

**THE PUNJAB EXCISE ACT, 1914**

**PUNJAB ACT I OF 1914.**

**(12th January 1914).**

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### **THE SCHEDULE.**

## THE PUNJAB EXCISE ACT, 1914

### <sup>1</sup>PUNJAB ACT I OF 1914.

WHEREAS it is expedient to consolidate and amend the law in the Punjab relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs ; It is hereby enacted as follows: —

#### CHAPTER – I

#### PRELIMINARY AND DEFINITIONS.

- |  |                       |
|--|-----------------------|
| 1. (1) This Act may be called the <sup>2</sup> Punjab Excise Act, 1914; and  | Short title.          |
| (2) It extends to the whole of the <sup>3</sup> [Khyber Pakhtunkhwa].  | Extent.               |
| (3) It shall come into force on such <sup>4</sup> date as the <sup>5</sup> [Provincial Government] may by notification direct.   | Commencement.         |
| 2. The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.   | Repeal of enactments. |
| 3. In this Act, and the rules made under it, unless there is something repugnant in the subject or context. —  | Definitions.          |
| (1) “beer” includes ale, porter, stout, and all other fermented liquors made from malt;  | Beer.                 |
| (2) to “bottle” means to transfer liquor from a cask or other vessel to a bottle, jar, flask, or similar receptacle whether any process of manufacture be employed or not, and bottling includes rebottling; | Bottle.               |
| (3) “Collector” includes any revenue officer in independent charge of a district and any official appointed by the <sup>6</sup> [Provincial  | Collector.            |

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<sup>1</sup>. For Statement of Objects and Reasons, *see* Punjab Gazette, 1913, Part V. Page 161, for Report of the Select Committee, *see* Punjab Gazette, 1913, Part V pages 247 and for Proceeding in Council *see* Punjab Gazette, 1913, Part V pages 177-301.

The Act has been extended in the Khyber Pakhtunkhwa with notifications, *see* Notification No. 126-Exc, dated 8, 9th February, 1915. Khyber Pakhtunkhwa Gazette, 191 5, part 1-A, page 132, *see* also Notification No. 318, dated 14-4-1927.

<sup>2</sup>. In the Khyber Pakhtunkhwa for the word “Punjab” read the words “Khyber Pakhtunkhwa” *see* notification No. 126-Exc, dated 8/9th February 1215 published in the Khyber Pakhtunkhwa Gazette 1915 pt I-A, PP, 132-133

<sup>3</sup>. Sub. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

<sup>4</sup>. The 1st February, 1915, *see* Punjab Gazette, 1914 Part-1 page 60.

<sup>5</sup>. Subs, for “Local Government” by the A. O., 1937.

<sup>6</sup>. Subs, for “Local Government” by the A. O., 1937.

Government] to discharge, throughout any specified local area, the functions of a Collector under this Act;

(4) <sup>1</sup>[“Commissioner”] means the chief officer in charge of the revenue administration of a <sup>2</sup>[Province.] Commissioner.

<sup>3</sup>[(5) denatured” means any substance prescribed by the <sup>4</sup>[Provincial Government] for admixture with spirit with a view to rendering the mixture unfit for use as beverage. Spirit with which one or more denaturants has or have been mixed in such manner as may be prescribed by the <sup>5</sup>[Provincial Government] is said to have been denatured.] Denatured.

<sup>6</sup>[(6) excisable article means— Excisable article.

- (a) any alcoholic liquor for human consumption;
- (b) any intoxicating drug; or
- (c) any medicinal or toilet preparation containing alcohol.]

<sup>7</sup>[6a) excise duty and countervailing duty mean any such excise duty or countervailing duty, as the case may be, as is mentioned in <sup>8</sup>[entry 77 of the Provincial list in the Fifth Schedule to the Constitution.]

(7) “Excise Commissioner” mean the officer appointed by the <sup>9</sup>[Provincial Government] under section 9; Excise Commissioner.

(8) “excise officer” means any officer or person appointed, or invested with powers, under this Act; Excise Officer.

(9) “excise revenue” means revenue derived or derivable from any payment, duty, fee, tax, confiscation or fine, imposed or ordered under the provisions of this Act, or of any other law for the time being in force but does not include a fine imposed by a court of law; Excise Revenue.

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<sup>1</sup>. Subs. by W. P. Act XVI of 1957, s. 3 (2), Sell, 2, for the word “Revenue Commissioner” which in the Khyber Pakhtunkhwa were to be read for the original word “Commissioner” *vide* notification No. 126-Exe. 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt 1-A P.132-133.

<sup>2</sup>. Subs. for “a Division: *see* notification *ibid*.

<sup>3</sup>. Subs. *ibid*, for the old clause (5).

<sup>4</sup>. Subs, for “Local Government” by the A. O., 1937.

<sup>5</sup>. Subs, for “Local Government” by the A. O., 1937.

<sup>6</sup>. Subs, for the old clause by the A. O., 1937.

<sup>7</sup>. Ins. *Ibid*.

<sup>8</sup>. Subs, for the word “item 40 of list 11 the Seventh Schedule 10 the Government of India Act, 1935” by W. P. (Adaptation of Laws) Order, 1958.

<sup>9</sup>. Subs, for “Local Government” by the A. O., 1937.

<sup>1</sup>[(10) “export” means to take out of the <sup>2</sup>[Khyber Pakhtunkhwa] otherwise than across a customs frontier as defined by the <sup>3</sup>[Federal Government.] Export.

(11) <sup>4</sup>[“Commissioner”] shall, when there are more <sup>5</sup>[Commissioners] than one be construed as meaning one or more of the <sup>6</sup>[Commissioners;] Commissioner.

1[(12) “import” (except in the phrase “import into <sup>7</sup>[Pakistan]” means to bring into the <sup>8</sup>[Khyber Pakhtunkhwa] otherwise than across a customs frontier as defined by the <sup>9</sup>[Federal Government];] Import.

<sup>10</sup>[(12-A) “intoxicant” means any liquor or intoxicating drug;]

<sup>11</sup>[(13) “intoxicating drug” means— Intoxicating drugs.

- (i) the leaves, small stalks and flowering or fruting tops of the Indian hemp plant (*Cannabis sativa* L.), including all forms known as bhang, siddhi or ganja;
- (ii) charas, that is the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;
- (iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared there from; and

<sup>1</sup>. Subs, for the old clause by the A. O. 1937.

<sup>2</sup>. Subs, for the word "Punjab" *see* notification No. 126-Exc, dated the 8th -9th February, 1915, Pt. I-A pp. 132-133. The words "Khyber Pakhtunkhwa" are now to be construed as the Districts of Bannu, Dera Ismail Khan, Hazara, Mardan, Kohat and Peshawar. *see* W. P. Act XVI of 1957, s, 3 (1)-S, h I.

<sup>3</sup>Subs, by P. O. 4 of 1975.

<sup>4</sup>. Subs, by W.P. Act XVI of 1957,s.3 (2) and Sch, II, for the words" Revenue Commissioner" which in the Khyber Pakhtunkhwa, were to be read for the original words "Financial Commissioner", notification No. 126-Exc, dated 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt, I-A. pp.132-133.

<sup>5</sup>.Subs, by W.P. Act XVI of 1957,s.3 (2) and Sch, II, for the words" Revenue Commissioner" which in the Khyber Pakhtunkhwa, were to be read for the original words "Financial Commissioner", notification No. 126-Exc, dated 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt, I-A. pp.132-133.

<sup>6</sup>. Subs, by W.P. Act XVI of 1957,s.3 (2) and Sch, II, for the words" Revenue Commissioner" which in the Khyber Pakhtunkhwa, were to be read for the original words "Financial Commissioner", notification No. 126-Exc, dated 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt, I-A. pp.132-133.

<sup>7</sup>. Subs, for the words" British India" by P. O. I of 1961.

<sup>8</sup>. Sub. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

<sup>9</sup>. Subs, by P. O. 4 of 1975.

<sup>10</sup>.Inserted by the A. O. 1937.

<sup>11</sup>.Subs. for the old clause by Central Act, It of 1930, Sch. II.

(iv) any other intoxicating or narcotic substance which the <sup>1</sup>[Provincial Government] may, by notification declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured durg, as defined in section 2 of the Dangerous Drugs Act, 1930.]

(14) “liquor” means intoxicating liquor, and includes all liquid consisting of or containing alcohol; also any substance which the <sup>2</sup>[Provincial Government] may by notification declare to be liquor for the purposes of this Act. Liquor.

(15) “magistrate” means any magistrate exercising powers not less than those of a magistrate of the second class, or any magistrate of the third class specially authorized in this behalf by the district magistrate; Magistrate.

(16) “manufacture” includes every process, whether natural or artificial, by which any <sup>3</sup>[intoxicant] is produced or prepared and also redistillation and every process for the rectification, reduction, flavouring, blending or colouring of liquor; Manvfacture.

(17) “place” includes a building, shop, tent, enclosure, booth, vehicle, vessel, boat and raft; Place.

(18) expressions referring to “sale” include any transfer otherwise than by way of gift; Sale.

(19) “spirit” means any liquor containing alcohol obtained by distillation, whether denatured or not; Spirit.

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

(21) “transport” means to move from one place to another within the <sup>4</sup>[Khyber Pakhtunkhwa]. Transport.

