

ORISSA EXCISE RULES, 1965

⁽¹⁾In exercise of the powers conferred by section 89 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act 2 of 1915), and in supersession of all existing rules on the subject including those contained in the notification of the Government of Orissa in the Local-Self Government Department No. 1827-L.S.G., dated the 31st March 1937, the State Government do hereby make the following rules, the same having been previously published as required under sub-section (3) of the said section of the said Act.

CHAPTER - I

GENERAL

1. **Short title :** These rules may be called the Orissa Excise Rules, 1965
2. **Definitions :** In these rules, unless the context otherwise requires –
 - (1) "Act" means the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act 2 of 1915)
 - (2) "Additional District Magistrate" means any officer appointed as such under sub-section (2) of section 10 of the Code of Criminal Procedure, 1898 (Act 5 of 1898);
 - (3) "Boards rules" means rules made by Board under section 90 of the Act;
 - (4) "Civil Surgeon" means the Civil Surgeon of a district or any other Officer of equivalent or higher rank of the Department of Health Services having control or exercising supervision over the institution in respect of which he is required to exercise any powers or discharge any function under these rules;
 - (5) "Commissioner" means the Excise Commissioner;

1. For previous publication of these rules as required under sub-section (3) of section 89 of the Bihar and Orissa Excise Act, 1915, See Government of Orissa, Revenue and Excise Departments notification No. 68745-R., Dated the 27th October 1964, published in *Orissa Gazette*, dated the 30th October 1964 (Part II, pages 1799-1816).

These rules were finally published in Government of Orissa, Revenue and Excise Departments notification No. 497540-R., dated the 24th July 1965, vide *Orissa Gazette Extraordinary* No. 1176, dated the 7th August 1965.

- (6) "Director" means the Director of the Department of Animal Husbandry & Veterinary Services, Orissa and includes a Deputy Director of that department;
- (7) "District" means a district as defined in the Orissa Revenue Administration (Units) Act, 1963;
- (8) "Government" means the State Government of Orissa;
- (9) "Inspector" means an Inspector of Excise;
- (10) "Medicinal preparation" shall have the same meaning as assigned to it in the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (Act 16 of 1955);
- (11) "Section" means a section of the Act;
- (12) "Sub-Inspector" means a Sub-Inspector of Excise;
- (13) "Superintendent" means a Superintendent of Excise;
- (14) "Toilet preparation" shall have the same meaning as assigned to it in the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.
- (15) Words and expressions used but not defined in these rules shall have the same meaning as respectively assigned to them in the Act.

CHAPTER - II

IMPORT, EXPORT AND TRANSPORT OF INTOXICANTS

PART I

PRELIMINARY

3. Restrictions on import, export and transport of certain intoxicants: (1) Subject to the provisions of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the rules made thereunder by the Central Government, the import, export and transport of the intoxicants herein specified shall be regulated by the rules in this Chapter and shall also be subject to the restrictions imposed by sections 9, 10 and 12 or under section 90 and to any prohibition made under section 11.

(2) *Validity and Currency of Pass* - A pass issued for import, export or transport of any intoxicant shall remain valid for such period as may be specified in it by the person issuing it:

Provided that the period can be extended or reduced by the said person or his successor in office for reasons to be recorded on the pass.

PART II
FOREIGN LIQUOR

A. IMPORT

4. Import of India-made foreign liquor for private consumption prohibited : Import of India-made foreign liquor (except perfumed spirit and spirit contained in drugs, medicines and chemicals) in any quantity whatever by any person for his private consumption is prohibited.

5. Import of India-made foreign liquor by clubs and by licensees for sale to be subject to certain conditions : (1) Import of India-made, foreign liquor by clubs 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 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 clause (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.

¹[(2) The passes referred to in sub-rule (1) will be issued on the application of the intending importer on pre-payment of duty].

6. To whom pass for import of foreign liquor to be issued : (1) Passes for the import [x x x x]² of foreign liquor other than denatured spirit or rectified spirit shall be issued only to –

- (a) clubs,
- (b) persons authorised to cater for troops,
- (c) persons holding licences for the sale of foreign liquor, and

1. Substituted by Ex. Deptt. Notifn. No 2721 Dt. 24.7.1993

2. Omitted by *ibid*.

(d) persons holding licences to denature spirit;

Provided that the pass for the import of perfumed spirit and spirit contained in drugs, medicines, and chemicals from the licensed manufacturers or licensed bonded warehouses can be granted to any person.

