

Excise Laws of Bihar

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

1. to declare –

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

(2) 3[X X X]

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

4[“Country liquor –

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

(b) Spiced country spirit which has been made in India from silent spirit conforming to ISI specification no. I.S. 6613: 1971 for neutral spirit for alcoholic drinks as revised from time to time, and to which approved flavouring and colouring agents are added at any stage of its manufacture,

(c) Tari, and

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

5[Foreign Liquor –

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

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

(c) Rectified spirit which has been made in India and on which excise duty has been imposed at the rate fixed by the Provincial Government under section 27 of the Act,

(d) spirit which has been made in India and has been sophisticated or compounded so as to resemble in colour and flavour of whisky, brandy, gin or rum,

(e) spirit which has been made in India from some special bases (such as malt or toddy) not recognized in Bihar as bases for country spirit, and on which excise duty has been imposed at the rate fixed by the Provincial Government under Section 27 of the Act,

1.

Published in Bihar and Orissa Gazette dated 22-1-1919 (pp. 136-146)

2. Notification No. 3112 L.S.G.R., dated 7-9-1927.

3. Deleted by Notification No. 1224-L.S.G.R., dated 11-8-1945.

4. Subs. By S. O. 1423 dated 25-8-1976

5. Vide Notification no. 6193. L.S.G. dated 23-12-1974 and 201-L.S.G. dated 14-2-1944

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(f) wines and liquors which have been made in India and on which excise duty has been imposed at the rate fixed by the Provincial Government under section 27 of the Act,

- (g) Denatured spirit, and
- (h) Perfumed spirit and spirit used in drugs, medicines, or chemicals, whether manufactured in India or imported from foreign countries.]

II. To make the following orders under sub-section (2) of section 7 :-

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

¹[(1A) There shall be a joint Commissioner of Excise who shall, subject to the general control of the Commissioner of Excise have throughout the State of Bihar the Control of the administration of the Excise Department and the collection of Excise Revenue.] ²[(1B) [Under clause (b).- There shall be an Additional Deputy Commissioner of Dhanbad, who shall, subject to the general control of the Commissioner of Excise, exercise in the jurisdiction of the Dhanbad all the power and perform all the duties conferred and imposed on the Collector by the Excise Act.]

³[(1C) There shall be licensing boards (to be constituted in the manner set forth below) for the Municipalities of Patna (Patna City), Gaya, Chapra, Muzaffarpur, Darbhanga, Monghyr and Bhagalpur which shall, subject to such control as the State Government may direct exercise, all the powers and perform all the duties which are conferred and imposed on the Collector by section 30, 34 and 36 of the Act in respect of shops for the retail sale of spirit, tari and hemp drugs;

Provided that –

(a) The power to grant licenses to any person selected by the licensing boards shall be exercised by the Collector.

(b) When the number of shops is reduced, such reduction shall not exceed one third of the total number of shops existing in the town in the last year in which the shops were settled by auction previous to the first constitution of the Board.

(C) When the number of shop is increased, the total number of shops for the sale of any excisable articles shall not exceed the number of such shops existing in the town in the last year in which such shops were settled by auction, without the special sanction of Government.

(d) When the site of a shop is to be changed, a suitable site shall first be found in the same ward.

(e) The powers to select licenses for shops will extend only to those shops which are to be settled according to the sliding scale system, the others being settled by the Collector by auction.

(f) If the Licensing Board fail to select a licensee within one month of the date of receipt from the Collector of an intimation of the vacancy, the selection shall be made by the Collector.

1.

Ins. By S. O 971 dated 19-6-1982.

2. Ins. By Notification No. 5255-L.S.G. dated 7.11.1939.

3. Ins. By Notification No. 350-L.S.G. dated 8-1-1927 and subs. By 50-L.S.G.R. dated 28-4-1927

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(g) The licensing board shall have no jurisdiction in any cantonment.

CONSTITUTION OF LICENSING BOARDS.

(i) Chairman for the time being of the municipality President.

(ii) One member to be elected by the municipal commissioners from among their own number or from outside; if the former he shall hold office only so long as he continues to be a municipal commissioner.

(iii) One member nominated by temperance societies (registered under law) if any, in the city. If the societies nominate more than one person, the District Officer shall choose one from among them.

(iv) One non-official member of the Bihar Legislature.

If there is only one non-official member of the Legislature, he shall be the member of the Board.

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

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

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

(vi) One member to be elected by the licensees of the town who shall hold office so long as he continues to be licensee.

