

# THE EXCISE ACT, 1896.

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## THE SCHEDULE.

ACT No. XII OF 1896.<sup>1</sup>

(APPLIES TO LOWER AND UPPER BURMA.)

[19th March, 1896.]

An Act to amend the law relating to the Excise-revenue in force, in *Northern India, Burma and Coorg*.

WHEREAS it is expedient to amend the law in force in *Northern India, Burma and Coorg* relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Excise Act, 1896.
- (2) It extends to the territories administered respectively by the *Lieutenant-Governor of the North-Western Provinces and Chief Com-*

XII of 1896

Title, local  
extent and  
commence-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 9; for Report of the Select Committee, see *ibid*, p. 153; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 16, 94 and 156.

The Act has been declared to be in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), see the First Schedule, *post*.

It has been declared, by notification under s. 10 of the same Act, to be in force in the Civil Station of Lashio in the State of North Hsenwi, see Burma Gazette, 1898, Pt. I, p. 584. See also notification No. 27, Pt. B, *post*.

It was also declared in force in the Civil Station of Taungyi in the State of Yaungghwè, by notification under s. 8 (1) of the Upper Burma Laws Act, 1886 (20 of 1886), and s. 5 of the Shan States Act, 1888 (15 of 1888), see Burma Gazette, 1895, p. 551. This notification is kept in force by s. 24 of the General Clauses Act, 1897 (10 of 1897), Genl. Acts, Vol. IV. See notification No. 43, Pt. V, *post*.

For Rules and Orders issued under this Act, see Burma Excise Manual.



## (Chap. I.—Preliminary.)

missioner of Oudh, the Lieutenant-Governor of the Punjab, and the  
<sup>1</sup> Chief Commissioner of the Central Provinces, Burma <sup>2</sup> \* \* \*  
 Coorg, and Ajmere and Merwara; and

(3) It shall come into force at once.

2. (1) The enactments mentioned in the schedule are repealed to the Repeal.  
 extent specified in the fourth column thereof.

(2) But all rules made, powers conferred and licenses and forms  
 granted under any of the enactments so repealed and in force at the  
 commencement of this Act shall be deemed to have been respectively  
 made, conferred and granted under this Act.

3. (1) In this Act—

Definitions.

(a) "Chief Revenue-authority" means,—

*in the territories administered by the Lieutenant-Governor of the  
 North-Western Provinces and Chief Commissioner of Oudh,—the Board  
 of Revenue:*

*in the territories respectively administered by the Lieutenant-  
 Governor of the Punjab and the <sup>1</sup> Chief Commissioner of Burma,—the  
 Financial Commissioner; and*

*in the territories respectively administered by the Chief Commis-  
 sioners of the Central Provinces, Coorg and Ajmere and Merwara,—the  
 Chief Commissioner.*

(b) "Collector" includes any Revenue-officer in independent charge  
 of a district and any officer appointed by the <sup>3</sup> Local Government to  
 discharge, throughout any specified local area, the functions of a  
 Collector under this Act:

(c) "Commissioner of Revenue" means any officer appointed by the  
 Local Government to discharge, throughout any specified local area,  
 the functions of a Commissioner of Revenue under this Act:

(d) "Magistrate" means any Magistrate exercising powers not less  
 than those of a Magistrate of the second class, or any Magistrate of the  
 third class specially authorized in this behalf by the <sup>4</sup> Magistrate of the  
 district:

<sup>1</sup> The Chief Commissioner of Burma is now Lieutenant-Governor of Burma, see  
 Proclamation, dated the 9th April, 1897. Gazette of India, 1897, Pt. I, p. 261.

<sup>2</sup> The words "inclusive of Upper Burma" were repealed by the Burma Laws Act, 1898  
 (13 of 1898), see the Fifth Schedule, *post*.

<sup>3</sup> For notifications appointing officers to discharge the functions of a Collector in  
 Burma, see Burma Excise Manual.

<sup>4</sup> In the Civil Station of Lashio in the State of North Hsenwi, and in the Civil  
 Station of Taungyi in the State of Yaungghwé, the jurisdiction, powers and duties of a  
 District Magistrate or a Sub-divisional Magistrate, being a Magistrate of the first class,  
 are to be exercised by the Superintendent of the Northern Shan States and every Assistant  
 Superintendent of the Shan States, respectively, see Notification No. 28, dated 19th  
 December, 1898, and No. 44, dated 16th December, 1895, *post*, Pt. V.

