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NOTIFICATION

No. H. 12018/2592 L.P. the 24th November 1992. The Mizoram Legislative Assembly which received the approval of the Government for general information.

The Mizoram Act No 16 of 1992
The Mizoram (Hemp) Act, 1992

Enacted the assent of the Governor of Mizoram (1992)

to control the production and sale of hemp for the manufacture of gunny bags for the Government of Mizoram

As it enacted in the Party third

CHAPTER

THE HEMP ACT, 1992

Short title, extent and commencement. (1) This Act may be called the Hemp Act, 1992

and commence on such date as may be notified in this behalf by the Government

(2) It shall extend to the whole of Mizoram

(3) It shall come into force on such date as may be notified in this behalf by the Government

1992

Definitions

2. In this Act, unless the context otherwise requires:-

(1) "beer" includes ale, stout, port and all other fermented liquor usually made from malt;

(2) "to bottle" means to transfer liquor from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not; and includes rebottling;

(3) "club" means a society of persons associated together for social intercourse for the promotion of politics, sports, art, science or literature or for any purpose except the acquisition of gain and where the same be registered under the Companies Act, 1956, the Mizoram Cooperative Societies Act, 1991 or under any act relating to Cooperative societies in force in Mizoram, or the Societies Registration Act, 1860 as extended to Mizoram or otherwise incorporated or not;

(4) "Collector" includes the District Excise Collector and any other Excise Officer whom the Government may, by notification, appoint or declare to be a Collector to exercise all the powers and to perform all the duties of the Excise Collector in a district;

(5) "Commissioner" means the Commissioner of Excise appointed by the Government under clause (a) of sub-section (2) of section 6;

(6) "denaturant" means any substance prescribed for admixture with spirit in order to render the mixture unfit for human consumption whether as a beverage, or internally, as a medicine, or in any other way whatsoever;

and, "to denature" means to mix spirit with one or more denaturants in such manner as may be prescribed under clause (1) of sub-section (2) of section 86 and denatured spirit means spirit so mixed;

(7) "duty" or "countervailing duty" means the duty of excise or countervailing duty as the case may be, mentioned in entry 51 in List II of the Seventh Schedule to the Constitution;

(8) "exciseable article" means -

(a) any liquor for human consumption, not being a medicinal preparation or a toilet preparation under the Medicinal and Toilet preparations (Excise Duties) Act, 1955 or

Central Act
1 of 1956

Mizoram Act
1991

Central Act
21 of 1860

Central Act
16 of 1955

(6) any instrument or document.

(9) "Excise Officer" means any officer or any Excise Officer or other person authorized with powers under section 6.

(10) "excise revenue" means any amount or derivable from any duty, fee, cess or tax other than a fine imposed by a Court or any penalty imposed, made or ordered under any provision of any other law for the time being in force relating to intoxicants.

(11) "export" means to send out of the State of Mizoram to which this Act applies across a customs frontier as defined by the Central Government.

(12) "Government" means the Government of Mizoram.

(13) "holder of a license" means a person whose bid tender or application for license has been accepted by the Commissioner or any person authorized to grant such license, although he may or may not in fact have received the license.

(14) "import" (except in relation to liquor into India) means to bring into the State to which this Act applies otherwise than across a customs frontier as defined by the Central Government.

(15) "intoxicant" means any intoxicating substance but does not include any preparation under the Opium (Excise Duties) Act, 1925.

Central Act 16 of 1955

(16) "Liquor" means any spirituous or fermented liquid or containing alcohol and any preparation of such liquid or spirituous or fermented liquid or containing alcohol, but does not include any preparation under the Opium (Excise Duties) Act, 1925.

Central Act 16 of 1955

(17) "manufacture" means to produce either natural or artificial, by whatever means, any intoxicant or preparation, rectification, blending, bottling or otherwise.

(18) "magistrate" means any person authorized to try cases under section 6.

(19) "notification" means any notification published in the official gazette.

(20) "place" includes a house, building, shop, tent, vessel, raft and vehicle;

(21) "prescribed" means prescribed by rules or notifications made under this Act;

(22) "sale" includes any transfer otherwise than by way of gift;

(23) "spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not and includes "Rakzu";

(24) "State" means the State of Mizoram and it shall include any State or Union Territory in India for the purposes of section 3 and clause (b) of section 28;

(25) "transport" means to move from one place to another within Mizoram;

(26) "Zu" means any rice, millet or other grain fermented naturally from itself or with some foreign or artificial substance, whether mixed with any liquid or not, and any liquid obtained therefrom, whether diluted or undiluted, but does not include beer.

Power to declare country liquor and/or foreign liquor

3. The Government may, by notification, declare what kind of intoxicants for the purposes of this Act, shall be deemed to be country liquor and/or foreign liquor respectively;

Provided that where the interests of any State may be affected, no such declaration shall be made except after obtaining the previous sanction of the Central Government.

Retail and wholesale

4. (1) The Government may by notification, declare with respect either to the whole of Mizoram or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any intoxicant shall, for the purposes of this Act, be the limit of a retail sale.

(2) The sale of any intoxicant in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall be deemed to be a sale by wholesale.

Saving of Certain Acts Central Acts 2 of 1924 52 of 1962 32 of 1934

5. Nothing contained in this Act shall affect the provisions of--

(a) the Cantonments Act, 1924,

(b) the Indian Tariff Act, 1934;

(c) The Customs Act, 1962 or any rule or order made under any of the said Acts.

CHAPTER II

ESTABLISHMENTS, CONTROL, APPEAL AND REVISION

Establish-
ments, de-
legation and
withdrawal
of powers

6. (1) The administration of the provisions of this Act and the rules made thereunder and the collection of the excise-revenue within a district shall ordinarily be under the charge of the Collector.

(2) The Government may, by notification applicable to the whole of Mizoram or to any specified local area,—

(a) appoint an Officer who shall, Subject to such control as the Government may direct, have the control of the administration of the provisions of this Act and the rules made thereunder and the collection of excise revenue;

(b) appoint any person to exercise all or any of the powers and to perform all or any of the duties, conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or to the exclusion of, the Collector and subject to such control as the Government may direct;

(c) appoint officers for the administration of the provisions of this Act and the rules thereunder, of such classes, and with such designations, powers and duties as the Government may think fit;

(d) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (c) of this sub-section shall be exercised and performed by any officer of the Government or any other person;

(e) delegate to the Commissioner all or any of the powers conferred upon the Government by or under this Act except the power conferred by section 86 to make rules;

(f) withdraw from any officer or person all or any of the powers or duties conferred or imposed upon him by or under this Act; and

(g) permit the delegation by the Commissioner or the Collector, to any person, or classes or persons specified in such notification, of any powers conferred or duties imposed upon him by or under this Act.

Control, ap-
peal and
revision

7. (1) In doing anything or taking any action under this Act,—

(a) the Collector shall be subject to the control of the Commissioner and of the Government, and in such matters as the Government may direct,

(b) the Commissioner shall be subject to the control of the Government.

(2) Orders passed under this Act or under any rule made hereunder shall be appealable in such cases, to such authorities and under such procedure as may be prescribed by rules made under section 86.

(3) The Government may revise any order passed by the Commissioner, the Collector or by any officer exercising the powers of an appellate authority under any rule made under section 86.

Correction of errors.

