

SIND ACT No. V OF 1878.
[THE SIND ABKARI ACT, 1878.]

[19th September, 1878.]

An Act to consolidate and amend the Abkari-Law of
'[Sind]

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in '[Sind]; and whereas in order to promote, enforce and carry into effect the policy of prohibition, it is necessary to prohibit the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in '[Sind] or in specified areas thereof; it is enacted as follows:—

I.—PRELIMINARY.

Short title,
Extent,
Commence-
ment.

1. This Act may be cited as the '[Sind] Abkari Act, 1878. It extends to the whole of '[Sind]; and it shall come into force in any portion '[thereof] on such 'date as '[the Provincial Government], by notification in the '[Official Gazette] directs.

2. [*Repeal of enactments.*] *Rep. Act XVI of 1895.*

Interpre-
tation
Clause.

3. In this Act, unless there be something repugnant in the subject or context—

(1) "Abkari-revenue" means revenue derived or derivable from any duty, fee, tax, "[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 the time being in force relating to liquor or intoxicating drugs:

(2) "Abkari Officer" means "[the Director General, Collector or any officer or other person lawfully appointed, or invested with powers under section 6:

1. For Statement of Object and Reasons, See B. G. G., 1877, Pt. V, p. 141, and *ibid.*, 1878, p. 61; for Report of the Select Committee, see *ibid.*, 1877, p. 310, and for proceedings in Council see *ibid.*, 1877, pp. 263, 264, 418, 425 and 427, and *ibid.*, 1878, pp. 35, 42, 68 and 69.
2. Subs. for the words "the Province of Sind" by W.P.A.O., 1964, Sch. Pt. IV(B) which was previously subs. by Sind 26 of 1940, s. 21 for "Presidency of Bombay".
3. Ins. by Sind Act 6 of 1941, s. 2.
4. Subs. by Sind Adaptation of Laws Order 1975, Art. 2, sch., for "the said territories" which was subs. for the words "the Province" by W.P.A.O., 1964, sch. Pt. IV(B).
5. Subs. by Sind Act 26 of 1940, s. 3, for "Bombay".
6. The original word "Presidency" has successively been amended by Sind Act 26 of 1940 W.P.A.O., 1964 and Sind Adaptation of Laws Order 1975, Art. 2, sch., to read as above.
7. This Act came into force in the whole of Sind (when it was a part of the Province of Bombay) on 1st January, 1879; see notification No. 5756, dated the 8th November, 1878, B.G.G. 1878; Pt. I, p. 708.
8. Subs. by the A. O. 1937, for "Government".
9. Subs. *ibid.* for "B. G. G."
10. Ins. by the Sind Abkari (Amendment) Act 1912, s. 1(a).
11. Subs. by Sind Ordinance III of 1912, sch. for "a Commissioner".

[(3) "Director General means the Director General, Excise and Taxation, Sind].

(4) "Collector" [includes] any person appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act:

[(4a) * * * * *].

(5) "Magistrate" means * * * * * a Magistrate of the first or second class [or a Magistrate of the third class specially authorized in this behalf by the District Magistrate]:

(6) "toddy" means juice drawn from a Cocoanut, brab, date or any kind of palm-tree, whether in its fermented or unfermented state:

[(7) "liquor" includes—

(a) spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol; and "spirits" means any liquor containing alcohol and obtained by distillation, whether it be denatured or not,

(b) any other intoxicating substance which [the Provincial Government] may by notification in the [Official Gazette] declare to be liquor for the purposes of this Act:]

(8) "country-liquor" includes all liquor produced or manufactured in [Pakistan]:

1. Cl. (3) subs. by Sind Ordinance III of 1972.

2. Subs. by the Sind General Clauses Act, 1886 (Sind 3 of 1886), Sch. B, for "means a Collector of Land Revenue or."

3. Cl. (4a) omitted by W.P.A.O., 1964, Sch. Pt. IV-B.

4. The words "in the City of Bombay, a Presidency Magistrate, and elsewhere" omitted by Sind Act 26 of 1940, s. 4.

5. Added by Sind Act 12 of 1912, s. 1(b).

6. Cl. (7) Subs. *ibid* s. 1(e).

7. Subs. by the A. O., 1937, for "Government".

8. Subs. by the A.O., 1937, for "B. G. G."

9. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3(ii)(b) (w.e.f. 30th May, 1951), for "India".