## (Chap. I.—Preliminary.)

(e) "import" includes removal into one Province of British India from another:

(f) "place" includes also house, boat and raft:

(g) "tārī" means the sap of any kind of palm-tree:

(h) <sup>1</sup> "fermented liquor" means malt liquor, wine, pachwai and fermented tārī, and in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tārī, though it may not have perceptibly begun to ferment:

(i) "spirit" means any liquor containing alcohol obtained by distillation:

(j) the expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same <sup>2</sup> [and includes every other drug which the Local Government may by <sup>3</sup> Notification in the local official Gazette, declare to be included in this definition and every preparation and admixture of any such drug]:

(k) "hemp" means any variety of the hemp plant from which intoxicating drugs can be produced:

(l) "tola" means a weight of one hundred and eighty grains Troy:

(m) "ser" means a weight of eighty tolas:

(n) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles;

country spirit, one ser, and in Burma one reputed quart bottle;

country fermented liquor, four sers, and in Burma four reputed quart bottles;

bhāng, or any preparation or admixture thereof, one ser;

ganja or charas, or any preparation or admixture thereof, five tolas.

If sold in larger quantities, they shall be deemed to be sold wholesale.

(2) In any case in which doubt arises, the Local Government may "decide what, for the purposes of this Act, shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit," and

<sup>1</sup> For notification declaring what the term "fermented liquor" includes, see Burma Gazette, 1895, Pt. I, p. 355.

<sup>2</sup> These words were added by s. 2 of the Excise (Amendment) Act, 1906 (7 of 1906), *infra*.

<sup>3</sup> For notification declaring novocaine to be included in the definition of intoxicating drugs, see Burma Gazette, 1908, Pt. I, p. 419.

For notifications declaring what liquors shall be deemed to be "country spirits" and "foreign spirits," respectively, see Burma Excise Manual.

(Chap. I.—Preliminary. Chap. II.—Production of Spirit and Fermented Liquor.)

“foreign fermented liquor”; and such decision shall be binding on the Courts.

4. Nothing herein contained shall affect <sup>1</sup> Act XVI of 1863 (to Saving of make special provision for the levy of the Excise-duty payable on Spirits Acts XVI of 1863 and used exclusively in Arts and Manufactures or in Chemistry) or the XIII of 1889. <sup>2</sup> Cantonments Act, 1889.

## CHAPTER II.

### PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

5. No person shall construct, work or possess a distillery, still or Manufacture of spirit and liquor without license prohibited. brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

6. The Collector may, with the previous sanction of the Chief Power to establish distilleries for country spirit. Revenue-authority, from time to time—

- (a) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established; and
- (b) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

7. No spirit shall be removed from any distillery licensed under Duty on spirit. section 5 or established under section 6 until—

- (a) such <sup>3</sup> duty as the Local Government may from time to time fix in respect of such spirit has been paid, or
- (b) a bond for such duty has been executed, or
- (c) duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

*Explanation.*—Duty may be fixed or made payable under this section at different rates according to the places to which any spirit is to be removed for consumption.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Genl. Acts, Vol. IV.

<sup>3</sup> For notification fixing duty on spirits intended to be used exclusively in arts, manufactures or in chemistry, when removed from a distillery, see Burma Gazette, 1886, Pt. I, p. 269.

For notification fixing the duty payable on spirits manufactured in distilleries licensed under s. 5, see Burma Gazette, 1906, Pt. I, p. 749, and *ibid*, 1907, p. 269.

*(Chap. II.—Production of Spirit and Fermented Liquor.)*

Duty on fermented liquor.

8. No fermented liquor shall be removed from a brewery licensed under section 5 until—

(a) duty has been paid thereon at the rate for the time being leviable under the <sup>1</sup> Indian Tariff Act, 1894, on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

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(b) a bond for such duty has been executed.

9. The Chief Revenue-authority may, from time to time, make <sup>2</sup> rules as to—

(a) the granting of licenses for distilleries, stills and breweries under section 5;

(b) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;

(c) the size and description of the stills in such distillery;

(d) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes;

(e) the inspection and examination of such distillery or brewery, and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein;

(f) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting and other vessels in such brewery.

Power for Chief Revenue-authority to make rules for distilleries established under section 6.

10. The Chief Revenue-authority may, from time to time, make rules as to—

(a) the management of distilleries established under section 6, and, in particular, the conditions on which any materials to be used in making spirit may be brought into such distillery;

(b) the conditions on which spirit may be made in such distilleries; and

<sup>1</sup> Genl. Acts, Vol. IV.