8. Clerical or arithmetical errors in any order passed under this Act or errors arising therein from any accidental slip or omission may at any time be corrected by the officer by whom or the authority by which the order was passed.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

Restrictions on import

9. (1) No intoxicant shall be imported unless:

(a) the Government has given permission, either general or special, for its import;

(b) such conditions, if any, as the Government may impose have been satisfied; and

(c) the duty, if any, payable under Chapter V has been paid, or a bond has been executed for the payment thereof;

Provided that the Government may, subject to such conditions, if any as it thinks fit to impose, exempt any intoxicant from the provisions of this sub-section.

Restriction on export or Transport

10. No intoxicant shall be exported or transported unless—

(a) the duty, if any, payable under Chapter V has been paid, or a bond has been executed for the payment thereof; and

(b) such conditions, if any, as the Government may impose, have been satisfied;

Provided that the Government may, subject to such condition if any, as it thinks fit to impose, exempt any intoxicant from the provisions of this section.

Power to prohibit, manufacture, possession sale import, export and transport

11. The Government may, with a view to enforcing a policy of prohibition or for purposes of public health, by notification:-

- (a) prohibit the manufacture, possession and sale of any intoxicant;
- (b) prohibit the import or export of any intoxicant into or from Mizoram or any part thereof; or
- (c) prohibit the transport of any intoxicant.

Passes for import, export or transport

12. No intoxicant exceeding such quantity as the Government may, by notification, specify either generally for the whole of Mizoram or for any local area comprised therein, shall be imported, exported or transported, except under a pass issued under the provisions of section 13.

Grant of passes

13. (1) A pass for the import, export or transport of intoxicants may be issued by the Collector or by any officer specially authorised by the Commissioner in that behalf.

(2) A pass issued under sub section (1) may be either general for definite periods and specified kinds of intoxicants, or special for specified occasions and particular consignment only.

(3) A pass under section 12 or under sub section (1) of this section may be issued only for the purposes of imposing and collecting duty or ensuring conformity with license requirements and any other requirements under this Act.

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

Manufacture and preparations for manufacture prohibited without license

14. Except under the authority and in accordance with the terms and conditions of a license granted in that behalf by the Commissioner—

- (a) no intoxicant shall be manufactured;
- (b) no liquor shall be bottled for sale;
- (c) no distillery or brewery shall be constructed or worked; and
- (d) no person shall use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant.

- Establishment or Licensing of distilleries, breweries and warehouses.** 15. The Commissioner, with the sanction of the Government, may-
- (a) establish a distillery in which spirit may be manufactured under a license granted under section 14 on such conditions as the Government may impose;
 - (b) discontinue any distillery so established ;
 - (c) grant a license on such conditions, as the Government may impose, for the construction and working of a distillery or brewery;
 - (d) establish or license a warehouse wherein any intoxicant may be deposited and kept without payment of duty; and
 - (e) discontinue any warehouse so established.
- License required for depositing or keeping intoxicant in warehouse or other place of storage** 16. No person shall, except under the authority and subject to the terms and conditions of a license granted in that behalf by the Commissioner or any other officer authorised by him, deposit or keep any intoxicant in any warehouse or other place of storage established, authorised or continued under this Act.
- Payment of duty on removal from distillery, brewery, warehouse or other place of storage** 17. No intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage licensed, established, authorised or continued under this Act unless the duty or fee, if any, payable under Chapter V or Chapter VI has been paid or a bond has been executed for the payment thereof.
- Possession of intoxicants not obtained from a licensed vendor prohibited** 18. (1) No person shall have in his possession any intoxicant which has not been obtained from a licensed vendor of the same.
- (2) Sub-section (1) shall not apply to--
 - (a) any intoxicant lawfully deposited or kept in a distillery, brewery, warehouse or other place of storage licensed, established, authorised or continued under this Act, or
 - (b) any intoxicant lawfully in the possession of a licensed vendor of the same, or
 - (c) any intoxicant in the possession of a person who has lawfully imported it, or who is authorised by the Collector to possess it, or

(d) any foreign liquor in the possession of any common carrier or warehouseman as such, or purchased at a sale authorised by clause (c) of sub-section (1) of section 20.

Limit of
possession

19. (1) No person not being licensed to manufacture, possess or sell any intoxicant shall have in his possession any quantity of any intoxicant in excess of such quantity as the Government has, under section 4, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf.

(2) Save as the Government may by rule made under section 86 otherwise provide, sub-section (1) shall not apply to—

(a) any foreign liquor (other than denatured spirit) which is in the lawful possession of any common carrier or warehouseman as such, or

(b) any foreign liquor which has been purchased lawfully by any person for his bonafide private consumption and not for sale.

(3) A person licensed to manufacture, possess or sell any intoxicant shall not have in his possession at any place other than that authorised by his licence, any quantity of any intoxicant in excess of such quantity as the Government has, under section 4, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf.

(4) Notwithstanding anything contained in the foregoing sub-sections, if the Government thinks fit so to do on the ground of health, morality or public order, it may, by notification, prohibit, either absolutely or subject to such conditions as it may prescribe, the possession in the whole of Mizoram or in any specified local area of any intoxicant by all persons generally or by any specified class or classes of persons.

Prohibition
of sale with-
out license
and the excep-
tions to such
prohibition

20. (1) No intoxicant shall be sold except under the authority and in accordance with the terms and conditions of a license granted by the Collector or the Commissioner in that behalf:

Provided that—

(a) a license for sale of intoxicants in more than one district shall be granted only by the Commissioner or by a Collector specially authorised in this behalf by the Commissioner;

(b) on such conditions as may be determined by the Commissioner, a license granted under the excise law in force in another State for sale of intoxicants may be deemed to be a license granted under this Act;

(c) nothing in this section shall apply 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;

(2) Any club which has transactions with its members in respect of foreign liquor shall be deemed to be conducting retail sales and shall be required to take out a license under this Act on payment of such fees and subject to such restrictions and on such conditions as may be prescribed.

Manufacture,
and sale in
cantonments

21. Within the limits of any military cantonment, no license for the manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

Grant of
exclusive pri-
vilege of manu-
facture, and-
sale of country-
liquor

22. (1) The Government may grant to any person, on such conditions and for such period as it may think fit, the exclusive privilege-

(a) of manufacturing, or supplying by wholesale, or

(b) of manufacturing, and supplying by wholesale, or

(c) of selling, by wholesale or retail, or

(d) of manufacturing or supplying by wholesale and selling retail, or

(e) of manufacturing and supplying by wholesale and selling retail, any country liquor within any specified local area.

(2) No grantee of any privilege under sub-section (1) shall exercise the same unless or until he has received a licence in that behalf from the Collector or the Commissioner.

Transfer of
exclusive
privilege

23. (1) A grantee of an exclusive privilege under section 22 shall not let or assign the same or any portion thereof unless he is expressly authorised, by a condition made under that section, to do so.

(2) Such letting or assignment shall be made only to a person approved by the Collector or if the letting or assignment extends to more than one district, the Commissioner.

(3) The lessee or assignee shall not exercise any rights as such unless and until the Collector has, upon his application, granted him a license to do so.

