

NAGALAND ACT 7 OF 1967

[THE NAGALAND EXCISE ACT, 1967]

Received the assent of the President on the 8th September, 1967.

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An Act to impose excise duty on alcoholic liquor and intoxicating drugs.

Preamble. – WHEREAS the previous sanction of the President of India has been obtained under the proviso to Article 304 (b) of the Constitution of India;

It is hereby enacted in the Eighteenth Year of Republic of India as follows: -

CHAPTER I

PRELIMINARY

Short title, Commencement and Extent. – 1. (1) This Act may be called the Nagaland Excise Act, 1967.

(2) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

(3) It extends to the whole of Nagaland.

Definitions. -2. In this Act, unless there is anything repugnant in the subject or context: -

‘Beer’. – (1) ‘Beer’ includes ale, stout, port, and all other fermented liquor usually made from malt;

‘To bottle’- (2) ‘To bottle’ means to transfer liquor from a cask or other vessel to a bottle or other receptacle, whether any process of rectification be employed or not, and includes re-bottling;

Club. – (3) ‘Club’ means a society of persons associated together for social intercourse, for the promotion of politics, sports, art, science, literature, or for any purpose except the acquisition of gain, and whether the same be registered under the Indian Companies Act, 1956, (**1 of 1956**) the Co-operative Societies Act, 1912, (**11 of 1912**) the Societies Registration Act, 1860, (**XXI of 1860**) or otherwise incorporated, or not;

‘Collector’.- (4) ‘Collector’ includes a Deputy Commissioner and in any provision of this Act includes also any officer whom the State Government may by notification, declare or appoint to be a Collector for the purposes of that provision;

‘Denaturant’.- (5) ‘Denaturant’ means any substance prescribed by rule made in this behalf under this Act for admixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally, as a medicine;

‘To denature denatured spirit’.- (6) ‘to denature’ means to mix spirit with one or more denaturants in such manner as may be prescribed by rule made in this behalf under clause (m) of sub-section (2) of section 36; and ‘denatured spirit’ means spirit so mixed;

Deputy Commissioner. – (7) ‘Deputy Commissioner’ means the Chief Officer-in-charge of the revenue administration of a District.

Excisable Articles. – (8) ‘Excisable article’ means: -

- (a) any liquor for human consumption, not being a medical preparation; or
- (b) any intoxicating drug.

‘Excise duty’.- (9) ‘Excise duty’ and ‘Countervailing duty’ means any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of List II in the Seventh Schedule to the Constitution;

‘Excise Commissioner’ .- (10) ‘Excise Commissioner’ means the Officer appointed by the State Government under section 7, sub-section (2), clause (a);

‘Excise Officer’. – (11) ‘Excise Officer’ means a collector or any officer or other person appointed or invested with powers under section 7;

‘Excise Revenue’.- (12) ‘Excise revenue’ means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a Court of Law) or confiscation imposed or ordered under the provisions of this Act, or of any other law for time being in force relating to liquor or intoxicating drugs;

‘Export’.- (13) ‘Export’ means to take out of the territories to which this Act applies, otherwise than across a custom frontiers as defined as defined by the Central Government;

‘Import’.- (14) ‘Import’ (except in the phrase ‘import into India’) means to bring into the territories to which this Act applies otherwise than across a customs frontier as defined by the Central Government;

‘Intoxicant’.- (15) ‘Intoxicant’ means any liquor other than the Zu and Rohi or intoxicating drug;

‘Intoxicating drug’.- (16) 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;
- (ii) 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 State 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 5 of the Dangerous Drugs Act, 1930 (11 of 1930).

‘Liquor’.- (17) ‘Liquor’ means intoxicating liquor and includes all liquid consisting of or containing alcohol but does not include Zu and Rohi, also any substance which the State Government may, by notification, declare to be liquor for the purposes of this Act.

‘Manufacture’.- (18) ‘Manufacture’ includes every process, whether natural or artificial, by which any intoxicant is produced or prepared, also re-distillation and every process for the rectification, flavouring, blending, or colouring of liquor.

‘Zu and Rohi’. – (19) ‘Zu and Rohi’ means any rice, millet, or other grain fermented naturally form itself or with some foreign or artificial substances, whether mixed with any liquid or not and any liquid obtained therefrom, whether diluted, or undiluted, but does not include beer.

‘Place’.- (20) ‘Place’ includes a house, a building, shop, tent, vessel, raft and vehicle.

‘Sale’.- (21) ‘Sale’ Expressions referring to ‘Sale’ include any transfer otherwise than by way of gift.

‘Spirit’.- (22) Spirit means any liquor containing alcohol, obtained by distillation, whether it is denatured or not.

‘Transport’.- (23) ‘Transport’ means to move from one place to another within the territories to which this Act applies.

Power to define “Country Liquor” and “Foreign Liquor” respectively.-4. The State Government may, by notification, declare what, for the purposes of this Act, shall be deemed to be “Country Liquor” and “Foreign Liquor” respectively;

Provided that, where the interests of any other State may be affected, no such declaration shall be made without the previous sanction of the Central Government.

Wholesale and retail sale. -5. The State Government may, by notification, declare, with respect either to the whole of the territories to which this Act applies 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, what quantity of any intoxicant shall for the purposes of this Act, be the limit of sale by retail and of sale by wholesale, respectively.

Saving of certain enactments.- 6. Nothing contained in this Act shall affect the provisions of the Cantonment Act, 1924 (**11 of 1924**), Custom Act, 1962 (**52 of 1962**) or Indian tariff Act, 1934 (**XXXII of 1934**) or any rule or order made under the said Act.