<sup>2</sup> For general rules made under this section, together with s. 65, see Burma Gazette, 1897, Pt. IV, p. 175.



(Chap. II.—*Production of Spirit and Fermented Liquor.* Chap. III.  
—*Cultivation and Control of Intoxicating Drugs.*)

(c) the storing and passing out of the spirit so made, and the contents of the passes.

11. Except in the territories respectively administered by the Chief Sanction to Commissioners of the Central Provinces, Coorg and Ajmere and Merwara, the sanction of the Local Government is required to validate rules under sections 9 and 10.

### CHAPTER III.

#### CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

12. (1) In Burma, the cultivation of hemp and the preparation of intoxicating drugs are prohibited except under, and in accordance with, a license granted by such officer as the Local Government may from time to time appoint in this behalf.

(2) In the other territories to which this Act extends, the Local Government, with the previous sanction of the Governor General in Council, may from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it,—

- (a) prohibit, absolutely or except under, and subject to the conditions of, a license granted by such officer as the Local Government may from time to time appoint in this behalf, the cultivation of the hemp plant and the production or preparation of intoxicating drugs from the hemp plant so cultivated, and place the cultivation of the hemp plant and the production or preparation and storage of such intoxicating drugs as aforesaid under such supervision as may be deemed necessary to secure payment of the duty (if any) imposed under this Act;
- (b) restrict and regulate, in such manner as may by rule be prescribed the collection by any person of the spontaneous growth of the hemp plant and the preparation of intoxicating drugs from the spontaneous growth so collected; and
- (c) prohibit, absolutely or otherwise than by certain specified routes and under specified conditions, the import and transport of intoxicating drugs:

and may, in like manner, cancel or vary any such notification.

13. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in

*(Chap. III.—Cultivation and Control of Intoxicating Drugs.)*

intoxicating  
drugs.

the official Gazette, in respect of the whole or any part of the territories administered by it:—

- (a) impose such duty, not exceeding two hundred rupees per acre, as it may think fit on the cultivation of hemp; or,
- (b) impose such duty, not exceeding twenty rupees per ser, as it may think fit on intoxicating drugs produced or prepared in, or imported into, or exported from, or transported from place to place within any of the territories to which this Act extends, or any part thereof;

and may, in like manner, alter or abolish any duty imposed under this section.

14. The Local Government, with the previous sanction of the Governor General in Council, may from time to time,—

- (a) establish or license bonded or other warehouses for the storage of intoxicating drugs, and
- (b) direct that, subject to such conditions (if any) as it may, from time to time, impose, the levy of the duty (if any) payable under section 13 on intoxicating drugs in transit to or from, or stored in, such warehouses shall be postponed until such time as may by rule be fixed in this behalf.

15. (1) If intoxicating drugs be lodged in a warehouse established under the last foregoing section, the owner shall pay monthly, on receiving a bill or written demand for the same from the Collector or other officer deputed by the Collector in this behalf, warehouse-dues at such rates as the Chief Revenue-authority may fix.

(2) If any bill for warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Collector may, in discharge of such demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select.

(3) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold and, next, the demand in respect of which the drugs were sold, and shall then pay the surplus (if any) to the owner of the drugs on his application:

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector:

Provided also that the application for such surplus (if any) as aforesaid be made within one year from the date of the sale of the drugs, or that sufficient cause be shown for not making it within such period.

*(Chap. III.—Cultivation and Control of Intoxicating Drugs.)*

16. Any intoxicating drugs warehoused under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of two years from the date on which they were so deposited. The owner of any drugs remaining in a warehouse on the expiry of such period shall forthwith clear the same:

Period during which intoxicating drugs may remain warehoused.

Provided that, when the license for a warehouse licensed under this Act is cancelled and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

17. Any owner of intoxicating drugs warehoused under this Act may, at any time within two years from the date on which the drugs were so warehoused, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed by the same or another Local Government and whether under this Act or under any other enactment for the time being in force.

Power to remove intoxicating drugs from one warehouse to another.

18. (1) In Burma no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general exemption granted by the Local Government, or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf.

Possession of intoxicating drugs.

<sup>3</sup>(2) \* \* \* \* \*

19. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, make rules consistent with this Act—

Power for Local Government to make rules.