- Maintenance and use of measures, weights and instruments by licensed manufacturer** 24. Every person who manufactures or sells any intoxicant under a license granted under this Act—
- (a) shall supply himself with such standard measures, standard weights, measuring instruments and weighing instruments duly verified and approved by the Commissioner and such other instruments as the Commissioner may prescribe and shall keep the same in good condition; and
- (b) when such measures, weights and instruments have been so prescribed, shall, on the requisition of any Officer referred to in clause (a), clause (b), or clause (c) of section 39, measure, weight or test any intoxicant in his possession, at such time and in such manner as such officer may require.
- Employment of children under eighteen years by licensed vendor prohibited** 25. (1) No person who is licensed to sell foreign liquor or country liquor 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 person under the age of eighteen years in any part of such premises in which such liquor or spirit is consumed by the public.
- Employment of woman by licensed vendor prohibited** (2) No person who is licensed to sell foreign liquor or country liquor 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 woman, in any part of such premises in which such liquor or spirit is consumed by the public.
- Power to declare dry days** 26. (1) The Commissioner may, by notification declare any day or days as dry day or days for the whole of Mizoram or for any local area comprised therein in which sale and consumption of any intoxicant shall be prohibited and no liquor shop shall be opened at such time and for such period as the Commissioner may think necessary and specify it in the notification for preservation of public peace.
- Power to close shops temporarily** (2) if any riot or unlawful assembly is apprehended or occurs in the vicinity or any shop in which any intoxicant is sold, the District Magistrate may require such shop to be kept closed for such period as he may think necessary.
- Provided that the District Magistrate who makes direction under this sub-section shall forthwith inform the Collector concerned and the Commissioner of his action and his reason thereof.

CHAPTER—V
DUTY AND FEE

Levy of duty 27. An excise duty and or a countervailing duty, as the case may be, at such rate or rates as the Government may direct, may be imposed, either generally or for any specified local area, on—

- (a) any exciseable article imported,
- or
- (b) any exciseable article exported,
- or
- (c) any exciseable article transported,
- or
- (d) any exciseable article manufactured in any distillery or brewery licensed, established, authorised or continued under this Act.

Explanation:— Duty may be imposed on any article under this sub-section at different rates according to the purposes for which such article is intended to be used, according to the places to which such article is to be removed for consumption, or according to the varying strengths, and quality of such article.

Mode of levy of duty 28. Subject to such rules regulating the time, place and manner of the levy and collection of duty, as may be prescribed, and duty imposed under section 27 may be levied in any of the following ways:—

- (a) on an exciseable article imported,—
 - (i) by payment upon or before importation in Mizoram or in the State of territories from which the article is brought, or
 - (ii) by payment upon issue for sale from a warehouse established, authorized or continued under this Act;
- (b) on an exciseable article exported,—
 - by payment in Mizoram or in the State or Territory to which the article is sent;
- (c) on an exciseable article transported,—
 - (i) by payment in the district from which the article is sent, or
 - (ii) by payment upon issue for sale from a warehouse established, authorized or continued under this Act,—
- (d) on spirit or beer manufactured in any distillery or brewery licensed, established authorized or continued under this Act,—

- (ii) 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 Government may prescribe:

Provided that, where payment is made upon the issued of an exciseable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from such warehouse.

Payment for grant of exclusive privilege 29. (1) Instead of, or in addition to, any duty leviable under this Act, the Government may accept payment of a sum in consideration of the grant of any exclusive privilege under section 22:

Grant of exemption from payment of excise duty (2) The Government may, either wholly or partially, and subject to such condition as it may think fit to prescribed, grant exemption to any licenseholder from the payment of excise duty on import or collection of any exciseable article from any distilleries or warehouses for any specified period or occasion according to the purposes for which such article is intended to be used.

CHAPTER—VI

LICENSES, PERMITS AND PASSES

Fees, condition and form of licenses 30. (1) Every license, permit or pass under this Act shall be granted—

- (a) on payment of such fees, if any, as the Government may fix, and
- (b) subject to such restrictions and on such conditions as the Government may impose, and
- (c) in such form and contain such particulars as the Government may direct.

Duration of license (2) Every license, permit or pass under this Act shall be granted for such period, if any, as may be prescribed by rule made under this Act.

Agreement to be made by licensee 31. Any authority granting a license under this Act may require the grantee to execute an agreement in conformity with the tenure of his license, and to give such security, for the performance of such agreement, or to make such deposit in lieu of security, as the authority granting the license may require.

- Technical defects, irregularities and omission** 32. (1) No license 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 Commissioner as to what is a technical defect, irregularity or omission, shall be final.
- Ascertainment of local public opinion** 33. Before licenses are granted, in any year for the retail sale of any intoxicant, the Collector shall take such measures, in such manner as may be prescribed, as may best enable him to ascertain local public opinion in regard to the licensing and location of shops.
- Power to cancel or suspend license, permit or pass** 34. (1) Subject to such restrictions as the Government may prescribe, by rule made under section 86, the authority who granted 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, tax or fee payable by the holder thereof be not duly paid; or
 - (c) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof, 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 Narcotic Drugs and Psychotropic Substances Act, 1985 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 or under any sections 479 to 489 of the Indian Penal Code, or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955; or
 - (e) where a license, permit or pass has been granted on the application of the holder of an exclusive privilege granted under section 22, on the requisition in writing of such holder; or
 - (f) if the conditions of the license, permit or pass provide for such cancellation or suspension at will.
- (2) When a license, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c) or clause (d) of sub-section (1), the authority aforesaid may cancel any other license, permit or pass granted to such person by the authority of the

Central Act
61 of 1985

Central Act
46 of 1988

Central Act
45 of 1860

16 of 1955

Central Act
61 of 1985.

Commissioner under this Act or under any other law for the time being in force relating to Excise, or under the Narcotic Drugs and Psychotropic Substances Act, 1989.

(3) The holder of a license, permit or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof:

Provided that in case of hardship, the Commissioner may grant such payment of compensation or refund of fee or deposit as he may consider necessary.

Power to can-
cel license
etc.

35. (1) Whenever the authority which granted any license, permit or pass under this Act considers that the license, permit or pass should be cancelled for any cause other than those specified in section 34, it may, subject to such restrictions, if any, as the Government may prescribe by rule under section 86, cancel the license, permit or pass either

- (a) on the expiration of fifteen days' notice in writing of its intention to do so, or
- (b) forthwith without notice, after recording its reasons in writing for doing so.

(2) When a license, permit or pass is cancelled under sub-section (1), there shall be paid to the holder of the license, permit or pass, as the case may be, the amount, if any, deposited as security or in advance as fees in respect of the unexpired period of the license, permit or pass together with compensation of such amount as Commissioner may direct.

Surrender
of license

36. (1) Any holder of a license granted under this Act to sell an intoxicant may surrender his license on the expiration of one 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 for which it would have been current by for such surrender :

Provided that, if the Commissioner is satisfied that there is sufficient reason for surrendering a licence, he may remit to the holder thereof the sum so payable on surrender, and any fees paid in advance, or any portion of such sum or fees.

(2) sub-section (1) shall not apply in the case of a license for the sale of any country liquor in the exercise of an exclusive privilege granted under section 22.

No right to renewal

37. No person to whom a license has been granted under this Act shall have any claim to the renewal of such license, or save as provided in section 35, any claim to compensation on the determination thereof.

CHAPTER VII

DEPARTMENTAL MANAGEMENT OR TRANSFER

Power of Commissioner to take grants under management, or to transfer them.

38. If any holder of a license granted under this Act or any person to whom an exclusive privilege has been granted under section 22, contravenes any provision of this Act or any rule made hereunder, or makes default in complying with any condition imposed upon him by such license or privilege, or

if any holder of a license granted under this Act surrenders the same under section 36,

the Commissioner may, in the case of a license, after the cancellation or surrender thereof, and, in the case of an exclusive privilege, at any time—

- (a) take the grant under management, at the risk and loss of the person to whom it was made, or
- (b) transfer the unexpired portion of the grant, at the risk and loss of the said person, to any other person.

CHAPTER VIII

PREVENTION, DETECTION, INVESTIGATION AND TRIAL OF OFFENCES AND PROCEDURE.