"foreign liquor" includes all liquor imported into "[Pakistan] by sea or land:

Provided that "[the Provincial Government] may by notification in the "[Official Gazette] declare that any specified description of country-liquor shall for the purposes of this Act be deemed to be foreign liquor.]

"(9) "intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the "[Pakistan hemp plant (*cannabis sativa* L.), including all forms known as bhang, sidhi, or ganja;

(ii) Charas, that is, the resin obtained from the "[Pakistan hemp] plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

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

(9A) "hemp" means any variety of the "[Pakistan] plant from which intoxicating drugs can be produced;]

"[provided that "[the [Provincial Government] may by notification in the "[Official Gazette] declare that any other intoxicating substance together with every preparation and admixture of the same shall be deemed to be an intoxicating drug for the purposes of this Act.]

"(10) "to import" (except in the phrase to import into "[Pakistan] means to bring into "[Sind] otherwise than across a customs frontier as defined by the "[Federal Government]:

"to export" means to take out of the Province otherwise than across a customs frontier as defined by "[Federal] Government:

1. Added by Sind 12 of 1912, s. 1(d).

2. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (ii) (b) (w. e. f. 30th May, 1951), for "India".

3. Subs. by the A. O., 1937 for "Government".

4. Subs. *ibid.*, for "B. G. G.".

5. Cls. (9) and (9A) subs. by the Dangerous Drugs Act, 1930 (II of 1930), s. 40, Sch. II, for the original cl. (9).

6. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "Indian hemp".

7. Added by Sind 12 of 1912, s. 1(e).

8. Subs. by the A. O., 1937, for the original Cl. (10).

9. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (ii) (b) (w. e. f. 30th May 1951), for "British India".

10. Subs. by the Sind Adaptation of Laws Order, 1975, Art. 2 Sch., for "the said territories" which were subs. for the words "the Province" by W.P.A.O., 1964, Sch., Pt. IV(B) 6 (b).

11. Subs. by Sind Adaptation of Laws Order, 1975, Art. 2, Sch. for "Central".

"to transport" means to move to one place from another place within '[Sind]'].

"[(11) "manufacture" includes every process, whether natural or artificial, by which any '[intoxicant]' is prepared, and also every process for the rectification, flavouring, blending or colouring of liquor:]

(12) "seer" means a weight of eighty tolas :

"[(13) * * * * *]

"[(14) "Denatured" means rendered unfit for human consumption in such manner as may be prescribed by '[the Provincial Government]' by notification in the '[*Official Gazette*].]

"[(15) "excisable article" means—

(a) any alcoholic liquor; or]

(b) any intoxicating drug; or

(c) any medicinal or toilet preparation containing alcohol.]

"[(15a) "intoxicant" means any liquor or intoxicating drug.]

"[(16) in the case of foreign liquor "to bottle" means to transfer from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not, and includes re-bottling:]

(17) "to tap" means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree.]

(18) [*Omitted by the A.O., 1937.*]

"[(19) "cultivation" includes the tending or protecting of a plant during its growth.]

1. Subs. by Sind Adaptation of Laws Order, 1975, Art. 2, Sch., for "the said territories" which were previously subs. by W.P.A.O., 1964, for the "Provinces".

2. Cl. (11) subs. by Sind 12 of 1912, s. 1(g).

3. Subs. by the A.O., 1937, for "excisable article".

4. Cl. (13) which was added by Sind 3 of 1892, rep. by Sind 26 of 1940, s. 4 (b).

5. Subs. by the Sind Repealing and Amending Act, 1919 (Sind 2 of 1919), s. 2 and Sch. I, Pt. II, for cl. (14) which was added by Sind 12 of 1912.