CHAPTER II

ESTABLISHMENTS AND CONTROL

Appointment of officers, and the conferment, withdrawal and delegation of powers.- 7. (1) Within a district the administration of the Excise Department and the collection of Excise revenue shall be under the charge of the Deputy Commissioner.

(2) The State Government may, by notification applicable to the whole of the territories to which this Act applies or to any district or local area comprised therein:-

- (a) appoint an officer who shall, subject to the control of the State Government have the control of the administration of the excise Department and of the collection of the Excise revenue;
- (b) appoint any person other than the Deputy Commissioner who shall, subject to the Control of the Deputy Commissioner, exercise all or any of the powers and perform all or any of the duties of a collector under this Act, or any other law for the time being in force relating to the Excise revenue;
- (c) appoint officers of the Excise Department of such classes and officer under classes and with such designation, powers and duties under this Act as the State Government may think fit;
- (d) order that all or any of the powers and duties assigned to any officer under clause (c) of this section shall be exercised and performed by any servant of the Government or any other person;
- (e) withdraw from any officer or person all or any of his powers or duties under this Act;
- (f) delegate to the Excise Commissioner, Collectors, and to any subordinate officer, subject to such conditions and restrictions as may be prescribed by any rules made under section 36 sub-section (2), clause (a) any powers conferred upon, or exercised in respect of the Excise revenue by the State Government, the Excise

Commissioner, and Collectors, respectively, by or under the provisions of this Act or any other law for the time being in force relating to Excise.

8. (1) Orders passed under this Act or under any rule made hereunder shall be appealable as follows in manner prescribed by such rules as the State Government may make in this behalf: -

to the Excise Commissioner, any order passed by the Deputy Commissioner, any order passed by the Commissioner or a Collector other than the Deputy Commissioner;

to the State Government, any order passed by the Excise Commissioner;

(2) In cases not provide for by clauses (a) and (b) or sub-section (1) orders passed under this Act or under any rules made thereunder shall be appealable to the State Government.

(3) The State Government, the Excise Commissioner or the Deputy Commissioners may call for the proceedings held by any officer or person subordinate to it or him or subject to its or his control and pass such orders thereon as it or he may think fit.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

Restrictions on import – 9. (1) No intoxicant shall be imported 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) relating to payment of duty, license or requirement of public health, as the State Government may impose have been satisfied.

(2) Sub-section (1) shall apply to any article which has been imported into India and was liable, on such importation, to duty under the Indian Tariff Act 1934 (**XXXII of 1934**) or the Customs Act, 1962 (**52 of 1962**).

(3) Clause (b) of sub-section (1) shall not apply to liquor manufactured in India and declared under section 4 to be foreign liquor.

Restrictions on export and transport.- 10. No intoxicant shall be export or transported unless: -

The duty (if any) payable under Chapter V has been paid;

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

Prohibition of import of transport. – 11. The State Government may, to enforce a policy of prohibitions or for purposes of public health, by notification-

- (a) prohibit the import or export of any intoxicant into or from the territories to which this Act applies or any part thereof; or
- (b) prohibit the transport of any intoxicant.

Passes for import, export or transport. – 12. No intoxicant exceeding such quantity as the Stat Government may prescribed by notification either generally for the whole of the territories to which this Act applies or for any local area comprised therein, shall be imported, exported or transported, except under a pass issued under the provisions of the next following section.

Grant of Passes.- 13. Passes for the import, export or transport of intoxicants may be granted by the Collector or by an officer specially authorized by the Excise Commissioner in that behalf.

Such passes may be either general for definite periods and specified kinds of intoxicants or specially for specified occasions and particular consignments only. Passes under his section or under section 12 may be issued only for the purposes of imposing and collecting excise 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 permitted only under license. – 14. Except under the authority and in accordance with the terms and conditions of a license granted in that behalf by the Collector or by the Excise Commissioner-

- (a) no intoxicant shall be manufactured;
- (b) no hemp plant (*Cannabis sativa* L.) shall be cultivated or collected;
- (c) no liquor shall be bottled for sale;
- (d) no distillery or brewery shall be constructed or worked; and
- (e) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than Zu and Rohi;

Provided that nothing in clause (c) shall apply to Zu and Rohi which may lawfully be sold.

Establishment or licensing of distilleries, breweries and warehouses. – 15. The Excise Commissioner, with the sanction of the State Government may-

- (a) establish a distillery in which spirit may be manufactured under a license granted under section 14, on such conditions as the State Government thinks fit to impose;
- (b) discontinue any distillery so established;
- (c) license, on such conditions as the State Government thinks fit to impose, 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.

Limit of possession, with exceptions and prohibitions in special cases. -16. (1) No person shall have in his possession any quantity of any intoxicant in excess of such quantity as the State Government may, under section 5 declare to be the limit of sale by retail, except under the authority and in accordance with the terms and conditions of-

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

(2) Nothing in sub-section (1) shall apply to-

- (a) any foreign liquor other than denatured spirit in the possession of any common carrier or warehouseman, as such or;
- (b) any foreign liquor lawfully procured by, and in the possession of, any person for his own bona fide private consumption and not for sale.

(3) Notwithstanding anything contained in sub-section (1) and (2), the State Government may, by notification, prohibit, the possession by any person or class of persons, either throughout the whole of the territories to which this Act applies, or in any local area, place or class of places comprised therein, of any intoxicant either absolutely or subject to such conditions as it may prescribe.

