

Bihar and Orissa Excise Rules, 1919

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Notification issued and Rules made under the Bihar and Orissa, Excise Act, 1915

[No. 470-F the 15th January, 1919.] - In exercise of the powers conferred by the provisions specified below of the Bihar and Orissa Excise Act, 1915 (Act II of 1915), hereinafter designated "the Act" the Lieutenant-Governor in Council is pleased -

I. To declare -

(1) under sub-clause (IV) of clause (13) of Section 2, that Methyl Alcohol shall be deemed to be an intoxicating drug;

(2) [Deleted by Notification No. 1224-L.S.G.R dated 11-8-1945.]

(3) under Section 4, and with the previous sanction of the Government of India, that the following shall, for the purposes of the Act, be deemed to be "country liquor" and "foreign liquor" respectively:-

["Country liquor -

(a) Plain spirit which has been made in India from materials recognised in Bihar and Orissa as bases for country spirit, namely *mahua*, *rice*, *gur* or molasses, and on which duty has not been imposed at the rate fixed for the importation of spirit into India.

(b) Spiced country spirit which has been made in India from silent spirit confirming to ISI specifications no. I.S. 661:1971 for neutral spirit for alcoholic drinks as revised from time to time, and to which approved flavouring and colouring agents are added at any stage of its manufacture.

(c) *Tari*, and

(d) all fermented liquors made from *mahua*, *rice*, *millet* or other grains according to native processes."]

[Foreign liquor-

(a) beer and spirit, wines and liquors which have been imported into India and were liable, on such importation, to duty under the Indian Tariff Act, 1934 or the Sea Customs Act, 1878,

(b) beer which has been brewed in India, or imported into India in a condensed form and afterwards converted into potable beer and on which excise duty has been imposed at the rate fixed by the Provincial Government under Section 27 of the Act,

- (c) rectified spirit which has been made in India and on which excise duty has been imposed at the rate fixed by the Provincial Government under Section 27 of the Act,
- (d) spirit which has been made in India and has been sophisticated or compounded so as to resemble in colour and flavour of *whisky, brandy, gin, or rum*,
- (e) spirit which has been made in India from some special bases (such as malt or toddy) not recognised in Bihar as bases for country spirit, and on which excise duty has been imposed at the rate fixed by the Provincial Government under Section 27 of the Act,
- (f) wines and liquors which have been made in India and on which excise duty has been imposed at the rate fixed by the Provincial Government under Section 27 of the Act,
- (g) denatured spirit, and
- (h) perfumed spirit and spirit used in drugs, medicines, or chemicals, whether manufactured in India or imported from foreign countries.]

(1) [Under clause (a)].- There shall be an Excise Commissioner who shall, subject to the general control of the Board, have throughout the Province of Bihar and Orissa the control of the administration of the Excise Department and the collection of Excise-Revenue.

[(1A) There shall be a Joint Commissioner of Excise who shall, subject to the general control of the Commissioner of Excise have throughout the State of Bihar the control of the administration of the Excise Department and the collection of Excise Revenue.]

[(1B) [Under clause (b). - There shall be an Additional Deputy Commissioner of Dhanbad, who shall, subject to the general control of the Commissioner of Excise, exercise in the jurisdiction of the Dhanbad all the power and perform all the duties conferred and imposed on the Collector by the Excise Act.]

[(1C) There shall be Licensing Boards (to be constituted in the manner set forth below) for the municipalities of Patna (Patna city), Gaya, Chapra, Muzaffarpur, Darbhanga, Monghyr and Bhagalpur which shall, subject to such control as the State Government may direct exercise, all the powers and perform all the duties which are conferred and imposed on the Collector by Sections 30, 34 and 36 of the Act in respect of shops for the retail sale of spirit, *tari* and hemp drugs:]

Provided that -

- (a) The power to grant licences to any person selected by the licensing Boards shall be exercised by the Collector,
- (b) When the number of shops is reduced, such reduction shall not exceed one third of the total number of shops existing in the town in the last year in which the shops were settled by auction previous to the first constitution of the Board.
- (c) When the number of shops is increased, the total number of shops for the sale of any excisable articles shall not exceed the number of such shops existing in the town in the

last year in which such shops were settled by auction, without the special sanction of Government.

- (d) When the site of a shop is to be changed, a suitable site shall first be found in the same ward.
- (e) The powers to select licences for shops will extend only to those shops which are to be settled according to the sliding scale system, the others being settled by the Collector by auction.
- (f) If the Licensing Board fail to select a licensee within one month of the date of receipt from the Collector of an intimation of the vacancy, the selection shall be made by the Collector.
- (g) The Licensing Board shall have no jurisdiction in any cantonment.

Constitution of Licensing Boards

- (i) Chairman for the time being of the municipality.....President.
- (ii) One member to be elected by the municipal commissioners from among their own number or from outside; if the former he shall hold office only so long as he continues to be a municipal commissioner.
- (iii) One member nominated by temperance societies (registered under law) if any, in the city. If the societies nominate more than one person, the District Officer shall choose one from among them.
- (iv) One non-official member of the Bihar Legislature.

If there is only one non-official member of the Legislature, he shall be the member of the Board.
If there are more than one member of the Bihar Legislature of whom only one is a member of the Legislative Assembly, the member of the Legislative Assembly shall be the member of the Board.

If there is more than one member of the Legislature including more than one member of the Legislative Assembly, a non-official member shall be nominated by Government and the member so nominated shall be the member of the Board.

- (v) One member to be elected by the principals and headmasters of such local colleges and high schools as are recognised by the Patna University or by the Education Department of Government. He shall hold office so long as he continues to be the principal or headmaster.
- (vi) One member to be elected by the licensees of the town who shall hold office so long as he continues to be a licensee.

(vii) One member to be appointed by the Collector to represent the labouring or consuming classes.

(viii) The Superintendent of Excise and Salt, *ex-officio*, who will also be the Secretary to the Board:

Provided that if the Commissioners of any municipality have been superseded by an order under Section 385 of the Bihar and Orissa Municipal Act, 1922, the Chairman of such municipality and any Commissioner of such municipality elected under Rule 2 of these rules shall, as from the date of supersession, cease to be members of the Licensing Board constituted for such municipality, and the person appointed under clause (b) of sub-section (1) of Section 386 of the said Act to exercise and perform the powers and duties of the Commissioners of the said municipality shall, during the period of supersession be a member of the said Licensing Board and shall be President of the said Board.

The *quorum* for a meeting of the Licensing Board shall be five. An adjourned meeting of which the date has been communicated to all members of the Board may be held without a quorum; provided that the decision of the meeting held without a quorum shall be subject to confirmation by the Collector.

[(2) Under clause (b) and (c).-There shall be in every district an Assistant Commissioner of Excise or a Superintendent of Excise or both who shall, in subordination to the Collector, and subject to the general control of the Excise Commissioner, exercise in the said district all the powers and perform all the duties conferred and imposed on the Collector by the provisions of the Act specified below;]-

(a) Section 12, sub-section, (2)-(*grant of passes*),

(b) Section 18, sub-section (2), clause (c)-(*grant of authority to possess [intoxicants] not obtained from a licensed vendor*),

(c) Section 18, sub-section (2) clause (g) and Section 20, clause (e) to proviso (4)-(*grant of permits to use tari for the manufacture of bread*),

(d) Section 19, sub-section (1)-(*grant of permits for possession of [intoxicants]*),

[(dd) Section 20-(*grant of licences for sale of [intoxicants]*)],

(e) Section 24, clause (b)-(*power to empower Excise Officers to require licensees to measure, weigh, or test intoxicants*),

(f) Section 31, sub-section (1)-[*publication of list.*]

(g) Section 67, sub-section (2)-(*confiscation*),

(h) Section 68-(*composition of offences and release of property liable to confiscation*),

(i) Section 71 -(*issue of warrant of arrest*),

(j) Section 72-(*issue of search-warrant*),

- (k) Section 73-(*to arrest or search in person or to direct arrest or search in his presence*),
- (l) Section 77, sub-section (1)-(*investigation of offences*),
- (m) Section 79-(*security and bail*),
- (n) Section 85, sub-section (2)-(*arrest, etc.*),
- (o) Section 87, clause (b)-(*complaints or reports to Magistrate*),
- [(p) Section 93, sub-section (1)-(*issue of distress warrants*)],

(3) There shall be, in addition to the Excise Commissioner the following Officers who shall have rank in the order in which they are named below and shall exercise authority in the areas to which they are respectively appointed:-

1. Joint Commissioner of Excise.
2. Deputy Commissioner of Excise.
3. Assistant Commissioner of Excise.
4. Superintendent of Excise.
5. Inspector of Excise.
6. Sub-Inspector of Excise.
7. Assistant Sub-Inspector of Excise.
8. Excise Constable.]

