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PART I

Acts, Ordinances, President's Orders and Regulations

GILGIT-BALTISTAN ASSEMBLY SECRETARIAT

Gilgit, the 11th December, 2018

(ACT NO. V OF 2018)

THE GILGIT-BALTISTAN EXCISE ACT, 2018

WHEREAS it is expedient to consolidate and amend the law in the Gilgit-Baltistan relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor, narcotics and of intoxicating drugs;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY AND DEFINITIONS

1. **Short title, extent and commencement.**—(1) This Act may be called the Gilgit-Baltistan Excise Act, 2018;

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(2) It extends to the whole of the Gilgit-Baltistan.

(3) It shall come into force on such date as the Provincial Government may by notification direct.

2. **Definitions.**—In this Act, and the rules made under it, unless there is something repugnant in the subject or context,—

(1) "Government" means, Government of Gilgit Baltistan.

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

(3) "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;

(4) "Collector" means deputy director excise appointed by the Provincial Government to discharge, throughout any specified local area, the functions of a Collector under this Act;

(5) "Commissioner" means the chief officer in charge of the revenue administration of division;

(6) "Denatured" means effectually and permanently rendered unfit for human consumption;

(7) Excisable article means—

(a) any alcoholic liquor, or

(b) any intoxicating drug, or

(c) any medicinal or toilet preparation containing alcohol.

(7-a) "Excise bottle" means a bottle of such type or description as may be or may have been at any time permitted for the bottling of liquor or beer by rules made under this Act;

(8) "Excise Commissioner" means the Director General or Head of Excise & Taxation Department, as the case may be.

(9) "Excise officer" means any officer or person appointed, or invested with powers, under this Act;

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(10) "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 relating to liquor or intoxicating drug, but does not include a fine imposed by a court of law;

(11) "Export" means to take out of the Gilgit-Baltistan otherwise than across a customs frontier as defined by the Central Government.

(12) "Police Station" means excise police station specially meant for confiscation/seizure and investigation of prohibited articles under this act.

(13) "Import" (except in the phrase "import into Pakistan") means to bring into the Gilgit-Baltistan otherwise than across a customs frontier as defined by the Central Government.

(13-a) "Intoxicant" means any liquor or intoxicating drug;

(14) "Intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant *(Cannabis sativa L.),* including all forms known as bhang, sidhi, 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 therefrom; and

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

(15) "Liquor" means intoxicating liquor, and includes all liquids consisting of or containing alcohol; also any substance which the Provincial Government may by notification declare to be liquor for the purposes of this Act;

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(16) "Magistrate" means any magistrate exercising powers not less than those of magistrate of the second class, or any district excise officer specially authorized in this behalf by the provincial government;

(17) "Manufacture" includes every process, whether natural or artificial, by which any intoxicant is produced or prepared and also redistillation and every process for the rectification, reduction, flavouring, blending or colouring of liquor;

(18) "Place" includes a building, shop, tent, enclosure, booth, vehicle, vessel, boat and raft;

(19) Expressions referring to "sale" include any transfer otherwise than by way of gift;

(20) "Spirit" means any liquor containing alcohol obtained by distillation, whether denatured or not;

(21) "Tari" means fermented or unfermented juice drawn from any kind of palm tree;

(22) "Transport" means to move from one place to another within the Gilgit-Baltistan.

(23) "Secretary" means Secretary Excise & Taxation Department Gilgit-Baltistan;

3. **"Country liquor" and "foreign liquor".**— The Provincial Government may by notification declare what, for the purposes of this Act or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor".

4. **Power of Provincial Government to declare limit of sale by retail and by whole sale.**—The Provincial Government may by notification declare with respect either to the whole of the Gilgit-Baltistan 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 intoxicant which for the purposes of this Act may be sold by retail and by wholesale.

4-A. No License or Pass under this Act, shall be issued to a person who is a Muslim.