Prohibition of sale without license and the exceptions to such prohibition. – 17. (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 Excise Commissioner in that behalf.

Provided as follows: -

a license for sale in more than one district shall be granted only by the Excise Commissioner or by a Collector specially authorized by the Excise Commissioner in this behalf, with prior approval of the State Government.

on such conditions as may be determined by the State Government, a license for sale granted under the Excise law in force in another State may be deemed to be a license granted under this Act;

a person licensed to cultivate or collect plant from which an intoxicating drug is produced, may sell without a license those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under his Act to deal in the same, or to any officer whom the Excise Commissioner may prescribe;

nothing in this section applied to the sale of any foreign liquor lawfully procured of 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; use tari for purpose of making bread.

(2) Any Club which has transaction 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 the State Government may prescribe.

Exclusive privilege of manufacture and supply. – 18. The State Government may grant to any person on such conditions and for such period as it may think fit, the exclusive privilege of manufacturing or of supplying to licensed vendors or of manufacturing and supplying to the licensed vendors any country liquor or intoxicating drug within any specified local areas.

No grantee of any exclusive privilege under his section shall exercise the same until he has received a license in that behalf from the Excise Commissioner.

Manufacture and sale in cantonments.- 19. Within the limits of any military cantonment, no license for manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

CHPATER V

DUTIES AND FEES

Duty on excisable articles. – 20. An excise duty or a countervailing duty, as the case may be, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area, on any excisable article-

imported; or

exported; or

transported; or

manufactured, cultivated or collected under any license granted under section 14; or

manufactured in any brewery or distillery licensed or established under section 15;

Provided as follows: -

(1) Duty shall not be so imposed on any article which has been imported in to India and liable on such importation to the payment of duty under the Indian Tariff Act, 1934 (**XXXII of 1934**) or the Custom Act, 1952 (**52 of 1962**).

Explanation: - Duty may be imposed under his section at different rates according to the places to which any excisable article is to be removed for consumption, or according to the varying strength and quality of such article.

Method of levy of duty.- 21. Subject to such rules regulating the time, place and manner, as the State Government may prescribe, any duty imposed under section 20 may be levied as follows: -

(a) in the case of excisable articles imported-

(i) either in the territories to which this Act applies or in the State or territory from which the article is imported; or

(ii) upon issue for sale from a warehouse established or licensed under section 15, clause (d);

(b) in the case of excisable articles exported, in the territories to which this Act applies or in the State or territory to which the article is exported;

(c) in the case of excisable articles transported-

(i) in the district from which the excisable article is transported; or

(ii) upon issue for sale from a warehouse established under section 15, clause (b);

(d) in the case of intoxicating drugs –

(i) as a rate assessed on the area covered by a license granted under the provisions of section 14, clause (b), or on the quantity or outturn of the crop cultivated or collected under such license; or

- (ii) as a rate charged upon the quantity produced or manufactured under a license granted under the provisions of section 14, clause (a), or issued from warehouse established or licensed under section 15, clause (d);
- (e) in the case of spirit or beer manufactured in any distillery or brewery established or licensed under section 15-
 - (i) as a rate charged upon the quantity produced in or issued from the distillery or brewery as the case may be, or issued from a warehouse established or licensed under section 15, clause (d), or
 - (ii) as a rate charged in accordance with such scale or equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash of wort, as the case may be, as the State Government may prescribe:

Provided that, where payment is made upon issue of an excisable article for sale from a warehouse established or licensed under section 15, clause (d), it shall be at the rate of duty in force in respect of such article on the date of issue from such warehouse:

Payment for grant of exclusive privilege.- 22. Instead of or in addition to any duty leviable under this Chapter, the State Government may accept payment of a sum in consideration of the grant of any exclusive privilege under section 18.

24. (1) Until provision to contrary is made by the Parliament the State Government may levy duty –

- (a) on intoxicants or medicinal or toilet preparations containing alcohol which are not excisable article within the meaning of this Act;
- (b) on an excisable article produced outside India and imported into the territories to which this Act applies whether across a custom frontier as defined by the Central Government or not.

(3) Nothing in this section shall authorize the levy by the State Government of any duty which, as between goods manufactured or produced in the State and similar goods not so manufactured or produced, discriminates in favour of the former, or which, in the case of goods manufactured or produced, outside the State discriminates between goods manufactured or produced in another locality.

CHAPTER VI

LICENSES, PERMITS AND PASSES

Existing licenses, etc.- 24. Every license, permit or pass granted under any section of the Eastern Bengal and Assam Act of 1910 (**1 of 1910**) and in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of this Act, and shall (unless previously cancelled, suspended or surrendered under this Chapter) remain in force for the period for which it was granted.

Form and conditions of licenses, etc.- 25. Every license, permit or pass granted under this Act –

(a) shall be granted –

(i) on payment of such fees, if any,

(ii) for such period, and

(iii) subject to such restrictions and on such conditions and –

(b) shall be in such form and contain such particulars, as the Excise Commissioner subject to any rules made under section 36, sub-section (2) clause (g), may direct either generally or in any particular instance in this behalf;

Provided that no fee shall be charged for any permit granted under section 16 for the possession of an intoxicant for bonafide private consumption or use.

Counter agreement and security. – 26. Every person taking out a license under this Act may be required to execute a counterpart agreement in conformity with the tenor of his license, and to give such security, by way of deposit or otherwise, for the performance of his agreement as the authority granting the license may require.

Technical defects, irregularities and omissions.- 27. (1) No license granted under this Act shall be deemed to be valid by reason merely of any technical defect, irregularity or omission in the license, or any proceedings taken prior to the grant thereof.