4. The <sup>5</sup>[Provincial Government] may <sup>6</sup>\*\*\*\*by notification declare declare what, for the purposes of this Act or any portion thereof, shall be deemed to be “country liquor” and “foreign liquor.” “Country liquor” and foreign hqnor

<sup>1</sup>. Subs, for “Local Government” by the A. O. 1937.

<sup>2</sup>. Subs, for “Local Government” by the A. O. 1937.

<sup>3</sup>. Subs. *ibid*, for the words “excisable article”.

<sup>4</sup>. Subs, for the word "Punjab" *see* notification No. 126-1 exc., dated the 8th-9th February 1915, N.-W. F. P. Gazette 1915, Pt. I-A , pp. 132-122. The words “Khyber Pakhtunkhwa” are now to be construed as the Districts of (Bannu, Dora Ismail Khan, Hazara, Mardan, Kohat and Peshawar, *see* W. P. Act XVI of 1957, s. 3 (2) Sch I.

<sup>5</sup>. Subs, for “Local Government” by the A. O. 1937.

<sup>6</sup>. The words "with the previous sanction of the Governor-General in Council omitted by the Devolution Act XXXVIII of 1920.



<sup>1</sup>[ \* \* \* \* \* ]

5. The <sup>2</sup>[Provincial Government] may by notification declare with respect either to the whole of the <sup>3</sup>[Khyber Pakhtunkhwa] or to any local area comprised therein, and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion the maximum or minimum quantity or both of any <sup>4</sup>[intoxicant] which for the purposes of this Act may be sold by retail and by wholesale.

Power of Provincial Government to declare limit of sale by retail and by whole sale.

6. Where under this Act any notification is made, any power conferred, any appointment made or any license, pass or permit granted, it shall be lawful to direct—

Power to limit application of notifications, permits, etc., made under this Act.

- (a) that it shall apply to the whole of the <sup>5</sup>[Khyber Pakhtunkhwa] Pakhtunkhwa] to or any specified local area or areas;
- (b) that it shall apply to all or any specified <sup>6</sup>[intoxicant] or intoxicants or classes thereof;
- (c) that it shall apply to all or any class or classes of persons or officers;
- (d) that it shall be in force only for some special period or occasion.

7. Save as provided by the Schedule, nothing contained in this Act shall affect the provisions of the <sup>7</sup>Sea Customs Act, 1878, the <sup>8</sup>Contonments Act, 1910, or the <sup>9</sup>[Indian Tariff. Act, 1894] or any rule or order made thereunder.

Saving of enactments.

<sup>1</sup>.The Proviso which was added by the Devolution Act, 1920, omitted by A.O. 1937.

<sup>2</sup>. Subs. for the words "Local Government" by A. O., 1937.

<sup>3</sup>.Subs, for the word "Punjab" *vide* notification No. 126-Exc., dated the 8th-9th February, 1915, Part I-A. pages 132-133.. The words "Khyber Pakhtunkhwa" are now to be construed ad the Districts of Bannu, Dera Ismail Khan, Hazara, Mardan, Kohat and Peshawar, *vide* W.P. Act XVI of 1957. s. 3(2) Sch, 1.

<sup>4</sup>. Subs. for the words "excisable articles" by A. O.. 1937.

<sup>5</sup>. Subs, for the word "Punjab" *vide* notification No. 126-Exc., dated the 8th-9th February, 1915, Part I-A. pages 132-133.. The words "Khyber Pakhtunkhwa" are now to be construed ad the Districts of Bannu, Dera Ismail Khan, Hazara, Mardan, Kohat and Peshawar, *vide* W.P. Act XVI of 1957. s. 3(2) Sch, 1.

<sup>6</sup>. Subs. for the words "excisable articles" by A. O.. 1937.

<sup>7</sup>. The Sea Customs. Act, VIII of 1878.

<sup>8</sup>. *See* now the Cantonment Act, 1924 (Act II of 1924).

<sup>9</sup>. *See* now the Tariff Act, 1894 (Act VIII of 1.S94),

## CHAPTER – II

### ESTABLISHMENT AND CONTROL

8. (a) Subject to the control of the <sup>1</sup>[Provincial Government] and unless the <sup>2</sup>[provincial Government] shall by notification otherwise direct, the general superintendence and administration of all matters relating to excise shall vest in the <sup>3</sup>[Commissioner.] Superintendence and control of the excise administration and excise officers.

<sup>4</sup>[(b) The <sup>5</sup>[Commissioner] shall, unless the <sup>6</sup>[Provincial Government] shall, by notification otherwise direct, control all other excise officers in the <sup>7</sup>[Khyber Pakhtunkhwa.]]

(c) Subject as aforesaid and to the control of the <sup>8</sup>[Commissioner] and unless the <sup>9</sup>[Provincial Government] shall by notification otherwise direct, the Collector shall control all other excise officer in his district.

9. The <sup>10</sup>[Provincial Government] may by notification appoint an Excise Commissioner and, subject to such conditions and restrictions as it may deem fit, invest him with all or any of the powers conferred on the <sup>11</sup>[Commissioner] by this Act. Excise Commissioner.

10. (a) There shall be such other classes of excise officers as the <sup>12</sup>[Provincial Government] may by notification declare, and the <sup>13</sup>[Provincial Government] may appoint as many persons as it deems fit to be excise officers of these classes. Other classes of excise officers.

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<sup>1</sup>. Subs, for “Local Government” by the A. Q. 1937.

<sup>2</sup>. Subs, for “Local Government” by the A. Q. 1937.

<sup>3</sup>. Subs by W. P. Act, Xo. XVI 1957 S. III (2)Sch. 11

<sup>4</sup>. Subs., for the old sub-section (b) *vide* notification No. 126-Exc., dated the 8ih-9th February 1915. Khyber Pakhtunkhwa Gazette 1915, Part 1-A, pages 132-133.

<sup>5</sup>. Subs, for the words "Revenue Commissioner" by W. P. Ac! XVI of 1957 s.3 (2) Sch. II.

<sup>6</sup>. Subs., for the words “Local Government” by A. O. 1937.

<sup>7</sup>. Now to be construed an the Districts of Bannu. Dera Ismail Khan, Hazara, Hazara, Mardan, Kohat and Peshawar, *vide* W. P. Act, XVI of 1957. s, 3 (2) Sch. 1.

<sup>8</sup>.Subs, for the words "Revenue Commissioner" by W. P. Act XVI of 1957 s.3 (2) Sch. II.

<sup>9</sup>.Subs., for the words “Local Government” by A. O. 1937.

<sup>10</sup>.Subs., for the words “Local Government” by A. O. 1937.

<sup>11</sup>.Subs, for the words "Revenue Commissioner" by W. P. Act XVI of 1957 s.3 (2) Sch. II.

<sup>12</sup>.Subs., for the words “Local Government” by A. O. 1937.

<sup>13</sup>. Subs., for the words “Local Government” by A. O. 1937.

- (b) The <sup>1</sup>[Provincial Government] shall by notification declare what powers under this Act shall be exercised by excise officers of each class. Their powers
- (c) In conferring powers under this Act the <sup>2</sup>[Provincial Government] may empower persons by name or virtue of their office or classes of officials generally by their official titles. Mode of conferring powers.
11. The <sup>3</sup>[Provincial Government] may by notification invest any person, not being an excise officer, with power to perform all or any of the functions of an excise officer under this Act, and such person shall in the exercise of these functions be deemed to be an excise officer. Powers to invest persons with special powers under this Act.
12. The jurisdiction of the <sup>4</sup>Commissioner and of the Excise Commissioner shall extend to the <sup>5</sup>[Khyber Pakhtunkhwa] <sup>6</sup> \* \* \* \* \* and the jurisdiction of Collectors and other excise officers shall, unless the <sup>7</sup>[Provincial Government] shall otherwise direct, extend to the districts in which they are for the time being employed. Local limits of Jurisdiction.
13. (a) The <sup>8</sup>[Provincial Government] may by notification delegate to the <sup>9</sup>[Commissioner] all <sup>10</sup> \* \* \* \* \* or any of its powers under this Act, except the powers conferred by sections 14,21,22,31,56 and 58 of this Act. Delegation.
- (b) The <sup>11</sup>[Provincial Government] may by notification permit the delegations by the <sup>12</sup>[Commissioner,] <sup>13</sup> \* \* \* or Collector to any person

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<sup>1</sup> Subs., for the words "Local Government" by A. O. 1937.

<sup>2</sup> Subs., for the words "Local Government" by A. O. 1937.

<sup>3</sup> Subs., for the words "Local Government" by A. O. 1937.

<sup>4</sup> Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>5</sup> Now to be construed as the Districts of Bannu, Dera Ismail Khan, Hazara, Hazara, Mardan, Kohat and Peshawar, vide W. P. Act, XVI of 1957, s. 3 (2) Sch. 1.

<sup>6</sup> The words "the Jurisdiction of the Commissioners. shall extend to their Divisions" omitted in the N.-W. F. P. vide notification No. 126-Exc., 8th-9th February, 1915, Part 1-A, pages 132-133.

<sup>7</sup> Subs., for the words "Local Government" by A. O. 1937.

<sup>8</sup> Subs., for the words "Local Government" by A. O. 1937.

<sup>9</sup> Subs, for the words "Revenue Commissioner" by W. P. Act XVI of 1957, s. 3 (2) and Sch.II. The words "The Revenue Commissioner" were previously substituted in the Khyber Pakhtunkhwa for the old words "A Commissioner", see notification No. 126-Exc, dated 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt. 1-A, pp, 132-133.