(4) The powers and duties assigned by or under the portions of the Act specified below to an excise officer appointed under clause (c) of Section 7 shall be exercised and performed also, within the areas to which they are respectively appointed, by the Government officer indicated below, namely -

- (a) Section 74 (power to search without a warrant); Section 77, subsection (2) (investigation of offences) so far as it relates to the investigation of offences punishable under Section 4, Section 49, Section 55 or Section 56; Section 78, sub-section (2) (stopping of proceedings) Section 79, sub-section (5) (release of persons on bail or on their own bond); and Section 87, clause (a) (complaints or reports to Magistrate)-Police officers not below the rank of an officer in charge of a police station;
- (b) [*Deleted by Notification No. 1225 L.S.G.R. dated 11.8.1945.*]

(5) Under clause (d). - The powers and duties assigned in Order II (2) above to Superintendents of Excise in districts other than Angul, and the power conferred upon certain Excise Officers by Orders XIII and XIV below shall also be exercised and performed in sub-division in all districts including Angul, by the Sub-Divisional Officers.

(6) [*Deleted by S.O. 904 dated 7.10.1969.*]

III. Under clause (e) of sub-section (2) of Section 7, to delegate to the Board the powers conferred on the Provincial Government by the provisions of the Act specified below.

- [(1) Power to appoint Inspectors of Excise by direct appointment only [Clause (c) of sub-section (2) of Section 7],
- (2) Section 9(1), clause (a) (Power to give permission for the import of an intoxicant).
- (3) Section 12, sub-section (1) (except the proviso thereto) so far as it relates to transport (power to prescribe in respect of an intoxicant the quantity thereof, no quantity in excess of which shall be transported except under a pass),
- (4) Section 22, sub-section (1), clauses (a) and (b) (power to grant the exclusive privilege of manufacturing or supplying wholesale or of manufacturing and supplying wholesale country liquor or any intoxicating drug),
- (5) Section 42 sub-section (1) (power to prescribe restrictions upon the cancellation or suspension of licences, permits or passes), and
- (6) Section 57, clause (a) (power to empower officers to demand the production of licences, permits or passes).

Note. - The power of the Board to grant licences under clause (4) of order no. III above has been restricted to a period not exceeding five years under Financial Department letter no. 3130-F., dated the 10th April 1919.

IV Under clause (e) of sub-section (2) of Section 7, to delegate to the Excise Commissioner the power specified below:-

[Power to appoint, by promotion, Inspectors of Excise, and to appoint all other officers of the Excise Department below the rank of Inspector of Excise.]

V Under clause (g) of sub-section (2) of Section 7, to permit the delegation-

[(1) by the Excise Commissioner [or Deputy Commissioner of Excise or Assistant Commissioner of Excise;]

(a) to any Collector or Superintendent of Excise of-

- (i) his power to appoint Excise peons and to appoint on a temporary or acting basis officers of the Excise Department below the rank of Inspector of Excise;
- (ii) his power under Rule 1 under Section 89 of the said Act to promote, transfer, suspend, reduce in rank, or otherwise punish such officers as are appointed by him, other than the power to punish such officers involving their removal or dismissal;
- [(iii) his power to transfer the Excise Constables to Divisional Deputy Commissioner of Excise in their respective divisions under subsection (1) of Section 89 of the said Act.]

(b) to the Principals of the Police Training College, Hazaribagh and Constables Training School, Nathnagar, of his power under Rule 1 made under Section 89 of the said Act, to censure Excise cadets below the rank of Inspector of Excise or to make recovery from their pay the whole or part of any pecuniary loss caused to the Government by negligence or breach of any order of the Principal.

(2) by the Collector, of all or any of his powers or duties under the portions of the Act specified below to the officer or officers designated below in respect of the particular power or duty, namely:-

- (a) Section 12, sub-section (1) (*power to grant passes for the import, export or transport of any intoxicant*) to any Deputy Collector;
- (b) Section 12, sub-section (2) [*power to grant passes for the transport of any intoxicant*] to any Sub-Deputy Collector or to any officer of the Excise Department who is not below the rank of Sub-Inspector or who is in charge of a distillery or warehouse;
- (c) Section 18, clause (g), and Section 20, clause (e) (*power to grant permits to use tari for the manufacture of bread*)-to any Deputy Collector or Sub-Deputy Collector, or any Excise Officer not below the rank of Sub-Inspector;
- (d) Section 19, sub-section (1) (*power to grant permits to possess intoxicants-in excess of the quantity declared to be the limit of retail sale*)-to any Deputy Collector or sub-Deputy Collector, or any Excise Officer not below the rank of Sub-Inspector;
- (e) Section 71 (*power to issue warrant of arrest*)-to any Deputy Collector or Sub-Deputy Collector;
- (f) Section 72 (*power to issue search-warrant*)-to any Deputy Collector or Sub-Deputy Collector;
- (g) Section 77, sub-section (1) (*power to investigate offences*)-to any Deputy Collector.

VI. Under clause (b) of Section 11, to prohibit the transport of country spirit in the following circumstances, namely:-

- (1) When manufactured in an outstill-its transport to any area in which the sale of distillery spirit is allowed; and
- (2) when manufactured in a distillery-its transport to any area in which a higher duty is levied, if the special permission of the Collector to such transport has not been obtained.

[VIA. Under the proviso to sub-section (1) of Section 12, to direct that passes required by the general provisions of the said sub-section shall not be dispensed with in the cases of-]

(a) rectified spirit;

(b) foreign liquor of all other kinds manufactured in India, including perfumed spirit and spirit contained in drugs, medicines and chemicals, when imported or exported for any purpose:

Provided that any person may, without any restriction, import from sources other than bonded warehouses, perfumed spirit, spirit contained in drugs, medicines and chemicals, intended for his own consumption; and

[(c) foreign liquors of all kinds (either India-made or overseas) when transported, imported or exported for sale when transported to troops and military bodies.]

VII. [XXXX]

VIII. Under Section 21, to prescribe two miles as the distance from the limits of military cantonments within which no licence for the manufacture or sale of liquor shall be granted without the previous consents of the Commanding Officer.

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X. [Under Section 27, to impose a duty on foreign liquor at the rates specified below] except (i) liquor which has been imported into India and was liable, on such importation, to duty under the Indian Tariff Act, 1894 (VIII of 1894), or the Sea Customs Act, 1878 (VIII of 1878), if such duty has already been paid or a bond has been executed for the payment thereof, and (ii) [denatured spirit not so imported, and] (iii) rectified and foreign spirit manufactured within the Gwalior State on which duty at the Indian Tariff rate has been levied by the State whether imported or exported or transported or manufactured in a distillery in Bihar and Orissa, and further to direct that such duty shall, when payable on any such foreign liquor by reference to proof gallons, be increased or reduced in proportion as the strength of the foreign liquor exceeds or is less than proof.

XI. [Under Section 27, to impose duty in the areas, on the articles, and at the rates specified in the annexed table] and to direct that subject to the exception noted below duty on any such articles shall-be payable -

- (a) when it is import, at the rate imposed in the area to which it is imported;
- (b) when it is exported, at the rate imposed in the area from which it is exported;
- (c) when it is transported from an excise warehouse in Bihar to the premises of a licenced retail vendor, at the rate imposed in the area in which the premises are;
- (d) when it is transported from an excise warehouse in Bihar to another such excise warehouse, at the highest rate imposed in any area through which the article passes.

[*Exception* - No duty shall be imposed on *ganja* and *bhang* exported to another province and chargeable with duty in that province.]

XII. Under Section 63, to prescribe that every proceeding under the Act before a Superintendent of Excise, a Sub-Divisional Officer or a Deputy Collector, in which the Presiding Officer is exercising the powers of Collector, shall be deemed to be a "judicial proceeding" within the meaning of Section 228 of the Indian Penal Code (XLV of 1860).

XIII. Under clause (c) of Section 69, Section 74, and sub-section (5) of Section 79, to prescribe that any Excise Officer not below the rank of Sub-Inspector may exercise the powers conferred thereby.

XIV. Under sub-section (2) of Section 77, specially to empower Inspector of Excise and Sub-Inspector of Excise to investigate any offence punishable under the Act.

XV. Under sub-section (2) of Section 78, to prescribe the following restriction upon the power of a Sub-Inspector of Excise to stop further proceedings against any person concerned or supposed to be concerned in any offence which is under investigation by such Sub-Inspector:- If such Sub-Inspector considers that it is necessary or expedient to stop further proceedings against such person, he shall forthwith send a report to the Collector or a Superintendent of Excise (or in a subdivision, to the Sub-Divisional Officer) stating all the facts relating to the initiation of proceedings and his reason for thinking that further proceedings should be stopped, and shall not stop such proceedings unless the Collector or Superintendent of Excise (or Sub-Divisional Officer) authorises him to do so.