(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 a retail sale.

NOTE – For the purpose of this rule, the countersignature of the Director or Civil Surgeon on any indent for denatured spirit for use in institutions under their respective control or supervision shall be deemed to be a pass.

(3) Passes for the import of rectified spirit shall be issued only to –

- (a) charitable hospitals or dispensaries maintained by local authorities;
- (b) other charitable hospitals or dispensaries specified in this behalf by order of the Government, on requisitions countersigned by the Civil Surgeon;
- (c) Veterinary Assissant Surgeon, on requisitions countersigned by the Director;
- (d) educational institutions, firms, laboratories or museums authorised by an order of the Commissioner to possess rectified spirit made in India and exempted from the provisions of the Act relating to duty, for any scientific or industrial purposes other than the preparation of commodities which, when made, will themselves contain alcohol;
- (e) any other person approved by the Commissioner who may require rectified spirit for the manufacture of medicinal or toilet preparations ¹[or for the manufacture of India-made fereign liquor].

7. Import of rectified spirit under certain special circumstances :

Import of rectified spirit made in India and exempted from the provisions of the Act relating to duty by the State Government under section 94, shall be made under a pass granted by the Collector.

8. Steps to be taken for transport and storage of foreign liquor imported : Foreign liquor imported as aforesaid shall on arrival in Orissa 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.

B. EXPORT**9. Export of foreign liquor to be subject to certain restrictions :**

(1) When any person desires to remove foreign liquor from any distillery, brewery or spirit warehouse for export to any other State under a bond for the payment of duty, he shall execute a bond in the prescribed form, before the Collector of the district in which the distillery, brewery or spirit warehouse is situated.

(2) Such bond may be either a general or a special bond.

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

(4) The Collector shall then intimate the fact of the execution of the bond to the Office-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.

10. Issue of foreign liquor for export only after measurement and proving : No liquor shall be so issued until it has been measured and proved by the Officer-in-charge of the distillery, brewery or warehouse.

11. Pass for export to be in triplicate : (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 sub-rule (4) of Rule 9.

(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.

12. Vessel containing foreign liquor for export to bear certain marks : (1) Each cask or other vessel containing liquor issued from a distillery, brewery or spirit warehouse, under sub-rule (4) of rule 9 shall bear marks showing clearly the name of such 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-in-charge, and distinct impression of the seal shall be affixed on the pass forwarded to the Collector of the district to which the liquor is to be taken under sub-rule (2) of rule 11.

13. Accounts of export to be maintained : Accounts of all exports shall be kept, in the prescribed form, by the Officer-in-charge of the distillery, brewery or warehouse.

14. To whom pass for denatured spirit to be issued : Passes for the export of denatured spirit to other State shall be issued only to –

(a) persons holding licences in this State for the manufacture or wholesale sale of denatured spirit for being sent to a licensed

premises or any other destination approved for the purpose subject to a "no objection" certificate issued by the Collector of the district of destination, or

- (b) persons who obtain the denatured spirit from a licensed distillery or warehouse and produce permits from the Collector of the district of destination.

C. TRANSPORT

15. Transport of foreign liquor on which duty has been paid : Foreign liquor (excluding denatured spirit) on which full duty has been paid under the Indian Tariff Act, 1934, or the Customs Act, 1962 or under section 27 of the Bihar and Orissa Excise Act, 1915, may be transported from the premises of the holders of "sale to trade" licences to the premises of other licensed dealers, only under a pass.

16. Transport of India made foreign liquor (other than denatured spirit and rectified spirit) on which full amount of duty has not been paid : India-made foreign liquors (excluding denatured spirit and rectified spirit) on which the full amount of duty under section 27 has not been paid may be issued from a distillery or a bonded warehouse to a person holding a licence for sale of foreign liquor on prepayment of duty in the district to which the liquor is intended to be transported and on the production of a pass granted by the Collector of that district.

17. Transport of rectified spirit on which full amount of duty has not been paid : Rectified spirit on which the full amount of duty under section 27 has not 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 or 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.