5. Power to limit application of notifications, permits, etc., made under this Act.—Where under this Act any notification is made, any power

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conferred, any appointment made or any license, pass or permit granted, it shall be lawful to direct:—

(a) that it shall apply to the whole of the Gilgit-Baltistan or to any specified local area or areas;

(b) that it shall apply to all or any specified 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.

6. **Saving of enactments.**—Save as provided by the Schedule, nothing contained in this Act shall affect the provisions of the Sea Customs Act, 1878, the Cantonments Act, 1910, or the Indian Tariff Act, 1894[1], or any rule or order made there under.

CHAPTER II

ESTABLISHMENT AND CONTROL

7. **Superintendence and control of the excise administration and excise officers.**—(a) Subject to the control of the Provincial Government and unless the Provincial Government shall by notification otherwise direct, the general superintendence and administration of all matters relating to excise shall vest in the Secretary.

(b) Subject to the general superintendence and control of the Secretary Excise and unless the Provincial Government shall by notification otherwise direct, the Excise Commissioner shall control all other Excise officers in his division.

(c) Subject as aforesaid and to the control of the Excise Commissioner and unless the Provincial Government shall by notification otherwise direct, the Collector shall control all other excise officers in his district.

8. **Excise Commissioner.**—The Provincial Government may by notification delegate Excise Commissioner with all or any of the powers conferred on the Secretary Excise by this Act.

9. **Other classes of excise officers.**—(a) There shall be such other classes of excise officer's/official's as the Provincial Government may by notification declare, and the Provincial Government may appoint as many persons as it deems fit to be excise officers of these classes.

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(b) **Their Powers.**—The Provincial Government shall by notification declare what powers under this act shall be exercised by excise officers of each class.

(c) **Mode of conferring powers.**—In conferring powers under this Act, the Provincial Government may empower persons by name or in virtue of their office or classes of officials generally by their official titles.

10. **Power to invest persons with special powers under this Act.**—The Provincial Government may by notification invest any excise officer, with power to perform all or any of the functions of a police officer under this Act, and such person shall in the exercise of these functions be deemed to be a police officer and investigate all cases under the purview of this act.

11. **Local limits of jurisdiction.**—The jurisdiction of the Secretary excise and of the Excise Commissioner shall extend to the Gilgit-Baltistan, the jurisdiction of Commissioners shall extend to their divisions and the jurisdiction of Collectors and other excise officers shall, unless the Provincial Government shall otherwise direct, extend to the districts in which they are for the time being employed.

12. **Delegation.**—(a) The Provincial Government may by notification delegate to the Secretary Excise, the Excise Commissioner or Commissioner all or any of its powers under this Act, except the powers conferred by sections 13, 20, 21, 30, 55 and 57 of this Act.

(b) The Provincial Government may by notification permit the delegation by the Secretary excise, Commissioner or Collector to any person 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.

13. **Appeal.**—Chief Court shall be the appellate forum for appellants against the decisions of Secretary E&T, who shall decide the appeals against DG/ Director or Deputy Director E&T , as the case may be—

Provided that no order under this section shall be passed unless the appellant is afforded an opportunity of being heard.

14. **Revision.**—(a) The Excise Commission may at any time revise any order passed by any excise officer sub-ordinate to it.

(b) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any excise officer sub-ordinate to him, and if he is

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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 Secretary excise:

Provided that the Secretary excise shall not under this section pass an order revising or modifying any proceeding or order of a sub-ordinate excise officer and affecting any person without giving such person an opportunity of being heard.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

15. **Import, export and transport of intoxicants.**—No intoxicant shall be imported, exported or transported except—

(a) After payment of any duty to which it may be liable under this Act or execution of a bond for such payment, and

(b) in compliance with such conditions as the Provincial Government may impose.

16. **Power of Provincial Government to prohibit import, export and transport of intoxicants.**—The Provincial Government may, by notification—

(a) Prohibit the import or export of any intoxicant into or from the Gilgit-Baltistan or any part thereof; or

(b) Prohibit the transport of any intoxicant.