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

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

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

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

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

- (a) Section 12, sub-section, (2) – (grant of passes),
- (b) Section 18, sub-section (2), clause (c) – (grant of authority to possess 2[intoxicants] not obtained from a licensed vendor),
- (c) Section 18, sub-section (2) clause (g) and section 20, clause (e) to proviso
- (4) – (grant of permits to use tari for the manufacture of bread),

- (d) Section 19, sub-section (1) – (grant of permits for possession of ²[intoxicants], ³[(dd) Section 20-(grant of licenses for sale of ²[intoxicant),
- (e) Section 24, clause (b) – (power to empower Excise Officers to require licensees to measure, weigh, or test intoxicants),
- (f) Section 31, sub-section (1) – (publication of list.]²
- (g) Section 67, sub-section (2) – (confiscation),
- (h) Section 68 – (composition of offences and release of property liable to confiscation).
- (i) Section 71 – (issue of warrant of arrest),
- (j) Section 72 – (issue of search-warrant).
- (k) Section 73 – (to arrest or search in person or to direct arrest or search in his presence),
- (l) Section 77, sub-Section (1) – (investigation of offences),
- (m) Section 79 – (security and bail),
- (n) Section 85, sub-section (2) – (arrest, etc.)
- (o) Section 87, clause (b) – (complaints or reports to Magistrate),
- ⁴[(p)Section 93, sub-section (1) – (issue of distress warrants),
- (3) There shall be, in addition to the Excise Commissioner the following officers who shall have rank in the order in which they are named below and shall exercise authority in the areas to which they are respectively appointed:-
- ⁵[1. Joint Commissioner of Excise.
 2. Deputy Commissioner of Excise.
 3. Assistant Commissioner of Excise.
 4. Superintendent of Excise.
 5. Inspector of Excise.
 6. Sub-Inspector of Excise.
 7. Assistant Sub-Inspector of Excise.
 8. Excise Constable.]

1.

Subs. By Notification No. 6413 dated 20.9.1966.

2. Subs. By Notification No. 1228 L.S.G. dated 11.8.1945.
3. Ins. By Notification No. 9441 L.S.G. dated 2.12.1936.
4. Ins. By Notification No. 10023 L.S.G. dated 30.11.1933.
5. Subs. By S.O. 971 dated 19-6-1932.

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

- (a) Section 74 (power to search without a warrant); section 77, sub section (2) (investigation of offences) so far as it relates to the investigation of offence Punishable under section 47, section 49, section 55 or section 56; section 78, sub-section (2) (stopping of proceedings) section 79, sub-section (5) (release of persons on bail or on their own bond); and section 87, clause (a) (complaints or reports to Magistrate)- Police

officers not below the rank of an officer in charge of a police station;

(b) 1[X X X]

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

(6) 2[X X X X]

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

3[(1) Power to appoint Inspectors of Excise by direct appointment only [Clause (c) of sub-section (2) of section 7],

(2) section 9(1), clause (a) (Power to give permission for the import of an intoxicant)

(3) section 12, sub-section (1) (except the proviso there to) so far as it relates to transport (power to prescribe in respect of an intoxicant the quantity there of, no quantity in excess of which shall be transported except under a pass)

(4) section 22, sub-section (1), clauses (a) and (b) (power to grant the exclusive privilege of manufacturing or supplying wholesale or of manufacturing and supplying wholesale country liquor or any intoxicating drug),

(5) section 42, sub-section (1) (power to prescribe restrictions upon the cancellation or suspension of licenses, permits or passes), and

(6) section 57. Clause (a) (power to empower officers to demand the production of licenses, permits or passes);

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

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

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

1.

Deleted by Notification No. 1225 L.S.G.R. dated 11-8-1945.

2. Deleted by S.O. 904 dated 7-10-1969.

3. Vide Notification No. 1747 Com. Dated 7-5-1921.

4. Subs. By Notification No. 1747 Com. Dated 7-5-1921.

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V. Under clause (g) of sub-section (2) of section 7, to permit the delegation –
1[(1) by the Excise Commissioner 2[or Deputy Commissioner of Excise or Assistant Commissioner of Excise.

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

(i) his power to appoint Excise peons and to appoint on a temporary or acting basis officers of the Excise Department below the rank of Inspector of Excise;

(ii) his power under rule 1 under section 89 of the said Act to promote, transfer, suspend, reduce in rank, or otherwise punish such officers as are

appointed by him, other than the power to punish such officers involving their removal or dismissal:

2[(iii) his power to transfer the Excise Constables to Divisional Deputy Commissioner of Excise in their respective Divisions under sub-section (1) of section 89 of the said Act.]

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

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

- (a) Section 12, sub-section (1) (power to grant passes for the import, export or transport of any intoxicant) to any Deputy Collector;
- (b) Section 12, sub-section (2) (power to grant passes for the transport of any intoxicant)]3to any Sub-Deputy Collector or to any officer of the Excise Department who is not below the rank of Sub-Inspector or who is in charge of a distillery or warehouse;
- (c) Section 18, clause (g), and section 20, clause (e) (power to grant permits to use tari for the manufacture of bread) – to any Deputy Collector or sub-Deputy Collector, or any Excise Officer not below the rank of Sub-Inspector;
- (d) Section 19, sub-section (1) (power to grant permits to possess intoxicants- in excess of the quantity declared to be the limit of retail sale) – to any Deputy Collector, or Sub-Deputy Collector, or any Excise Officer not below the rank of Sub-Inspector;
- (e) Section 71 (power to issue warrant of arrest) – to any deputy Collector or Sub-Deputy Collector;
- (f) Section 72 (power to issue search-warrant) – to any Deputy Collector or Sub-Deputy Collector;
- (g) Section 77, sub-section (1) (power to investigate offences) – to any Deputy Collector.