Power to inspect places of manufacture etc. and to seize utensils etc.

39. Any of the following Officers, namely,—

- (a) the Commissioner, or
- (b) a Collector, or
- (c) any Excise Officer not below such rank as the Government may, by notification prescribe;

may, subject to such restrictions as may be prescribed by the Government—

- (i) enter and inspect, at any time by day or night, any place in which any licensed manufacturer carries on the manufacture of, or stores, any intoxicants; and

- (ii) enter and inspect, at any time during which the same may be opened, any place in which any intoxicant is sold or kept for sale by any licensed person ; and
- (iii) examine the accounts, registers, passes and such other documents as may be prescribed by the Government by rule made under this Act maintained in any such place as aforesaid ; and
- (iv) examine, test, measure or weight materials, stills, utensils, implements, apparatus or intoxicant found in any such place as aforesaid ; and
- (v) seize any intoxicant (including any sample of any intoxicant), materials, stills, utensil, implements, or apparatus referred to in clause (i) clause (ii) or clause (iii) together with any accounts, registers, passes and other documents referred to, or connected with those referred to in clause (iii) found in any such place as aforesaid ;
- (vi) examine or test and seize any measures, weights or testing instruments, found in any such place as aforesaid, which he has reason to believe to be false.

Power to arrest without warrant, to seize articles liable to confiscation and to make searches.

40. (1) Any of the following persons, namely;—

- (a) any officer of the Excise Department
- (b) any person empowered by the Government in this behalf by notification and within such areas as may be specified in such notification,

may, subject to such restrictions as may be prescribed;—

- (i) arrest without warrant any person found committing an offence punishable under section 59, section 60, Section 63 section 69, or section 70,
- (ii) seize and detain any article which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to the excise revenue ; and
- (iii) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, utensils, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

(2) Any person empowered under clause (b) of sub-section (1) shall forward all the seizure made and persons arrested to the nearest Excise Collector or an Excise Officer empowered under sub-section (2) of section 47 within twenty four hours of the arrest or

seizure exclusive of the time necessary for the journey from the place of arrest to the place where a Collector or an Excise Officer empowered under section 47 may be, or to the Excise Station whichever is nearer, for further investigation and prosecution.

Power to issue warrant of arrest.

41. The Collector or any Magistrate empowered to try offences punishable under this Act, may issue a warrant for the arrest of any person whom he has reason to believe to have committed (or abetted the commission of) any offence punishable under section 59, section 60, section 63, section 69 or section 70.

Power to issue search warrant

42. If any Collector, or any Magistrate empowered to try offences punishable under this Act, upon information received, and after such inquiry, if any as he thinks necessary, has reason to believe that any offence punishable under section 59, section 60, section 63, section 69 or section 70 has been, or is likely to be committed or abetted,

he may issue a warrant to search for and to seize—

any intoxicant, material, still, utensil, implement or apparatus, in respect of which the alleged offence has been, or is likely to be committed or abetted or any document or other article which may furnish evidence of the commission of the alleged offence.

Power of Collector or Magistrate to arrest or search without issuing a warrant.

43. The Collector, or any Magistrate empowered to try offences punishable under this Act, may at any time—

- (a) arrest, or direct the arrest in his presence of, any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under section 41, or
- (b) search, or direct a search to be made in his presence of, any place for the search of which he is competent to issue a search-warrant under section 42.

Power of Excise Officer to search, arrest etc. without warrant.

44. Whenever any Excise Officer not below such rank as the Government may, by notification, prescribe, has reason to believe that an offence punishable under section 59, section 60, section 63, section 69 or section 70 has been, is being or is likely to be committed or abetted and that a search-warrant cannot be obtained without affording the offender, an opportunity of escaping or of concealing evidence of the offence, he may, after recording the grounds of his belief, at any time by day or night enter and search any place, and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act together with any document which he may furnish evidence of the Commission of the alleged offence ; and

may detain and search, and if he thinks proper, arrest, any person found in such place whom he has reason to believe to have committed or abetted, any such offence as aforesaid.

Information and aid to Excise Officers.

45. (1) Every Officer of the Government shall be bound, subject to any rules as may be prescribed under this Act, to give immediate information to an Excise Officer of all breaches of any of the provisions of this Act which may come to his knowledge.

(2) Every Officer referred to in sub-section (1), every member of Village Council, every member of Young Mizo Association and every member of Mizoram Hmeichhe Insuhkhawm Pawl (Mizo Women Association which known in short as M.H.I.P.) shall be bound, subject to any rules made under this Act, to give reasonable aid to any Excise Officer in carrying out the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, upon request made by such Officer.

Duty of owners and occupiers of land and other persons to give notice of unlicensed manufacturers

46. Whenever any intoxicant is manufactured or collected, on any land or any hut or building, in contravention of this Act, an owners and, or occupiers of such land, or of such hut or building, as the case may be, and their agents and all members of a Village Council, all members of Young Mizo Association, all members of Mizo Hmeichhe Insuhkhawm Pawl (Mizo Women Association, which is known and pronounced in short as M.H.I.P.) of such localities in which such land, hut or building may be situated, shall, in the absence of reasonable excuse, be bound to give notice of the fact to a magistrate or an Officer of the Excise Department, as soon as the fact comes to their knowledge.

Power of Collector and certain Excise Officers to investigate Offence.

47. (1) A Collector may, without the order of a Magistrate, investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to inquire into or try under the provisions of Chapter XV of the Code of Criminal Procedure, 1973 as applicable to Mizoram relating to the place of inquiry or trial.

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(2) Any other Excise Officer specially empowered in this behalf by the Government in respect of all or any specified class of offences punishable under this Act, may, without the order of a Magistrate, investigate any such offence which a Court having jurisdiction over the local area to which such Officer is appointed would have power to inquire into or try under the aforesaid provisions.

Power of investigating Officer.

48. Any Collector, or any Excise Officer empowered under the provision of sub-section (2) of section 47, having recorded in writing his reason for suspecting the commission of an offence which he is empowered to investigate, may exercise

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(a) any of the powers conferred upon a Police Officer making an investigation, or upon an officer-in-charge of a Police station, by sections 160 (1) to 171 of the code of Criminal Procedure 1973, as applicable to Mizoram, and

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(b) as regards offences punishable under section 59, section 60, section 63, section 69 or section 70 of this Act—any of the powers conferred upon Police Officers, in respect of cognizable offences by section 47 and by section 51 of the said Code as applicable to Mizoram.

(2) Subject to any restrictions as may be prescribed by the Government, a Collector, or an Excise Officer empowered under sub-section (2) of section 47, may, without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned, in any offence which he or any Excise Officer subordinate to him has investigated.

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(3) For the purposes of the provisions of section 156 of the Code of Criminal Procedure, 1973, as applicable to Mizoram the area to which an Excise Officer empowered under sub-section (2) of section 47 is appointed shall be deemed to be a Police Station, and such officer shall be deemed to be the officer-in-charge of such station.

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(4) As soon as an investigation by a Collector or by an Excise Officer empowered under sub-section (2) of section 47 has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigating officer, unless he proceeds under sub-section (2) of this section or under section 85 of this Act, shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1973 as applicable to Mizoram 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.

Security
and bail

49. (1) A Collector or a Magistrate having jurisdiction to try the case may issue a warrant under this Act for the arrest of any person, and may, at his discretion direct, by endorsement on the warrant, except when such person is arrested for committing an offence under section 60 or clause (a) of section 63 that,

if such person executes a bond with sufficient sureties for his attendance, before the Collector or before an Excise Officer empowered under sub-section (2) of section 47, to investigate the case, at a specified time and thereafter until otherwise directed by the Collector or an Excise Officer empowered as aforesaid, the Officer to whom the warrant is directed shall release such person from custody if such bond is executed by him.