XVI. Under Section 94, to exempt throughout the province of Bihar and Orissa save where otherwise stated the articles specified below from the provisions of the Act specified, namely:-

[(1) *Pachwai*- From the provisions of the Act relating to manufacture and possession when it is manufactured and possessed by persons belonging to Scheduled Tribes for their *bona fide* private consumption on social and festival occasions.]

[(1A) *Tari*, that is, fermented or unfermented juice drawn from any account, palmyra, date or other kind of palm tree, from the provisions of the Act subject to the following conditions:-]

[(i) *Tari* shall not be sold or consumed at places for which licences under the Act are prohibited under Rule 47 of the Rules framed by the State Government under Section 89 of the Act, and

(ii) manufacture or sale or consumption of *tari* shall be prohibited within the limits of any military cantonment, and within such distance from those limits as the Central Government may in any case prescribe, except with the previous permissions of the Commanding Officer.]

(2) All excisable articles [except cocaine and the preparations referred to in (4) below] upon which the full tariff or excise duty has been paid, and which are contained in medicinal preparations intended *bona fide* for medicinal purposes- from the provisions of the Act relating to possession and sale;

(3) Perfumed spirit when manufactured from duty-paid foreign spirit that has not been denatured-from the provisions of the Act relating to possession and sale;

(4) Medicated wines and similar preparations, containing foreign liquor [This is now covered by M & T.P.(E.D.) Act, 1955 and Rules made thereunder.]

[(4A) Rectified spirit made in India.]

[(5) Medicinal preparations prepared in accordance with prescriptions recognized in standard Ayurvedic and Tibbi medical works, by person bona fide engaged in the practice of the Ayurvedic and Tibbi system of medicines, are exempted from the provisions of the Bihar and Orissa Excise Act in respect of manufacture and sale, provided no process of distillation is used in their manufacture.]

(6) Deleted by [XXXXXXX]

[(7) Such recognized medicinal preparations as contained any hemp drugs in a very small proportion and as may be notified from time to time by the Provincial Government-from the provisions of the Act relating to import, transport, export, possession and sale, provided only by means other than that of the post.]

Note. - The executive instructions of the Government of India, require the previous sanction of the Government of India to be obtained by the Local Government.

The notifications of the Government of Bengal, No. 715-S.R., dated the 25th November 1909 (published on pages 1710-1717, Part I of the Calcutta Gazette of the 1st December 1909) and No. 490- S.R., dated the 20th November, 1911 (Published on pages 1586-1587, part I of the Calcutta Gazette of the 22nd idem), as subsequently amended, are hereby cancelled.

(8) Independent Beer Bars, are exempted from the provisions of Sections 30, 31, 32, 33 and 34 of the Act, relating to ascertainment of local opinions.]

[No. 471-F the 15th January, 1919.-In exercise of the power conferred by Section 89 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915), the Lieutentent-Governor in Council is pleased to make the following Rules]:-

Appointments, Transfers and Punishments

[1. The power to promote, to transfer and to suspend, reduce in rank, dismiss or otherwise punish all officers of the Excise Department below the rank of Superintendent of Excise other than the power to dismiss or remove an Inspector of Excise, appointed by direct recruitment shall vest in the Excise Commissioner:]

Provided that no officer of the Excise Department shall be dismissed or removed by an authority subordinate to that by which he was appointed.

2. An appeal shall lie to the Collector from any order passed by any officer subordinate to him and discharging functions under the Act or under any rule or order made thereunder except an order passed by the Superintendent of Excise in proceedings against officer subordinate to him.

[2A. An appeal shall lie to the Deputy Commissioner of Excise from any order passed by the Superintendent of Excise in proceedings against officers subordinate to him.]

3. An appeal shall lie to the Excise Commissioner from any original order made by the Collector (but not from any original order made by an officer discharging functions of the Collector)and from any order made by the Collector on appeal:

[Provided that every memorandum of appeal relating to the cancellation, suspension or withdrawal of a licence for the retail sale of any excisable article from any order of any officer subordinate to the Collector through the subordinate officer against whose order the appeal is made within fifteen days from the date of communication to the appellant of the order appealed against. Such petition of appeal shall invariably be forwarded to the Collector within ten days of its presentation with the original records of the case, if any and with any observations that the officer forwarding it may wish to make thereon.]

Similarly an appeal to the Commissioner of Excise from any original order made by the Collector and from any order passed by the Collector an appeal shall be submitted within fifteen days from the date of communication of the Collector's order to the appellant and the collector shall invariably forward the petition of appeal to Commissioner of Excise within ten days of its presentation with both original and appellate records of the case and with any observations he may wish to make thereon. The period for the presentation of appeal shall count in all cases from the date of communication of the orders appealed against.

4. An appeal shall lie to the Board from any order (except orders referred to in Section 35 of the Act) made, whether on appeal or otherwise by the Excise Commissioner:

Provided that when an order made by a Collector, whether on appeal or otherwise, is upheld by the Excise commissioner, no further appeal shall lie.

[5. Every memorandum of appeal shall be presented within six months from the date on which the officer preferring the appeal was informed of the order against which he appeals.]

6. Every memorandum of appeal shall be accompanied by the order appealed against, in original, or by an authenticated copy of such order unless the omission to produce such order or copy is explained to the satisfaction of the appellate authority.

Import, Export And transport

7. The import, export and transport, respectively, of the excisable articles hereinafter specified shall be subject to the following rules, in addition to the restrictions imposed by Sections 9, 10 and 12 and any prohibition made under Section 11 and any rules made by the Board under sub-section (12) of Section 90 of the Act"

Foreign Liquor

Import of Foreign Liquor

8. Imports of India-made foreign liquors by troops and military bodies or by persons holding licences for sale are allowed only under cover of passes from the Collector of the importing district and only after the following conditions have been satisfied:-

- (i) the importer has obeyed all rules in force in the district or place from which the liquor is brought;
- (ii) the Chief Revenue Authority of such district or place or the officer in charge of the distillery, brewery or warehouse from which it was taken has made endorsements on the pass, granted by the Collector of the importing district or place, and also on a copy thereof, sent to him by the Collector of the importing district or place, or has himself issued an export pass in such form as may be prescribed for use in the district or place of issue;
- (iii) the Collector of the importing district has received back from the officer making the endorsement or issuing the export pass referred to in (ii), the copy of the import pass issued by the former, either endorsed by the latter or accompanied by the export pass issued by the latter; and
- (iv) the liquor has been brought by the route and within the period specified in the pass:

[Provided that no import of India-made foreign liquor shall be made from the 'Sale to trade' - and 'off licences in West Bengal who keeps a stock of duty-paid India-made foreign liquor.]

[8A. Import of India made foreign liquor in any quantity from any distillery, brewery, bonded warehouse or bonded laboratory by any person including a distributor's licence for sale of such liquor to the holders of sale "sale to the trade" licence and to holders of licence for troops and military bodies is permitted only in import pass granted by the Collector of the district of import on prepayment of duty as well as any import pass fee prescribed by the Board of Revenue into the treasury of the importing district provided the conditions specified in Rule 8 are *mutatis mutandis* satisfied.]

[8B. Import of drugs, medicines, chemicals, perfumed and other toilet preparations containing spirit, for the purpose of sale, is allowed only from the bonded manufacturers of other State of India, the Indian States and the Foreign Territory in India under cover of a pass:

Provided that import of such preparations by a person for his private consumption from sources other than bonded manufacturers is allowed without any restriction.]

[8C. The passes, referred to in Rule 8, shall be issued on the application of the intending importer:-

- (a) on pre-payment of duty in Bihar; or
- (b) on pre-payment of duty in the State from which export is made at the rate leviable in Bihar to be subsequently transferred to this State under direct credit system or by book transfer.]

9. (1) Passes for the import of foreign liquor under bond (excluding denatured spirit, rectified spirit, drugs, medicines, chemicals, perfumes and other toilet preparations containing spirit), shall be issued only to persons holding licences for storage of foreign liquor under bond.

(2) Passes for the import of denatured spirit shall be issued only to persons holding licences-

- (a) for wholesale or retail sale of denatured spirit, or
- (b) to possess denatured spirit in excess of the quantity fixed by the Board as the limit of retail sale.

Note. - For the purpose of this rule the countersignature of the Civil Surgeon of a district on an indent for denatured spirit for use in a Government hospital or dispensary or in any other hospital or dispensary under the supervision of Government shall be deemed to be a pass.