1.

Subs. By Notification No. 6516 E, dated 7-8-1952.

2. Ins. By S.O. 314 dated 7-9-1993.

3. Subs. By Notification No. 1230 – L.S.G.R. dated 11-8-1945.

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

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

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

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

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

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

VII.3[X X X X]

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

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1.

Ins. By Notification No. 8609. L.S.G. dated 18.12.1934 and Subs. by 1407-L.S.G. dated 24-6-1936 and 53-L.S.G. Dated 4-1-1944.

2. Ins. By C.S.No. 832 dated 25-4-1953.

3. Deleted by Notification No. 1226-L.S.G.R. dated 11-8-1945.

4. Subs. by S.O. 648 dated 14.5.1986.

5. See Appendix 2.

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X. Under section 27, to impose a duty on foreign liquor at the rates specified below] 1 except (i) liquor which has been imported into India and was liable, on such importation, to duty under the India Tariff Act, 1894 (VIII of 1894), or the Sea Customs Act, 1878 (VIII of 1878), if such duty has already been paid or a bond has been executed for the payment thereof, and (ii) denatured spirit not so imported, and (iii) rectified and foreign spirit manufactured within the Gwalior State on which duty at the Indian Tariff rate has been levied by the State whether imported or exported or transported or manufactured in a distillery in Bihar and Orissa, and further to direct that such duty shall, when payable on any such foreign liquor by reference to proof gallons, be increased or reduced in proportion as the strength of the foreign liquor exceeds or is less than proof.

XI. Under section 27, to impose duty in the areas, on the articles, and at the rates specified in the annexed table] 3 and to direct that subject to the exception noted below duty on any such articles shall be payable –

(a) When it is imported, at the rate imposed in the area to which it is imported; (b) When it is exported, at the rate imposed in the area from which it is exported; (c) When it is transported from an excise warehouse in Bihar to the premises of a licenced retail vendor, at the rate imposed in the area in which the premises are;

(d) When it is transported from the Excise warehouse in Bihar to another such excise warehouse, at the highest rate imposed in any area through which the article passes.

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

XII. Under section 63, to prescribe that every proceeding under the Act before a Superintendent of Excise, a Sub-divisional Officer or a Deputy Collector, in which the presiding officer is exercising the powers of Collector, shall be deemed to be a “judicial proceeding” within the meaning of section 228 of the India Penal Code (XLV of 1860).

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

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

XV. Under sub-section (2) of section 78, to prescribe the following restriction upon the power of a Sub-Inspector of Excise to stop further proceeding against any person concerned or supposed to be concerned in any offence which is under investigation by such Sub-Inspector:-

If such Sub-Inspector considers that it is necessary or expedient to stop further proceedings against such person, he shall forthwith send a report to the Collector or a Superintendent of Excise (or in a Subdivision, to the Sub-divisional Officer) stating all the facts relating to the initiation of

proceeding and his reason for thinking that further proceeding should be stopped, and shall not stop such proceedings unless the Collector

1.

See Appendix 3.

2. Ins. By Notification No. 1924 Con. ® dated 2.8.1920.

3. See Appendix 4.

4. Ins. By Notification No. 777-L.S.G, dated 8.2.1939.

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or Superintendent of Excise (or Sub-divisional Officer) authorizes him to do so.

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

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

2[(1A) Tari, that is, fermented or unfermented juice drawn from any account, Palmyra, date or other kind of palm tree, from the provisions of the Act subject to the following conditions :-

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

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

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

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

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

3(4A) Rectified spirit made in India.-

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

(6) 4[X X X X]

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

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

The notifications of the Government of Bengal, no. 715-S.R., dated the 25th November 1909 (published on pages 1710-1717, part I of the Calcutta Gazette of the 1st December. 1990) and no.

490-S.R., dated the 20th November 1911 (Published on pages 1586-1587, part I of the Calcutta Gazette of the 22nd idem), as subsequently amended, are hereby cancelled

1.

Subs. by Notif. No. 4/Tek – M.N. 1002/93 – 1301 dated 1.3.1998.

2. Subs. for existing (1A) to (1D) by S.O. 187 dated 1.4.1991.

3. This is now covered by Medicinal & Toilet Preparation (E.D.) Act, 1955 and its Rules.

4. Deleted by Notification no. 1227 – L.S.G. dated 11-8-1945.

5. See also S.O. 187 dated 1.4.1991.

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

1. Ins. by S.O. No. 41 dated 25.2.1993.