6. Subs. by the A. O., 1937, for "Government".

7. Subs. *ibid*, for "B. G. G.".

8. Subs. *ibid*, for the original cl. (15).

9. Subs. by Sind Act I of 1972, s. 3, for original clause (a).

10. Cl. (15a) ins. by A. O., 1937.

11. Cls. (16) and (17) added by Sind 12 of 1912, s. 1(h).

12. Cl. (19) ins. by Sind 26 of 1940. s. 4(e).

[(20) "sale" includes barter.]

[(21) * * * * *]

Manufacture, sale or possession by one person on account of another.

3A. (1) Where any [intoxicant] or hemp has been manufactured or sold or is possessed by any person on account of any other person, and such other person knew or had reason to believe at the time of such manufacture or sale that such manufacture or sale was on his account, or knows or has reason to believe that such possession is on his account, the article shall, for the purposes of this Act, be deemed to have been manufactured or sold by or to be in the possession of, such other person.

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

II.—ESTABLISHMENT AND CONTROL.

Collectors charged with carrying out Act.

4. [Subject to such orders as the Provincial Government or the [Director General] may from time to time make under section 8A], the Collectors are charged with the collection of the Abkari-revenue, and with the carrying out of the provisions of this Act.

[* * * * *]

Special Collectors of Abkari-revenue may be appointed.

5. [The Provincial Government] may, by notification in the [Official Gazette], appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the [Director General] and of [the Provincial Government] as [the Provincial Government] may from time to time direct.

Subordinate Officers.

6. To aid the Collectors in carrying out the provisions of this Act, the [Provincial Government may], appoint such subordinate officers, with such designations, and assign to them respectively such powers and duties under this Act, as [it deems] fit.

1. Cl. (20) ins. by Sind 26 of 1940, s. 4(e).
2. Cl. (21) omitted by W.P.A.O., 1964, Sch. Pt. IV-B 6(c) which was previously ins. by Sind 6 of 1941, s. 3.
3. S. 3A ins. by Sind 12 of 1912, s. 3.
4. Subs. by the A. O., 1937, for "excisable article".
5. Subs. by Sind 20 of 1943, s. 2, for "Subject to the control and direction of the Commissioner and the orders of the Provincial Government".
6. Subs. by Sind Ordinance III of 1972, s. 2, for "Commissioner".
7. Second para. omitted by Sind 26 of 1940, s. 5.
8. Subs. by the A. O., 1937, for "Government".
9. Subs. *ibid.* for "B. G. G."
10. Subs. *ibid.* for "Commissioner may subject to such orders as may from time to time be passed by Government in this behalf."
11. Subs. *ibid.* for "they deem".

[The Provincial Government or] the [Director General] may invest any [servant of the State] in any department either personally or in right of his office, or any other person, with such powers, and imposed upon him such duties, under this Act as [he] deem fit, and any such officer shall thereupon exercise the said powers, and discharge the said duties in addition to the powers and duties incident to his principal office.

Provided that powers under sections 36 and 40, clause (b), shall in no case be conferred on any officer of any department who is not superior in rank to a peon, or constable, and that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority which made it.

7. [Punishment of subordinate officers for misconduct] Omitted by the A.O., 1937.

8. The powers conferred on the [Director General] by [section 6] may be delegated by [him] in whole or in part, to the Collectors, or to any Collector subordinate to them, and any such delegation may be at any time cancelled by the [Director General].

Delegation of powers by Director General to Collectors.

[8A. All Abkari Officers shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders in the case of the [Director General] the Provincial Government and in the case of other Abkari Officer, the Provincial Government or the [Director General] may from time to time make.]

The Director General and other Abkari Officers to act subject to orders of Government.

[III.—IMPORT EXPORT AND TRANSPORT.

9. (1) No [intoxicant] and no hemp shall be imported unless—

Import of intoxicants.