17. **Passes necessary for import, export and transport.**—Except as otherwise provided by any rule made under this Act, no intoxicant exceeding such quantity as the Provincial Government may prescribe by notification shall be imported, exported or transported except under a pass issued under the provisions of the next following section:

Provided that in the case of duty-paid foreign liquor such passes shall be dispensed with, unless the Provincial Government shall by notification otherwise direct:

Provided, further, that on such conditions as may be determined by the Secretary excise, a pass granted under the excise law in force in another province may be deemed to be a pass granted under this Act.

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18. **Grant of passes for import, export and transport.**—Passes for the import, export or transport of intoxicants may be granted by the Collector:

Provided that passes for the import and export of such intoxicants as the Secretary excise may from time to time determine shall be granted only by the Secretary excise.

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

A—Manufacture

19. **Manufacture of intoxicants prohibited except under the provisions of this Act.**—(1) (a) No intoxicant shall be manufactured or collected:

(b) no hemp plant 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 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 Secretary excise under section 20.

20. **Establishment or licensing of distilleries and breweries.**— The Secretary excise, subject to such restrictions or conditions as the Provincial Government may impose, may—

(a) establish a distillery in which spirit may be manufactured under a license granted under section 19;

(b) discontinue any distillery so established;

(c) license the construction and working of a distillery or brewery;

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(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, examination of such distillery or brewery and the warehouses connected therewith and of the spirit therein;

(5) the management and working of 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.

21. **Establishment or licensing of warehouses.**—The Secretary excise, subject to such restrictions or conditions as the Provincial Government may impose, may—

(a) establish or license a warehouse wherein any intoxicant may be deposited and kept without payment of duty;

(b) discontinue any warehouse so established.

22. **Removal of intoxicant from distillery, etc.**—No 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) payable under Chapter V has been paid or a bond has been executed for the payment thereof.

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B—Possession

23. **Possession of intoxicants.**—(1) No person shall have in his possession any quantity of any intoxicant in excess of such quantity as the Provincial Government has, under section 4, declared to be the limit of retail sale, except under the authority and in accordance with the terms and conditions of—

(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) **Exceptions.**—Sub-section (1) shall not apply to—

(a) any intoxicant in the possession of any excise officer, common carrier or warehouse man 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 intoxicant in excess of such quantity as the Provincial Government has under section 4 declared to be the limit of sale by retail, except under a permit granted by the Collector in that behalf.

(4) **Prohibition and restriction of possession of intoxicants in certain cases.**—Notwithstanding anything contained in this Act or any other law for the time being in force, the Provincial Government may, by notification, prohibit the possession or consumption of any intoxicant in respect of any person or persons or any class or classes of persons or restrict such possession or consumption in respect of any person or persons or any class or classes of persons by such conditions as it may prescribe].

24. **Prohibition of possession of intoxicant, unlawfully manufactured, imported, etc.**—No person shall have in his possession any quantity of any 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.

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C—Sale

25. **Sale of intoxicants.**—No liquor shall be bottled for sale and no intoxicant shall be sold, except under the authority and subject to the terms and conditions of a license granted in that behalf:

Provided that—

(1) a person licensed under section 19 to cultivate the hemp 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 Secretary excise 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 licensed to manufacture or sell tari under this Act;

(3) on such conditions as the Secretary excise may determine, a license for sale under the excise law for the time being in force in other parts of 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 representative in interest upon his quitting a station or after his decease.

26. **Grant of lease of manufacture etc.**—(1) The Provincial Government may lease to any person, on such conditions and for such period as it may deem fit, the right—

(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 sub-section (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.

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27. **Manufacture and sale of liquor in Military Cantonments.**—Within the limits of any military cantonment, and within such distance from those limits as the Central 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 described in section 26, shall be granted unless with the consent of the Commanding Officer.

28. **Prohibition of sale to person under the age of eighteen years.**—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 of the premises of such vendor.

29. **Prohibition on employment of children under the age of 18 years and of women.**—(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.