<sup>10</sup> The words "or Commissioner" omitted see notification No. 126-Exc., dated 8th-9th February 1915, Khyber Pakhtunkhwa Gazette, 1915, Pt. 1-A. pp. 132-133.

<sup>11</sup> Subs., for the words "Local Government" by A. O. 1937.

<sup>12</sup> Subs, for the words "Revenue Commissioner" by W. P. Act XVI of 1957, s. 3 (2) and Sch.II. The words "The Revenue Commissioner" were previously substituted in the Khyber Pakhtunkhwa for the old words "A Commissioner", see notification No. 126-Exc, dated 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt. 1-A, pp, 132-133.

<sup>13</sup> The word "Commissioner" omitted, *ibid*.

or class of persons specified in such notification of any powers conferred by this Act or exercised in respect of excise revenue under any Act for the time being in force.

14. An appeal shall lie from an original or appellate order of an excise officer in such cases or classes of cases and to such authority as the <sup>1</sup>[Provincial Government] shall by notification declare. Appeal.

15. (a) The <sup>2</sup>[Commissioner] may at any time revise any order passed by any excise officer subordinate to him. Barrios.

(b) <sup>3</sup>[The Commissioner] or Collector may call for the record of any case pending before, or disposed of by, any excise officer subordinate to him, and if <sup>4</sup>[the Collector] is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the <sup>5</sup>[Commissioner:]

Provided that the <sup>6</sup>[Commissioner] shall not under this section pass an order revising or modifying any proceeding or order of a subordinate excise officer and affecting any person without giving such person an opportunity of being heard.

### CHAPTER - III.

#### IMPORT, EXPORT AND TRANSPORT.

16. No <sup>7</sup>[intoxicant] shall be imported, exported or transported except— Import, export and transport of intoxicant.

(a) after payment of any <sup>8</sup>[duty to which it may be liable under this Act,] or execution of a bond for such payment, and

<sup>1</sup>.Subs., for the words "Local Government" by A. O. 1937 .

<sup>2</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>3</sup>.Subs, for the words "Revenue Commissioner" by W. P. Act XVI of 1957, s. 3 (2) and Sch.II. The words "The Revenue Commissioner" were previously substituted in the Khyber Pakhtunkhwa for the old words "A Commissioner", see notification No. 126-Exc, dated 8th-9th February, 1915. Khyber Pakhtunkhwa Gazette, 1915, Pt. 1-A, pp. 132-133.

<sup>4</sup>. Subs in the Khyber Pakhtunkhwa for the word "he", see notification No. 126, Exc. dated the 8th-9th February, 1915 Khyber Pakhtunkhwa Gazette, 1915, Pt I-A, pp. 132-133.

<sup>5</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>6</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>7</sup>. Subs, for the words excisable article." by the A. O., 1937.

<sup>8</sup>. Subs, *ibid*, for the words "duty of customs, or excise to which it may be liable."

(b) in compliance with such conditions as the <sup>1</sup>[Provincial Government] may impose.

17. The <sup>2</sup>[Provincial Government] may, by notification—

Power to <sup>6</sup>[Provincial Government] to Prohibit import, export and transport of intoxicant.

(a) <sup>3</sup>\* \* \* \* Prohibit the import or export of any <sup>4</sup>[intoxicant] into or from the <sup>5</sup>[Khyber Pakhtunkhwa] or any part thereof; or

(b) Prohibit the transport of any <sup>2</sup> fin toxicant].  
<sup>7</sup> \* \* \* \* \*

18. Except as otherwise provided by any rule made under this Act, no <sup>8</sup>[intoxicant, exceeding such quantity as the <sup>9</sup>[Provincial Government] Government] may prescribe by notification shall be imported, exported or transported except under a pass issued under the provisions of the next following section.

Passes necessary for import, export and transport.

Provided that in the case of duty-paid foreign liquor such passes shall be dispensed with, unless the <sup>10</sup>[Provincial Government] shall by notification otherwise direct:

Provided, further, that on such conditions as may be determined by the <sup>11</sup>[Commissioner,] a pass granted under the excise law in force in another province may be deemed to be a pass granted under this Act.

19. Passes for the import, export or transport of <sup>12</sup>[intoxicant] may be granted by the Collector:

Grant of passes for import, export, and transport.

<sup>1</sup>. Subs, for the words “Local Government” by A. O., 1937.

<sup>2</sup>. Subs, for the words “Local Government” by A. O., 1937.

<sup>3</sup>. The words “with the previous sanction of the Governor General” omitted by the Devolution .Act, 1920 (XXXVIII. of 1920).

<sup>4</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>5</sup>. Subs for the word “Punjab” *vide* notification No. 126-Exc dated February, 1915, Part I-A, pages 132-133. The words “Khyber Pakhtunkhwa” are now to be construed as the District of Bannu, Dera Ismail Khan, Hazara, Kohat and Peshawar *see* W. P. Act XVI of 1957, s. 3.

<sup>6</sup>. Subs, for the words “Local Government” by A. O., 1937.

<sup>7</sup>. The Provision which was added by the Devolution Act, 1920, omitted by A.O. 1937.

<sup>8</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>9</sup>. Subs, for the words “Local Government” by A. O., 1937.

<sup>10</sup>. Subs, for the words “Local Government” by A. O., 1937.

<sup>11</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>12</sup>. Subs. for the words “excisable articles” by the A. O., 1937.

Provided that passes for the import and export of such <sup>1</sup>[intoxicants] as the <sup>2</sup>[Commissioner] may from time to time determine shall be granted only by the <sup>3</sup>[Commissioner.]

#### CHAPTER IV.

#### MANUFACTURE, POSSESSION AND SALE.

##### A.—*Manufacture.*

20. (i) (a) No <sup>4</sup>[intoxicant] shall be manufactured or collected. Manufacture of  
intoxicants  
Prohibited except  
under the Provisions  
of this Act.
- (b) no hemp plant <sup>5</sup>\* \* \* shall be cultivated;
- (c) no tari-producing tree shall be tapped;
- (d) no tari shall be drawn from any tree, and
- (e) no person shall use, keep or have in his possession any materials, still, utensils, implement or apparatus whatsoever for the purpose of manufacturing any <sup>6</sup>[intoxicant] other than tari;

except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector.

(2) No distillery or brewery shall be constructed or worked except under the authority and subject to the terms and conditions of a license granted in that behalf by the <sup>7</sup>[Commissioner] under section 21.

21. The <sup>1</sup>[Commissioner] subject to such restrictions or conditions as the <sup>2</sup>[Provincial Government] may impose, may- Establishment or  
licensing of

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<sup>1</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>2</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>3</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>4</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>5</sup>. The words "coca plant" omitted by Central Act. II of 1930, Sch-II.

<sup>6</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>7</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

distilleries and  
breweries.

- (a) establish a distillery in which spirit may be manufactured under a license granted under section 20;
- (b) discontinue any distillery so established;
- (c) license the construction and working of a distillery or brewery;
- (d) make rules regarding-
  - (1) the granting of licenses for distilleries, stills or breweries;
  - (2) the security to be deposited by the licensee of a distillery or brewery;
  - (3) the period for which the license shall be granted;
  - (4) the inspection and examination of such distillery or brewery and the warehouses connected therewith and of the spirit or fermented liquor made and stored therein;
  - (5) the management and working of the distillery or brewery;
  - (6) the form of accounts to be maintained and the returns to be submitted by the licensee;
  - (7) the up-keep of buildings and plant;
  - (8) the size and description of stills, and other plant;
  - (9) the manufacture, storing and passing out of spirit, and the contents of passes;
  - (10) the prices to be charged by the licensee; and
  - (11) any other matters connected with the working of distilleries or breweries.

22. The <sup>3</sup>[Commissioner] subject to such restrictions or conditions as the <sup>4</sup>[provincial Government] may impose, may—

Establishment or  
licensing of  
warehouse.

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<sup>1</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>2</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>3</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>4</sup>. Subs, for the words "Local Government" by A. O., 1937.

- (a) establish or license a warehouse wherein any <sup>1</sup>[intoxicant] may be deposited and kept without payment of duty;
- (b) discontinue any warehouse so established.

23. No <sup>2</sup>[intoxicant] shall be removed from any distillery, brewery, warehouse, or other place of storage established or licensed under this Act, unless the duty (if any) <sup>3</sup>[payable under Chapter V] has been paid or a bond has been executed for the payment thereof.

Removal of <sup>3</sup>[intoxicant] from distillery.

### **B. — Possession.**

24. (1) No person shall have in his possession any quantity of any <sup>4</sup>[intoxicant] in excess of such quantity as the <sup>5</sup>[provincial Government] has, under section 5, declared to be the limit of retail sale, except under the authority and in accordance with the terms and conditions of—

Possession of <sup>3</sup>(intoxicant).

- (a) a license for the manufacture, sale or supply of such article; or
- (b) in the case of intoxicating drugs, a license for the cultivation or collection of the plants from which such drugs were produced; or
- (c) a permit granted by the Collector in that behalf.

(2) Sub-section (1) shall not apply to —

Exceptions.

- (a) any <sup>6</sup>[intoxicant] in the possession of any excise officer, common carrier or warehouseman as such; or
- (b) any foreign liquor which has been purchased by any person for his bona fide private consumption.