(a) [The Provincial Government] has given permission, either general or special, for its import;

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

1. Subs. by Sind 20 of 1943, s. 3, for "The Provincial Government or, subject to such orders as aforesaid".
2. Subs. by Sind Ordinance III of 1972, s. 2, Sch. for "Commissioners".
3. Subs. for the words "Servant of the Crown" by W.P.A.O., 1964, Sch. Pt. IV (B) which was previously subs. by A. O., 1937, for "Government Officers".
4. Subs. by Sind Ordinance III of 1972, s. 2, Sch., for "they".
5. Subs. by the A. O., 1937, for "the last two sections".
6. Subs. by Sind Ordinance III of 1972, Sch., for "them".
7. S. 8-A inserted by Sind 20 of 1943, S. 4.
8. Subs. by Sind Ordinance III of 1972, s. 2, Sch., for "Commissioner".
9. Ch. III Subs. by Sind 12 of 1912, S. 3.
10. Subs. by the A. O., 1937, for "excisable article".
11. Subs. *ibid.*, for "Government".

(c) the duty, if any, [payable under Chapter VII] has been paid or a bond has been executed for the payment thereof.

(2) Sub-section (1) shall not apply to any article which has been imported into [Pakistan] and was liable on such importation to duty under the [Tariff Act, 1934], or [the Customs Act, 1969.] xxxxr
of 1934
IV of
1969.

(3) Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in [Pakistan] and declared by notification under clause (8) of section 3 to be foreign liquor.

10. No [intoxicant] and no hemp shall be exported or transported unless—

(a) the duty, if any, [payable under Chapter VI], or

(b) if the article was previously imported the duty, if any, imposed on its importation under the [Tariff Act, 1934], or [the Customs Act, 1969], has been paid, or a bond has been executed for the payment thereof. xxxxr
of 1934
IV of
1969.

11. [The Provincial Government] may by notification in the [Official Gazette]—

(a) prohibit the import or export of any [intoxicant] or of hemp into or from [Sind] or any part thereof;

(b) prohibit the transport of any [intoxicant] or of hemp.

12. No [intoxicant] and no hemp exceeding such quantity as [the Provincial Government] may prescribe by notification in the [Official Gazette], either generally for [Sind] or specially for any local area, shall be imported, exported, or transported except under a pass issued under the provisions of the next following section:

Provided that—

(i) in the case of duty paid foreign liquor other than denatured spirit such passes shall be dispensed with, unless [the Provincial Government] shall by notification in the [Official Gazette] otherwise direct with respect to any local area;

1. Subs. by the A. O., 1937, for "imposed under section 19".
2. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3(b) (b), (w. e. f. 30th May 1951), for "British India".
3. Subs. *ibid.*, s. 7, Sch. III, for "Indian Tariff Act, 1894".
4. Subs. by the Sind Act 17 of 1975, S. 2, Sch. III, for "the Sea Customs Act, 1878".
5. Subs. by the A. O., 1937, for "excisable article".
6. Subs. by the A. O., 1937, for "Government".
7. Subs. *ibid.*, for "B. G. G.".
8. Subs. for the words "the Province of Sind" by W.P.A.O., 1964, Sch., Pt. IV-B, which was previously subs. by Sind 26 of 1940, for "Presidency of Bombay".

Export and
transport of
intoxicants.

Powers of
Provincial
Government
to prohibit
import,
export and
transport of
intoxicants.

Passes necessary
for import,
export and
transport.

(ii) unless [the Provincial Government] shall otherwise direct, no pass shall be required for the import, transport and export of any [intoxicant] or hemp conveyed under a pass issued by an officer duly authorized in this behalf from any place beyond the limits of [Sind] to any other place beyond the limits of the said [Province].

13. Passes for the import, export or transport or [intoxicants] or hemp may be issued by the Collector or by any other Abkari-officer duly empowered in this behalf.

Grant of passes for import, export and transport.

Such passes may be either general for definite periods of time and definite kinds of [intoxicants], or special for specified occasions and particular consignments only.

Every such pass shall specify—

(a) the name of the person authorized to import, export or transport [intoxicants] or hemp;

(b) the period for which the pass is to be in force;

(c) the quantity and description of [intoxicants] or hemp for which it is granted; and

(d) the places from and to which [intoxicants] or hemp are to be imported, exported or transported, and in the case of places more than ten miles apart, the route by which they are to be conveyed.]

