajasthan payment of fee prescribed at S. No. 12 of the table given in rule 68 of the Rajasthan Excise Rules, 1956.

[Notification No. F.4(17)FD/Ex-2004 dated 1-4-2005]

[39] S.O. 46—in exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No.11 of 1950) and in partial modification of this department notification No. F.4(12)FD/Ex-2002 dated 01-04-2002 so far as it relates to Ready to Drink (R.T.D) liquor (excluding beer) having alcoholic strength upto 8.75 degree proof, the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts with effect from 1-6-2004, the manufacturers of such RTD in the State from the payment of 50% of amount of bottling fee prescribed under rule 69(2) of the Rajasthan Excise Rules, 1956 in respect of the quantity exported by them in such a manner as may be specified by the Excise Commissioner.

[Notification No. F.4(85)FD/Ex-2002-VI dated 19-6-2004]

[40] In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No.11 of 1950) the Government being of the opinion that reasonable grounds exist for doing so, hereby exempts all retail licences of foreign liquor and beer from the operation of section 1 of that Act in respect of foreign liquor and beer purchased by them from Rajasthan State Beverages Corporation Limited subject to the condition that transportation, following such purchase, shall accompany the Ballroom Transport Pass issued by the incharge of the concerned depot of Rajasthan State Beverages Corporation Limited in the form specified by the Excise Commissioner.


[41] The State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts, with immediate effect:

(i) all distilleries, breweries and bottling plants from the payment of licence fee prescribed in rule 68 of the Rajasthan Excise Rules, 1956 in respect of the laboratory licence held by them.

(ii) manufacturers of country liquor from the [Payment of 50% amount] of the bottling fee on country liquor sold and sent out of the State.

(iii) Manufacturers of IMFL and beer, manufacturing outside Rajasthan from the fee prescribed under rule 68 of the Rajasthan Excise Rules, 1956 if they are making supplies in Rajasthan through Rajasthan State Beverages Corporation Limited only.

(iv) Distilleries situated in Rajasthan from payment of fee prescribed at S.No.12 of the table given in rule 68 of Raj. Excee Rules, 1956.


1. Substituted for words "from payment of 50% of the amount of bottling Fee" vide F. 4(64) FD/Excise/2005/Part-II dated 26-4-2006.
1. **Meaning of Reduction** - Reduction of spirits means the dilution with water.

2. **Meaning of Blending** - Blending of spirits means the mixing together of two or more spirits of different strength.

### Requirement for R/S and E.N.A. according BIS

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>For Rectified Spirit</th>
<th>For E.N.A.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Relative density at 15°C</td>
<td>0.8171</td>
<td>0.8124 to 0.8168</td>
</tr>
<tr>
<td>2. Ethanol content percent by volume at 15.6°C, min</td>
<td>94.68</td>
<td>94 to 96</td>
</tr>
<tr>
<td>3. Miscibility with water</td>
<td>Miscible</td>
<td>Miscible</td>
</tr>
<tr>
<td>4. Alkalinity</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>5. Acidity as acetic acid gm/100 ml, max.</td>
<td>0.002</td>
<td>0.002</td>
</tr>
<tr>
<td>6. Residue on evaporation, g/100ml, max.</td>
<td>0.005</td>
<td>0.002</td>
</tr>
<tr>
<td>7. Esters (g/100ml, max)</td>
<td>0.01</td>
<td>0.01</td>
</tr>
<tr>
<td>8. Lead (as pb) g/100ml</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>9. Methyl alcohol content</td>
<td>to pass test</td>
<td>to pass test</td>
</tr>
<tr>
<td>10. Furfural content</td>
<td>to pass test</td>
<td>to pass test</td>
</tr>
<tr>
<td>11. Fusel oil content</td>
<td>to pass test</td>
<td>to pass test</td>
</tr>
<tr>
<td>12. Aldehydes (as CH₃CHO) g/100 ml, max.</td>
<td>0.006</td>
<td>0.004</td>
</tr>
<tr>
<td>13. Permanganate reaction time, min</td>
<td>-</td>
<td>30</td>
</tr>
<tr>
<td>14. Copper (as cu), g/100 ml, max.</td>
<td>0.0004</td>
<td>0.0002</td>
</tr>
<tr>
<td>15. Isopropyl alcohol, aceton</td>
<td>to pass test</td>
<td>to pass test</td>
</tr>
</tbody>
</table>

### Specific Standard

- **Ethyl Alcohol Content (At 15/15°C)**
  - Specific Standard: 34.28% w/w
- **Total acids as Tartaric acid (Expressed in terms of 100 Lts. of A/A) N.M.T.**
  - Specific Standard: 100 gm
- **Volatile acids as acetic acid (g/100 liters of A/A), max.**
  - Specific Standard: 50
- **Esters as ethyl acetate (g/100 liters of A/A), min**
  - Specific Standard: 3
- **Higher alcohols as amyl alcohol (g/100 liters of A/A), max.**
  - Specific Standard: 250
- **Aldehydes as acetaldehyde (g/100 liters of A/A), max.**
  - Specific Standard: 15
- **Furfural (g/100 liters of A/A), max.**
  - Specific Standard: 12
- **Copper (as cu), parts million, max.**
  - Specific Standard: 10 ppm
- **Methyl alcohol**
  - Specific Standard: To pass test
- **Total ash, percent (max), max.**
  - Specific Standard: 0.10
- **Residue on evaporation, Percent (w/v), Max.**
  - Specific Standard: 2.00
### Requirement of Characteristic according to Bureau of Indian Standard (BIS) Code

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Whisky</th>
<th>Rum</th>
<th>Gin</th>
<th>Brandy</th>
<th>Vodka</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residue of evaporation, Percent (m/v), Max.</td>
<td>2.00</td>
<td>2.00</td>
<td>2.50</td>
<td>3.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Total ash, percent (m/v), max.</td>
<td>0.10</td>
<td>-</td>
<td>-</td>
<td>0.50</td>
<td>-</td>
</tr>
<tr>
<td>Volatile acids as acetic acid (g/100 liters of A/A), Max.</td>
<td>50</td>
<td>100</td>
<td>5</td>
<td>100</td>
<td>10</td>
</tr>
<tr>
<td>Esters as ethyl acetate (g/100 liters of A/A), min.</td>
<td>Malt why: -10</td>
<td>Why: -2</td>
<td>20</td>
<td>2</td>
<td>Grape brandy: -10</td>
</tr>
<tr>
<td></td>
<td>Blended malt why: -5</td>
<td>Brandy: -2</td>
<td></td>
<td></td>
<td>Blended grape brandy: -5</td>
</tr>
<tr>
<td>Higher alcohols as amyli alcohols (G/100 liters of A/A), Max</td>
<td>350</td>
<td>300</td>
<td>50</td>
<td>Grape brandy: -350</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Blended grape brandy: -350</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Brandy: -250</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Brandy: -200</td>
<td></td>
</tr>
<tr>
<td>Aldehydes as acetaldehyde (g/100 liters of A/A), max.</td>
<td>Malt why: -45</td>
<td>Why: -15</td>
<td>20</td>
<td>Grape brandy: -45</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Blended malt why: -5</td>
<td>Brandy: -45</td>
<td></td>
<td></td>
<td>Brandy: -15</td>
</tr>
<tr>
<td>Furfural (g/100 liters of A/A), max.</td>
<td>12</td>
<td>8</td>
<td>-</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Copper (as Cu), parts million, max.</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Methyl alcohol</td>
<td>To pass test</td>
<td>To pass test</td>
<td>To pass test</td>
<td>To pass test</td>
<td>To pass test</td>
</tr>
</tbody>
</table>