(2) The endorsement shall state—

- (a) the number of sureties,
- (b) the amount in which they, and the person for whose arrest the warrant is issued, are respectively to be bound, and
- (c) the time at which such person is to attend as aforesaid.

(3) Whenever the security is taken under this section, the Officer to whom the warrant is directed shall forward the bond to the Collector or to an Excise Officer empowered as aforesaid.

(4) Any Excise Officer not below such rank as the Government may, by notification, prescribe, may release persons on bail or on their own bond except when such person is arrested for committing an offence under section 60, or clause (a) of section 63.

(5) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before the Collector or an Excise Officer empowered under sub-section (2) of section 47, to investigate the case.

(6) A bond taken under this section shall, for the purposes of sub-section (7), be deemed to be a bond under the Code of Criminal Procedure, 1973.

(7) The Provisions of sections 439 to 449 of the Code of Criminal Procedure, 1973, as applicable to Mizoram shall apply, so far as may be, in every case in which bail is acceptable or a bond taken under this section.

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2 of 1974.

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2 of 1974.

Production
of articles
seized and
persons
arrested.

50. (1) Articles seized under this Act, and unless security for their appearance before the Collector or an Excise Officer empowered under sub-section (2) of section 47, to investigate the case, be taken, person arrested under the warrant of a Collector, shall be produced before the Collector or such Excise Officer.

(2) Articles seized under the provisions of section 39, section 40 or section 42 and persons arrested under this Act by persons or Officers not having authority to release arrested persons on bail or on their own bond, shall be produced before or forwarded to—

- (a) the Collector or an Excise Officer empowered under sub-section (2) of section 47, to investigate the case or
- (b) the nearest Excise Officer who has authority to release arrested persons on bail or their own bond, or
- (c) to the nearest Excise Station which ever is nearer.

(3) When a person arrested is produced before an Excise Officer who has authority to release arrested persons on bail or on their own bond, such officer shall forward such person to, or take security for his appearance before, the Collector or the Excise Officer empowered under sub-section (2) of section 47, to investigate the case.

(4) When any article seized cannot conveniently be conveyed before an officer referred to in sub-section (1) or sub-section (2), as the case may be, the person making the seizure shall dispose of such article in some place of safety and forthwith report the seizure to such an Officer.

(5) Notwithstanding anything elsewhere contained in this Act, when an article seized under section 39, section 40, section 42 or section 44 is subject to speedy decay, such article may be destroyed in accordance with the rules made under the Act.

Excise and
Police custody
of articles
seized

51. (1) All Officers in-charge of Excise or Police-Stations shall take charge of and keep in safe custody, pending the orders of a Magistrate, or of the Collector or of an Excise Officer empowered under sub-section (2) of section 47, to investigate the case, all persons arrested and all articles seized under this Act and brought or delivered to them as the case may be, and shall allow any Excise Officer who may accompany any such person or articles to such station, or who may be deputed for the purpose by an official superior, to affix his seal to such articles and to take samples of and from them.

(2) All samples so taken shall be sealed with the seal of the Officer-in-charge of the Excise or the police station as the case may be.

Reports of ar-
rests, seizures
and searches

52. When any Excise Officer below the rank of Collector, or any officer-in-charge of a police-station, makes, or receives information of, any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search, or of the information received to the Collector, or to the Excise Officer, if any, empowered under sub-section (2) of section 47, within the local limits of whose jurisdiction the arrest, seizure or search was made.

Execution of
warrants

53. Any warrant issued by a Collector or a Magistrate under the provisions of this Act may be executed by the Officer to whom the warrant is directed or by any other Officer selected by the Collector or the Magistrate for the purpose.

Maximum period of detention 54. (1) No person arrested under the provisions of this Act shall be detained in custody for a longer period than under all the circumstances of the case is reasonable, and such period shall not, without the authority of a Magistrate, exceed twenty four hours, exclusive of the time necessary for the Journey from the place of arrest to the place where a Collector or other officer empowered under section 47 to investigate as the case may be, and thence to the court of a Magistrate having jurisdiction to inquire into or try the case.

Central Act 2 of 1974 (2) A Magistrate to whom an accused person is forwarded under section 167 of the Code of Criminal Procedure, 1973, by a Collector or an Excise Officer empowered under sub-section (2) of section 47, may exercise the powers conferred upon a Magistrate by the said section 167.

Application of certain provisions of Cr. P.C. 1973 55. (1) Save as is in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1973 relating to arrests, detentions in custody, searches, summonses, warrants of arrest search-warrants and the production of persons arrested, shall apply, so far as may be, to arrests, detentions and searches made, summonses and warrants issued, and the production of persons arrested under this Act.

(2) For the purpose of the said provisions of the said Code, a Collector shall be deemed to be a Court, having civil and criminal jurisdictions.

(3) Officers executing any warrant issued under this Act, and Officers, other than Collectors making arrests, searches or seizures under this Act, shall be deemed to be Police Officers for the purposes of this Act.

Magistrates to try offences under the Act 56. No Magistrate other than—
(a) a judicial Magistrate having the power equivalent to the sessions judge; or

(b) any other Magistrate having the power of the judicial Magistrate of the first class, shall try any offence punishable under this Act.

Initiation of certain prosecutions 57. No Magistrate shall take cognizance of an offence referred to—
(a) In section 59, section 60, section 63, section 69 or section 70, except on his own knowledge or suspicion, or on the complaint or report of an Excise Officer or an Officer empowered in this behalf by the Government under clause (b) of sub-section (1) of section 40 or

- (b) in section 71, section 72, clause (d) or clause (e) of section 76; or section 77, except on the complaint or report of the Commissioner or an Excise Officer authorised by the Commissioner in this behalf.

Bar to transfer of trial on application of accused Act 2 of 1974 58. The provisions of section 191 of the Code of Criminal Procedure, 1973, as may be applicable to Mizoram shall not apply in any case in which a Magistrate not being the Collector, takes cognizance of an offence under this Act on the report of any officer referred to in clause (a) or clause (b) of section 57.

CHAPTER IX

OFFENCES, PENALTIES AND PROCEDURE

Penalty for unlawful import, export, transport manufacture of intoxicant etc. 59. Whoever in contravention of this Act, or any rule, notification or order made, issued or given, or license, permit or pass granted under this Act,—

- (a) manufacture intoxicant including spirit as defined in clause (18) and clause (26) of section 2, or
- (b) acquires possession of or in any way concerns himself in importing, exporting, transporting, depositing, keeping, selling, or purchasing or in any other manner deals with intoxicant including spirit, or
- (c) uses, keeps or has in his possession any material, still, utensils, implement or apparatus whatsoever for the purpose mentioned in clause (a), or
- (d) bottles any liquor for the purpose of sale shall be liable to imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees, but in no case the Court shall award a sentence of imprisonment of less than one month and a fine of rupees one thousand.

Penalty for unlawful working or establishment of distillery and brewery and removal etc. of intoxicant 60. Whoever in contravention of this Act or of any rule, notification or order made, issued or given or a license, permit or pass granted under this Act,—

- (a) works any distillery or brewery, or
- (b) establishes any distillery, brewery or warehouse, or
- (c) removes any intoxicant from any distillery, brewery, warehouse or other place of storage, licensed, established, authorised or continued under this Act,

shall be liable to imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to ten thousand rupees, but in no case the court shall award a sentence of imprisonment of less than three months and a fine of rupees two thousand.