[IV.—CULTIVATION, MANUFACTURE AND POSSESSION.]

[14. (1) Save as hereinafter otherwise provided;

(a) no [intoxicant] shall be manufactured;

(b) no hemp shall be cultivated or collected;

(c) no toddy-producing tree shall be tapped;

(d) no toddy shall be drawn from any tree;

Licences required for cultivation and manufacture.

1. Subs. by the A. O., 1937, for "Government".

2. Subs. *ibid.* for "excisable article".

3. Subs. for the words "the Province of Sind" by W.P.A.O., 1964, Sch., Pt. IV-B, which was previously subs. by Sind 26 of 1940, s. 2, for "Presidency of Bombay".

4. Subs. by Sind 26 of 1940, s. 2, for "Presidency".

5. Subs. by the A. O., 1937, for "excisable articles".

6. Subs. by Sind 6 of 1941, s. 4, for the heading "IV—Cultivation and Manufactures".

7. S. 14, 14-A and 14-B subs. by Sind 12 of 1912, s. 4.

- (e) no foreign liquor shall be bottled; and
- (f) 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 toddy,

except under the authority and subject to the conditions of licence granted in that behalf by the collector.

(2) No distillery or brewery shall be constructed or worked except under the authority and subject to the conditions of a licence granted in that behalf by the '[Director General]' under section 15.

14A. [*Possession of illicit articles.*] Omitted by Sind 26 of 1940, s.6.]

Limit of
Possession
of intoxic-
ants and
hemp.

14B. (1) No person not being a licensed manufacturer or vendor of any '[intoxicant]' or hemp and no licensed vendor except as authorised by his licence shall have in his possession any quantity of any '[intoxicant]' or hemp in excess of such limit as '[the Provincial Government]' under section 17 may declare to be the limit of retail sale, except under a permit from the Collector:

Provided that nothing in sub-section (1) shall extend to any foreign liquor, other than denatured spirit, in the possession of any common carrier or warehouse-man as such, or purchased by any person for his *bonafide* private consumption and not for sale;

'[(2) Notwithstanding anything contained in this Act, or in any other law for the time being in force, the Provincial Government may, by notification in the *Official Gazette*, prohibit or restrict the possession or consumption of any intoxicant, either throughout the area in which this Act is in force or in any specified part thereof, in respect of any individual or a class or body of individuals or the public generally, subject to such conditions as it may prescribe.]]

Distilleries
and ware-
houses.

'[15. The '[Director General]' may—

(a) establish a distillery in which spirit may be manufactured in accordance with a licence granted under section 14 on such conditions as '[the Provincial Government]' deem fit to impose;

1. Subs. by the A. O., 1937, for "excisable article".
2. Subs. by the Sind Ordinance III of 1972, s. 2, for "Commissioner."
3. Subs. by A. O., 1937, for "Government".
4. Subs-section (2) of S. 14-B subs. by W. P. Ordinance 12 of 1968, s. 4.
5. Subs. by Sind 12 of 1912, s. 5, for the original S. 15.

⁴*Explanation.*—The supply of liquor by clubs to their members on payment of a price or of any fee or subscription is a sale within the meaning of this section.]

“(2) On such conditions as the [Director General] may determine a licence for sale under the excise law for the time being in force in other parts of [Pakistan] may be deemed to be a licence granted in that behalf under this Act.]

Wholesale
and retail.

“17. (1) [The Provincial Government] may by notification in the [Official Gazette] determine a limit of quantity within which and beyond which the sale of any [intoxicant] or hemp shall be deemed to be sale by retail and wholesale respectively; such limit may be fixed with respect to [Sind] or to any local area, and with respect to purchasers generally or to any specified class of purchasers, and with respect to any specified occasion or generally;

(2) When any such limit of quantity has been prescribed for the retail sale of any [intoxicant] or hemp, no quantity in excess of such limit shall be sold by retail to any one person at one time or to any one person in the aggregate on any one day:

Provided that the Collector or any Abkari Officer duly empowered in this behalf may, subject to any rules that may be made under section 35A, give special orders for the occasional sale by retail of any [intoxicant] or hemp in quantities exceeding such limits.]