(3) A licensed vendor shall not have in his possession at any place, other than that authorized by his license, any quantity of any <sup>7</sup>[intoxicant] in excess of such quantity as the <sup>8</sup>[Provincial Government] has under section 5 declared to be the limit of sale by retail, except under a permit granted by the Collector in that behalf.

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<sup>1</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>2</sup>. Subs. for the words "excisable articles" by *ibid.*

<sup>3</sup>. Subs., *ibid.*, *for* the words "imposed under Section 31".

<sup>4</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>5</sup>. Subs. for the words "Local Government" by A. O., 1937.

<sup>6</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>7</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>8</sup>. Subs. for the words "Local Government" by A. O., 1937.



<sup>1</sup>(4) Notwithstanding any tiring contained in the foregoing sub-sections, the <sup>2</sup>[Provincial Government] may by notification prohibit the possession of any excisable article, or restrict such possession by such conditions as it may prescribe.

Prohibition and restriction of possession of <sup>3</sup>[Intoxicant] in certain cases.

25. No person shall have in his possession any quantity of any <sup>4</sup>[intoxicant] knowing the same to have been unlawfully imported, transported manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon.

Prohibition of Possession of <sup>5</sup>[intoxicant] unlawfully manufactured, imported etc.

### C.—Sale.

26. No liquor shall be bottled for sale and no <sup>6</sup>[intoxicant] shall be sold, except under the authority and subject to the terms and conditions of a license granted in that behalf; provided that-

Sale of <sup>7</sup>[intoxicants]

1. a person licensed under section 20 to cultivate the hemp <sup>8</sup>1\* \* \* \* plant may sell without a license those portions of the plant from which any intoxicating drug can be manufactured to any person licensed under this Act, to deal in the same or to any officer whom the <sup>9</sup>[Commissioner] may appoint in this behalf;
2. a person having the right to the tari drawn from any tree may sell the same without a license to a person to licensed to manufacture or sell tari under this Act;
3. on such conditions as the <sup>10</sup>[Commissioner] may determine, a license for sale under the excise law for the time being in

<sup>1</sup>. For rules in the Khyber Pakhtunkhwa *sec* notification No. 760-Exc. dated 13th November, 1916, Khyber Pakhtunkhwa Gazette, dated 17th November, 1916, page 1204.

<sup>2</sup>. Subs. for the words "Local Government" by A. O., 1937.

<sup>3</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>4</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>5</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>6</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>7</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>8</sup>. The words "or coca" omitted by Central Act II of 1930, Sch. II.

<sup>9</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>10</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

force in other parts of <sup>1</sup>[Pakistan] may be deemed to be a license granted in that behalf under this Act,;

4. nothing in this section applies to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

27. (1) The <sup>2</sup>[Provincial Government] may lease to any person, on such conditions and for such period as it may deem fit, the right — Grant of lease of manufacture, etc.

- (i) of manufacturing or of supplying by wholesale, or of both, or
- (ii) of selling by wholesale or by retail, or
- (iii) of manufacturing or of supplying by wholesale, or of both, and of selling by retail;

any country liquor or intoxicating drug within any specified local area.

(2) The Collector shall grant to a lessee under subsection (1) a license in the term of his lease; and when there is no condition in the lease which prohibits sub-letting, may, on the application of the lessee, grant a license to any sub-lessee approved by the Collector.

28. Within the limits of any military cantonment, and within such distance from those limits as the <sup>3</sup>[Federal Government] in any case may prescribe, no license for the manufacture or sale of liquor and no lease of the retail vend of liquor, such as is described in section 27, shall be granted unless with the consent of the Commanding Officer. Manufacture and sale of liquor in military cantonments.

29. No licensed vendor and no person in the employ of such vendor or acting on his behalf shall sell or deliver any liquor or intoxicating drug to any person apparently under the age of eighteen years whether for consumption by such person or by another person and whether for consumption on or off the premises of such vendor. Prohibition of sale to persons under the age of eighteen years.

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

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<sup>1</sup>. Subs. for the words "Birtish India " by G. G. O. 20 of 1947.

<sup>2</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>3</sup>. Subs by p. O. 4 of 1975.

(2) No person who is licensed to sell foreign liquor or country spirit for consumption in his premises, shall, without the previous permission in writing of the Collector, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman in any part of such premises in which liquor is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the license, and may be modified or withdrawn.

**CHAPTER V.**

**DUTIES AND FEES.**

31. <sup>1</sup>[A duty,] at such rate or rates as the <sup>2</sup>[Provincial Government shall direct, may be posed, either generally or for any specified local area, on any excisable article—

Duty on excisable articles.

- (a) imported, exported or transported in accordance with the provisions of section 16; or
- (b) manufactured or cultivated under any license granted under section 20, or
- (c) manufactured in any distillery established, or any distillery or brewery licensed under section 21:

Provided as follows:---

- (i) duty shall not be so imposed on any article which has been imported into <sup>3</sup>[Pakistan] and was liable on importation to duty under the <sup>4</sup>Indian Tariff Act, 1 894, or the <sup>5</sup>Sea Custom Act, 1878;

<sup>6</sup> \* \* \* \* \*

*Explanation.*— Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption, or according to the varying strengths and quality of such article.

32. Subject to such rules regulating the time, place and manner as the

Manner in which duty may be levied.

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<sup>1</sup>. Subs. for words “on excise duty or a counter vaiting duty as the case may be” “by W.P. Laws (Adoptation) ord. 1964.

<sup>2</sup>. Subs, for the words “Local Government” by A. O., 1937.

<sup>3</sup>. Subs, for the words “British India” by G. G. O. 20 of 1947. and then by Adaptation order, 1964.

<sup>4</sup>. Pakistan Code Vol. IX now the Tarff Act, 1934.

<sup>5</sup>. Pakistan Code Vol. II.

<sup>6</sup>. Proviso (ii) omitted by the A. O., 1937.

<sup>1</sup>[Commissioner] may prescribe, such duty shall be levied rateably on the quantity of excisable article imported, exported, transported, collected or manufactured in, or issued from, a distillery, brewery or warehouse:

Provided that duty may be levied—

- (a) on intoxicating drugs by an acreage rate levied on the cultivation of the hemp <sup>2</sup>\* \* \* plant, or by a rate charged on the quantity collected;
- (b) on spirit or beer manufactured in any distillery established or any distillery or brewery licensed, under this Act in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the <sup>3</sup>[Provincial Government] may prescribe;
- (c) on tari, by a tax on each tree from which the tari is drawn:

Provided further that, where payment is made upon issue of an excisable article for sale from a warehouse established or licensed under section 22 (a) it shall be made.—

- (a) If the <sup>4</sup>[Provincial Government] by notification so directs, at at the rate of duty which is in force at the date of import of that article, or
- (b) in the absence of such direction by the <sup>5</sup>[Provincial Government] at the rate of duty which is in force on that article on the date when it is issued from the warehouse.

33. Instead of or in addition to any duty leviable under this chapter the <sup>6</sup>[Provincial Government] may accept payment of a sum in consideration of the lease of any right under section 27. Payment for grant of leases.

<sup>7</sup>[\* \* \* \*]

## CHAPTER VI.

<sup>1</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>2</sup>. The words "or coca" omitted by Central Act II of 1930, Sch. II.

<sup>3</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>4</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>5</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>6</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>7</sup>. Section 33-A which was added by A. O., 1937 omitted by W. P. Laws (Adaptation) Order 1964.

## LICENSES, PERMITS AND PASSES.

34. <sup>1</sup>(1) Every license, permit or pass granted under this Act shall be granted—
- Fees for terms, conditions and form of and duration of, licensee, permits and assess.
- (a) on payment of such fees, if any,
  - (b) subject to such restrictions and on such conditions,
  - (c) in such form and containing such particulars,
  - (d) for such period, as the <sup>2</sup>[Commissioner] may direct.
- (2) Any authority granting a license under this Act may require the licensee to give such security for the observance of the terms of his license, or to make such deposit in lieu of security, as such authority may think fit. Security.
35. (1) Subject to the rules made by the <sup>3</sup>[Commissioner] under the powers conferred by this Act, the Collector may grant licenses for the sale of any <sup>4</sup>[intoxicant] within his district. Grant of licenses for sale.
- (2) Before any license is granted in any year for the retail sale of liquor for consumption on any premises which have not been so licensed in the preceding year, the Collector shall take such measures in accordance with rules to be made by the <sup>5</sup>[Provincial Government], in this behalf, as may best enable him to ascertain local public opinion in regard to the licensing of such premises. Ascertainment of public opinion.
- (3) A license for sale in more than one district of the <sup>6</sup>[Khyber Pakhtunkhwa] shall be granted by the <sup>7</sup>[Commissioner] only.

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<sup>1</sup>. For rules *see* notification No. 825-Exc., dated 14th December, 1916, "Khyber Pakhtunkhwa Gazette" 1916, page 1399, and Notification No. 825, dated 14th December, 1916, "Khyber Pakhtunkhwa Gazette" dated 29th December, 1916, page 1399, and notification No. 7-Exc., dated 1 of 5th January, 1917, "Khyber Pakhtunkhwa Gazette" 19th January, 1917. page 70:

<sup>2</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>3</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>4</sup>. Subs. for the words "excisable articles" by the A. O., 1937.