(2) No person who is licensed to sell foreign liquor or country spirit for consumption on 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

30. **Duty on excisable articles.**—A duty at such rate or rates as the Provincial Government shall direct, may be imposed, either generally or for any specified local area, on any excisable article—

(a) imported, exported or transported in accordance with the provisions of section 15; or

(b) manufactured or cultivated under any license granted under section 19; or

(c) manufactured in any distillery established, or any distillery or brewery licensed under section 20;

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Provided as follows:—

(i) duty shall not be so imposed on any article which has been imported into Pakistan and was liable on importation to duty under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878.

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.

31. **Manner in which duty may be levied.**—Subject to such rules regulating the time, place and manner as the Secretary excise 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 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 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 21(a) it shall be made—

(a) if the Provincial Government by notification so directs, at the rate of duty which was in force at the date of import of that article, or

(b) in the absence of such direction by the Provincial Government, at the rate of duty which is in force on that article on the date when it is issued from the warehouse.

32. **Payment for grant of leases.**—Instead of or in addition to any duty leviable under this Chapter, the Provincial Government may accept payment of a sum in consideration of the lease of any right under section 26.

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CHAPTER VI

LICENSES, PERMITS AND PASSES

33. **Fees for, terms, conditions and form of, and duration of, licenses, permits and passes.**—(1) Every license, permit or pass granted under this Act or any rules made thereunder shall be granted—

(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 Secretary excise may direct.

(2) **Security.**—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.

34. **Grant of licenses for sale.**—(1) Subject to the rules made by the Secretary excise under the powers conferred by this Act, the Collector may grant licenses for the sale of any intoxicant within his district.

(2) **Ascertainment of Provincial Govt.**—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 as prescribed by Provincial Govt.

(3) A license for sale in more than one district of the Gilgit-Baltistan shall be granted by the Secretary excise only.

35. **Power to cancel or suspend licenses, etc.**—Subject to such restrictions as the Provincial Government may prescribe, the authority granting any license, permit or pass under this Act may cancel or suspend it—

(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

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(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 any offence punishable under the Dangerous Drugs Act, 1930 or, under the Merchandise Marks Act, 1889, or of any offence punishable under sections 482 to 489 (both inclusive) of the Pakistan Penal Code; or

(e) if the holder thereof is punished for any offence referred to in clause (8) of section 167 of the Sea Customs Acts, 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.

36. **Power to cancel any other license.**—When a license, permit or pass held by any person is cancelled under clauses (a), (b), (c), (d) or (e) of section 35 the authority aforesaid may cancel any other license, permit or pass granted to such person 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 Opium Act, 1878 and the Secretary excise may cancel any such license, permit or pass granted to such person in any district to which this Act applies.

37. **Power to recover fee.**—In the case of cancellation or suspension of a license under clauses (a), (b), (c), (d) or (e) of section 35, 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.

38. **Power of Collector to take grants under management or to resell.**—If any holder of a license granted under this Act, or any person to whom a lease has been granted under section 26, 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 59 of this Act any deficiency in price and all expenses of such resale.

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39. **No compensation or refund claimable for cancellation or suspension of license, etc., under this section.**—When a license, permit or pass is cancelled or suspended under clauses (a), (b), (c), (d) or (e) of section 35 or under section 36, the holder shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

40. **Power to withdraw licenses.**—(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 35, it may, on remitting a sum equal to the amount of the fees payable in respect thereof for fifteen days, withdraw the license either—

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

(b) forth with without notice.

(2) **Compensation in the case of withdrawal.**—If any license, permit or pass be withdrawn under clause (d) 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 Secretary excise may direct.

(3) **Refund of fee or deposit.**—When a license, permit or pass is withdrawn under this section, any fee paid in advance or deposits made by the licensee in respect thereof shall be refunded to him, after deducting the amount (if any) due to the Provincial Government.

41. **Technical irregularities in license; etc.**—(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.

(2) The decision of the Secretary excise as to what is a technical defect, irregularity or omission shall be final.