- (a) to regulate the time, place and manner of payment of the duties (if any) imposed under section 13,
- (b) to carry into effect the provisions of section 12, section 14 and section 18 or any of them, and
- (c) generally, to carry into effect the provisions of this Chapter.

<sup>1</sup> For notification exempting cocaine under certain conditions, see Burma Gazette, 1905, Pt. I, p. 40, and as to novocaine, see *ibid*, 1908, p. 420.

<sup>2</sup> For instance of such appointment, see Burma Gazette, 1906, Pt. I, p. 446.

<sup>3</sup> Clause (2) of section 18 applies to the other territories to which the Act extends. It was substituted by s. 3 of the Excise (Amendment) Act, 1906 (7 of 1906).

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.)

Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue authority to make rules.

20. The Collector or any other officer empowered by the Local Government in this behalf may, from time to time, grant licenses or passes to persons desirous of possessing or transporting intoxicating drugs, and the Chief Revenue-authority, with the previous sanction of the Local Government, may make rules to regulate the grant of such licenses or passes.

#### CHAPTER IV.

##### SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

Spirit, fermented liquor and intoxicating drugs not to be sold without license.

21. No spirit, fermented liquor or intoxicating drug shall be sold except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained :

Provided as follows :—

- (a) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease ;
- (b) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;
- (c) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules, from time to time, made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;
- (d) any person authorized to cultivate the hemp plant may sell any intoxicating drug prepared from his plants to any person to whom he is permitted by the conditions of his license to sell the same, or to any person authorized to purchase the same by the order in writing of the Collector :



(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.)

<sup>1</sup>[Provided also that, where the Local Government has declared, by notification under section 3, sub-section (1), clause (j) any drug to be included in the definition of "intoxicating drugs," such drug may be sold in the territories to which this Act extends under, and in accordance with the terms of, a general exemption granted by the Local Government.]

22. (1) Subject to the <sup>2</sup> rules made by the Chief Revenue-authority under the powers conferred by this Act, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma) of intoxicating drugs, within his district or any part thereof or at any place therein. Licenses how granted and cancelled

(2) Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma, of intoxicating drugs, retail, shall be granted only by such <sup>3</sup> officer as the Local Government from time to time appoints in this behalf.

(3) Any license granted under this section may be cancelled by the Collector for any cause specified therein.

23. (1) Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or the Chief Revenue-authority directs. Further power to cancel licenses.

(2) On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

24. (1) Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf. Surrender of retail license.

(2) If the Collector is satisfied that there is sufficient reason for surrendering a license, he may remit the sum so fixed.

<sup>1</sup> This proviso to section 21 was added by s. 4 of the Excise (Amendment) Act, 1906 (7 of 1906), *post*.

<sup>2</sup> For rules made under this section and section 65. *post*, for Taungyi, see Burma Gazette, 1896, Pt. I, p. 264; for rules concerning the grant of licenses to sell spirit and fermented liquors and intoxicating drugs and as to things confiscated under the Act in the Station of Lashio in the Shan State of North Hsenwi, see Burma Gazette, 1899, Pt. I, p. 276.

<sup>3</sup> For notification appointing the Collector to perform this duty, see Burma Gazette, 1908, Pt. I, p. 420.

(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.  
Chap. V.—Possession and Import of Spirit and Fermented Liquor.)

Power for  
Collector to  
farm fees  
and for  
farmer  
to grant  
licenses.

25. (1) The Collector, with the sanction of the Chief Revenue-authority, may let in farm—

- (a) fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma) of intoxicating drugs;
- (b) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

(2) When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

Farm may  
be cancelled.

26. The Collector, with the sanction of the Chief Revenue-authority, may cancel any farm granted under the Act.

Compensation to farmers in certain cases.

27. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Recovery of  
arrears by  
farmers.

28. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power for  
Chief Revenue-authority to regulate supply of t     to licensed vendors.

29. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which t     shall be supplied to licensed vendors of the same.

## CHAPTER V.

### POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Possession of  
spirit, etc.

30. (1) No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, subsection (1), clause (n), in respect of such spirit or liquor, unless he is:

(Chap. V.—*Possession and Import of Spirit and Fermented Liquor.*)

permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other <sup>1</sup> officer empowered by the Local Government to grant such passes.

(2) Nothing in this section extends to—

(a) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(b) *tárf* intended to be used for the manufacture of *gúr* or molasses.

**31.** (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India, beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof,— Spirit and fermented liquor from foreign territory subject to duty.