Explanation:—For the purpose of this section,

- (i) the fact that the accused has been convicted for the first time, or
- (ii) the fact that the accused is not the principal offender and acted merely as a carrier of goods, or
- (iii) the tender of old age of the accused, shall not be construed as any good and sufficient ground for awarding lesser sentence.

Offence by Companies

61. (1) Where any offence punishable under this Act is committed by a Company, the Company and every Director, Manager, Secretary or agent of the Company, unless such Director, Manager, Secretary or agent proves that the offence was committed without his knowledge or consent, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any other Officer or person concerned in the management of the affairs of the Company, such other Officer or person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section—

- (a) "Company" means a body corporate and includes a firm or other association of individuals, and
- (b) "Director, in relation to a firm", means a partner of the firm.

Presumption as to offence where possession is not satisfactorily accounted for

62. In prosecution under section 59 or section 60, it may be presumed, unless and until the contrary is proved, that the accused person has committed an offence punishable under section 59 or section 60, as the case may be, in respect of—

- (a) any intoxicant, or
- (b) any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant, or

- (c) any materials which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured,

for the possession of which he fails to account satisfactorily.

Penalty for al- 63. Whoever—
tering or at-
tempting to
alter denatured
spirit

- (a) alters or attempts to alter, by any means whatsoever, any denature spirit, or
- (b) has in his possession any spirit which has been and which he knows or has reason to believe to have been, derived from denatured spirit.

so that such spirit may be used for human consumption internally, whether as a beverage or medicine or in any other way whatsoever,

shall be liable, in case of clause (a), to imprisonment for a term which may extend to ten years and also to fine, and in case of clause (b), to imprisonment for a term which may extend to three years and also to fine which may extend to rupees five thousand:

Provided that in no case the Court shall in case of clause (a) award a sentence for a term of less than six months and a fine of less than rupees two thousand and in case of clause (b) award a sentence for a term of less than three months and a fine of less than rupees one thousand.

Presumption
as to the of-
fence under
section 63 in
certain cases

64. In prosecution under section 63, when the accused person is proved to have been in possession of any spirit which is, or contains, or has been derived from denatured spirit, and in respect of which any such alteration or attempt as is referred to in section 63 has been made, it may, from the mere fact of such possession, be presumed, unless or until the contrary is proved, that such person—

- (a) has himself made such alteration or attempt.
or
(b) knows or has reason to believe that such alteration or attempt has been made.

Presumption
as to any
spirit which
contains any
denaturant

65. In any prosecution under this Act it may be presumed, unless and until the contrary is proved, that any spirit which contains any denaturant different in kind, quality or quantity or is or has been derived from denatured spirit by alteration.

- Penalty for adulteration by licensed manufacturer or vendor or his servant
Central Act 45 of 1860
66. If any licensed manufacturer or license vendor, or any person in his employ and acting on his behalf,—
- mixes, or permits to be mixed, with any intoxicant manufactured, sold or kept or exposed for sale by him, any noxious drug or any article prohibited by rule made under clause (x) of sub-section (2) of section 86 and such mixing does not amount to an offence punishable under Section 272 of the Indian Penal Code, or
- has in his possession any intoxicant in respect of which such admixture has been made,
- he shall be liable to imprisonment for a term which may extend to two years, or to fine which may extend to five thousand rupees, or to both.
- Penalty for fraud by licensed manufacturer or vendor or his servant
Central Act 45 of 1860
67. If any licensed manufacturer or licensed vendor or any person in his employ and 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 be country liquor, and such sale does not amount to an offence punishable under section 417 or section 418 of the Indian Penal Code, or
- (b) marks any bottle, case, package or other receptacle containing country liquor, or the cork of any such bottle, or
- deals with any bottle, case, package, or other receptacle containing country liquor,
- with the intention of causing it to believe that such bottle, case, package, or other receptacle containing foreign liquor,
- and such marking or dealing does not amount to an offence punishable under section 482 of the said Indian Penal Code,
- he shall be liable to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both.
- Central Act 45 of 1860
- Penalty for certain unlawful acts of licensed vendors or their servants
68. (1) If any licensed vendor, or any person in his employ and acting on his behalf,—
- (a) employs or permits to be employed, in any part of his licensed premises referred to in section 25, any woman or other person in contravention of that section, or
- (b) sells any intoxicant to a person who is drunk or intoxicated; or
- (c) sells or delivers any spirit or intoxicating drug to any person apparently under the age of eighteen years, whether for consumption by such person or by any other person,

and whether for consumption on or off the premises of such vendor; or

- (d) permits drunkenness, intoxication, disorderly conduct or gambling on the premises of such vendor; or
- (e) permits any person whom he knows, or has reason to believe, to have been convicted of any non-bailable offence, or who are reputed prostitutes, to meet, or any such person to remain, on the premises of such vendor, whether for the purposes of crime or prostitution or not,

he shall be liable to imprisonment for a term which may extend to six months or to fine which may extend to two thousand rupees or to both.

(2) When any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness or intoxication on the 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 vendor and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises.

Penalty for possession of intoxicant in respect of which an offence has been committed.

69. If any person, without lawful authority, has in his possession any quantity of any intoxicant, knowing the same to have been unlawfully imported, transported or manufactured; or knowing that the prescribed duty has not been paid thereon, he shall be liable to imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees, but in no case the Court shall award a sentence of imprisonment of less than one month and a fine of rupees one thousand.

Penalty for consumption in Chemist's shop etc.

70. (1) If any chemist, druggist, apothecary or keeper of a dispensary allows any intoxicant which has not been bonafide medicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, he shall be liable to imprisonment for a term which may extend to one year, or to fine which may extend to three thousand rupees, or to both.

(2) If any person not employed as aforesaid consumes any such intoxicant on such premises, he shall be liable to imprisonment for a term which may extend to three months or to fine which may extend to one thousand rupees or to both.

Penalty for failing to produce license etc. by licensee or his servant

71. If any holder of a license, permit or pass granted under this Act or any person in his employ and acting on his behalf, fails to produce such license, permit or pass on the demand of any Excise Officer duly authorised by the Commissioner, in this behalf to make such demand he shall be liable to fine which may extend to one thousand rupees.

Penalty of 72. If any holder of a license, permit or pass granted under this Act, or any person in his employ and acting on his behalf,—

(a) In any case not provided for in sections 59 and 60 willfully contravenes any rule made under section 86 or,

(b) willfully does any act in breach of any of the conditions of the license, permit or pass for which a penalty is not prescribed elsewhere in the Act,

shall be liable to a fine which shall extend to ten thousand rupees.

Import, export, 73. (1) When any intoxicant has been imported, exported, transported, transported, manufactured or sold on account of any person, or manufactured on account of any other person, and such person knows or has reason to believe that such intoxicant is being imported, exported, transported, manufactured or sold for the purposes of this Act, he shall be deemed to have imported, exported, transported, manufactured or sold, by or to be in the possession of such other person.

(2) Nothing in sub-section (1) shall apply to any person who imports, exports, transports, manufactures or sells, or is in the possession of any intoxicant on account of another person, if he is unable to any person for the purpose of import, export, transport, manufacture, sale or possession of such intoxicant.

Criminal liability of 74. When any offence punishable under section 59, section 60, section 66, section 67, section 70 or section 71 or section 72 is committed by any person acting on behalf of the holder of a license, permit or pass granted under this Act, such holder shall also be deemed to have himself committed the offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

Such holder shall be subject to the provisions of section 73, if he is punishable according to the provisions of section 73.