18. Transport of duty free rectified spirit : Rectified spirit may also be issued free of duty only under a pass granted by the Collector of the district to which such spirit is intended to be transported by the following –

- (a) Government institutions and departments,
- (b) charitable hospitals and dispensaries maintained by the local authorities, or when authorised by an order of the State

Government to possess rectified spirit made in India and exempted under section 94 from the provisions of the Act, relating to duty,

- (c) educational institutions, firms, laboratories or museums authorised by an order of the Commissioner to possess rectified spirit, made in India and exempted under section 94 from the provisions of the Act relating to duty, for any scientific or industrial purposes other than the preparation of commodities which, when made, will themselves contain alcohol.

19. Transport of denatured spirit : Denatured spirit may be transported from a distillery or from 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 and subject to the other conditions enjoined in rule 14.

NOTE - For the purpose of this rule, the countersignature of the Director or Civil Surgeon on an indent for denatured spirit for use in institutions of their respective administrative control or supervision shall be deemed to be a pass.

PART III

COUNTRY SPIRIT

A. Import

20. Import by certain persons and subject to certain conditions :

(1) Country spirit may be imported only with the permission of the Commissioner and under a bond for the payment of duty 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 5, 6 and 8 shall, so far as may be apply to such imports.

B. Export

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

(2) Rules 9 to 13 shall, so far as may be, apply to such exports.

C. Transport

22. Transport to be subject to certain restrictions : Rules 9 to 13 shall, so far as may be, apply to the transport of country spirit between distilleries and spirit warehouses.

PART IV**GANJA AND BHANG****A. Import**

23. Conditions for import of Ganja : Ganja may be imported on Government account or by licensed wholesale vendors of Ganja from such places as ordered by the Commissioner and under the following conditions –

(1) In case of licensed wholesale vendors the importer shall execute a bond, which may either be a general bond in respect of imports to be made from time to time or a special bond in respect of any specific consignment, in the prescribed form in favour of the Collector of the importing district binding himself, his heirs, successors and assigns within a specified time 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 source of supply) is found, a duty not exceeding double the duty at the rate imposed by the State Government under section 27 :

Provided that the whole, or any portion of such duty may be remitted should the Commissioner hold such deficiency to be caused on account of dryage due to natural causes, and

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

(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 authorising import of ganja from the source of supply fixed by the Commissioner into a departmentally managed warehouse or a licensed warehouse in the 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 the approval of the Commissioner.

(3) The pass shall be in force for the period mentioned in the pass, but the term may be extended by the Collector of the importing district.

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

(5) The importer or his authorised agent shall present such pass to the Superintendent of the exporting district and obtain on it the written permission of that officer to purchase *ganja*.

(6) He shall further comply with the rules that may be in force in the State of export regulating the taking of *ganja* out of that State and also such instructions in conformity therewith as he may receive from the Superintendent of the exporting district.

(7) The *ganja* shall be brought by the route mentioned in the pass and shall, on arrival in Orissa be taken direct and with all reasonable despatch to the licensed warehouse mentioned in the pass.

(8) It shall then be presented with the pass to the Superintendent or such other officer as may be authorised by the Superintendent to examine, weigh and store the *ganja* on arrival.

(9) If brought by rail, the consignment shall be duly insured.

(10) The consignment shall be weighed at the railway station before a clear receipt is given for the consignment. If brought by any means of transport other than by rail, it shall be weighed at the point of destination and the luggage ticket or the money receipt issued by the transporting concern indicating the exact weight of the consignment and the freight paid therefor shall be obtained. In all cases such receipts or tickets shall be produced with the pass for verification in the warehouse.

(11) In cases of deficiency noticed in weight from the quantity despatched, the shortage should be noted on the railway receipt.

24. Conditions for transport of *ganja* : *Mutatis mutandis* rules 23 shall apply to the transport of *ganja* from the central gola to a warehouse and from one warehouse to another.