[(3) Passes for import of rectified spirit shall be issued on pre-payment of duty in the district of import and only to-]

- (a) a person holding a licence to sell such spirit by retail for *bona fide* medicinal or surgical purposes, or
- (b) a person holding a licence for the manufacture of perfumes and toilet preparations, or
- (c) a person holding a permit to obtain such spirit for the manufacture of medicines, or chemicals, or
- (d) a person holding a licence for compounding and blending foreign liquor, or
- (e) hospitals and dispensaries, approved by the Commissioner of Excise, which may require rectified spirit for *bona fide* medicinal and surgical purposes and [for industrial purposes and for educational and scientific purposes],
- (f) passes for Rectified Spirit for troops and military bodies for Defence services requirements:

Provided that in the case of passes issued under (f), the duty may be adjusted by book transfer.

[Note. - In cases other than those mentioned in sub-rule (3) of this rule, when it is considered absolutely necessary to issue passes for the import of rectified spirit, such passes shall be issued under the specific order of the Excise Commissioner.]

(4) [Deleted by Notification no 4395 dated 11.5.1961.]

[(5) Passes for the import of drugs, medicines, chemicals, perfumes and other toilet preparations containing spirit from the bonded manufacturer of other provinces in India, the Indian States or the Foreign Territory in India, shall be granted on prepayment of duty payable in the Province of Bihar to any person whether requiring the preparations for the purposes of sale or for private consumption: Provided that the obligation of taking passes shall be dispensed with in the case of imports from those other provinces in India, the Indian States or the Foreign Territory in India which have entered into an agreement with the Government of Bihar for collection of duty on all exports of spirituous preparations from those places to the Province of Bihar at the rates in force in the said Province and the payment of such duty by book transfer.]

10. Foreign liquor imported as aforesaid must on arrival in Bihar be taken as soon as possible to the distillery excise warehouse or place specified in this behalf in the pass and by the route specified therein.

Note. - Liquor warehouses at a district or Sub-divisional headquarters have been fixed by the Excise Commissioner, Bihar for the storage of liquor imported under bond.

10A. Indents signed by the Civil Surgeons in case of import of spirituous medicinal preparation mentioned in clause 4(A)(a), indents signed by the Director or Deputy Director of the Civil Veterinary Department in cases of import mentioned in clause 4(a)(b), indents signed by the Principal, Indian School of Mines, Dhanbad in case of imports mentioned in clause 4(A)(c) and indents signed by the Head of the Institution or Department in cases of import mentioned in clause 4(A)(d) of order no. XVI of Government Notification No. 470 F. dated the 15th January, 1919 as subsequently amended will constitute the passes required by Section 12 of the Act.

10B. Import of rectified spirit in circumstances mentioned in clause 4(B) of order no. XVI of Government Notification No. 470.-F., dated the 15th January, 1919 as subsequently amended will be under passes granted by the Collector of the District.

Export of foreign Liquor to other Provinces in India

[(1) When any person desire to remove foreign liquor from any distillery, brewery or spirit warehouse for export to any other State in India under a bond for the payment of excise duty, he must execute a bond in the prescribed form before the Collector or the district in which the distillery, brewery, a spirit warehouse is situated and, in case of India-made-foreign liquor, he must also furnish a Bank Guarantee from a Scheduled Bank situated in the State of Bihar preferably at the place where the guarantee has to be tendered, covering the entire excise revenue due on the consignment to the satisfaction of the Collector of the district to grant such permit, on prepayment of any export pass fee, prescribed by the Board of Revenue, into the treasury of exporting district:]

Provided that before such a bond is executed, an export pass fee @ [Rupee 1/- (Rupee One) per bulk litre] shall be levied and realised in case of export of rectified spirit and absolute alcohol:

Provided further that in case of failure of the exporter in furnishing satisfactory proof of the storage of the consignment of India made foreign liquor at the place of its destination within the period of the validity of the pass, the Bank Guarantee furnished by exporter will be liable to be involved for realisation of the entire excise revenue involved in the consignment besides any

other penalty that may be imposed on him under the Bihar Excise Act, 1915 and the Rule; framed thereunder.

(2) [The bond may be either a general or a special bond.]

(3) The Collector shall sign the bond on behalf of the Government of Bihar as a party to the instrument.

(4) The Collector shall then intimate, the fact of the execution of the bond, to the officer in charge of the distillery, brewery or spirit warehouse who shall after the particulars thereof have been entered in the prescribed bond register, issue the liquor as if duty had been paid.

[11A. A person, holding licence for the sale of foreign liquor to the trade, may also export it to any other State in India on pre-payment of duty at the rate in force in the State where it is desired to be exported, subject to the following conditions, namely:-

(1) The exporter shall obtain from the importer a permit authorising the import granted by the Chief Revenue Authority of the State of import or by an officer duly authorised by him in this behalf.

(2) The permit shall specify -

- (a) the name and address of the person or firm authorised to import;
- (b) the name and address of the exporter;
- (c) the destination and quantity of foreign liquor;
- (d) the rate of duty leviable in the State of import:

Provided that in the case of troops and military bodies of the Defence services, the duty may be adjusted by book transfer.]

12. No liquor shall be so issued until it has been measured and proved by the officer in charge of the distillery, brewery or warehouse.

13. (1) A pass, in triplicate, shall be prepared by the officer in charge of the distillery, brewery or spirit warehouse when any liquor is issued under clause (4) of Rule 11 or according to Rule 11A.

(2) One copy of the pass shall be delivered to the exporter, the second shall be forwarded to the Collector of the district to which the liquor is to be taken and the third shall be retained for record:

(3) The pass shall state -

- (a) the name and address of the consignor;
- (b) the name and address of the consignee;
- (c) the description and exact quantity of foreign liquor despatch;
- (d) the rate of duty and total amount of duty paid; and
- (e) the route by which the foreign liquor is despatched.

14. (1) Each cask or other vessel containing liquor issued from a distillery, brewery or spirit warehouse, under clause (4) of Rule 11A shall bear marks showing clearly the name of distillery,

brewery or warehouse, and the number of the cask or other vessel, and the nature, quantity and strength of its contents.

(2) Each such cask or other vessel shall be sealed by the officer incharge and a distinct impression of the seal shall be fixed on the pass forwarded to the Collector of the district to which the liquor is to be taken under clause (2) of Rule 13.

15. Account of all exports shall be kept, in the prescribed form, by the officer in charge of the distillery, brewery or warehouse.

[16. Passes for the export of denatured spirit to other States in India shall be issued on pre-payment of an export pass fee @ 50 P. (Fifty paise) per bulk litre on ordinary denatured spirit and on special denatured spirit.]

(a) persons holding licences in this province for the manufacture or wholesale sale of denatured spirit, or

(b) persons who produce permits from the Collector of the district of destination:

Provided that in the case of troops and military bodies of the Defence services; the pass-fee may be adjusted by book transfer.

Export of Foreign Liquor to Native States of Foreign Territory in India

17. No foreign liquor shall be exported to any foreign territory in India unless the duty imposed thereon under Section 27 has been paid:

Provided that in case of troops and military bodies of the Defence services, the duty may be adjusted by book transfer.

17A. Passes for the export of denatured spirit to foreign territories in India shall be issued on pre-payment of a pass fee of 30 paise per bulk litre on ordinary denatured spirit and 10 paise per bulk litre on special denatured spirit-

(a) persons holding licences in this State for the manufacture or wholesale sale of denatured spirit; or

(b) persons who produce permits from the proper authority in the foreign territory to which the denatured spirit is to be taken:

Provided that in the case of troops and military bodies of the Defence services, pass-fee may be adjusted by book transfer.

Transport of foreign Liquor

18. Foreign liquor (excluding denatured spirit) on which full duty has been paid under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878, or under Section 27 of the Bihar and Orissa Excise Act, 1915, may be transported from premises of the holders of "sale to trade" licences to the premises of other licensed dealers, troops or military bodies only under a pass:

Provided that in case of transport of India-made foreign liquor by or on behalf of troops or military bodies the production of a pass granted by the Collector of the district to which such liquor is intended to be transported shall also be necessary:

Provided that in the case of troops and military bodies of the Defence services, the duty may be adjusted by book transfer.

[18A. (1) India made foreign liquor on which the full amount of duty under Section 27 of the Bihar Excise Act, 1915, has not been paid may be issued from a distillery or a bonded warehouse to the premises of a person holding a distributor's licence on prepayment of duty in the district from which the liquor is intended to be transported under a transport pass and on production of a permit granted by the Collector of the district to which the liquor is intended to be transported.

(2) India made foreign liquor on which full duty has been paid under Section 27 of Bihar Excise Act, 1915 may be transported from the premises of the holders of distributors licence to the licensed premises of the holders of "sale to the trade" licence only under a pass granted by the Collector of the district to which the liquor is intended to be transported.

(3) India made foreign liquor on which full duty has been paid under Section 27 of the Bihar Excise Act, 1915 may be transported from the premises of the holder of "sale to the trade" licence to the premises of the holders of retail, Hotel, Restaurant, Bar and Club licences situated in other districts only under a pass granted by Collector of the district to which the liquor is intended to be transported:

Provided that for transport of India made foreign liquor from different licensed premises within a district, the conditions specified in Rule 18, shall *mutatus mutandis* be applicable.]