<sup>5</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>6</sup>. Subs, for the word "Punjab" nine notification No. 126-Exc., dated 8th-9th February, 1915, Part I-A., pages 132-133. The word Khyber Pakhtunkhwa are now to be construed as the Districts of Bannu, Dera Ismail Khan, Hazara, Mardan, Kohan and Peshawar, *vide* W. P. Act XVI of 1959 s. 3 (i) . Sch. I.

<sup>7</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

36. Subject to such restrictions as the <sup>1</sup>[Provincial Government] may prescribe, the authority granting any license, permit or pass under this Act may cancel or suspend it.—

Power to cancel or suspend licensee, etc.

- (a) if it is transferred or sublet by the holder thereof without the permission of the said authority; or
- (b) if any duty or fee payable by the holder thereof be not duly paid: or
- (c) in the event of any breach by the holder of such license, permit or pass or by his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions of such license, permit or pass; or
- (d) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence or of any offence punishable under the <sup>2</sup>Merchandise Marks Act, 1889, or of any offence punishable <sup>3</sup>[under the Dangerous Drugs Act, 1930, or] under sections 482 to 489 (both inclusive) of the <sup>4</sup>Pakistan Penal Code; or
- (e) if the holder thereof is punished for any offence referred to in clause (8) of section 167 of the <sup>5</sup>Sea Customs Act, 1878; or
- (f) where a license, permit or pass has been granted on the application of the grantee of a lease under this Act, on the requisition in writing of such grantee; or
- (g) at will, if the conditions of the license or permit provide for such cancellation or suspension.

37. When a license, permit or pass held by any person is cancelled under clause (a), (b), (c), (d), or (e) of section 36 the authority aforesaid may cancel any other license, permit or pass granted to such person <sup>6</sup>[by, or by the authority of the Provincial Government within the same district under this Act or under any other law for the time being in force relating to excise revenue or under the <sup>7</sup>Opium Act, 1878, and the

Power to cancel and other license.

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<sup>1</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>2</sup>. Pakistan Code Vol. II.

<sup>3</sup>. Ins. by Central Act II of 1930, Sell. II.

<sup>4</sup>. Subs, for "Indian Penal Code" by W. P. Act XVI of 1957, Sch. II.

<sup>5</sup>. Pakistan Code Vol. II.

<sup>6</sup>. Ins. by A. O., 1937.

<sup>7</sup>. Pakistan Code Vol. II.

<sup>1</sup>[Commissioner] may cancel any such license, permit or pass granted to such person in any district to which this Act applies.

38. In the case of cancellation or suspension of a license under clause (a), (b), (c), (d) or, (e) of section 36, the fee payable for the balance of the period for which any license would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise revenue.

Power to recover fee.

39. If any holder of a license granted under this Act, or any person to whom a lease has been granted under section 27; makes default in complying with any condition imposed upon him by such license or lease, the Collector may take the grant under management at the risk of the person who has so defaulted or may resell it and recover in the manner laid down in section 60 of this Act any deficiency in price and all expenses of such resale.

Power of Collector to take grants under management or to resell.

40. When a license, permit or pass is cancelled or suspended under clause (a), (b), (c), (d), or (e) of section 36 or under section 37, the holder shall not be entitled to any compensation for its cancellation or suspension, or to the refund of any fee paid or deposit made in respect thereof.

No compensation or refund claimable for cancellation or suspension of license, etc., under this section.

41. (1) Whenever the authority which granted a license, permit or pass under this Act considers that such license, permit or pass should be withdrawn for any cause other than those specified in section 36, it may, on remitting a sum equal to the amount of the fees payable in respect thereof for fifteen days, withdraw the license either—

Power to withdraw licenses.

(a) on the expiration of fifteen days notice in writing of its intention to do so, or

(b) forthwith without notice.

(2) If any license, permit or pass be withdrawn under clause (b) of sub-section (1), in addition to the sum remitted as aforesaid, there shall be paid to the licensee such further sum (if any) by way of compensation as the <sup>2</sup>[Commissioner] may direct.

Compensation in the case of withdrawal.

(3) When a license, permit or pass is withdrawn under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, after deducting the amount (if any) due to the <sup>3</sup>[Provincial Government].

Refund of fee or deposit.

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<sup>1</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>2</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>3</sup>. Subs for the word "Government" by A. O., 1937.

42. (1) No license, permit or pass granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license or in any proceedings taken prior to the grant thereof.

Technical irregularities in license, etc.

(2) The decision of the <sup>1</sup>[Commissioner] as to what is a technical defect, irregularity or omission shall be final.

43. No person to whom a license, permit or pass may have been granted shall be entitled to claim any renewal thereof, and no claim shall lie for damages or otherwise in consequence of any refusal to renew a license, permit or pass on the expiry of the period for which it remains in force.

No claim in consequence of refusal to renew a license, etc.

44. (1) No holder of a license granted under this Act to sell an <sup>2</sup>[intoxicant] shall surrender his license except on the expiration of one months notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fee payable for the license for the whole period for which it would have been current but for the surrender:

Surrender of licenses.

Provided that, if the Collector is satisfied that there is sufficient reason for surrendering the license, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(2) Sub-section (1) shall not apply in the case of any license granted under section 27 (2).

*Explanation.*—The words "holder of a license" as used in this section includes a person whose tender or bid for a license has been accepted, although he may not actually have received the license.

## CHAPTER VII.

### POWERS AND DUTIES OF OFFICERS, ETC.

45. Any excise officer not below such rank as the <sup>3</sup>[Provincial Government] may prescribe may—

Powers to enter and inspect places of manufacture and sale.

- (a) enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of or store any <sup>4</sup>[intoxicant];

<sup>1</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>2</sup>. Subs, for the words "excisable articles" by A. O., 1937.

<sup>3</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>4</sup>. Subs, *ibid.*, for the words "excisable article".



- (b) enter and inspect, at any time, within the hours during which sale is permitted, and at any other time during which the same may be open, any place in which any <sup>1</sup>[intoxicant] is kept for sale by any person holding a license under this Act.;
- (c) examine accounts and registers, test, measure or weigh any material, stills, utensils, implements, apparatus or <sup>2</sup>[intoxicant] found in that place; and
- (d) seize any accounts, registers, measures, weights or testing instruments which he has reason to believe to be false.

46. (1) The <sup>3</sup>[Provincial Government] may by notification invest any excise officer, not below the rank of sub-inspector, with power to investigate any offence punishable under this Act, committed within the limits of the area in which the officer exercises jurisdiction.

Powers of excise officers to investigate offences punishable under this Act.

(2) Every officer so empowered may within those limits exercise the same power in respect of such investigation as an officer in charge of a police station may exercise in a cognizable case under the provisions of Chapter XIV of the <sup>4</sup>Code of Criminal Procedure, 1898.

47. Any officer of the excise, police, salt or land revenue department, not below such rank and subject to such restrictions as the <sup>5</sup>[Provincial Government] may prescribe, and any other person duly empowered by notification by the <sup>6</sup>[Provincial Government] in this behalf, may arrest without warrant any person found committing an offence punishable under section 61, or section 63, and may seize and detain any <sup>7</sup>[intoxicant] or other article which he has reason to believe to be liable to confiscation under this Act, or other law for the time being in force relating to excise revenue; and may detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

Powers of arrest seizure and detention.

48. A magistrate having reason to believe that an offence under sections 61 or 63 has been, is being, or is likely to be committed, may —

Power of magistrate to issue warrant for search or arrest.

- (a) issue a warrant for the search of any place in which he has reason to believe that any <sup>8</sup>[intoxicant] still, utensil, implement, implement, apparatus or materials, in respect of which such offence has been, is being, or is likely to be committed, are kept or concealed; and

<sup>1</sup>. Subs, for the words "excisable article" by A.O, 1937.

<sup>2</sup>. Subs. By *ibid* for the words "excisable article".

<sup>3</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>4</sup>. Pakistan Code No. Vol-II.

<sup>5</sup>. Subs, *ibid* for the words "Local Government".

<sup>6</sup>. Subs, *ibid* for the words "Local Government".

<sup>7</sup>. Subs, for the word "excisable article" by A.O. 1937.

<sup>8</sup>. Subs. *ibid*, for the words "excisable article".

- (b) issue a warrant for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be engaged in the commission of any such offence.

49. (1) Whenever any excise officer not below such rank as the <sup>1</sup>[Provincial Government] may by notification prescribe, has reason to believe that an offence punishable under section 61, section 62, section 63, or Section 64, has been, is being, or is likely to be committed in any place, and that a search-warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time, by day or night enter and search such place.

Power of excise officer to search without warrant.

(2) Every excise officer as aforesaid may seize any thing found in such place which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

Further powers of seizure, detention, search and arrest.

50. Save as in this Act otherwise expressly provided, the provisions of the <sup>2</sup>Code of Criminal Procedure, 1898, relating to arrests, detentions in custody, searches, summonses, warrants of arrest, search warrants, production of person arrested and investigation of offence shall be held to be applicable to all action taken in these respects under this Act:

Procedure relating to arrests, searches, etc.

Provided that—

- (1) any offender under this Act may be investigated by an officer empowered under section 46 without the order of a magistrate;
- (2) Whenever an excise officer below the rank of Collector makes any arrest, seizure or search he shall within twenty four hours thereafter make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 73, take or send the person arrested or the article seized, with all convenient despatch to a magistrate for trial or adjudication.

51. All police officers are required to aid the excise officers in the due execution of this Act, upon request made by such excise officers.

Police to aid excise officers.