(2) The decision of the Excise Commissioner what it is a technical defect, irregularity or omission shall be final.

Ascertainment of local opinion. – 28. Before licenses are granted in any year of the retail sale of any intoxicant the Collector shall take such measures, in accordance with rules to be made by the State Government in this behalf, as may best enable him to ascertain local public opinion in regard to the licensing and location of shops.

Cancellation, suspension of licenses, etc. in certain cases.- 29. (1) Subject to such restrictions as the Stat Government may prescribe, the authority who granted any license, permit or pass under this Act may cancel or suspend the same: -

(a) if any duty or fee payable by the holder thereof be not duly paid; or

- (b) in the event of any breach by the holder thereof 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
- (c) 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 Dangerous Drugs Act, 1930 (**II of 1930**) or under section 482 to 489 of the Indian Penal Code; or
- (d) if the holder thereof is punished for any offence referred to in clause 8 of section 167 of the Customs Act, 1962; or
- (e) at will, if the conditions of the license, permit or pass provided for such cancellation or suspension.

(2) When a license, permit or pass held by any person is cancelled under clauses (a), (b), (c) or d of sub-section (1), the authority aforesaid if subordinate to, or subject to the control of, the Deputy Commissioner, may, with the sanction of the Deputy Commissioner, or, if himself the Deputy Commissioner, with the sanction of the Excise Commissioner, cancel any other license, permit or pass granted to such person 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 Excise Commissioner may cancel any such license, permit or pass granted to such person in any district to which this Act applies.

(3) The holder of a license, permit or pass shall not be entitled to any compensation for the cancellation nor suspension of his license, permit or pass under this Section or to the refund of any fee paid or deposit made in respect thereof;

Provided that in case of hardship the Excise Commissioner may grant such payment of compensation or refund of fee or deposit as he may think fit.

(4) Any person affected by any order under this section shall have a right of appeal [to the State Government or any officer prescribed in this behalf by rule made under this Act.

Cancellation of licenses in other cases. -30. (1) Whenever the authority stated in section 29 considers that a license should be cancelled otherwise than under the provisions of that section, he shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days and may cancel the license either-

- (a) on the expiration of fifteen days' notice in writing of intention to do so; or
- (b) forthwith without notice.

(2) If any license be cancelled under clause (b) of sub-section (1), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the license such further sum by way of compensation as the Excise Commissioner may direct.

(3) When a license is cancelled under this section, any fee paid in advance or deposit made by the license in respect thereof shall be refunded to him, less the amount, if any, due to Government.

Surrender of license.-31. Any holder of a license granted under the 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 but for such surrender;

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

Provided also that nothing in this section shall apply in the case of a license held by the grantee of an exclusive privilege under section 18.

Explanation:- In this section and in section 34, the words "holder of a license" include a person whose bid, tender, or application for a license has been accepted by the Excise Officer empowered to grant such license, although such person may not in fact have received the license.

No right to renewal.-32. 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 is provided in section 30, any claim to compensation on the determination thereof.

CHAPTER VII

GENERAL PROVISIONS

Measure, weights and instruments. -33. Every person who manufactures or sells any intoxicant under a license granted under this Act-

- (a) shall supply himself with such measures, weights and instruments as the State government may prescribe, and shall keep the same in good condition; and
- (b) on the requisition of any Excise Officer duly empowered in that behalf, shall at any time measure, weight or test any intoxicant in his possession in such manner as such officer may require.

Departmental management and resale. 35. If any person to whom an exclusive privilege has been granted under section 18, or any holder of a license granted under this Act makes default in payment of any sum payable in respect of such privilege or license or in complying with any other condition thereof, the collector may take such privilege or the grant expressed in such license under management, or may re-sell such privilege or grant at the risk and loss of the defaulter.

Recovery of dues. -35. All Excise revenue, including any loss that may when, in consequence of default, a privilege or grant has been taken under management or re-sold by the Collector under section 34, and all amounts due to the State 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 movable property, or in the manner provided for the recovery of public demands by any for the time being in force.

Power of state-Government to make rules.-36. (1) The State government may make rules for the purpose of carrying out the provisions of this Act or any law for time being in force relating to the Excise revenue.

(2) In particular and without prejudice to the generality of the foregoing revisions, the State Government may make rules-

- (a) Prescribing the powers, duties, subordination and control of officers of the Excise Department;
- (b) Regulating appeals and revisions and in particular-
 - (i) declaring the cases in which appeals shall lie under sub-section (3) of section 8;
 - (ii) prescribing the time and manner for presenting appeals, and the procedure for dealing with appeals under sub-section (2) and under sub-section (3) of section 8; and
 - (iii) declaring, in case not provided for by the Act, the Excise officers or classes of officers who shall for the purposes of sub-section (3) of section 8, be subordinate to, or subject to the control of, the several authorities specified in that sub-section;
- (c) Regulating the import, export, transport or possession of any intoxicant;
- (d) Regulating the manufacture, supply, storage or sale of any intoxicant; and in particular regulating-