(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the <sup>2</sup> Indian Tariff Act, 1894, or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (a) of section 8, may from time to time prescribe.

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

**32.** (1) The Governor General in Council may, from time to time by notification in the Gazette of India, impose such duty as he thinks fit on Spirit and fermented liquor from

<sup>1</sup> For notification empowering Township officers to grant passes for the possession of country spirits, etc., see Burma Gazette, 1886, Pt. I, p. 58.

<sup>2</sup> Genl. Acts, Vol. IV.



*(Chap. VI.—Officers and their Powers.)*

territory  
beyond  
India,  
subjected to  
duty.

any spirit or fermented liquor brought by land from beyond the limits of India into any territory to which this Act extends or into any specified part thereof, and may alter or abolish any duty so imposed.

(2) When any duty is imposed under this section, the Governor General in Council may by rule prescribe the time, place and manner of payment of the same.

## CHAPTER VI.

## OFFICERS AND THEIR POWERS.

Collectors  
may appoint  
Excise-  
officers.

33. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act, and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers.

Recovery of  
arrears of  
fees.

34. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Power of  
Excise-  
officer to  
inspect  
shop.

35. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit or the sale of country spirit, country fermented liquor or intoxicating drugs.

Power of  
Excise-  
officers to  
arrest persons  
carrying  
spirit, etc.,  
liable to con-  
fiscation.

36. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act, and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it, and may also arrest the person in whose possession such spirit, liquor or drug is found.

Power of  
Excise-  
officers to  
arrest persons  
in possession  
of article  
liable to con-  
fiscation and  
to seize  
article.  
Power of  
Excise-  
officer to

37. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary, may arrest any person having in his possession any article liable to confiscation under this Act or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

38. Whenever any Excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from in-



formation given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed, such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees, unless the Excise officer is himself such an officer of police), enter into such place and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article, and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

39. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

40. (1) The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

(2) Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees at the time and in the manner prescribed in section 38.

(3) Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 38, and shall cease to be in force at sunrise on the day next following.

41. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, or enters any place for the purpose of searching for any such article, he shall, within twenty-four hours thereafter make a full report of all the particulars of such arrest, seizure or search to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested or the article seized with all convenient despatch to the Magistrate for trial or adjudication.

(Chap. VI.—Officers and their Powers. Chap. VII.—Penalties.)

Procedure  
after arrest  
or seizure.

42. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

Police to aid  
Excise-  
officers.  
Power for  
Local Gov-  
ernment to  
invest Police-  
officers with  
powers of  
Excise-  
officers.

43. All Police-officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such Excise-officers.

44. (1) The Local Government may, from time to time, invest either by name or in virtue of his office—

(a) any Police-officer with the powers conferred on Excise-officers by section 36 of this Act;

(b) any Police-officer in charge of a station or any Police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 37 and 38 of this Act.

(2) Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

## CHAPTER VII.

### <sup>2</sup> PENALTIES.

For illegally  
manufactur-  
ing spirit  
or liquor.

45. (1) Whoever in contravention of section 5 constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For illegally  
introducing  
country  
spirit.

46. (1) Any person who—

(a) without a special pass from the Collector introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

(b) in contravention of section 7 or section 8 or of any rule made under section 9 or section 10, removes any spirit from a distillery or any fermented liquor from a brewery, or

For illegally  
removing  
spirit or  
fermented  
liquor.

<sup>1</sup> For powers conferred on Police-officers, see Burma Excise Manual.

<sup>2</sup> As to penalties for other offences in Burma, see s. 3 of the Burma Excise Law Amendment Act, 1904 (Bur. Act 3 of 1904), *post*.

## (Chap. VII.—Penalties.)

(c) in contravention of section 31, brings any spirit or fermented liquor into any territory to which this Act extends, or

For illegally importing spirit or fermented liquor.

(d) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 32, brings any spirit or fermented liquor into any territory to which this Act extends,

For importing spirit, fermented liquor or intoxicating drug without paying duty.

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All such spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

47. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 9 or section 10 shall be punished with fine not exceeding one hundred rupees.

For contravening rules prescribed by Chief Revenue-authority.

48. (1) Any person who, in contravention of any provision of Chapter III or any rule thereunder, or without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 13,—

For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting, or transporting intoxicating drugs.