25. Conditions for export of *bhang* : (1) *Ganja* may be exported to any other State provided that -

- (i) the exporter has paid the duty, if any, imposed under section 27 or has executed a bond which may be either a general or a special bond as mentioned under ruler 23, in favour of the Collector either of the district to which the *ganja* is to be taken or of the exporting district, binding himself, his heirs, successors, assigns within a specified time either to lodge the *ganja* in a licensed warehouse in the district to which the *ganja* is to be taken or to pay to the Collector of the district to which the *ganja* is to be taken, a sum equal to the amount of duty chargeable on the said *ganja* in the district to which the *ganja* is to be taken under the law in force

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in that district and the said bond may also provide for the payment of duty at the rate as mentioned and referred to in clause (b) of sub-rule (1) of rule 23 of these rules on any deficiency noticed between the quantity of the ganja lodged in the said licensed warehouse and the quantity despatched for being so lodged from the district of export;

- (ii) it is covered by a pass granted by the Collector of the district to which the ganja 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 ganja is to be exported;
- (iv) the Collector of the district from which the ganja is to be exported has endorsed on such pass an order authorising the exports;
- (v) the ganja is exported direct from the Central Gola or departmentally managed warehouse or a licensed warehouse; and
- (vi) the officer-in-charge 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 ganja in package, and
 - (d) the name of the person to whom delivery is to be given.

(2) After the entries have been made as required by clause (vi), 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) *Ganja* 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.

26. Conditions for import or transport of *bhang* : *Bhang* may be imported and transported under conditions similar to those laid down in rules 23 and 24 respectively.

27. Conditions for export of *bhang* : *Bhang* may be exported under conditions similar to those laid down in rule 25.

28. Import of *ganja* and *bhang* within the limit of possession : A traveller may bring with him *ganja* or *bhang* personally into Orissa by land from any other State up to the minimum limit of the quantity within which possession by him is allowed without a pass in Orissa.

PART V

HEMP DRUGS, EXTRACTS AND TINCTURES OF HEMP AND MEDICINAL PREPARATIONS CONTAINING HEMP DRUGS

29. Import of medicinal preparations containing hemp drugs under cover of permits : Medicinal preparations containing hemp drugs (other than recognised medicinal preparations) prepared in accordance with prescriptions recognised in standard Ayurvedic and Tibbi medical works, by persons *bona fide* engaged in the practice of the Ayurvedic and Tibbi system of medicines, provided no process of distillation is used in the manufacture of such preparations, may be imported, only by a chemist or druggist for *bona fide* medicinal purposes, under cover of permits issued by the Commissioner in such form as the Board may prescribe :

Provided that if the import is from outside India it must be by means other than the post.

30. Prohibition of transmission of hemp drugs by post except under certain conditions : Transmission of hemp drugs, extract and tincture of hemp (*Cannabis indica*) or medicinal preparations containing hemp drugs by post into, within or out of Orissa is prohibited except on the following conditions –

- (i) in making such transmission, only the parcel post shall be used and the parcels shall be insured;
- (ii) The transmission shall be covered by a permit which shall, in the case of transmission to a district in Orissa, be issued by the Collector or Superintendent of the district to which the consignment is to be sent and in all other cases by the proper authorities in the State to which the parcel is addressed;
- (iii) the parcel shall be accompanied by a declaration stating the names of the consignee and the consignor, the contents of the parcel in detail, the number and date of the licence or permit, if any, held by the consignee and such other particulars as may be required from time to time by the Commissioner;
- (iv) persons licensed to possess and sell hemp drugs and preparations thereof and chemists and druggists permitted under rule to import medicinal preparations containing hemp drugs shall show distinctly in their account books the quantity of drugs received by them from time to time and post the names of the consignor; and
- (v) provisions of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (Act 16 of 1955) and the rules made thereunder shall be complied with prior to the transmission.

CHAPTER – III**SALE OF INTOXICANTS****PART I****DURATION AND NUMBER OF LICENCES, PRINCIPLES FOR GRANT OF LICENCE AND LOCATION OF SHOP.**

31. Licence for sale of intoxicants to be subject to certain conditions : Licences for the wholesale or retail vend of intoxicants may be granted for one year from the 1st April to the 31st March following, subject to the following provisions –

- (1) Licences for the retail vend of *pachwai* may be granted for any number of years up to three beginning on the 1st April in cases where the Commissioner considers this advisable.
- (2) If any licence is granted at any time after the 1st April 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 intoxicants on temporary and special occasions, like fairs regimental camps or 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 intoxicants may be granted for any number of years not exceeding five as the Board may decide in each case.
- [(6) If, for any reason it becomes so necessary, licences for the wholesale or retail vend of intoxicants may be granted for any shorter period.]