- (i) the erection, inspection, supervision, management and control of any place for the manufacture, supply, storage, or sale of any such article; and the fittings, implements and apparatus to be maintained therein;
- (ii) the cultivation of the hemp plant (*Connabis sativa* L.), the collection of the spontaneous growth of such plant, and the preparation of any intoxicating drug from such growth;
- (iii) the bottling of liquor for sale;
- (e) Regulating the deposit of intoxicant in ware-houses and the removal of such articles from ware-house, distilleries or breweries;
- (f) Regulating the periods which and the persons to whom licenses for the sale of any intoxicant may be granted and providing for the selection of sites at which shops may be opened;
- (g) Prescribing the procedure to be followed and the matters to be ascertained before any license for such sale is granted in any local area;
- (h) Prescribing in the case of any intoxicant the manner in which the duty on such article shall be levied;
- (i) Prescribing the scale of fees or the manner fixing the fees payable in respect of any privilege, of license, permit or pass or in respect of the storing of any intoxicant;
- (j) Prescribing the time, place and manner of payment of any duty or fee;
- (k) Prescribing the restriction under and the conditions on which any license, permit or pass may be granted, and in particular providing for-
 - (i) the prohibition of the admixture with any intoxicant of any foreign substance;
 - (ii) the regulation or prohibition of the reduction of liquor by a license manufacturer or licensed vendor from a higher to a lower strength;
 - (iii) the fixing of the strength, price or quality in excess of or below which any intoxicant shall not be supplied, sold, or kept or exposed for sale, the fixing [of the quantity in excess of which denatured spirit shall not be possessed, and the fixing of a standard of quality for any intoxicant;
 - (iv) the regulation or prohibition of the employment by the license-holder of any person or class of persons in or upon his business premises during business hours or [to assist him in his business in any capacity whatsoever;
 - (v) the specification of the persons or classes of persons to whom any intoxicant may or may not be sold;
 - (vi) the prohibition of sale except for cash;

- (vii) the prevention of drunkenness, intoxication, gambling or disorderly conduct in or near the business premises of the license-holder and of the meeting or remaining of persons of bad character in such premises;
 - (viii) the fixing of the days and hours during which such premises may or may not be kept open, and the closure of persons of bad character in such premises;
 - (ix) the specification of the nature of the premises in which any intoxicant may be sold and the notices to be exposed at such premises;
 - (x) The accounts to be maintained and the returns to be submitted by license-holders; and
 - (xi) Regulating or prohibiting the transfer of licenses;
- (l) (i) Declaring the process by which spirit manufactured in India shall be denatured;
- (ii) for causing such spirit to be denatured through the agency or under the supervision of its own officers;
- (iii) for ascertaining whether such spirit has been denatured;
- (a) Providing for the destruction or disposal of any intoxicant deemed to be unfit for use;
- (b) Regulating the disposal of confiscated articles;
- (c) Providing for the grant of expenses to witnesses;
- (d) Regulating the power of Excise Officer to summon witness from a distance under the provisions of section 43; and
- (e) Providing for the grant of compensation to persons improperly arrested and subsequently released by any⁷ Excise Officer under section 43; and persons charged before a Magistrate with offences under this Act and acquitted.

Explanation- Fees may be prescribed under sub-clause (j) at different rates for different classes of exclusive privileges, licenses, permits, passes or storage, and for different areas.

(3) Every rules made under this section shall be laid, as soon as may be after it is made, before the Nagaland Legislative Assembly 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 sessions in which it is so laid or the sessions immediately following, the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effects as the case, may be, so

however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

CHAPTER VIII

PREVENTION, DETECTION AND INVESTIGATION OF OFFENCES

Inspection of places of manufacture and sale. – 37. The Excise Commissioner or a Collector or any Excise or Police Officer, not below such rank as the State Government may by notification prescribe, may 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 and any place in which any intoxicant is kept for sale by any licensed person and may examine accounts and registers, and examine, test, measure or weigh any measures, weights, testing instruments, materials, stills, utensils, implements, apparatus or intoxicant found in such place.

Arrest, seizure and search without warrant. – 38. Subject to such restrictions as the State Government may prescribe, any of the following persons, namely –

(1) any officer employed in Excise, Police, Salt, or Customs Departments not below such rank as the State Government may prescribe,

(2) within such area as the State Government may, by notification, direct, such officers as may be specified in such notification.

(3) any other person duly empowered, and

(4) in any public place, any Excise or Police officer, may –

(a) arrest without warrant any person found committing an offence punishable under section 53 or section 54;

(b) seize, detain and carry away any excisable or other 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 any document or to the article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Indian Opium Act, 1878, **(1 of 1878)** or under the Dangerous Drugs Act, 1930, **(11 of 1930)**, and

(c) detain and search any person upon whom and any vessel, raft, vehicle, animal, package, receptacle, or covering in or upon which he may have reasonable cause to suspect any such article to be.

Issue of warrants.- 39. A Collector or Magistrate having reason to believe that an offence punishable under section 53, 54, 55, 56, 57 or 61 has been or is likely to be committed may –

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

Search and arrest in presence of Collector or Magistrate. – 40. (1) A Collector or Magistrate may at any time 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 39.

(2) A Collector or Magistrate may at any time 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 39.

Search, seizure and arrest following upon entry without warrant, in emergent cases.- 41. Any Excise or Police officer, not below such rank as the State Government may, by notification, prescribe, having reason to believe and having recorded the grounds of his belief that an offence under section 53, 54, 55, 56, 57 or 61 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 escaping or of concealing evidence of the offence, may at any time by day or night –

enter into and search such place;

seize and carry away any thing found therein which he has reason to believe to be liable to confiscation under this Act and any document or other article which he had reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Indian Opium Act, 1878 (**1 of 1878**) or under the Dangerous Drugs Act, 1930 (**11 of 1930**); and

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

Power to investigate.- 42. (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 such Collector's jurisdiction would have power to inquire into or try under the provisions of Chapter XV of the Code of Criminal Procedure, 1898 (**V of 1898**) relating to the place of inquiry or trial.