19. Rectified spirit on which the full amount of duty under Section 27 of the Bihar and Orissa Excise Act, 1915 has been paid may be issued from a distillery or a bonded warehouse-

- (a) to a chemist and druggist holding a licence to sell such spirit by retail for *bona fide* medicinal or surgical purposes, or
- (b) to a chemist and druggist holding a permit to obtain such spirit for the manufacture of medicines or chemicals, or
- (c) to a person holding a licence for compounding and blending foreign liquor, on prepayment of duty in the district to which the spirit is intended to be transported and only on the production of a pass granted by the Collector of that district.

19A. Rectified spirit may also be issued free of duty to persons, firms institutions, laboratories and museums in the circumstances mentioned in clause (4B) of Order No. XVI of the Orders published with Notification No. 470-F., dated the 15th January 1919, as subsequently amended, only under passes granted by the Collector of the district to which the spirit is intended to be transported:

[Provided that no pass shall be issued for obtaining rectified spirit free of duty from any source in the province of Bihar which maintains duty-paid stock only.]

19B. Denatured spirit may be transported from a distillery or from one wholesale shop to another or to a retail shop or to the premises of a person holding a licence for possession of such spirit for business purposes only under a pass granted by the Collector of the district to which the spirit is intended to be taken.

Note. - For the purpose of this rule the countersignature of the Civil Surgeon of a district on an indent for denatured spirit for use in a Government hospital or dispensary or in any other hospital or dispensary under the supervision of Government shall be deemed to be a pass

[19C. Fixation of price of denatured spirit. - Denatured spirit shall not be sold at prices exceeding the maximum noted below:

(i) When sold by Distillers-(Seventy five) paise per litre, subject to the actual price admissible under clauses (2) and (3) of the Ethyl Alcohol (Price Control) Order, 1971, as subsequently amended by the Ethyl Alcohol (Price Control) Amendment Order, 1972.

(ii) When sold by wholeseller-Rs. 1.55 Paise (Rupee one and fifty-five paise) per litre.

[(iii) When sold by retailer-Rs. 3.00 (Rupee Three) per litre:]

Provided that if the actual price admissible under clause (1) above exceeds 75 paise per litre, such difference in price shall be passed on to the wholeseller and retailer under orders of the Commissioner of Excise, Bihar.]

[19D. Export, import and transport of Methyl Alcohol. - (1) Rules 8 to 19B shall, *mutatis mutadis*, apply to the import, export and transport of Methyl Alcohol.

(2) Transmission through transmission of Wood-Naptha or methyl alcohol as such or mixed with spirit or other substances in forms like special denatured spirit and thinners by rail, road and/ or river, shall, except consignments by a member/ party of the Armed Forces, also be subject to the following conditions:-

(a) Each consignment shall be covered and accompanied by a pass in proper form granted by the Collector or competent prohibition and excise authority of the place from which the articles is carried or consigned and bearing his signature and seal and also a permit granted by the Commissioner of Excise and Prohibition. Bihar, or any officer authorised by him in this behalf.

(b) The receptacles containing the articles shall be securely closed and sealed with the official seal of the officer issuing the pass covering the consignment. Such seal shall not be broken and shall be kept intact during transmission through the State.

In all motor tankers the inlet and discharge points shall be properly locked and sealed by the despatchers with metal seal on molten shellac, over a thick cloth stitched to cover the lock, proper care being taken to prevent all risk of fire in case of consignments transported in metal drums, the discharge hole or holes of each drum shall be securely closed by the threaded metal caps in a leakage proof manner. These caps shall then be wrapped with pieces of thick cloth, stitched all round and sealed with lacquer seal in the manner described above. In neither case shall ordinary lead seal on steel wire be used. An impression of the seal used shall be given on the pass accompanying the consignment and a facsimile of the seal separately to the consignee. It shall be the duty of all consignees of this State to check the seals of the consignment and compare them with the facsimiles impressed on the passes, and received by

them separately. In case of import from outside Bihar, it will be the responsibility of the importer of this State to get these arrangements made.

- (c) While moving methyl alcohol in rail or road tankers or in drums kept on motor lorries, a warning inscription "Methyl Alcohol (Methanol) - poison" and the sign of skull and bones shall be boldly painted on the body of each such tanker or drum. In case such inscription and sign cannot be conveniently painted on the body of the tanker, these may be boldly painted on a metal plate securely fixed to the body of the tanker for prominent display.

The articles shall not be consumed or in any manner used or allowed to be consumed or-used during its transmission through the State.

- (d) In case of consignments moved by road in motor lorries, the carrier or the consignor, or in the case of motor lorries owned by the user himself shall warn the driver of the lorry that the contents of the tanker or the drums, as the case may be, being carried by him are a deadly poison and not ordinary spirit or methyl alcohol.

The lorries must carry at least one person in addition to the driver.

- (e) Every pass and permit for the through transmission shall be produced before the officers incharge of the Excise Check-posts lying on the route of the consignment within the State (in the case of transmission by road only) and also on demand by any Prohibition, Excise or Police Officer of the State for inspection. Such officer shall after inspection endorse on the pass the fact of his having verified the particulars of the article specified in the pass.
- (f) A person desiring importation or through transmission of a consignment of wood naphtha or methyl alcohol as such or in mixed forms such as special denatured spirit, thinners, through the State shall apply fifteen days in advance of the expected entry of the consignment in the State, giving full particulars regarding the names and addresses of the consignor and consignee, kind and quantity of the article to be moved. Such application shall be accompanied by a true copy of the pass granted by the Collector or the competent Prohibition or Excise Authority of the place from which the consignment is intended to be moved. This application shall be made to the Excise Commissioner, Bihar who shall issue or authorise an Excise/Prohibition Officer to issue necessary permit to the applicant and send copies of the same to the Excise/Prohibition authority of the originating district and the Excise/Prohibition Officer of the district where the consignment shall first enter the State of Bihar. On such arrival of the consignment, the district Excise Prohibition Officer concerned or any other officer

authorised by him shall, after necessary verification from the pass and copy of the permit make an endorsement on the pass about the date and time of arrival of consignment in question. In case of through transmission an Excise escort may be provided at the discretion of the District Prohibition and/or Excise Officer and at the cost of the consignor to accompany the consignment throughout the intervening territory of the State. Such Officer shall also inform the Prohibition and/ or Excise Officers of all the districts of this State, which lie on the route of the consignment.

(3) During the through transmission of consignment of methyl steamer booked as a parcel or goods or registered baggage the whole consignment shall be in the charge of an Officer or servant duly authorised in this behalf by the Railway Administration or Steamer Service, as the case may be.

(4) In case of transmission by military vehicles by road, consignment shall be in the charge of the member of the Armed Forces, who is in charge of the military convoy or vehicles, as the case may be. Such consignment shall also be covered by a pass granted by the Officer Commanding the Regiment or Unit of the place from which it is transmitted or an officer or of such Regiment or Unit who is authorised to grant leave to/order the movement of the member party carrying the consignment.

(5) The State Government, may by notification and subject to such exceptions, if any as may be specified in the notification, exempt any substance or class of substances containing methyl alcohol from the provisions of sub-rules (1) to (4).

(6) The above provisions of this Rule shall be in addition to / and not in derogation of the provisions of the Petroleum Act, 1934 or the Inflammable Substances Act, 1952 or any rule made or notification issued under these Acts, on the subject.

Explanation - For the purposes of these Rules-

- (a) "Methyl Alcohol" means the substance as defined in the Bihar Rules, 1979, framed by the Board of Revenue.
- (b) "Through Transmission" means to move from any place outside Bihar, to any place outside the State by rail, road or river through Bihar, as defined in the Bihar Methyl Alcohol Rules, 1979.
- (c) "Transmission" mean importation into, exportation from and transportation within Bihar, as defined in the Bihar Methyl Alcohol Rules, 1979.]

Country Spirit

Import of Country Spirit

20. (1) Country spirit may be imported only with the permission of the Excise Commissioner, and under a bond for the payment of excise duly, and by-

(a) a person to whom an (exclusive privilege for the supply or sale of such spirit has been granted under Section 22, or

(b) a licensed wholesale dealer in country spirit.

(2) Rules 8 to 10 shall apply to such imports.

Export of Country Spirit

21. (1) Country spirit may be exported only under a bond for the payment of excise duty and with the permission of the Excise Commissioner, which will not be given without the concurrence of the authorities of the place to which the spirit is to be taken.

[Passes for such export to any other State in India or to any Indian State shall be issued on prepayment of the pass-fee prescribed by the Board of Revenue, Bihar.]

(2) Rules 11 to 15 shall, so far as may be, apply to such exports.