32. Regulation of number of licences for any local area : 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 intoxicant 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 :

Special provision for foreign liquor licences – Provided that increase or decrease in the number of licences for the sale of foreign liquor shall be subject to the prior approval of Government to be obtained by the Collector through the Commissioner.

33. Fixation of number of licences : The general principles that shall be borne in mind and shall so far as possible be applied in fixing the number of licences to be granted for the retail sale of liquor for consumption on the premises of the vendor are –

- (1) liquor shops shall not be so sparsely distributed as to give to each a practical monopoly over a considerable area, and
- (2) two or more shops should not be equally convenient to a considerable number of persons.

34. Licences for shops for consumption of liquor on vendor's premises not to be granted at certain places : [(1) No new shop shall be licensed for the consumption of liquor on the vendor, premises –

- (a) in a marketplace, or
- (b) at the entrance to market-place, or
- (c) in close proximity to a bathing ghat, or
- ~~d~~ (d) within at least five hundred meters from a highway.
- (e) within at least five hundred meters from a place of worship, recognised educational institution, established habitant especially of persons belonging to scheduled castes and labour colony, mills and factories, petrol pumps, railway stations/yard, bus stands, agricultural farms or other places of public resort, or
- ~~f~~ (f) within at least one kilometre from industrial, irrigation and other development projects areas, or
- ~~g~~ (g) in the congested portion of a village :

Provided that the restriction on the minimum distance as mentioned under clauses d,e and f may be relaxed by the State Government in special circumstances.

(2) So far as practicable, an established liquor shop licensed for the consumption of liquor on the premises shall not be allowed to remain on a site which would not under sub-rule (1) be permissible for the location of a new shop.

(3) In areas inhabited by Scheduled Tribes, country spirit shops shall not be licensed to be placed immediately on the side of a main road or in any other prominent position that is likely to place temptation in their way.]

35. General principles to be observed in granting licences for liquor shops : In granting licences for new liquor shops and as far as practicable, in granting licences for established liquor shops, the Collector shall have regard to the following principles –

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1. Substd. by OGE No 1892 Dt 1.4.77

- (a) liquor shop shall 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 far 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;
- (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.

36. Restriction on grant of licence on border of a district : No new licences for the retail sale of liquor at any place within two miles of the border of another district shall be granted unless the Collector of both districts concur or, if they fail to concur, unless the Commissioner so directs.

37. Restriction on grant of outstill licence near distillery area : No outstill licence shall be granted for any place within '[Eight kilometres] of any distillery area situated in the State :

²[Provided that the restriction in the minimum distance between and outstill liquor shop and any distillery area may be relaxed by the State Government in special circumstances.]

38. Restriction on grant of licence for sale of foreign liquor for consumption on vendor's premises and otherwise : Licence for the sale of foreign liquor for consumption on the vendor's premises may be granted only in places where there is a proved demand on the part of a class of drinkers accustomed to foreign liquor, and subject to the restrictions laid down in rule 32.

PART II

ASCERTAINMENT OF LOCAL OPINION PRIOR TO THE GRANT OF LICENCES FOR THE RETAIL SALE OF SPIRIT OR TARI FOR CONSUMPTION ON VENDOR'S PREMISES

39. Preparation of list of licences proposed to be granted for the next period of settlement to be complete by 20th October :

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

1. Substituted by SRO No. 284 Dt. 23.4.1977.

2. Added by *ibid*.

(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.

40. Notice of the proposal for grant of licences to be given to certain authorities : 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;
- (b) send an extract to the Chairman of each municipality as required by clause (d) of section 31;
- (c) send to the Commanding Officer of each cantonment an extract reproducing so much of the said list as relates to shops within the limits of the cantonment;
- (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* (toddy) to Scheduled Tribes inhabiting forests; and
 - (iii) by large employers of labour in tea gardens, mills, factories, transport corporations and coal mines, on proposals for the grant of licences for shops for supplying spirit or *tari* (toddy) to their labourers.