(2) Any other Excise officer when specially empowered in this behalf by the State 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 the Court having jurisdiction over the local area to which such officer is appointed would be power to inquire into or try under the aforesaid provisions.

Powers of investigating officer.- 43. (1) Any Collector or other officer empowered under the provisions of section 42, sub-section (2), having recorded in writing his reason for suspecting the commission of an offence which he is empowered to investigate, may exercise the powers conferred upon a police officer making an investigation or upon an officer-in-charge of police station by sections 160 to 170 of the Code of Criminal Procedure, 1898, (**V of 1898**) and as regards offences punishable under sections 53,54,55,56,57 and 61 of this Act, the powers conferred upon such Police officers, in respect of cognizable offences by the first clause of sub-section (1) of section 54 and by section 56 of the said Code.

(2) Subject to such restrictions as the State Government may prescribe, a Collector or, with the previous permission of the Collector but not otherwise, any other officer specially empowered under section 42 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 has investigated.

(3) For the purpose of the provisions of section 166 of the Code of Criminal Procedure, 1898, (**V of 1898**) the area to which an officer specially empowered under section 52, sub-section (2) is appointed shall be deemed to be a police station, and such officer the officer-in-charge of such station.

(4) As soon as an investigation under section 42 has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigating officer, when he does not proceed under sub-section (2) or under section 70, shall submit a report, which for the purposes of Section 190 of the Code of Criminal Procedure, 1898, (**V of 1898**) shall be deemed to be a police report, in such form as the State Government may prescribe to be a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police report.

Production of persons arrested or articles seized.- 44. (1) Articles seized and, unless security for their appearance before the Collector be taken, persons arrested under the warrant of a Collector shall be produced before such Collector.

(2) Articles seized under the provisions of sections 38 and 41, and persons arrested under the said provisions by persons or officers not empowered to accept bail shall be produced before or forwarded to –

- (a) the Collector or other officer empowered under section 42 to investigate the case;
or
- (b) an Excise officer empowered under section 49 to accept bail; or
- (c) an officer-in-charge of the nearest police station, whoever is nearest.

(3) When a person arrested is produced before an Excise office empowered under section 49 to accept bail, or before an officer-in-charge of a police station, such officer shall forward such person to, or take security for his appearance before the Collector or other officer empowered under section 42 to investigate the case.

(4) When articles seized can not be conveniently conveyed before the officer specified in sub-sections (1) and (2), the person making the seizure shall disposed of them in some place of safety and forthwith report the seizure to such officer.

Police custody of article seized.- 45 (1) All officers in-charge of police stations shall take charge of and keep in safe custody, pending the orders of a Collector or other officer empowered under section 42 to investigate the case, all articles seized under this Act which may be delivered to them; and shall allow any Excise officer who may accompany such article to the police station or 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 also be sealed with the seal of the officer-in-charges of the police station.

Report of arrest, seizures and searches.- 46. When any Excise officer below the rank of Collector or the 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 arrests, seizure or search or of the information received to the Collector, and to the other officer, if any, empowered under section 42, sub-section (2), within the local limits of whose jurisdiction the arrest, seizure or search was made.

Procedure in executing warrants and in making arrest and searches.- 47. (1) Save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898 (**V of 1898**), relating to arrests, searching warrants of arrest and searches, warrants shall apply, so far as may be, to like warrants issued and to arrests and searches made under the provisions of this Act.

(2) For the purposes of the aforesaid provisions a Collector shall be deemed to be a Court.

(3) Warrants issued by a Collector shall ordinarily be directed to one or more Excise officers.

(4) Officers to whom a Collector's warrant is directed or endorsed, and officers other than Collectors making arrests, searches and seizures under section 38 or section 41 shall for the purpose of the aforesaid provisions of the Code of Criminal Procedure, 1898 (**V of 1898**), be deemed to be police officers.

Maximum period of detention.- 48. 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 exceed twenty four hours, exclusive of the times necessary for the journey from the place of arrest to the place where a Collector or other officer empowered under section 42 to investigate the case may be, and thence to the Court of a Magistrate having jurisdiction to inquire into or try the case.

Bail.- 49. (1) When a Collector issues a warrant for the arrest of any person under his Act, he shall in every such case direct in the manner provided in section 76 of the Code of Criminal Procedure, 1898 (**V of 1898**), that such person shall be released from custody on bail or, if the Collector thinks fit, on his own bond.

(2) When any person is arrested, otherwise than under a warrant, under this Act and is prepared to give bail, he shall released on bail, or, at the discretion of the officer releasing him, on his own bond.

(3) All Excise officers, not below such rank as the State Government may prescribe, shall empowered to accept bail.

(4) If the arrest be made, otherwise than under a warrant, by a person or officer not empowered to accept bail and the person arrested is prepared to give bail, the officer or person making the arrest shall, for the purpose, take the person arrested to-

the nearest Excise officer empowered to accept bail, or

the nearest officer-in-charge of a police station, whoever is nearer.

(5) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before a Collector or other officer empowered under section 42 to investigate the case.

(6) The provisions of sections 498 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898 (**V of 1898**), shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

Information and aid to Excise officers.- 50. Subject to such conditions (if any) as the State Government may, by notification, prescribe every officer employed in the Police Salt, and Customs Departments, and every Gaonburah and within such areas as the State Government may, by notification, direct such officers as may be specified in such notification, shall be bound, -

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, and

to aid any Excise officer reasonably demanding his aid in the due carrying out of any of the provisions of this Act.