52. (a) Every owner or occupier of land and the agent of any owner or occupier of land on which—

Duty of landholders and others to give information.

(b) Every lambardar, village headman, village accountant, village watchman, village policeman and every officer employed in the collection

<sup>1</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>2</sup>. Pakistan Code, Vol. IV.

of revenue or rent of land on the part of Government or the Court of Wards in whose village—

there shall be any manufacture or illegal import or collection of any <sup>1</sup>[intoxicant] not licensed under this Act, or any unlawful cultivation of any plants from which an intoxicating drug can be produced, shall be bound, in the absence of reasonable excuse, to give notice of the same to a magistrate or to an officer of the excise, police or land revenue department as soon as the fact comes to his knowledge.

53. Every officer-in-charge of a police station shall take charges of and keep in safe custody, pending the orders of a magistrate, or of the Collector or of an officer empowered under section 46 (1) to investigate the case, all articles seized under this Act which may be delivered to him, and shall allow any excise officer who may accompany such articles to the police station, or may be deputed for the purpose by his superior officer to affix his seal to the articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

Duty of officer in charge of police station to take charge of articles seized.

54. (1) The District Magistrate or a Sub-Divisional Magistrate by notice in writing to the licensee may require that any shop in which any <sup>2</sup>[intoxicant] is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

Power to close shops for the sake of public peace.

(2) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a magistrate of any class may require such shop to be kept closed for such period as he may think necessary:

Provided that where any such riot or unlawful assembly occurs the licensee shall, in the absence of a Magistrate, close his shop without any order.

(3) When any Sub-Divisional Magistrate makes a direction under sub-section (1) or any Magistrate makes a direction under sub-section (2), he shall forthwith inform the Collector of his action and his reasons therefor.

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<sup>1</sup>. Subs, for the words "excisable article" by the A. O., 1937.

<sup>2</sup>. Subs, for the words "excisable article" by the A. O., 1937

## CHAPTER VIII.

### GENERAL PROVISIONS

55. Every person who manufactures or sells any <sup>1</sup>[intoxicant] under a licence granted under this Act, shall be bound— Measures, weights and testing instruments.

- (a) to supply himself with such measures, weights and instruments as the <sup>2</sup>[Commissioner] may prescribe, and to keep the same in good condition; and
- (b) on the requisition of any excise officer duly empowered by the Collector in that behalf, at any time to measure, weight or test any <sup>3</sup>[intoxicant] in his possession, in such manner as the said excise officer may require.

56. The <sup>4</sup>[Provincial Government] may, by notification, either wholly or partially and subject to such conditions as it may think fit to prescribe, exempt any <sup>5</sup>[intoxicant] from all or any of the provisions of this Act. Power of <sup>6</sup>(Provincial Government) to exempt <sup>7</sup>(intoxicant) from the provisions of the Act,

57. No suit shall lie in any civil court against the <sup>8</sup>[Provincial Government] or any officer or person for damages for any act in good faith done, or ordered to be done, in pursuance of this Act or of any other law for the time being in force relating to the excise revenue Bar of certain suits.

58. (1) The <sup>9</sup>[Provincial Government] may, by notification, make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to excise revenue. Powers of <sup>1</sup>[Provincial Government] to make rules.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the <sup>10</sup>[Provincial Government] may make rules—

<sup>1</sup>. Subs, for the words "excisable article" by the A. O., 1937.

<sup>2</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" see notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>3</sup>. Subs, for the words "excisable article" by the A. O., 1937.

<sup>4</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>5</sup>. Subs, for the words "excisable article" by the A. O., 1937.

<sup>6</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>7</sup>. Subs, for the words "excisable article" by the A. O., 1937.

<sup>8</sup>. Subs, for the word "Crown" by W. P. Laws (Adaptation). Order, 1964, which was previously subs, for the words "Secretary of State for India in Council", by A. O., 1937.

<sup>9</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>10</sup>. Subs, for the words "excisable article" by A. O., 1937.

- (a) prescribing the duties of excise officer;
- (b) regulating the delegation of any powers by the<sup>1</sup>[Commissioner], Commissioner or Collector, under section 13, clause (b);
- (c) prescribing the time and manner of presenting, and the procedure for dealing with appeals from orders of excise officers;
- <sup>2</sup>(d) regulating the import, export, transport or possession of any<sup>3</sup>[intoxicant];
- <sup>4</sup>(e) regulating the periods and localities for which, and the persons, or classes of persons, to whom licenses, permits and passes for the vend by wholesale or by retail of any<sup>5</sup>[intoxicant] may be granted and regulating the number of such licenses which may be granted in any local area;
- <sup>6</sup>(f) prescribing the procedure to be followed and the matters to be ascertained before any license is granted for the retail vend of liquor for consumption on the premises;
- <sup>7</sup>(g) for the prohibition of the sale of any 2[inotxicant] to any person or class of premises;
- (h) regulating the power of excise officers to summon witnesses from a distance;
- <sup>8</sup>(i) regulating the grant of expenses to witnesses and compensation pensation to persons charged with offences under this Act and subsequently released, discharged or acquitted;

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<sup>1</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>2</sup>. For rules see notification No. 762-Exc., dated 15th November, 1916, Khyber Pakhtunkhwa Gazette, dated 17th November, 1916, page 1200, and Notification No. Exc., dated 13th November, 1916, Khyber Pakhtunkhwa, Gazette, dated 17th November, 1916, page 1202. and Notification No. 753 Exc., dated November. 1916, Khyber Pakhtunkhwa Gazette, dated 17th November Page 1201.

<sup>3</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>4</sup>. For rules see Notification No. 722-Exc., dated 20th October 1916. Khyber Pakhtunkhwa, Gazette, dated 22nd October, 1916, page 1136.

<sup>5</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>6</sup>. For rules see Notification No. 723-Exc.. dated 20th October, 1916, Khyber Pakhtunkhwa Gazette, dated 27th October, 1916, page 1137.

<sup>7</sup>. For rules see Notification No. 724-Exc.. dated 20th October 1916 Khyber Pakhtunkhwa Gazette, dated 27th October, 1916, page 1137.

<sup>8</sup>. For rules *see* Notification No. 725-Exc., dated 13th November Khyber Pakhtunkhwa Gazette, dated 27th October, 1916, page 1138.

<sup>1</sup>(j) for the prohibition of the employment by a license holder or any person or class of persons to assist in his business in any capacity what-soever;

(k) for the prevention of drunkenness, gambling and disorderly conduct in or near any licensed premises, and the meeting or remaining of persons of bad character in such premises.

(3) The power conferred by this section of making rules is subject to the condition that the rules be made after previous publication: Previous publication of rules.

Provided that any such rules may be made without previous publication if the <sup>2</sup>[Provincial Government] consider that they should be brought into force at once.

59. The <sup>3</sup>[Commissioner] may, by notification, <sup>4</sup>make rules — Powers of <sup>5</sup>(Commissioner) to make rules.

<sup>6</sup>(a) regulating the manufacture, supply, storage or sale of any <sup>7</sup>[intoxicant] including—

(i) the character, erection, alteration, repair, inspection, supervision, management and control of any place for the manufacture, supply, storage or sale of such article and the fittings, implements, apparatus and register to be maintained therein;

(ii) the cultivation of the hemp <sup>8</sup> \* \* plant and the collection of spontaneous growth of such plant and the preparation of any intoxicating drug;

<sup>1</sup>. For rules *see* Notification No. 725-Exc., dated 13th November Khyber Pakhtunkhwa Gazette, dated 27th October, 1916, page 1138.

<sup>2</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>3</sup>. Subs by W.P. Act XVI of 1957, Sch. II, for the words "Revenue Commissioner" which in the Khyber Pakhtunkhwa were to be read for the original words "Financial Commissioner" *see* notification No. 126-Exc dated 8th-9th February, 1915, Khyber Pakhtunkhwa Gazette, 1915 Part I-A, pages 132-133.

<sup>4</sup>. *See* Notification No. 826-Exc., dated 14th December, 1916, Khyber Pakhtunkhwa Gazette, dated 20th December, 1916, page 1411, and Notification No. 98-Exc., dated 10th February, 1923, Khyber Pakhtunkhwa, Gazette, dated 16th February, 1923, page, 1922, and Notification No. 825-Exc., dated 14th December, 1916, Khyber Pakhtunkhwa, Gazette, 29th November, 1916, page 1399, notification No. 7-Exc., dated 15th January, 1917, "Khyber Pakhtunkhwa, Gazette" dated 19th January, 1917, page 70, notification No. 5-Exc., dated 5th January, 1917, "Khyber Pakhtunkhwa, Gazette" dated 19th January, 1917 page 68, notification No. 825-Exc., dated 14th December, 1916, "Khyber Pakhtunkhwa., Gazette" dated 14th December, 1916, paw 1399, notification No. 826-Exc., dated 14th December, 1916, "Khyber Pakhtunkhwa Gazette", dated 14th December, 1916, page 1411, and notification No. 793 Exc., dated 27th November, 1916, "Khyber Pakhtunkhwa, Gazette, dated 8th December, 1916, page 1964.

<sup>5</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>6</sup>. *See* notification No. 6-Exc., dated 5th January, 1917, "Khyber Pakhtunkhwa, Gazette", dated 19th January, 1917, page 78, and notification No. 101-Exc., dated 10th February, 1923, "Khyber Pakhtunkhwa, Gazette", dated 16th February, 1923, page 122.