Transport of Country Spirit

[22. Rules 11-15 so far as may be, shall apply to the transport of country spirit from distilleries to spirit warehouses and manufacturers of spiced country spirit, and also to the transport of spiced country spirit from the manufacturing premises to the bonded warehouse of spiced country spirit.

Rule 18-A shall so far as may be, apply to transport of spiced country spirit issued from a bonded warehouse to a person holding a licence for sale of spiced country spirit.]

Ganja

Import and Export of Ganja

23. *Ganja* may be imported by licensed wholesale vendors of ganja under the following conditions:-

[The importer shall execute a bond in the prescribed form in favour of the Collector of the importing district binding himself, his heirs, successors and assigns to pay to the Collector of the importing district]-

(a) the duty imposed under Section 27, and

(b) if, on arrival of *ganja* at its destination, any deficiency in quantity (as compared with the quantity received at the station of despatch) is found, a penal duty on such deficiency at such rates as may be prescribed:

Provided that the whole or any portion of such penal duty may be remitted should the Excise Commissioner hold such deficiency to be due to dryage or due to circumstances beyond the control of the holder of the licence:

Provided further that in case of deficiencies in transit by rail, the remission of duty shall be subject to adjustment of the amount of compensation which the holder of the licence may get from the railway in accordance with rules for the time being in force relating to filing of claims.

- (c) on failure to lodge ganja in a licensed warehouse in the importing district within a reasonable time from the date of its despatch a sum equal to the duty on the entire quantity of ganja not so lodged.

The bond may either be a general bond in respect of imports that may be made from time to time or a special bond in respect of any specific consignment.

(2) For each consignment of *ganja* to be imported, the importer shall obtain a pass from the Collector of the importing district in the prescribed form, authorizing import of ganja into a licensed warehouse in a district which is either a Government warehouse for which the importer pays such rent as may be fixed by the Collector or a private warehouse in respect of which the importer holds a licence granted by the Collector with approval of the Commissioner.

The pass shall ordinarily be in force for one month from the date on which it is granted, but the term may be extended by the Collector of the importing district or the Superintendent of Excise, of the exporting district.

(3) The Collector issuing the import pass shall forward two copies thereof to the Superintendent of Excise, of the exporting district noting on them the fact of the execution of the bond by the importer.

(4) The importer or his authorised agent shall present such pass to the Superintendent of Excise of the exporting district, and obtain on it the written permission of that officer to purchase *ganja*. He shall further comply with any rule that may be in force in exporting State regulating the taking of *ganja* out of that State, and also such instructions in conformity therewith as he may receive from the Superintendent of Excise of the exporting district.

(5) The *ganja* shall be brought by the route mentioned in the pass and shall on arrival in Bihar be taken direct and with all reasonable care dispatch to the licensed warehouse mentioned in the pass. Ganja shall then be presented with the pass to the Superintendent to Excise or such other officer as may be authorised by the Collector to examine, weigh and store the ganja on arrival.

[In case of import the gross weight of the consignment shall be taken without fail in the presence of the Railway Authorities and their signature obtained regarding the weight taken in their presence as soon as the delivery of the consignment is taken by the holder of the licence concerned. In case of deficiency in weight, it shall be the duty of the holder of the licence concerned to file a claim before the Railway in time.]

24. [XXXXXX]

25. [XXXXXX]

26. Ganja importer under Rule 23 may be exported from any licensed warehouse to any other State in India, under conditions similar to those laid down in Rule 32 below regulating the export of bhang.

[27. Ganja may be exported to other States provided an export pass fee at the rate of Rs. 5 (Rupees five) per Kilogram has been levied and realised.]

28. [XXXXXXXX]

29. [XXXXXXXX]

30. [XXXXXXXX]

[30A. Rule 23, *mutatis mutandis*, applies to the transport of *ganja* from the central gola to the warehouse and from one warehouse to another.]

Bhang

Import of Bhang

31. Bhang may be imported from the State of Uttar Pradesh by the licensed wholesale vendors of bhang of this State. Rule 23 shall, so far as may be, apply to such imports.

Export of Bhang

32. (1) Bhang may be exported to any other State in the Indian Union provided that-

- (i) the exporter has paid the duty, if any, imposed under Section 27 or has executed a bond (either general or special) in favour of the Collector, either of the district to which the bhang is to be taken or of the exporting district binding himself, his heirs, successors or assigns within a specified time either to lodge the bhang in a licensed warehouse in the district to which the *bhang* is to be taken or pay to the Collector of the district to which the bhang is to be taken a sum equal to the amount of duty chargeable on the said *bhang* in the district to which the bhang is to be taken under the law in force in that district. The said bond may also provide for the payment of penalty only at such rate as may be prescribed in respect of any deficiency in quantity of the bhang lodged in the said licenced warehouse as compared with the quantity received in the district of export;
- (ii) it is covered by a pass granted by the Collector or Officer in charge of Excise of the district to which the bhang is to be taken and is exported by the person to whom such pass has been granted or by an authorised agent of such person;
- (iii) the officer issuing the said pass has forwarded two copies thereof to the Collector of the district from which the *bhang* is to be exported;
- (iv) the Collector of the district from-which the *bhang* is to be exported has endorsed on such pass an order authorizing the export;
- (v) the *bhang* is exported direct from some licensed warehouse, and
- (vi) The officer incharge of such warehouse has noted on the pass referred to in clause (ii) the following particulars:-
 - (a) the number of each package,
 - (b) the gross weight of each package
 - (c) the net weight of bhang in each package, and
 - (d) the name of the person to whom delivery is to be given.

Note. - The Government of Bengal allow the importation of bhang only from the producing districts of Monghyr, Bhagalpur and Purnea.

(2) After the entries have been made as required by clause (vi) above, the officer shall make similar entries on the two copies of the pass referred to in clause (iii) of which he will file one copy in his office and return the other by post the same day to the officer who issued the import pass.

(3) *Bhang* shall not be issued to the exporter except within the period for which the pass referred to in clause (ii) is current, and after issue it shall be forwarded by him with all reasonable despatch to the destination and by the route specified in the pass:

[Provided that before issue, an export pass fee at the rate of Rs. 0.50 (fifty paise) per kilogram of Bhang shall be levied and realised.]

33 to 35 Omitted.

Transport of Bhang

[35A. Rule 32, *mutatis mutandis*, applies to the transport of bhang from the central gola to the warehouse and from one warehouse to another].

Charas

36 to 40 [* * *]

Transmission of HEMP drugs, Extracts and tincture of HEMP and Medicinal Preparations Containing HEMP Drugs.

41 to 43A.[* * *]

Duration and Number of Licensee

44. Licences for the wholesale or retail vend of excisable articles may be granted for one year, from the 1st April, to the 31st March, subject to the following provisions:-

[(1) Licences for the retail vend of country spirit, foreign liquor and spiced country spirit may be granted for any number of years up to three years, beginning on the 1st April, in cases where the Excise Commissioner considers this advisable.]

(2) If any licence be granted during the course of the financial year, it shall be granted only up to the 31st March, next following.

(3) Season licences for the sale of either fresh or fermented *Tari* may be granted for periods fixed by the Collector.

(4) Temporary licences may be granted to provide for the supply of excisable articles on temporary and special occasions e.g, fairs, regimental camps of exercise, etc., and shall be limited to the period during which such temporary or special occasions last.

(5) Wholesale licences for the supply and sale of excisable articles may be granted for any number of years not exceeding five, as the Board may decide in each case.]

45. The number of licences which may be granted for any local area shall be regulated by the needs of the people of that area, and no licence for the sale of any excisable article in any local area shall be granted unless it is required either to meet an ascertained demand for such article or to counteract supply through illicit sources.

46. The general principles below stated shall be borne in mind, and shall be applied by Collectors, so far as possible, in fixing the number of licences to be granted for the retail sale of liquor for consumption on the premises of the vendor:-

Liquor shops should not be so sparsely distributed as to give to each a practical monopoly over a considerable area, or at least such a monopoly should only be allowed when prices can be effectively fixed. At the same time two or more shops should not be equally convenient to a considerable number of persons. In other words, liquor shops need not be so limited in number as to make it practically impossible for a resident in a particular area to get his liquor except from one particular shop; but it should only be possible for him to get his liquor from two different shops at the cost of considerable inconvenience, and he ought to have as little freedom of choice in the matter as possible.

Location of Shops

47. (1) No shop shall be licensed for the consumption of liquor on the vendor's premises-

(a) in a market-place, or

(b) at the entrance to a market place, or

[(c) In a Municipal or Corporation area within a distance of 50 metres and in other areas, within a distance of 100 meters of a bathing ghat, educational institution, hospital, religious institution, factory, petrol pump, Railway Station, railway yard, Bus station, harijan or labour colony, [National Highway or State Highway] or other places of public resort or any other place considered necessary.]