Obligation on landholders and others to give information in certain cases.- 51. In such areas as the State Government may, by notification, direct, and subject to such conditions and exceptions (if any) as it may, by notification, prescribe, whenever any intoxicants is manufactured, or any hemp plant is cultivated or collected, on any land, or in any place or village, in contravention of the provisions of this Act, all owners or occupiers of such land or place, and their agents, and all members of village councils, gaonburah, mauzadars, mandols and other village authorities in such village, as the case may be, shall in the absence of reasonable excuse, be bound to give information of the fact to a Collector, to a Magistrate or to an officer of the Excise, or Police Department as soon as such fact may come to their knowledge.

The closing of retail shops for preservation of the public peace. – 52. (1) The Deputy Commissioner or a Magistrate may, by notice in writing to the licensee, require that any shop in which any intoxicant is sold by retail shall be closed at such times or for such periods as the Deputy Commissioner or Magistrate may deem necessary for the preservation of the public peace.

(2) If any notice or unlawful assembly is apprehended or occurs in the vicinity of any such shop, any Magistrate, or any police officer above the rank of constable who is present, may order the person in charge thereof to keep it closed for such period as the Magistrate or Police officer may think necessary;

Provided that no shop shall be kept closed under this sub-section for a longer period than 48 hours without the order of a Magistrate.

(3) When any Magistrate or Public officer makes a requisition or direction under sub-section (1) or sub-section (2), he shall forthwith report the fact to the Collector having jurisdiction in the local areas in which the shop is situated.

(4) The Excise Commissioner may grant to the licensee of a shop kept closed under sub-section (1) or (2) such compensation as he may think fit.

CHAPTER IX

PENALTIES AND PROCEDURE

53. Whoever, in contravention of this Act or of any rule, notification or order made or issued under this Act, or of any license, permit or pass granted under this Act-

- (a) imports, exports, transports, manufactures, possesses, or sells any intoxicant; or
- (b) cultivates, collects, or sells the hemp plant (*Cannabis sativa*); or
- (c) constructs or works, any distillery or brewery; or
- (d) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant; or
- (e) bottles any liquor for purposes of sale,

shall be punished with imprisonment which may extend to two years and with fine and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

Unlawful possession in certain cases.- 54. Whoever 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 shall be punished with imprisonment for a term which may extend to two years or with a fine, or with both; and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

Penalty for altering or attempting to alter any denatured spirit.- 55. If any person alters or attempts to alter and denatured spirit, whether manufactured in India or not, with the intention that such spirit may be used for human consumption whether as a beverage, or, internally, as a medicine or in any other way whatsoever, by any method whatsoever, or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made, he shall be liable to imprisonment for a term which may extend to one thousand rupees, or with both.

Adulteration, etc.- 56. Whoever, being the holder or licensee, permit or pass granted under this Act, or being in the employ of such holder, willfully contravenes any rule made

under section 36 (2) (1), (i), (ii), and (iii) shall be punished with imprisonment which may extend to two years, or with fine, shall direct the offender to be imposed in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

Fraud by licensee or his servant.- 57, Whoever being the holder of a license, permit or pass granted under his Act, or being in the employ of such holder –

- (a) keeps or exposes for sale, as foreign liquor any liquor which he knows or has reason to believe to be country liquor, or
- (b) marks or otherwise deals with any bottle, case, package or other receptacle containing country liquor, or marks the cord of any such bottle, with the intention of causing it to be believed that such bottles, case, package or other receptacle contains foreign liquor shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Breach of rule or condition of license.- 58. Whoever being the holder of a license, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf-

- (a) fails 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 otherwise provided for in this Act willfully contravenes any rule made under section 36 or willfully does or omits to do anything in breach of any of the conditions of such license, permit or pass shall be punished in case (a) with fine which may extend to fifty rupees, and in case (b) with fine which may extend to five hundred rupees.

Liability of license for offence committed by his agent. – 59. The holder of a license, permit or pass granted under this Act shall be punishable as well as the actual offender, for any offence punishable under section 53, 54, 55, 56, 57 of 58 committed by any person in his employ and acting on his behalf, as if he had himself committed such offence, unless he establishes that all due 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.

Import, export, transport, manufacture, sale or possession by one person on account of another. – 60. (1) When any intoxicant has been imported, exported, transported,

manufactured or sold or is possessed by any person, on account of any other person, and such other person knows or has been to believe that such import, export, transport, manufacture or sale was, or that such possession is, on his account, the article shall for the purposes of this Act, be deemed to have been imported, exported, transported 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 imports, exports, transports, manufactures, sells or has possession of an intoxicant on account of another person from liability to any punishment under this Act for the unlawful import, export, transport, manufacture, sale or possession of such article.

Consumption of intoxicants, in druggist shop. – 61. (1) If any chemist, druggist, apothecary or keeper of a dispensary allows any intoxicant which has been bonafide medicated, to be consumed on his business premises by any person not employed in his business, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

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

Vexatious search, seizure, detention or arrest or refusal of duty or cowardice on par of Excise officer. – 62. Whoever, being an Excise officer: -

- (a) without reasonable grounds of suspicion, searches or causes to be searched any place, under colour of exercising any power conferred by this Act; or
- (b) vexatiously and unnecessarily seizes any 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 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 and in writing allowed to do so by the Collector, or unless he shall have given his immediate superior two months' notice in writing of his intention to do so; or
- (e) is guilty of cowardice, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for allowing premises to be used for the commission of an offence.-
63. 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 53, section 54 or section 55, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Offences not specially provided for.- 64. Whoever, in any case not otherwise provided for under this Act, willfully contravenes any of the provisions of this Act or of any Rule, notification or order made or issued thereunder shall be punished with fine which may extend to two hundred rupees.