Prohibition
of sale to
children.

“[17-A. No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf, shall sell or deliver any [intoxicant] to any person apparently under the age of [twenty] years whether for consumption by such person or by any other person and whether for consumption on or off the premises of such licensed vendor.]

1. The Explanation added by Sind 4 of 1925, s. 2.
2. Sub-section (2) added by Sind 12 of 1912, s. 7(2).
3. Subs. by Ord. No. 3 of 1972, s. 2, Sch., for “Commissioner”.
4. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (ii) (b) (w.e.f. 30th May, 1951) for “British India”.
5. Subs. by Sind 12 of 1912, s. 8, for the original s. 17.
6. Subs. by the A.O., 1937, for “Govt”.
7. Subs. *ibid.* for “B. G. G”.
8. Subs. *ibid.* for “excisable article”. The word “intoxicant” shall for the purpose of s. 17A be deemed to include onium vide Sind 4 of 1940, s. 34(b).
9. Subs. by Sind 26 of 1940, s. 2, for “Presidency of Bombay” and subsequently by W.P.A.O., 1964, A.O. 2 and Sch. Pt. IV-B, to read as above.
10. S. 17A ins. by Sind 12 of 1912, s. 8A.
11. Subs. by Sind 4 of 1940, s. 34 (a), for “fourteen”.

18. No owner of any toddy-producing tree, and no person having a right to the juice of any such tree, and no drawer of toddy, shall sell toddy, and no person transporting or removing toddy under a permit granted under [section 13], shall sell the same, except—

Sale of
toddy.

(a) under a licence granted under section 16, or

(b) to a person licensed to manufacture or sell liquor under this Act.

¶18A. * * * [The Provincial Government] may from time to time, by notification in the [Official Gazette], suspend [any or] all the provisions relating to toddy contained in this Act with respect to any local area, and thereupon toddy may, during the period for which such notification continues in force, be drawn and sold without licence * * * in such local area, notwithstanding anything in this Act.]

Power for
Provincial
Government
to suspend
provisions
relating to
toddy.

18B. [Chapter V-A.—Special provisions as to mhowra flowers.]
Omitted by Sind 26 of 1940, s. 6.

VI.—DUTIES.

¶19. [An excise duty or countervailing duty, as the case may be] at such rate or rates as [the Provincial Government] shall direct may be imposed, either generally or for any specified local area, on any excisable article—

Duties on
import,
exp rt,
transport
and manu-
facture.

(a) imported in accordance with the provisions of sub-section (1) of section 9; or

(b) exported or transported in accordance with the provisions of section 10; or

1. Subs. by Sind 12 of 1912, s. 9(1), for "clause (b) of section 12".

2. The second paragraph of s. 18 numbered as s. 18A by s. 9(2) *ibid*.

3. The words "provided that" rep. *ibid*.

4. Subs. by the A.O., 1937, for "Govt".

5. Subs. *ibid*, for "B. G. G."

6. Ins. by Sind 12 of 1912, s. 9(2).

7. The words "or pass" rep. by Sind 20 of 1943, s. 5.

8. Ss. 19 and 19A, subs. by Sind 12 of 1912, s. 19, for the original s. 19.

9. Subs. by the A.O., 1937, for "A duty".

(c) manufactured under a licence granted in accordance with the provisions of section 14 or section 15:
Provided that—

(i) duty shall not be so imposed on any article which has been imported into [Pakistan] and was liable on such importation to duty under the [Tariff Act, 1934], or [the Customs Act, 1969];

xxxii
of
1934,
IV of
1969.

¶ (ii) * * * * *

Manner of
levying duty.

Explanation.—Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption, or according to the varying strengths and quality of such article.]

behalf.