Imprisonment under section 75. No person other than the actual offender shall be punished under section 75 or section 76 or section 77, unless he is convicted, except in default of payment of a fine.

Penalty on Excise Officer making vexatious search, 76. If any Excise Officer—

(a) without reasonable grounds for believing that any place, or any person or property, is liable to be searched, any place, under any of the powers conferred by this Act, or

- (c) vexatiously and unnecessarily detains, searches or arrests 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 has given to his immediate superior two months notice in writing of his intention to do so, or
- (e) is guilty of cowardice,
he shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both.

Penalty for offences not otherwise provided 77. If any person is convicted of any offence in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, for which a penalty is not prescribed elsewhere in this Act, he shall be liable to fine which may extend to one thousand rupees.

Penalty for contempt of court 78. Every proceeding under this Act before a Collector, or before any Excise Officer, or such rank as the Government may, by notification, prescribe, who is exercising powers of a Collector, shall be deemed to be a "judicial proceeding" within the meaning of section 228 of the Indian Penal Code and every Collector or Officer holding such proceedings shall, for the purposes of sections 345 (1), 345 (2), 345 (3), 346 and 348 of the Code and of Criminal Procedure, 1973, be deemed to be a revenue Court.

Penalty for attempt to commit offence 79. Whoever attempts to commit any offence or aids or abets commission of any offence punishable under this Act shall be liable to the punishment provided for such offence.

Enhanced punishment after previous conviction 80. If any person, after having been previously convicted of an offence punishable under any of the provisions of this Act subsequently commits and is convicted of an offence punishable under any of these sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act.

Punishment for allowing premises to be used for the commission of an offence 81. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle or place, knowingly permits it to be used for the commission by any other person of an offence punishable under section 59, section 60 or section 63, shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

Security for abstaining from commission of certain offences 82. (1) Whenever any person is convicted of an offence punishable under section 59, section 60, section 63, section 66, section 69 or section 70, and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the

court may, at the time of passing sentence on such person, order him to execute a bond for a sum appropriate to his means with or without sureties, for abstaining from the commission of such offence during such period, not exceeding five years as it things fit to fix.

(2) The bond shall in the form contained in the Schedule appended to this Act and the provisions of the Code of Criminal Procedure, 1973, as applicable to Mizoram shall in so far as they are applicable, apply to such matter connected with such bond or with the non-execution thereof as if it were a bond to keep the peace order to be executed under section 106 of that Code.

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(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may be also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Things liable
to confisca-
tion

83. Whenever an offence punishable under this Act has been committed, the following things shall be liable to confiscation, namely—

- (a) the intoxicant, still, utensils, implement, apparatus or materials in respect of or by means of which such offence has been committed ;
- (b) any intoxicant lawfully imported, transported, manufactured and held in possession or sold along with any intoxicant liable to confiscation as aforesaid ;
- (c) the receptacles, packages, and coverings, in which anything liable to confiscation under clause (a) or clause (b) is found and the other contents, if any, of such receptacles and packages, and
- (d) the animals, carts, vessels, rafts or other conveyances used in carrying any thing referred to in the foregoing clauses:

Provided that no animal, cart, vessel, raft or other conveyance as specified in clause (d) shall be liable to confiscation unless the owner thereof is proved to have been implicated in the commission of the offence.

Explanation.—For the purposes of this section, "owner" includes, in relation to any animal, cart, vessel, raft or other conveyance,

- (a) which is in the possession of a minor, the guardian of such minor, or

- (b) which is the subject of a hire purchase agreement, the person in possession thereof under the agreement.

**Confiscation
by Magistrate
or Collector**

84. (1) When, in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 83, he shall order such thing to be confiscated and placed at the disposal of the Collector or the Commissioner.

(2) When, in any other case in which anything has been seized under this Act, an investigating officer proceeds under sub-section (2) of section 48, or the Collector, upon an investigation made, whether by the Collector or other officer empowered under section 47, is of opinion that the thing seized is not liable to confiscation under section 83, such investigating officer or the Collector, as the case may be, shall order the delivery of such thing to the person from whose possession it was taken.

(3) When, upon an investigation made as aforesaid, it appears to the Collector that an offence under this Act has been committed, and that anything seized under this Act is liable to confiscation and it further appears that the offender is not known or cannot be found, the Collector shall inquire into and determine the case and, if he finds that the thing is liable to confiscation under section 83 shall order such confiscation:

Provided that no such order shall be made until the expiration of two months from the date of seizing the thing intended to be confiscated or without hearing any person who may appear within that period and claim any right to such thing, and evidence if any which he produces in support of his claim:

Provided further that, if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that its sale would be for the benefit of the owner, the Collector may at any time direct it to be sold; and the provisions of this sub-section and of sub-section (2) shall, as nearly as may be practicable, apply to the net proceeds of such sale.

**Power to
compound
offences**

85. (1) The Commissioner, the Collector or any Excise Officer not below the rank of Inspector of Excise, authorised by the Commissioner by general or special order in this behalf,—

- (a) may accept from any person whose licence, permit or pass is liable to be cancelled or suspended under clause (a), clause (b) or clause (c) of sub-section (1) of section 34, or who is reasonably suspected of having committed an offence punishable under any section of this Act other than section

78, payment of a sum of money, not exceeding five thousand rupees, in lieu of such cancellation or suspension or instituting a prosecution in respect of such offence, as the case may be, and

(b) in any case in which any property has been seized as being liable to confiscation under this Act, may, release the same on receiving payment of the value thereof as estimated by the Collector or such Excise Officer or of such smaller sum of such officer may think fit.

(2) When the payments referred to in sub-section (1) have been duly made, the accused person, if in custody, shall be discharged, and the property seized, if any, shall be released; and no further proceedings shall be taken against such person or property.

(3) The Commissioner, the Collector or any Excise Officer duly authorised by the Commissioner under sub-section (1) may also, after the institution of a case against any person in respect of any offence under this Act other than an offence under section 76, compound the offence on payment by such person, of a sum not exceeding five thousand rupees for a single offence as deemed fit and confiscate to the Government any excisable articles seized together with any materials, still, utensils, implement or apparatus used if any for the purpose of manufacture as mentioned in clause (a) of section 59.

CHAPTER X

MISCELLANEOUS PROVISIONS

Power of the 86. (1) The Government may, by notification, make rules for the Government to purpose of carrying out the provisions of this Act relating to the make rules excise revenue.