Attempts.- 65. Whoever attempts to commit any offence punishable under this Act shall be liable to the punishment provided for such offence.

Abetments.- 66. Whoever abets an offence punishable under this Chapter shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, (XIV of 1960) be punished with the punishment provided for the offence.

Enhanced punishment after previous conviction.- 67. If any person, after having been previously convicted of an offence punishable under sections 53,54,55 or 61, subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act.

Security for abstaining from commission of certain offences.- 68. (1) Whenever any person is convicted of an offence punishable under section 53, section 54, section 55, section 56 or section 61 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 proportionate to his means with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years as it thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule and the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall, in so far as they are applicable, apply to all matters connected with such order to be executed under section 106 of that Code.

(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 also be made by an Appellate Court, or by the High Court when exercising its powers of revision.

Initiation of prosecution.- 69. (1) No Magistrate shall take cognizance of an offence punishable:

- (a) under sections 53, 54, 55 of 61 except on his own knowledge or suspicion, or on the complaint or report of an Excise Officer;
- (b) under sections 56, 57, 58 or 64, except on the complaint or report of a Collector or other officer empowered under section 42, sub-section (2) to investigate the case; or
- (c) under clauses (d) and (e) of section 62 except with the sanction of the Deputy Commissioner.

(2) Except with the special sanction of the State Government as Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months after the commission of the offence.

Magistrates empowered to try cases under this Act.- 70. Offences under this Act shall be triable only by Magistrates exercising powers not less than those of a Magistrate of second class.

Presumption.- 71. (1) When in any prosecutions under this Act or in any proceedings taken under section 75 sub-section (3), the question arises whether an offence punishable under this Act has been committed in respect of-

- (a) an intoxicant or hemp plant (*Connabis Sativa*);
 - (b) any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant; or
 - (c) any materials such as are ordinarily used in the manufacture of any intoxicant, if the person found in possession thereof fails to account satisfactorily for such possession;
- it may be presumed, until the contrary is proved, that his possession was in contravention of the provisions of this Act.

(2) When in any prosecution under section 58 any licensed vendor is charged with permitting drunkenness or intoxication in his shop or in any public room of his business premises, and it is proved that any person was drunk or intoxicated in such shop or room, it shall lie on such vendor to prove that he and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication in such shop or room.

Presumption as to offence under section 55 in certain cases.- 72 In prosecutions under section 55, 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 attempt as is referred to in section 55 has been made, it may, from the mere

fact of such possession, be presumed, unless and until the contrary is proved, that such person-

- (i) has himself made such alteration or attempt; or
- (ii) knows or has reason to believe that such alteration or attempt has been made.

Presumption as to any spirit which contains any denaturant.- 73. In any prosecution under this Act, it may be presumed unless and until the contrary is proved, that any spirit which contains any quantity of any denaturant is, or has been derived from denatured spirit.

Liability to confiscation.- 74. Whenever an offence punishable under this Act has been committed, the following things shall be liable to confiscation, namely-

- (a) the intoxicant hemp plant (*Connabis sativa*), still, utensil, 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 in possession or sold along with any intoxicant liable to confiscation as aforesaid;
- (c) the receptacles, packages, and coverings, in which anything, liable to be 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 anything referred to in the foregoing clauses;

Provided that when it is proved that the receptacles or other articles specified in clauses (c) and (d) are not the property of the offender, the said articles shall not be liable to confiscation if the owner thereof establishes that he had not reason to believe that such offence was being or was likely to be committed.

Procedure in regard to articles liable to confiscation.- 75. (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 74, he shall order such thing to be confiscated and placed at the disposal of the Collector.

(2) When in any other case in which anything has been seized under this Act an investigating officer proceeds under section 43, sub-section (2), the Collector, upon an investigation made, whether by the Collector or other officer under section 42, is of opinion that the thing seized is not liable to confiscation under section 74 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 74 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.- 76. (1) When any license, permit or pass is liable to be cancelled or suspended under clause (a) or clause (b) of section 29, sub-section (1) or when any person is reasonably suspected of having committed an offence under this Act other than an offence under section 62, the Excise Commissioner or a Collector, instead of enforcing such cancellation or suspension or instituting a prosecution in respect of such offence, may accept from the holder of such license, permit or pass or from such person a sum of money not exceeding five hundred rupees, and thereupon such holder or person, in custody, shall be discharged, and no further proceedings in respect of such liability or offence shall be taken against him:

And if in any such case any property has been seized as liable to confiscation under this Act, the Excise Commissioner or the Collector may release the same on receiving payment of the value thereof as estimated by him, or of such sum smaller as he may think fit.

(2) The Excise Commissioner or Collector may also, after the institution against any person of a prosecution in respect of any offence under this Act other than an offence under section 62, compound the offence on payment by such person of a sum of money not exceeding five hundred rupees.

SCHEDULE

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCE

UNDER THIS ACT

(See Section 68)

WHEREAS I (name), inhabitant of (place), have been called upon to enter into a bond to abstain from the commission of offences under section 53, section 54, section 55, section 56, and section 61 of the Nagaland Excise Act, 1967, for the 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 State Government the sum of rupees

Dated this day of 19

(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 53, section 54, section 55, section 56 and section 61 of the Nagaland Excise Act, 1967, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the State Government, the sum of rupees.

Dated this date of 19

(Signature)