19A. Subject to any rules to regulate the time, place and manner of payment made by the [Director General] in this behalf duty referred to in the foregoing section may be levied in one or more of the following ways:—

(a) in the case of excisable articles imported in accordance with the provisions of sub-section (f) of section 9—

(i) by payment either in the province of import or in the province or territory of export; or

(ii) by payment upon issue for sale from a warehouse established or licensed under section 15;

(b) in the case of excisable articles exported in accordance with the provisions of section 10, by payment either in the province of export or in the province or territory of import;

(c) in the case of excisable articles transported in accordance with the provisions of section 10—

(i) by payment in the district from which they are transported;

(ii) by payment upon issue for sale from a warehouse established or licensed under section 15;

1. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1945 (Sind 5 of 1955), s. 3(ii) (b) (w.e.f. 30th May 1951), for "British India."
2. Subs. *ibid.*, s. 7, Sch. III, for "Indian Tariff Act, 1894".
3. Subs. by Sind Act 17 of 1975, s. 2, Sch. for "the Sea Customs Act, 1878."
4. Provide (ii) rep. by the A.O., 1937.
5. Subs. by Ord. No. 3 of 1972, s. 2, for "Commissioner".

(d) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under section 15—

(i) by 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; or

(ii) by a rate charged in accordance with such sale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as [the Provincial Government] may prescribe;

(e) in the case of intoxicating drugs manufactured in accordance with the provisions of section 14, by payment upon the quantity produced or manufactured in accordance with the provisions of section 14 or issued from a warehouse established or licensed under section 15:

Provided that where payment is made upon issue for sale from a warehouse established or licensed under section 15 such payment shall be at the rate of the duty in force at the date of issue from the warehouse:

Provided further that where one and the same person is permitted—

(i) to manufacture or import and to sell, or

(ii) to manufacture and export country liquor or any intoxicating drug,

such duty may be levied in consideration of the joint privileges granted as the Collector " * * * * * deems fit.]

20. For every toddy-producing tree from which toddy is drawn there shall, if [the Provincial Government] so directs, be levied for any period during which such tree is tapped "[or licensed to be tapped] such day as [the Provincial Government] from time to time directs; Duty on tapping of toddy trees.

and every licence for drawing toddy granted under section 14 shall specify, in addition to any other particulars prescribed by [the Provincial Government] under section 30.—

(a) the number, description and situation of the trees to be tapped;

(b) the amount of duty to be levied in respect of each tree included in the licence;

1. Subs. by the A.O., 1937, for "Govt."

2. The words "acting under the general or special orders of the Provincial Govt." deleted by Sind 20 of 1943, s. 6.

3. Ins. by Sind 12 of 1912, s. 11.

- (c) the instalments, if any, in which and the periods at which the said duty shall be leviable.

Duty by whom payable.

21. The said duty shall be leviable primarily from the person holding the licence to draw toddy, and in default by him, or if the trees are tapped without licence, from the owner of the trees.

Owner entitled to assistance in recovering from licensee duty paid by him.

22. When any duty is recovered under the last preceding section from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the licence under the provisions of the law for the time being in force relating to the recovery by superior land-holders of their dues from their tenants.

Farming of right of drawing toddy within local area.

23. It shall be lawful for [the Provincial Government] within any local area to which they shall deem fit to apply the provisions of this section, instead of directing the levy of a duty under section 20 on each tree from which toddy is drawn, to farm the right of drawing toddy from all toddy-producing trees within such area for such period and on payment of such duty either in the lump or in periodical instalments and on such conditions as they shall deem fit to impose.

Within any such area no person shall draw toddy from any toddy-producing tree, except with the written permission of the person to whom the said right is farmed.

24. [*Levy of tax or fee on toddy trees prior to Act legalized Rep. Sind Act XII of 1912, S. 12.*]

Privilege of drawing toddy from trees belonging to Provincial Government.

25. The privilege of drawing toddy from trees the right to which vests in [the Provincial Government] may be disposed of annually by auction or otherwise on such terms as the Collector, acting under the general orders of [the Provincial Government], deems fit.