41. Publication of the notice in a municipal area : The Chairman of each municipality shall cause a copy of the extract sent to him under clause (b) of rule 40 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 November, a copy of so much of the extract as relates to shops situated in his ward.

42. Objection to the proposal to be sent to Collector by the 15th November : (1) All objections and opinions with respect to proposals contained in the list referred to in rule 40 shall be sent so as to reach the Collector by the 15th November and the Commanding Officer of each cantonment shall inform the Collector by the said date whether he consents to the proposals contained in the extracts sent to him under clause (c) of rule 40.

(2) Any objection or opinion received after the said date may not be taken into consideration.

43. Local committees to be constituted in certain localities for consideration of the proposal : (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 with the approval of the Government may decide, shall unless the 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 39 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.

44. Submission of the proposal with objections etc. by the Collector to Commissioner : On or before the 30th November the Collector shall submit to the Commissioner the list referred to in rule 39 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 43 and his own opinion.

44-A. The State Government may change the dates as prescribed in rules 39 to 44 if they consider it necessary in any year in any area.

PART III

RESTRICTION REGARDING GRANT OF LICENCE AND SALE

45. To whom licences for sale of intoxicants not to be granted : Licences for the retail sale of any intoxicant shall not ordinarily be granted –

- (1) to a person, who has been convicted by a Criminal Court of a non-bailable offence; or
- (2) to a former licensee who –
 - (a) is in arrears to Government, or
 - (b) whose conduct has been found to be unsatisfactory, or
 - (c) who has been found guilty within the previous five years of any serious breach of the conditions of his licence, or
- (3) to a person who is known to be insolvent or who fails to provide adequate proof in support of his solvency :

¹[Provided that nothing contained in this clause shall apply where the license is granted to Star Hotels and Military Canteens].

²46. Restriction on grant of licence for retail sale of distillery spirit or Tari and foreign liquor : (1) No licence shall be granted to an outstill

1. Inserted by R & E Deptt. No. 789 Dt 15. 4. 89.

2. Rule 46 was substituted by Government of Orissa 'Excise Departments's notification No. 33-III-Ex-61/66-E., dated the 9th March 1966 published in Orissa Gazette Extraordinary No.215 dated the 9th March 1966.

licensee for the retail sale of distillery spirit or *Tari* in a shop within five miles of his outstill.

(2) No licence for retail vend of foreign liquor shall be granted to a person holding licence for wholesale vend of foreign liquor.

(3) Licence for sale of foreign liquor for consumption 'Off' the vendor's premises shall not be granted to a person holding licence for sale of foreign liquor for consumption 'On' the vendor's premises and *vice versa*.

(4) Licence for sale of foreign liquor for consumption 'Off' the vendor's premises shall not be granted to a person holding licence for the retail vend of foreign liquor in a hotel to be consumed on the premises and *vice versa*.

(5) No licence for retail sale of foreign liquor shall be granted to a person holding licence for sale of country liquor.

47. Restriction on grant of licence for retail sale of outstill spirit or tari : No licence shall be granted to a distillery shop licensee for the retail sale of outstill spirit or *tari* in a shop within five miles of his distillery shop.

48. Restriction on sale of intoxicants to certain person : (1) No intoxicant shall be sold –

- (a) to any railway servant or the driver of a motor vehicle at the time he is on duty, to any Excise or Police Officer below the rank of a Sub-Inspector or any village Choukidar being in uniform, any 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 employ, and
- (ii) "Camp-follower" means a person (other than a soldier or a private servant) whom the person selling an intoxicant knows or has reason to believe to have a right to be in cantonments;
- (iii) The expression "soldier", "member of a soldier's family", "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.

CHAPTER - IV**RESTRICTIONS ON CERTAIN POWERS OF EXCISE OFFICERS**

49. Excise Officer below the rank of Inspector not to exercise certain powers : No Excise Officer below the rank of Inspector shall exercise any of the powers conferred by section 69 (entry, inspection, testing, and seizure, etc.) in respect of any licensed place of manufacture or storage which is under the charge of an Excise Officer, unless he is specially authorised in writing by the Collector to do so.