(1) In particular and without prejudice to the generality of the foregoing provision, such rules may provide—

(a) for prescribing the powers, duties, subordination and control of officers of the Excise Department;

(b) for regulating the delegation of any powers by the Commissioner or Collectors under clause (g) of sub-section (2) of section 6;

(c) for declaring in what cases or classes of cases and to what authorities appeals shall be from orders, whether original or appellate, passed under this Act or under any rule made hereunder, and for prescribing the time and manner for presenting and the procedure for dealing with, such appeals;

- (d) for prescribing the Uniforms, uniform articles and clothings to be provided to Excise Officers and sepoy;
- (e) for prescribing arms and ammunition to be provided to the Excise Officers and sepoy for use in the discharge of their duties;
- (f) for regulating the import, export, transport, sale, purchase, possession, or consumption of any intoxicant;
- (g) for regulating the periods for which licenses for the wholesale or retail vend of any intoxicant may be granted, and the number of such licenses which may be granted for any local area and particulars to be contained in the licenses, permit or passes granted under this Act;
- (h) for prohibiting the grant of licenses for the retail sale of any intoxicant at any place or within any local area as may be described in the rules, or for defining the places in the vicinity of which shops for the retail sale of any intoxicant shall not ordinarily be licensed;
- (i) for prohibiting the grant to specified classes of persons of licenses of any particular kind or class;
- (j) for declaring, either generally, or in respect of areas described in the rules the persons or classes of persons to whom any intoxicant may or may not be sold;
- (k) for regulating the procedure to be followed and prescribing the matters to be ascertained before any license for the wholesale or retail vend of any intoxicant is granted for any locality;
- (l) for restricting the exercise of any of the powers conferred by section 39, section 40, section 44 and section 45;
- (m) for declaring the Excise Officers to whom, and the manner in which, information or aid should be given under section 45;
- (n) for the grant of expenses to witnesses;
- (o) for the grant compensation for loss of time to persons released by an Excise Officer under this Act on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences punishable under this Act and subsequently acquitted; and

- (p) for prescribing restrictions or modifications in the application to Excise Officers of the provisions of the Code of Criminal Procedure, 1973 (as applicable to Mizoram) relating to powers of Police Officers which are referred to in sub-section (1) of section 48 of this Act ;
- (q) for regulating the power of an Excise Officer to summon witnesses under the provisions of section 48 ;
- (r) for regulating the manufacture, supply or storage of any intoxicant, and also for regulating—
- (i) the establishment, inspection, supervision, management and control of any place for the manufacture, supply or storage of any intoxicant and the provision and maintenance of fittings implements and apparatus therein ;
- (ii) the bottling of liquor for purposes of sale ;
- (iii) the time, place and manner of levying duty on intoxicant and to the refund thereof ;
- (s) for fixing the strength, price or quality in excess of or below which any intoxicant shall not be supplied or sold, and the quantity in excess of which denatured spirit shall not be possessed, and for prescribing a standard of quality for any intoxicant ;
- (t) for declaring how spirit manufactured in India shall be denatured and for causing spirit so manufactured to be denatured through the agency or under the supervision of servants of the Government and for ascertaining whether any spirit so manufactured has been denatured ;
- (u) for regulating the deposit of any intoxicant in a warehouse established, authorized or continued under this Act, and the removal of any intoxicant from any such warehouse or from any distillery or brewery ;
- (v) for prescribing the scale of fees or the manner of fixing the fees payable in respect of any exclusive privilege granted under section 22, or any license, permit or pass granted under this Act, or in respect of the storing of any intoxicant ;
- (w) for regulating the time, place and manner of payment of such fees ;
- (x) for prescribing the restrictions under which or the conditions on which any license, permit or pass may be granted, cancelled or suspended, and also for—

- (i) prohibiting the admixture with any intoxicant or any article deemed to be noxious or objectionable;
- (ii) regulating or prohibiting the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength ;
- (iii) prescribing the nature and regulating the arrangement of the premises in which any intoxicant may be sold, and prescribing the notices to be exposed at such premises ;
- (iv) prohibiting or regulating the employment by the licensee of any person or class of persons to assist him in his business ;
- (v) prohibiting the sale of any intoxicant except for cash ;
- (vi) prescribing the days and hours during which any licensed premises may or may not be kept open, and providing for the closing of such premises on special occasions ;
- (vii) prescribing the accounts and registers (if any) to be maintained and the returns to be submitted by the licensees relating to their business, and ;
- (viii) regulating the transfer of licenses ;
- (y) for the payment of compensation to licensees whose premises are closed under section 26 (2) or under any rule made under sub-clause (vi) of clause (x) of this section ;
- (z) for provided for the destruction or for the disposal in any other manner, of any intoxicant deemed to be unfit for use; and for regulating the disposal or destruction of articles or things confiscated or seized under the provisions of this Act.

Explanation : I

Fees may be prescribed under clause (9) of this section at different rates for different classes of exclusive privileges, licenses, permits, passes or storage, and for different areas.

Explanation : II

The price of an intoxicant as fixed by rules made under clause (4) of this section, shall be deemed to have always been exclusive of any tax, surcharge, additional surcharge or any other imposed on the sale or purchase of such intoxicant levied under any law for the time being in force.

(3) Every rule made under section 86 shall be laid, as soon as may be after it is made, before the Legislative Assembly of Mizoram while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions; and if, before the expiry of the session in which it is so laid or the sessions immediately following, the Legislative Assembly of Mizoram makes any modification in the rule by section 86, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Publication and effect of rules and notifications

87. All rules made, and notifications issued under this Act shall be published in the Official Gazette and on such publication shall have effect as if enacted in this Act.

Recovery of dues

88. (1) The following moneys, namely—

- (a) all excise revenue,
- (b) any loss that may accrue when a grant has been taken under management by the Commissioner or transferred by him under section 38, and,
- (c) all amounts due to the Government by any person on account of any contract relating to the excise-revenue,

may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his moveable property and shall also be recoverable by the process authorised for the recovery of arrears of revenue.

(2) When a grant has been taken under management by the Commissioner, or has been transferred by him, under section 38, the Commissioner may, recover, in any manner authorised by sub-section (1), any money due to the grantee by any lessee or assignee.

(3) When any money is due, in respect of an exclusive privilege, to a grantee referred to in section 23, from any person holding under him,

such grantee may apply to the Collector, and the Collector may recover such money on his behalf in either of the ways provided by sub-section (1).

Provided that nothing in this sub-section shall affect the right of any such grantee to recover any such money by civil suit.

Power to Government to exempt intoxicants from provisions of this Act.

89. The Government may, by notification, either wholly or partially, and subject to such condition (if any) as it may think fit to prescribe, exempt any intoxicant from all or any of the provisions of this Act, either throughout Mizoram or in any specified local area, or for any specified period or occasion or as regards any specified class of persons.

Bar to certain suits

90. No suit shall lie in any Civil Court against the Government or any Excise Officer for damage 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.

Limitation of suits and prosecutions

91. (1) No Civil Court shall try any suit against the Government in respect of anything done, or alleged to have been done, in pursuance of this Act,

and except with the previous sanction of the Government, no Magistrate shall take cognizance of any charge made against any Excise Officer under this Act or any other law relating to the excise-revenue, or made against any other person under this Act,

unless the suit or prosecution is instituted within six months after the date of the act complained of.

(2) Notwithstanding anything to the contrary contained in this Act or in any other law in force for the time being, when any Inspector of Excise, or Sub-Inspector of Excise, or Excise Constable is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence, except with the previous sanction of the Government under section 197 of the Code of Criminal Procedure, 1973 as applicable in the State of Mizoram.

Repeal and savings

92. (1) On and from the commencement of this Act, the Mizoram Excise Act, 1973 (Act No. 7 of 1974) and the rules made thereunder shall stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Mizoram Excise Act, 1973 and the Rules made or Notifications issued under the Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

(See Section 82 (2))

Bond to abstain from the commission of offence under the Act.

Whereas I (name) inhabitant of (place) have been called upon to enter into a bond to abstain from the commission of offence under section 59, section 60, section 63, section 66, section 69 and section 70 of the Mizoram Excise Act, 1992 for a term of

I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to the Government the sum of rupees dated this day of

Signature

(Where a bond with sureties is to be executed, add —)

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offence under section 59, section 60, section 63, section 66, section 69 and section 70 of the Mizoram Excise Act, 1992 during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally to forfeit to the Government, the sum of rupees

Dated this day of 19

Signature
Sd-

(Dr. H. C. THANHRANGA)
Secretary to the Govt. of Mizoram,
Law, Judicial & Parliamentary Affairs Department.