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

43. **Surrender of license.**—(1) No holder of a license granted under this Act to sell an intoxicant shall surrender license except on the expiration of one

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month's 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 of which it would have been current but for the surrender:

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 26 (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.

44. **Power to enter and inspect places of manufacture and sale.**—Any excise officer/district excise police officer not below the rank of sub-inspector, as the Provincial Government may prescribe, may—

(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 stores any intoxicant;

(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 intoxicant is kept for sale by any person holding a license under this Act;

(c) examine accounts and registers, test, measure or weigh any materials, stills, utensils, implements, apparatus or 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.

45. **Power of excise officer to investigate offences punishable under this Act.**—(1) The Provincial Government may by notification invest any excise officer/district excise police officer, not below the rank of sub-inspector, with power

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to investigate any offence punishable under this act, committed within the limits of the area in which the officer exercises jurisdiction.

(2) Every officer so empowered may within those limits exercise the same powers in respect of such investigations as an officer-in-charge of a police station may exercise in a cognizable case under the provisions of Chapter XIV of the Code of Criminal Procedure, 1898[1].

46. **Powers of arrest, seizure and detention.**—An officer of the excise police, or land revenue department, not below such rank and subject to such restriction as the Provincial Government may prescribe, and any other person duly empowered by notification by the Provincial Government in this behalf, may arrest without warrant any person found committing an offence punishable under section 60, or section 62, and may seize and detain any 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 narcotics control; and may detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering or upon which he may have reasonable cause to suspect any such article to be.

47. **Power of magistrate, excise officer to issue warrant for search or arrest.**—A first class magistrate Excise & Taxation Officer to the Execution of this act having reason to believe that an offence under section 60 or 62 has been, is being, or is likely to be committed, may—

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

(b) issue a warrant for the arrest of any person 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.

48. **Power of excise officer to search without warrant.**—(1) Whenever any excise officer not below such rank as the Provincial Government may by notification prescribe, has reason to believe that an offence punishable under section 60, section 61, section 62, or section 63, 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 a place or vehicle.

(2) **Further power of seizure, detention, search and arrest.**—Every excise officer as aforesaid may seize anything found in such place which he has

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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.

49. **Procedure relating to arrests, searches, etc.**—Save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898, relating to arrests, detentions in custody, searches, summonses, warrant of arrest, search-warrants, production of persons arrested and investigation of offence shall be held to be applicable to all action taken in these respect under this Act:

Provided that:—

(1) any offence under this Act may be investigated by an officer empowered under section 45 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 72, take or send the person arrested or the article seized, with all convenient dispatch to a magistrate for trial or adjudication.

50. **Station house officer (SHO) to aid excise officers.**— All Station House officers (SHOs) of a district police are bound to aid the excise officer in the due execution of this Act, upon request made by such excise officers.

51. **Duty of landholders and others to give information.**—(a) Ever owner or occupier of land and the agent of any owner or occupier of land on which.

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

52. **Duty of officer in charge of excise police station to take charge of articles seized.**—Every officer-in-charge of a excise police station shall take charge of and keep in safe custody, pending the orders of a magistrate, or of the

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Collector or of an officer empowered under section 45 (1) to investigate the case, all articles seized under this Act which may be delivered to him, and shall allow any excise officer not below the rank of sub inspector who may accompany such articles to the excise 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 excise police station.

53. **Power to close shops for the sake of public peace.**—(1) The Collector/ Magistrate First Class/Excise & Taxation Officer's, by notice in writing to the licensee may require that any shop in which any 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.

(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.

CHAPTER VIII

GENERAL PROVISIONS

54. **Measures, weights and testing instruments.**—Every person who manufactures or sells any intoxicant under a license granted under this Act shall be bound—

(a) to supply himself with such measures, weights and instruments as the Secretary excise 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, weigh or test any intoxicant in his possession in such manner as the said excise officer may require.

55. **Power of Provincial Government to exempt intoxicants from the provisions of the Act.**—The Provincial Government may, by notification, either

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wholly or partially and subject to such conditions as it may think fit to prescribe, exempt any intoxicant from all or any of the provisions of this Act.