(a) cultivates hemp, or

(b) collects the spontaneous growth of the hemp plant, or

(c) prepares any intoxicating drug, or

(d) possesses any intoxicating drug, or

(e) imports, exports or transports any intoxicating drug,

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) Any intoxicating drug in respect of which an offence has been committed under this section, together with the vessels containing the same and any animals and conveyances used in carrying it, shall be liable to confiscation.

49. Any person who, in contravention of section 21, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

For illicitly selling spirit, etc.

50. Any person licensed to sell retail spirit, or fermented liquor or intoxicating drugs, who permits drunkenness, riot or gaming in his shop,

For permitting drunkenness, etc.,



## (Chap. VII.—Penalties.)

in shop.

or permits persons of notoriously bad character to meet or remain therein, or receives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

For illegally possessing spirit or liquor.

51. Any person who possesses any spirit or liquor, in contravention of section 30, 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; and the spirit or liquor, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For refusing to produce license and for breach of rules and conditions.

52. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule under this Act, or any condition of a license granted under this Act for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

For conniving at illicit manufacture or sale of spirit, etc.

53. (1) Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) Any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction, shall be punished with fine which may extend to five hundred rupees.

For police neglecting to aid Excise-officers.

54. Any Police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 43, and any officer in charge of a police-station who, on application made by an Excise-officer desiring to act under section 38, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For vexatious search or seizure.

55. Any Excise-officer who,—

- (a) without reasonable grounds of suspicion, searches or causes to be searched, any place, or
- (b) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or
- (c) vexatiously and unnecessarily arrests any person, or
- (d) commits any other excess not required for the execution of his duty,



(Chap. VII.—Penalties. Chap. VIII.—Military Cantonments.)

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.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Prosecutions restricted.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Confinement in what jail.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the <sup>1</sup> Indian Penal Code, the commission of any such offence shall be punished with the punishment provided for such offence.

Attempts and abetment.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Disposal of fines, etc., as rewards.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

Magistrate to pass order of confiscation.

## CHAPTER VIII.

### MILITARY CANTONMENTS.

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable

Manufacture and sale of spirits, etc., in military cantonments.

(*Chap. VIII.—Military Cantonments. Chap. IX.—Miscellaneous.*)

on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license which has been granted either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Application  
of Act to  
military  
cantonments.

**63.** In all other respects the provisions of this Act shall have effect within such limits or distance.

## CHAPTER IX.

### MISCELLANEOUS.

Collector  
subject to  
control of  
Commis-  
sioner.

**64.** (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

(2) The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional  
power for  
Chief  
Revenue-  
authority  
to make  
rules.

**65.** The Chief Revenue-authority may, from time to time, make<sup>1</sup> rules consistent with this Act—

- (a) as to the period for which any license or farm under this Act shall be granted;
- (b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;
- (c) as to the security to be given by any licensee or farmer under this Act;
- (d) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;
- (e) as to the disposal of things confiscated under this Act;
- (f) as to the duties of Excise-officers; and
- (g) to provide generally for carrying out the provisions of this Act.

Power for  
Local Gov-  
ernment to  
exempt arti-  
cles and  
persons.

**66.** The Local Government may, from time to time by<sup>2</sup> notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption.

<sup>1</sup> For general rules under the Act, see Burma Excise Manual.

As to other matters in respect to which rules may be made, see s. 4 of the Burma Excise Law Amendment Act, 1904 (Bur. Act 3 of 1904). *post*.

<sup>2</sup> For notifications under this section, see Burma Excise Manual.

1896 : Act XII.]

*Excise.*

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*(The Schedule.)*

1898 : Act XIII.]

*Burma Laws.*

## THE SCHEDULE.

*(See section 2.)*

Year.	No.	Title or subject.	Extent of repeal.
1881	XXII	The Excise Act, 1881 . . .	The whole.
1885	VI	Amending the Excise Act, 1881 . .	Ditto.
	IX	Amending the Excise Act, 1881, and other Acts.	So much as relates to the Excise Act, 1881.
1887	II	Ditto . . . . .	Ditto.
1888	XVIII	Financial Commissioner, Burma . .	So much of section 7 and the schedule as relates to the Excise Act, 1881.
1*	* *	* * *	* *
1890	XIII	Amending the Excise Act, 1881, and other Acts.	Sections 2 to 5 (both inclusive).
"	XX	The North-Western Provinces and Oudh Act, 1890.	Section 43.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to the Excise Act, 1881.
1893	X	Amending the Excise Act, 1881 . .	The whole.