[Note. - The restrictions about the distance from petrol pump imposed shall not apply to licences granted to Independent beer Bars, for consumption of beer on the premises.]

(d) In the congested portion of a village:

Provided that the restriction imposed by this sub-rule shall not apply to foreign liquor licences granted to hotels and restaurants for consumption on the premises.

[Explanation. -

(i) "educational institution" means any pre-primary, primary or secondary school, managed or recognised by any local authority of the State Government or the Central Government or any College affiliated to any University established by law, but does not include any private coaching institution;

- (ii) "religious institution" means any institution for the promotion of any religion and include a temple, math, mosque, church, synagogue, or other place of public religious worship which is managed or owned by a public trust registered under the relevant Acts and includes such other religious institution as the State Government may by order specify in this behalf;
- (iii) the distance referred to in clause (c) shall be measured from the midpoint of the entrance of the shop along the nearest path by which a pedestrian ordinarily reaches,
 - (a) the mid-point of the nearest gate of the institution, if there is a compound wall, and, if there is no compound wall, the mid point of the nearest entrance of the institution, or
 - (b) the mid-point of the nearest gate of places other than educational institution and religious institution, if there is a compound wall, and, if there is no compound wall, the nearest point of the boundary of such places.

(2) Any shop in respect of which a licence has been granted, shall not be deemed to be situated within the prohibited distance referred to in sub-clause (c) of clause (1) if at any time, after such licence is granted, any institution or place referred to in that sub-clause comes into existence within a distance of fifty metres or as the case may be one hundred metres, from that shop, during the currency of that licence.

(3) In areas inhabited by aboriginal tribes, country spirit shops shall not be licenced to be placed immediately on the side of a main road or in any other prominent position that may place temptation in the way of the aborigines:

Provided that the restriction imposed by this sub-rule shall not apply to foreign liquors licences granted to hotels and restaurants for consumption on the premises.]

48. In granting licences for new shops, and, as far as practicable in granting licences for established liquor shops, the Collector shall have regard to the following principles:-

- (a) A liquor shop should not be inaccessible to consumers, but it should not be in such a situation as to obtrude itself on the attention of the public or to render persons passing by subject to annoyance from persons drinking.
- (b) In towns, the position of a liquor shop should be so for public that persons entering it should not escape observation, and it should be such as to render supervision easy, but it should not be so prominent as to compel attention, e.g., by occupying a whole side of a public square.
- (c) A liquor shop should never occupy a position to which the near neighbours object on grounds which, upon inquiry, appear to be sufficient and free from malice or ulterior motives.

49. Licences for the retail sale of liquor at any place within [3.2 K.M.] of the border of another district shall not be granted unless the Collectors of both districts concur, or, if they fail to concur, unless the Excise Commissioner so directs.

50. No outstill licence shall be granted for any place within [8 Kilometres] of any distillery area situated either in the State of Bihar or in any adjoining State in India, except under very special circumstances, e.g. the existence of a large mart.

[51. Except with the previous sanction of the State Government, shops shall not be licensed for the retail sale of any intoxicants within [3.2 Kilometres] of the border of any other adjoining State.]

[51A. Except with the previous sanction of the Local Government which will only be granted in exceptional cases, no shop other than the four liquor and ganja shops at Bairgania, Sursand, Majorganj and Bansbitta in the Muzaffarpur district shall be licensed for the retail sale of excisable articles other than *Tari* within [3.2 Kilometres] of the [Nepal Border].

52. Licences for the sale of foreign liquor for consumption on the vendor's premises shall only be granted in places where there is a proved demand on the part of a class of drinkers accustomed to foreign liquor, e.g., in large industrial centres, or in towns where there is a population specially accustomed to drinking such liquor.

Prohibition of grant of retail licences of certain persons

53. Licences for the retail sale of any excisable article shall not ordinarily be granted-

- (a) to any persons who have been convicted by a Criminal Court of a non bailable offence, or
- (b) to former licensees who are in arrears to Government, or whose conduct has been found to be unsatisfactory, or who have been found guilty of any serious breach of the conditions of their licences.

54. No licence shall be granted to an outstill licence for the retail sale of distillery spirit or 7an in a shop within [8 Kilometres] of his outstill.

55. No licence shall be granted to a distillery shop licensee for the retail sale of outstill spirit or 7ari in a shop within [8 Kilometres] of his distillery shop.

[55A. No licence shall be granted to distillery liquor licensee in an area in which a lower duty is levied for the retail sale of distillery liquor within an area in which higher duty is levied.]

[55B. Except with the previous sanction of the Commissioner of Excise, no person shall hold, either in his own name or in the name of any other person, more than one licence, for retail sale of country spirit which is settled under the sliding scale system of settlement:

- (a) when such settlements are made, as a result of-
 - (i) sanction of new licences;
 - (ii) existing licences becoming available for settlement through surrender, cancellation or any other reason; and
- (b) in the event of transfer of such licences:

Explanation. - The expression "sliding scale system of settlement" means the settlement of excise shops without auction at fees fixed automatically in accordance with a sliding scale sanctioned by the Commissioner of Excise.]

[55C. A distiller, holding a licence in Excise Form No. 25, shall not hold wholesale or retail licence of denatured spirit. Likewise the wholesale licensee of denatured spirit shall not hold any retail licence of denatured spirit].

[55C. Licences for manufacture and retail sale of Pachwai shall not be granted to any person throughout the State of Bihar.]

Prohibition of sale to certain persons

56. (1) No excisable article shall be sold-

- (a) to any Railway servant at the time on duty, any Excise, Salt or Police Officer below the rank of Sub-Inspector being in uniform, any European vagrant under Police escort, or any insane person, by any licensed vendor or by the agent or servant of any licensed vendor, or
- (b) to any soldier, whether in uniform or not, or any member of a soldier's family, or any camp-follower, by any licensed vendor or the agent or servant of any licensed vendor unless such licensed vendor has been approved by the General Officer Commanding the Division or the Officer, Commanding a cantonment or camp.

(2) In this Rule-

- (i) "Soldier" does not include a Commissioned Officer, a volunteer, or a soldier in civil employment, and
- (ii) "Camp-follower" means a person (other than a soldier or private servant) whom the person selling an excisable articles knows or has reason to believe to have a right to be in cantonments;
- (iii) the expression "soldier" "member of a soldier's family" and "camp follower" do not include an Indian soldier or a member of an Indian soldier's family, or an Indian camp-follower, when such soldier or camp-follower is absent from his regiment.

Ascertainment of local Opinion prior to the grant of certain Licences for the sale of Liquor except in the areas where Licensing Boards have been constituted

Licences for the retail sale of spirit or Tari for consumption on the vendor's premises

57. (1) On or before the 20th October, the Collector shall prepare a list showing what licences is it proposed to grant for the retail sale of spirit or tari for consumption on the vendor's premises for the next period of settlement.

(2) The said list shall specify, as accurately as may be possible, the locality of the premises to be licensed, and shall distinguish proposed new licences from existing licences which it is proposed to renew.

58. Before the 1st November, the Collector shall-

- (a) affix the notice required by clause (a), and proclaim the notice required by clause (b), of Section 31, and
- (b) send a copy of the list to the Chairman of the district board and an extract to the Chairman of each municipality as required by clauses (c) and (d) of Section 31, and
- (c) send to the Commanding Officer of each cantonment an extract reproducing within a distance of two miles from those limits, and
- (d) give such opportunity as he thinks to be required for the expression of opinion-
 - (i) by railway authorities, on proposals for the grant of licences for shops near railway stations
 - (ii) by Forest Officers, on proposals for the grant of licences for shops for supplying spirit or tari to aboriginal tribes inhabiting forests; and
 - (iii) by large employers of labour in tea gardens, mills, factories and coal mines, on proposals for the grant of licences for shops for supplying spirit or tari to their labourers.

59. The Chairman of each municipality shall cause a copy of the extract sent to him under Rule 58, clause (b) to be conspicuously affixed at the central office of the municipality for a period of not less than seven days expiring before the 14th November and shall send to each member of each Ward Committee (if any), not later than the 5th December, a copy of so much of the extract as relates to shops situated in his ward.

60. All objections and opinions with respect to proposals contained in the list referred to in Rule 57 must be sent so as to reach the Collector by the 15th November; and the Commanding Officer of each cantonment must inform the Collector by the same date whether he consents to the proposals contained in the extract sent to him under Rule 58, clause (c).

61. [(1) In all municipalities, and in all towns other than municipalities with a population of 20,000 or more, a local committee, constituted in such manner as the Board of Revenue, with the approval of the Local Government, may decide, shall unless the local Government in any case otherwise direct, be formed, by the 15th November, to consider and advise the Collector upon the proposals contained in the list referred to in Rule 57 above regarding the number of licences and the location of shops.