56. **Bar of certain suits.**—No suit shall lie in any civil court against the Provincial Government, 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.

57. **Powers of Provincial Government to make rules.**—(1) The 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.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the Provincial Government may make rules—

(a) Prescribing the duties of excise officers;

(b) Regulating the delegation of any powers by the Secretary excise, Commissioner or Collector, under section 12, clause (b);

(c) Prescribing the time and manner of presenting, and the procedure for dealing with appeals from orders of excise officers;

(d) Regulating the import, export, transport or possession of any intoxicant or excise bottle and the transfer, price or use of any type or description of such bottle;

(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 intoxicant may be granted and regulating the number of such licenses which may be granted in any local area;

(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;

(g) For the prohibition of the sale of any intoxicant to any person or class of persons;

(h) Regulating the power of excise officers to summon witnesses from a distance;

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(i) Regulating the grant of expenses to witnesses and compensation to persons charged with offences under this Act and subsequently released, discharged or acquitted;

(j) For the prohibition of the employment by a license holder of any person or class of persons to assist in his business in any capacity whatsoever;

(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;

(l) for the enforcement of prohibition for any person or persons or any class or classes of persons or for restriction of possession or consumption of any intoxicant by any person or persons or any class or classes of persons.

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

Provided that any such rules may be made without previous publication if the Provincial Government considers that they should be brought into force at once.

58. **Powers of Provincial Govt to make rules.**—The provincial cabinet may, by notification, make rules—

(a) regulating the manufacture, supply, storage or sale of any 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 plant and the collection of spontaneous growth of such plant and the preparation of any intoxicating drug;

(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 intoxicant in a warehouse and the removal of any intoxicant from any warehouse of from any distillery or brewery;

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(d) prescribing for the purpose of administering the provisions of this Act, the scale of fees or the manner of fixing the fees payable in respect of any license, permit or pass, whether such license, permit or pass, already subsists or is to be issued afresh or in respect of storing of any intoxicant];

(e) regulating the time, place and manner of payment of any duty or fee;

(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:—

(i) the prohibition of the admixture with any 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 of any intoxicants to be sold, supplied or possessed and the fixing of maximum, or minimum prices or both for their sale;

(iv) the prohibition of sale of any 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;

(vi) the specification of the nature of the premises in which any 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 of 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;

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(h) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;

(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.

59. **Recovery of dues.**—(1) The following money, namely:—

(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 resold by him under section 38; 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.

(2) When a grant has been taken under management by the Collector or has been resold by him under section 38, 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 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 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

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

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(a) imports, exports, transports, manufactures, collects, or possesses or consumes any intoxicant; or

(b) constructs or works any distillery or brewery; or

(c) uses, keeps or has in his possession any material still, utensils, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari;

shall be punishable for every such offence with imprisonment for a term which may extend to two years or with fine which may extend to one lac rupees, or with both; If penalty not paid, one year additional imprisonment.

(2) Whosoever, in contravention of any section other than sections 28 and 29 of this Act or of any rule, notification issued or given thereunder or order made, or of any license, permit or pass granted under this Act—

(a) sells any intoxicant; or

(b) cultivates the hemps plant; or

(c) transport any intoxicant; or

(d) removes any intoxicant from any distillery, brewery or warehouse established or licensed under this Act; or

(e) bottles any liquor, for the purposes of sale; or

(f) taps or draws tari from any tari-producing tree;

shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both;

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

(a) in contravention of section 28 sells or delivers any liquor or intoxicating drug to any person apparently under the age of eighteen years; or

(b) in contravention of section 29, 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 women; or

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(c) sells any 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-bail able offence or any reputed prostitute to frequent his licensed premises, whether for the purposes of crime or prostitution or not;

he shall in addition to any other penalty to which he may be liable be punishable with a fine which may extend to fifty thousand 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.

62. **Penalty for attempting to render denatured spirit fit for human consumption.**—Whoever attempts to render fit for human consumption any spirit, whether manufactured in 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 25 thousand rupees, or with both.