<sup>7</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>8</sup>. The words "or coca" omitted by Central Act. II, of 1930. Sch. II.

- (iii) the tapping or drawing of tari from any tari-producing tree;
- (b) regulating the bottling of liquor for purposes of sale;
- (c) regulating the deposit of any <sup>1</sup>[intoxicant] in ware house and the removal of any <sup>2</sup>[intoxicant] from any warehouse or or from any distillery or brewery;
- (d) prescribing the scale of fees or the manner of fixing the fees payable in respect of any licence, permit or pass or in respect of the storing of any <sup>3</sup>[intoxicant]
- (e) regulating the time, place and manner of payment of any duty or fee;
- <sup>4</sup>(f) prescribing the authority by, the restrictions under and the conditions on, which any license, permit or pass may be granted, including provision for the following matters:—
  - <sup>5</sup>(i) the prohibition of the admixture with any <sup>6</sup>[intoxicant] <sup>6</sup>[intoxicant] of any substance deemed to be noxious or objectionable;
  - (ii) the regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength;
  - (iii) the fixing of the strength, or price below which any <sup>7</sup>[intoxicant] shall not be sold, supplied or possessed;
  - (iv) the prohibition of sale of any <sup>8</sup>[intoxicant] except for cash;
  - (v) the fixing of the days and hours during which any licensed premises may or may not be kept open, and the closure of such premises on special occasions.

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<sup>1</sup>. Subs, for the words “excisable article” by A. O., 1937.

<sup>2</sup>. Subs, for the words “excisable article” by A. O., 1937.

<sup>3</sup>. Subs, for the words “excisable article” by A. O., 1937.

<sup>4</sup>. For rules *see* notification No. 5-Exc., dated 5th January, 1917, Khyber Pakhtunkhwa, Gazette, dated 11th January, 1917 page 64 and notification No. 6-Exc., dated 7th January, 1917, Khyber Pakhtunkhwa, Gazette, dated 11th January, 1917 page 69.

<sup>5</sup>. For rules, *see* notification No. 77-Exc., dated 25th January, 1917, Khyber Pakhtunkhwa Gazette, dated 9th February, 1917, page 198.

<sup>6</sup>. Subs, for the words “excisable article” by A. O., 1937.

<sup>7</sup>. Subs, for the words “excisable article” by A. O., 1937.

<sup>8</sup>. Subs, for the words “excisable article” by A. O., 1937.

- (vi) the specification of the nature of the premises in which any <sup>1</sup>[intoxicant] may be sold, and the notices to be exposed at such premises;
- (vii) the form of the accounts to be maintained and the returns to be submitted by license-holders, and
- (viii) the prohibition or regulation of the transfer of licenses;
- (g)
  - (i) declaring the process by which spirit shall be denatured;
  - (ii) for causing spirit to be denatured through the agency or under the supervision of its own officers;
  - (iii) for ascertaining whether such spirit has been denatured;
- (h) providing for the destruction or other disposal of any <sup>2</sup>[intoxicant] deemed to be unfit for use:
  - <sup>3</sup>(i) regulating the disposal of confiscated articles;
- (j) prescribing the amount of security to be deposited by holders of leases, licenses, permits or passes for the performance of the conditions of the same.

60. <sup>4</sup>[(1) The following monies, namely: —

Recovery of dues.

- (a) all excise revenue.
- (b) any loss that may accrue, when in consequence of default a grant has been taken under management by the Collector or has been re-sold by him under section 39, and
- (c) all amounts due to the state by any person on account of any contract relating to the excise revenue,

may be recovered from the persons primarily liable to pay the same, or from his surety, (if any), as arrears of land revenue].

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<sup>1</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>2</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>3</sup>. For rules, see notification No. 795E-Exc., dated 27th November 1916., Khyber Pakhtunkhwa, Gazette, dated the 8th December, 1916, page 1300.

<sup>4</sup>. Subs. Sub Section 1 of Section 60 Subs, by W.P. Act No. ix of 1956.



(2) When a grant has been taken under management by the Collector or has been resold by him under section 19 the Collector may recover, in any manner authorized by sub-section (1) any money due to the defaulter by any lessee or assignee.

(3) In the event of default by any person licensed or holding a lease under this Act all his distillery, brewery, warehouse or shop, premises, fittings or apparatus and all stocks of <sup>1</sup>[intoxicants] or materials for manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises shall be liable to be attached in satisfaction of any claim for excise revenue or in respect of losses incurred by the <sup>2</sup>[Provincial Government] through such default and to be sold to satisfy such claim, which shall be a first charge upon the sale-proceeds.

### CHAPTER IX.

#### OFFENCES AND PENALTIES.

61. (1) Whoever, in contravention of any section of this Act or of any rule, notification issued or given there under or order made, or of, any license, permit or pass granted under this Act:— Penalty for unlawful import, export, transport, manufacture, possession, etc.

- (a) imports, exports, transports, manufactures, collects, or possesses any <sup>1</sup>[intoxicant]; or
- (b) constructs or works any distillery or brewery; or
- (c) uses, keeps or has in his possession any materials, still, utensils, implement or apparatus whatsoever, for the purpose of manufacturing any <sup>3</sup>[intoxicant] other than tari;

shall be punishable for every such offence with imprisonment for a term which may extend to <sup>4</sup>[two years] or with fine which may extend to <sup>5</sup>[two thousand] rupees or with both;

\* \* \* \* \*

(2) Whosoever, in contravention of any section other than section 29 and 30 of this Act, or of any rule, notification issued or given there Penalty for unlawful import, export, transport manufa-

<sup>1</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>2</sup>. Subs. *ibid*, for the word "Government".

<sup>3</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>4</sup>. Subs, for the words "one year" by Punjab Act II of 1925. s. 2. This Act, has been extended to the Khyber Pakhtunkhwa, *see* notification No. 318-Exc., dated 14th April, 1927, Khyber Pakhtunkhwa, Gazette, 1927, Pt.-A., page 510.

<sup>5</sup>. Subs, *ibid*, for the words "one thousand".

<sup>6</sup>. Proviso omitted. *ibid*.

under or order made, or of any license, permit or granted under this Act:— cture, possession, sale, etc.

- (a) sells any <sup>1</sup>[intoxicant]; or
- (b) cultivates the hemp <sup>2</sup>\* \* \* \* \* plant; or
- (c) removes any <sup>1</sup>[intoxicant] from any distillery, brewery or warehouse established or licensed under this Act; or
- (d) bottles any liquor for the purposes of sale ; or
- (e) taps or draws tari from any tari-producing tree:

shall be punishable with imprisonment for a term which may extend to <sup>3</sup>[one year] or with fine which may extend to <sup>4</sup>[two thousand) rupees, or with both;

<sup>5</sup>\* \* \* \* \*

62. If any licensed vendor, or any person in his employ or acting on his behalf— Penalty for unlawfully selling to persons under eighteen, or employing children or women.

- (a) in contravention of section 29 sells or delivers any liquor or intoxicating drug to any person apparently under the age of eighteen years, or
- (b) in contravention of section 30, employs or permits to be employed, on any part of his licensed premises referred to in that section any child under the age of sixteen years or woman; or
- (c) sells any <sup>6</sup>[intoxicant] to a person who is drunk or intoxicated; or
- (d) permits drunkenness, intoxication, disorderly conduct or gambling on the licensed premises of such licensed vendor; or
- (e) permits any person whom he knows or has reason to believe to have been convicted of any non-bailable offence or any reputed prostitute to frequent his licensed premises, whether for the purposes of crime or prostitution or not;

<sup>1</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>2</sup>.The words "or coca" omitted by Central Act, II of 1930, Sch. II.

<sup>3</sup>.Subs, for the words "six months" by Punjab Act, II of 1925, s. 2. This Act has been extended to the Khyber Pakhtunkhwa, see notification No. 318, Exc., dated 14th April, 1927, Khyber Pakhtunkhwa, Gazette, 1927, Pt. I-A., page 510.

<sup>4</sup>. Subs, *ibid*, for the words "one thousand".

<sup>5</sup>. Proviso omitted, *ibid*.,

<sup>6</sup>. Subs, for the words "excisable article" by A. O., 1937.

he shall in addition to any other penalty to which he may be liable be punishable with a fine which may extend to five hundred rupees.

When any licensed vendor or any person, in his employ or acting on his behalf is charged with permitting drunkenness or intoxication on the licensed premises of such vendor, and it is proved that any person was drunk or intoxicated on such premises, it shall lie on the person charged to prove that the licensed vendor or the person employed by him or acting on his behalf took all reasonable steps for preventing drunkenness or intoxication on such premises.

63. Whoever attempts to render fit for human consumption any spirit, whether manufactured in <sup>1</sup>[Pakistan] or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall be punished with imprisonment for a term which may extend to three months, or with fine, which may extend to one thousand rupees, or with both.

Penalty for attempting to render denatured spirit fit for human consumption.

64. If any licensed manufacturer or licenced vendor or any person in his employ or acting on his behalf:—

Penalty for fraud by licensed manufacture or vendor or his servant.

- (a) sells, or keeps or exposes for sale, as foreign liquor any liquor which he knows or has reason to believe to have been manufactured from rectified spirit or country liquor; or
- (b) marks any bottle, case, package or other receptacles containing liquor so manufactured from rectified spirit or country liquor, or the cork of any such bottle, or deals with any bottle, case, package or other receptacle containing such liquor with the intention of causing it to be believed that such bottle, case, package, or other receptacle contains foreign liquor;

he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

65. Whoever, being the holder of a license, permit or pass granted under this Act, or being in the employ of such holder or acting on his behalf:-

Penalty for certain acts by licensee or his servant.