(2) The Collector shall record the opinion of the Committee upon the proposed number of licences and location of shops and upon the objections which he has received by the said date; and if that opinion is not accepted by him, he shall record his reasons for disagreement.]

62. On or before the 30th November the Collector shall submit to the Commissioner of the Division the list referred to in Rule 57 as revised by him under Section 34, and the objections and opinions which he has received by the 15th November, and a report of the proceedings of the Committee referred to in Rule 61 and his own opinion.

63. On or before the 10th December, the Commissioner of the Division shall forward to the Excise Commissioner the list, objections, opinions and report so submitted to him with his own opinion and recommendations (if any).

Procedure to be followed for settlement of Excise shops in the areas where Licensing Boards are Constituted

[63A. (1) The licensing board shall be newly constituted every third year in the month of October, in which month elections of members to represent them shall be held by the municipal commissioners, the principals and headmasters of colleges and high schools, temperance societies and excise licensees.]

(2) Before the 1st day of August, the Collector shall prepare and publish lists of (a) principals and headmasters and (b) excise licensees who are entitled to vote in these elections.

(3) The Collector shall decide all questions regarding the time and place of elections under these rules, and, where necessary, appoint a suitable person to be the Presiding Officer. All disputes regarding the elections shall be decided by the Collector, whose decision shall be final.

(4) If anybody entitled to elect a member to the board fails to do so within the month of October, the Collector shall appoint a member from among that body.

(5) The licensing board shall hold office for three years commencing from the 1st day of November, of the year in which it is constituted. Any vacancy among the appointment, as the case may be, to a newly-constituted board, of a member of the class to which the late member belonged.

(6) The duties of the licensing board shall be-

(a) to meet at least once a year not later than the *fifteenth day of January* to decide, subject to the provision of any order issued by the local Government under Section 7(2)(b) of the Excise Act, the number of excise shops for the ensuing excise year and area within which each shop shall be situated and to select licensees for such shops;

(b) to meet when convened by the Collector, for the purpose of giving him advice on matters connected with excise, of selecting licensees when vacancies occur, or of deciding matters arising from breach of the conditions of licences;

(c) to meet when convened by a requisition addressed to the chairman by not less than four members;

(d) to communicate a minute of its proceedings and its decision to the Collector within fifteen days of the date on which the meeting is held.

(7) At least *thirty days* previous to the date fixed for the meeting prescribed under sub-rule (6)

(a) the licensing board shall cause to be prepared and published in the manner prescribed by sub-rule (8) a list specifying-

(i) the licences of various kinds it proposes to grant for the ensuing excise year;

(ii) as accurate a description as is possible of the locality and site of the premises to be licensed; and

(iii) the latest date for receipt of written objection to its proposals (such date being not earlier than seven days previous to the date fixed for the meeting) from any of the following:-

- (a) persons paying municipal rates residing in the municipality;
 - (b) Railway Authorities on proposals for the grant of licences for shops near a railway workshop;
 - (c) employers of labour on a large scale on proposals for the grant of licences for shops near their factories or places of business;
 - (d) the Commanding Officer of any cantonment on proposals for the grant of licences for shops in proximity to cantonment boundaries;
 - (e) the governing body of any religious, philanthropic or educational institution on proposals for the grant of licences for shops in proximity to such institution;
- and shall give full consideration to such objections at the aforesaid meeting and hear evidence, if it is considered necessary in support of such objections, should objectors express a desire to produce the same.

(8) The Board shall-

(a) cause a copy of the list prescribed under the preceding rule to be exhibited at the central office of the municipality and at the Collector's Office; and

(b) cause an extract of so much of the list as relates to shops situated in a ward of a municipality to be sent to the Commissioner or Commissioners representing that ward.

(9) [XXXX]

(10) in cases where a shop is closed by the licensing board, the licensee shall have no right of appeal.

(11) No licensee shall have any claim to the renewal of his licence or any claim to compensation on the determination thereof.

Restrictions on the exercise of powers conferred by Sections 69 and 70.

64. No excise officer below the rank of Inspector shall exercise any of the powers conferred by Section 69 (entry, testing, seizure, etc.) in respect of any licensed place of manufacture or storage which is under the charge of an excise officer unless he is generally authorized in writing by the Collector to do so.

65. (1) Officers below the rank of Sub-Inspector in the Excise or Police Department, or of Preventive Officer in the Customs Department or of *Kanungo* in the Land Revenue Department may exercise the power conferred by Section 70 (arrest without warrant, seizure and search) in open places only.

(2) The expression "open places" in this rule means "open" in the ordinary sense as opposed to "closed" but does not include a dwelling house.

66. Any officer who, outside his local jurisdiction, arrests any person or seizes any article under Section 70 shall without delay make over such person or article to an excise officer having local jurisdiction, or to the Officer-in-Charge of the nearest police station.

Information and aid to Excise Officers.

67. The information which officers referred to in Section 75 are required to give of breachers of provisions of the Act shall be given to the Collector and the Sub-Divisional Officer or to the nearest excise officer having jurisdiction to investigate the offence.

68. No excise officer below the rank of Sub-Inspector shall request any officer referred to in Section 75, sub-section (1), to aid him in carrying out the provisions of the Act or of any rule, notification or order made, issued or given under the Act.

69. (1) when any excise officer not below the rank of Sub-Inspector requires the aid of any officer referred to in Section 75, sub-section (1), in making any arrest or search under the Act, he shall send.-

(a) if the aid of the police is required, to the Officer-in-Charge of the police-station within the limits of which the arrest or search is to be made, or

(b) if the aid of any other officer referred to in the said sub-section is required, a requisition (which shall be in writing, if the exigencies of the occasion permit) stating the nature of the aid required and the reasons for which it is required.

(2) If any officer to whom a requisition is sent under clause (1) of this rule feels unable to render the aid required, he shall forthwith inform the officer who sent the requisition of his reason for withholding it, and shall, if necessary, refer to his immediate superior for instructions.

70. A village chaukidar or dafadar shall not be required to aid excise officers in carrying out any provisions of the Act, or of any rule, notification or order made, issued or given under the Act, except in the matter of making an arrest, search or seizure or a distraint of movable property within the village, union or circle for which he is appointed.

Grant of expenses to witnesses

71. Expenses of witness appearing under summons or produced before any Court in exercise cases may be granted by the Court, or by the Collector in accordance with the following rules, namely:-

(a) in the case of Government servants-Rules 219 to 224 of the Bihar and Orissa Treasury Manual, 1915, and

(b) in the case of other persons-The Rules made by the High Court for the grant of expenses to witnesses in criminal cases.

Grant of compensation

72. Compensation for loss of time may be granted to persons referred to in Section 89, clause (n) by the Collector or by the Magistrate before whom they are charged,

73. Such grant shall be made under the same condition as grants of expenses under the rules referred to in clause (b) of Rule 71 and shall be subject to the maximum limit prescribed by those rules for the grant of expenses.

The notification of the Government of Bengal, No. 716 S.R., dated the 25th November, 1909, published on pages 1718-1726, part 1 of the Calcutta Gazette of the 1st December, 1909, as subsequently amended, is hereby cancelled.

Rules under Section 89

[No. 808 L.S.G.R. the 20th July, 1940. - In exercise of the powers conferred by sub-section (1) of Section 89 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915), the Governor of Bihar is pleased to make the following Rule for the purpose of carrying out the provisions of Section 70 of the Act:-

The person in charge of any vessel, vehicle or animal shall cause it to stop and to remain stationary so long as may reasonably be necessary, when required to do so by any excise officer or any officer of the Police or Land Revenue Department or any other person duly authorised in that behalf for the purpose of enabling such officer or person to make any arrest or seizure or search under Section 70 of the Act.]

Notification under Section 36

[No. 23-33-4, dated the 17th June, 1919. - In exercise of the power conferred by Section 36 of the Bihar and Orissa Excise Act, 1915 (Act II of 1915), the Board of Revenue for Bihar and Orissa hereby directs that the provisions of Sections 30 to 35 of the Act as to licences for the retail sale of pachwai in the Province of Bihar and Orissa:

Provided that in the case of licences which it is proposed to grant outside municipalities an abstract of the revised list referred to in Rule 62 of the rules published under notification of the Government of Bihar and Orissa in the Financial Department No. 471-F., dated the 15th January, 1919, shall be submitted to the Commissioner of the Division, instead of a full list, unless the Commissioner otherwise directs.]

No. 23-2-9, dated the 29th July, 1924. - In exercise of the power conferred by Section 36 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915), the Board of Revenue is pleased to direct that with effect from the 1st July, 1924, the provisions of Sections 30 to 34 of the Excise Act shall apply also in respect of licences for the retail sale of hemp drugs, in the municipalities of Patna (Patna City), Gaya, Chapra, Muzaffarpur, Darbhanga, Monghyr, Bhagalpur and Cuttack.