63. **Penalty for fraud by licensed manufacture or vendor or his servant.**—If any licensed manufacturer or licensed vendor or any person in his employ or acting on his behalf:—

(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;

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

64. **Penalty for certain acts by licensee or his servant.**—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:—

(a) fails willfully 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

(b) in any case not provided for in section 60 willfully contravenes any rule made under section 57 or section 58; or

(c) willfully 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 twenty five thousand rupees, and in case (b) or case (c) with fine which may extend to five hundred rupees.

65. **Penalty for consumption in chemist's shop, etc.**—(1) If any chemist, druggist, apothecary or keeper of a dispensary allows any intoxicant which has not been *bona fide* medicated for medicinal purposes to be consumed on his business premises by any person not 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 lac rupees, or with both.

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

66. **Manufacture, sale or possession by one person on account of another.**—(1) When any 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 articles 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.

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

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67. **Penalty for offences not otherwise provided for.**—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 thereunder, and not otherwise provided for in this, Act, shall be punishable for every such act or omission with a fine which may extend to fifty thousand rupees.

68. **Attempt to commit offences punishable under the Act.**—Whoever attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for the offence.

69. **Penalty for excise officer making vexatious search, etc.**—If an excise officer—

(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 movable 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/she shall be warned or shall be liable to a fine which may extend to five thousand rupees or both.

70. **Report by investigating officer for institution of proceedings.**—If on an investigation by an excise officer empowered under section 45, sub-section (1), it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, shall submit a report (which shall for the purposes of section 190 of the 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 of police reports.

71. **Bail.**—Offences punishable under this Act shall be bailable within the meaning of the Code of Criminal Procedure, 1898.

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72. **Security for appearance in case of arrest without warrant.**—(1) The Provincial Government] may empower any excise officer to grant bail, notwithstanding that such officer is not empowered under section 45.

(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—

(a) the nearest excise officer empowered to grant bail, or

(b) the nearest officer-in-charge of a excise 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 provision of sections 499 to 502, 513, 514 and 515 of the 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.

73. **Penalty for not cooperating excise officers during inquiry or search under the Act.**—If any person refuse to stop his vehicle or willfully decline to cooperate in giving search of a body or any vehicle or any place to any excise officer not below the rank of sub inspector such person shall be liable to imprisonment which may be extended to six months or liable to fine of rupees ten thousand or bath.

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

(a) under section 60 or section 65 except on his own knowledge or suspicion or on the complaint or report of an excise officer, or

(b) under section 61, section 62, section 63, section 64, section 67 or section 69, 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 Provincial Government, no magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months after the date on which the offence is alleged to have been committed.

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75. **Presumption as to commission of offence in certain cases.**—Whenever any person is found is possession of—

(a) any still, utensil, implements or apparatus whatsoever or any part or parts thereof, such as are ordinarily used for the manufacture of any intoxicant other than tari:

(b) any materials which have undergone any process towards the manufacture of an intoxicant or from which an 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.

76. **Liability of employer for offence committed by employee or agent.**—The holder of a licence, permit or pass under this Act as well as the actual offender, shall be liable to punishment, for any offence punishable under section 60, section 61, section 62, section 63 or section 64, 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:

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

77. **Confiscation of article in respect of which offence committed.**—(1) Whenever an offence punishable under this Act has been committed;

(a) every intoxicant or excise bottle in respect of which such offence has been committed together with the contents of excise bottle, if any;

(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 intoxicant or excise bottle lawfully imported, transported, manufactured, had in possession or sold, along with, or in addition to, any intoxicant or excise bottle liable to confiscation under clause (a);

(d) every receptacle, package and covering in which any intoxicant or excise bottle, 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

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(e) every animal, cart, vessel, raft or other conveyance used in carrying such receptacle, package, covering or articles 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.

(2) **When confiscation may be ordered.**—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:

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.

78. **Further provisions for confiscation.**—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:

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.

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