50. Officers below certain ranks to exercise power in certain circumstances only : (1) Officers below the rank of Sub-Inspector in the Excise or Police Department or of Preventive Officer in the Customs Department or of Revenue Inspectors in the Land Revenue Department may exercise the powers 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.

51. Exercise of certain powers outside local jurisdiction to be followed by certain formalities : 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.

CHAPTER - V**INFORMATION AND AID TO EXCISE OFFICERS**

52. Information on breach of provision of the Act to whom to be given : The information which officers referred to in section 75 are required to give of breaches of provisions of the Act shall be given to the Collector or the Subdivisional Officer or to the nearest Excise Officer having jurisdiction to investigate the offence.

53. Aid not to be given under certain circumstances : No Excise Officer below the rank of Sub-Inspector shall request any officer referred to in sub-section (1) of section 75 to aid him in carrying out the provisions of the Act or of any rule or order made, issued or given under the Act.

54. Aid how to be asked for : (1) When any Excise Officer not below the rank of Sub-Inspector requires the aid of any officer referred to in

sub-section (1) of section 75, 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, to the nearest superior officer of the department or body which he serves, 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 sub-rule (1) feels unable to render the aid required, he shall forthwith inform the officer, who sent the requisition of his reasons, for withholding it and shall, if necessary, refer to his immediate superior for instructions.

55. Restriction on the aid to be given by village Choukidar or Dafadar to Excise Officer : A village Choukidar or dafadar shall not be required to aid, any Excise Officer 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.

CHAPTER – VI

GRANT OF EXPENSES TO WITNESSES

56. Scale of expenses to be granted to witnesses : Expenses of witnesses appearing under summons or produced before any Court in excise cases may be granted by the Court in accordance with the following rules, namely –

- (a) In the case of Government servants, rules in force for the grant of travelling allowance to such servants.
- (b) In the case of other persons the rules made by the High Court for the grant of expenses to witnesses in criminal cases.
- (c) Expenses of witnesses appearing under summons or produced before the Collector or the Superintendent in excise cases dealt with departmentally may be paid from their contingent allowances.

CHAPTER - VII**GRANT OF COMPENSATION**

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

58. Scale of such compensation : Such grant shall be made under the same conditions as grant of expenses under the rules referred to in clause (b) of rule 56 and shall be subject to the maximum limit prescribed by those rules for the grant of expenses.

CHAPTER - VIII**APPEALS**

59. Appeals to Collector from orders of officers subordinate : An appeal shall lie to the Collector from an order of any officer subordinate to him and discharging functions under the Act or under any rule or order made under the Act :

Provided that this power of the Collector may be exercised by the Additional District Magistrate.

60. Appeals to Commissioner from orders of Collector : An appeal shall lie to the Commissioner from any order made by the Collector or the Additional District Magistrate :

Provided that there shall be no appeal against an order increasing or decreasing in the number of licences under the proviso to rule 32 of these rules for the sale of foreign liquor.

61. Appeals in certain cases how and when to be prepared : (1) Every memorandum of appeal relating to cancellation, suspension or withdrawal of a licence for the retail sale of any intoxicant shall be submitted within fifteen days from the date of the order appealed against to the Commissioner through the Collector or the Additional District Magistrate, as the case may be, against whose order the appeal is made.

(2) The memorandum of appeal shall invariably be forwarded to the Commissioner within ten days of its presentation with the original order and with observations, if any, which the Collector or the Additional District Magistrate, as the case may be, may wish to make on it.

(3) The period of fifteen days referred to in sub-rule (1) shall be counted from the date of the original order and not from the date of any order made on any subsequent petition for revision or review of the said order.

62. Appeals to Board from orders of Commissioner : (1) An appeals shall lie to the Board from any order made, whether on appeal or otherwise, by the Commissioner :

Provided that when an order made by a Collector, or an Additional District Magistrate whether on appeal or otherwise, is upheld by the Commissioner, no further appeal shall lie.

(2) No appeal shall lie against orders of composition under section 68.

63. Limitation for appeal to Board : Every memorandum of appeal to Board shall be presented within one month from the date of the order appealed against.

64. Mode of presentation and disposal of certain appeals : The presentation of an appeal to Board and its disposal and disposal of appeal by the Commissioner shall be regulated by the Board of Revenue, Orissa Regulations, 1963.



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