- (a) fails wilfully to produce such license, permit or pass on the demand of any excise officer or of any other officer duly empowered to make such demand; or

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<sup>1</sup>. Subs, for the words "The Provinces and capital of Federation by W. P. Laws (Adaptation) order 1964.

- (b) in any case not provided for in section 61 wilfully contravenes any rule made under section 58 or section 59; or
- (c) wilfully does or omits to do anything in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Act;

shall be punishable in case (a) with fine which may extend to two hundred rupees, and in case (b) or case (c) with fine which may extend to five hundred rupees.

66. (1) If any chemist, druggist, apothecary or keeper of a dispensary allows any <sup>1</sup>[intoxicant] which has not been *bona fide* medicated for medicinal purposes to be consumed on his business premises by any person nor employed in his business, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for consumption in chemists shop etc.

(2) If any person not employed as aforesaid consumes any such <sup>1</sup>[intoxicant] on such premises, he shall be punishable with a fine which may extend to two hundred rupees.

67. (1) When any <sup>2</sup>[intoxicant] has been manufactured or sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture or sale was; or that such possession is, on his account, the article shall for the purposes of this Act be deemed to have been manufactured or sold by or to be in the possession of such other person.

Manufacture, sale or possession by one person on account of another.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has possession of an <sup>3</sup>[intoxicant] on account of another person from liability to any punishment under this Act for the unlawful manufacture, sale or possession of such article.

68. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given there under, and not otherwise provided for in this Act, shall be punishable for every such act or omission with a fine which may extend to two hundred rupees.

Penalty for offences not otherwise provided for.

69. Whoever attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for the offence.

Attempt to commit offences punishable under this Act.

70. If an excise officer—

Penalty for excise officer making

<sup>1</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>2</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>3</sup>. Subs, for the words "excisable article" by A. O., 1937.

vexatious search  
etc.

- (a) vexatiously and unnecessarily enters or searches, or causes to be entered or searched, any place under colour of exercising any power conferred by this Act, or
- (b) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act; or
- (c) vexatiously and unnecessarily searches, arrests or detains any person; or
- (d) without lawful excuse ceases or refuses to perform or withdraws himself from the duties of his office unless expressly allowed to do so in writing by the Collector or unless he shall have given to his immediate Superior officer two months notice in writing of his intention to do so;

he shall be liable to imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

71. If on an investigation by an excise officer empowered under section 46, sub-section (1), it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he submits the case for the orders of the Collector under section 80, shall submit a report (which shall for the purposes of section 190 of the <sup>1</sup>Code of Criminal Procedure, 1898, be deemed to be a police report) to a magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on Police reports.

Report by investigation officer or institution of proceedings.

72. <sup>2</sup>[Offences punishable under this Act, shall be bailable within the meaning of the <sup>3</sup>[Code of Criminal Procedure, 1898.]

<sup>4</sup>[Bail]

73. (1) The <sup>5</sup>[Provincial Government] may empower any excise officer to grant bail, notwithstanding that such officer is not empowered under section 46.

Security for appearance in case of arrest without warrant.

(2) When a person is arrested under this Act, otherwise than on warrant, by a person or officer who is not empowered to grant bail, he shall be produced before or forwarded to—

<sup>1</sup>. Pakistan Code, volume IV.

<sup>2</sup>. Section 72 subs by W.P. Act IX of 1956 S3.

<sup>3</sup>. Pakistan Code, volume IV.

<sup>4</sup>. Section 72 subs by W.P. Act IX of 1956 S3.

<sup>5</sup>. Subs, for the words "Local Government" by A. O., 1937.

- (a) the nearest excise officer empowered to grant bail, or
- (b) the nearest officer in charge of a police station, whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by, or produced in accordance with sub-section (2) before an officer empowered to grant bail, he shall be released upon bail, or, at the discretion of the officer releasing him, on his own bond.

(4) The provisions of sections 499 to 502, 513, 514 and 515 of the <sup>1</sup>[Code of Criminal Procedure, 1898, shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

74. *[Enhanced punishment after previous conviction] Repealed by <sup>2</sup>Punjab Act II of 1925s. 3.*

75. (1) No magistrate shall take cognizance of an offence punishable— Cognizance of offences.

- (a) under section 61 or section 66 except on his own knowledge or suspicion or on the complaint or report of an excise officer, or
- (b) under section 62, section 63, section 64, section 65, section 68 or section 70, except on the complaint or report of the Collector or an excise officer authorized by him in that behalf.

(2) Except with the special sanction of the <sup>3</sup>[Provincial Government], no magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within <sup>4</sup>[Six month] after the date on which the offence is alleged to have been committed.

76. Whenever any person is found in possession of—

Presumption as to commission of offence in certain cases.

- (a) any still, utensil, implements or apparatus whatsoever or any part or parts thereof, such as are ordinarily used for the manufacture of any <sup>5</sup>[intoxicant] other than tari;
- (b) any materials which have undergone any process towards

<sup>1</sup>. Pakistan Code, volume IV.

<sup>2</sup>. This Act, has been extended to the Khyber Pakhtunkhwa, *see* notification No. 318-Exc., dated 14th April, 1927, Khyber Pakhtunkhwa, Gazette, 1927. Pt. I-A., page 510.

<sup>3</sup>. Subs, for the words "Local Government" by A. O., 1937.

<sup>4</sup>. Subs, by W.P. Act No. IX of 1956, S. 4.

<sup>5</sup>. Subs, for the words "excisable article" by A. O., 1937.

the manufacture of an <sup>1</sup>[intoxicant] or from which an <sup>3</sup>[intoxicant] has been manufactured,

it shall be presumed, until the contrary is proved, that his possession was in contravention of the provisions of this Act.

77. The holder of a license, permit or pass under this Act, as well as the actual offender, shall be liable to punishment, for any offence punishable under section 61, section 62, section 63, section 64, or section 65, committed by any person in his employ or acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Liability of employer for offence committed by employee or agent.

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

78. (1) Whenever an offence punishable under this Act, has been committed—

Confiscation of article in respect of which offence committed.

- (a) every <sup>2</sup>[intoxicant] in respect of which such offence has been committed;
- (b) every still, utensil, implement or apparatus and all materials in respect of or by means of which such offence has been committed ;
- (c) every <sup>3</sup>[intoxicant] lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any <sup>1</sup>[intoxicant] liable to confiscation under clause (a)
- (d) every receptacle, package and covering in which any '[intoxicant] materials still, utensil, implement or apparatus as aforesaid is or are found together with the other contents (if any) of such receptacle or package; and
- (e) every animal, cart, vessel, raft or other conveyance, used in carrying such receptacle, package, covering or article as aforesaid;

shall be liable to confiscation:

Provided that when it is proved that the receptacles, animals, or other articles specified in clauses (d) and (e) are not the property of offender, they shall not be liable to confiscation if the owner thereof establishes that he had no reason to believe that such offence was being or was likely to be committed.

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<sup>1</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>2</sup>. Subs, for the words "excisable article" by A. O., 1937.

<sup>3</sup>. Subs, for the words "excisable article" by A. O., 1937.

(2) When in the trial of any offence punishable under this Act, the Magistrate decides that anything is liable to confiscation under sub-section (1), he may order confiscation:

When confiscation may be ordered.

Provided that in lieu of ordering confiscation he may give the owner of the thing liable to be confiscated an option to pay such fine as the magistrate thinks fit.

79. When there is reason to believe that an offence under this Act has been committed, but the offender is not known or cannot be found and when anything or animal liable to, confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for the case shall be inquired into and determined by the Collector, who may order confiscation :

Further provisions for confiscation.

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing or animal in question or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he produces in support of the claim:

Provided further, that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale of the thing or animal in question would be for the benefit of its owner, the Collector may at any time, direct it to be sold, and the provisions of this section shall, so far as may be, apply to the net proceeds of such sale.

80. (1) The Collector may accept from any person who is reasonably suspected of having committed an offence punishable under section 62, section 65 or section 68 of this Act, a sum of money by way of composition for such offence; and on the payment of such sum of money to the Collector, the accused person if in custody shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Power of excise officers to compound offences.

(2) The cancellation or suspension of any license, permit or pass under section 36 (a), (b) or (c) of this Act may be foregone or revoked by and at the sole discretion of the authority having power to cancel or suspend it on payment by the holder of such license, permit or pass of such penalty as such authority may fix.

(3) Where any <sup>1</sup>[intoxicant] has been seized under the provisions of this Act, the Collector may, in his discretion, at any time before a Magistrate has passed an order under section 78, sub-section (2), release it on receiving payment of the value thereof.

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<sup>1</sup>. Subs, for the words "excisable article" by A. O., 1937.



**SCHEDULE***(See section – 2)***ENACTMENTS REPEALED.**

Year	Number	Short title	Extent of repeal
		ACTS OF THE GOVERNOR-GENERAL IN COUNCIL	
1863	XVI	The Excise (Spirits) Act, 1863	The whole.
1894	VIII	The Indian Tariff Act, 1894	Section – 6.
1896	XII	The Excise Act, 1896	The whole.
1906	VII	The Excise (Amendment) Act, 1906	Do.