26. [*Adjustment of duty when joint privileges are conceded.*] Rep. Sind Act XII of 1912, S. 12.

27. [*Duty on intoxicating drugs.*] Rep. Sind Act XII of 1912, s. 12.

27A. [*Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom. Temporary licensing of village warehouses.*] Rep. Sind Act XII of 1912, s. 12.

27B. [*Payment of warehouse-dues.*] *Rep. Sind Act XII of 1912, s. 12.*

27C. [*Period during which intoxicating drugs may remain warehoused.*] *Rep. Sind Act XII of 1912, S. 12.*

27D. [*Power to remove intoxicating drugs from one warehouse to another.*] *Rep. Sind Act XII of 1912, S. 12.*

27E. [*Power of Government to make rules.*] *Rep. Sind Act XII of 1912, S. 12.*

28. [*Duties may be farmed.*] *Rep. Sind Act XII of 1912, S. 12.*

29. When any amount is due to * * * any farmer of the right of drawing toddy from any person who has drawn toddy from any toddy-producing tree, such farmer may apply to the Collector to recover such amount on his behalf; and the Collector may, in his discretion, recover such amount as if it were an arrear of land revenue, and shall pay any amount so recovered to the applicant: Farmer may apply to Collector to recover amount due to him.

Provided that the execution of any process issued by the Collector for the recovery of such amount shall be stayed if the person from whom it is sought to recover the same institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of the Collector for the payment of the amount which the Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any such farmer to recover by suit in the Civil Court or otherwise any amount due to him from any such person as aforesaid.

29-A. [*Saving for duties being levied at commencement of Part III of the Government of India Act, 1935.*] *Omitted by W.P.A.O. 1964, Sch. Part IV-B.*

1. The words "any such farmer from such farmer's licence in respect of a licence or to" rep. by Sind 12 of 1912, s. 13.

VII.—LICENCES, ETC.

Form and conditions of licences, etc.

[30. Every licence, permit or pass granted under this Act shall be granted on payment of such fees, if any, and subject to such restrictions, and on such conditions, and shall be in such form and contain such particulars, and may, in case any fee or duty payable by the holder be not duly paid, impose liability for interest thereon at such rate, as [the Provincial Government] in the case of licences and the [Director General] in the case of permits and passes may direct in rules or orders made either generally or in any particular instance in this behalf, such rules or orders being not inconsistent with this Act.]

Counter-part agreement to be executed and security to be given by licensees.

31. Every person taking out a licence for the manufacture or sale of any [***[intoxicant] or hemp] under this Act shall execute a counter-part agreement in conformity with the tenor of his licence, and shall give such security for the performance of his agreement as the Collector may require.

[And every person taking out a licence to cultivate hemp under this Act shall, if called upon by the Collector so to do, give such security for the observance of the conditions of such licence as the Collector may require.]

Cancellation of licence, permit or pass.

[32. (1) Subject to such restrictions as [the Provincial Government] may prescribe, the authority granting any licence, permit or pass under this Act may cancel or suspend it:—

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

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1. Subs. by Sind 12 of 1912, s. 14 for the original s. 30.
 2. Subs. by the A. O., 1937, for "Govt."
 3. Subs. by Sind Ordinance III of 1972, s. 2, Sch., for "Commissioner".
 4. Subs. by Sind 12 of 1912, s. 15, for "liquor or intoxicating drug".
 5. Subs. by the A. O., 1937, for "excisable article".
 6. Para. second added by Sind 5 of 1901, s. 11.
 7. Ss. 32, 32A and 32B subs. by Sind 12 of 1912, s. 16, for the original s. 32.

- (b) in the event of any breach by the holder of such licence, permit or pass or by his servant or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit or pass, or of any licence, permit or pass previously held by such holder, or
- (c) if the holder thereof, or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or any law for the time being in force relating to Abkari revenues, or if the holder of the licence, permit or pass is convicted of any cognizable and non-bailable offence, or of any offence '[under the Dangerous Drugs Act, 1930, or] under the " Merchandise Marks Act, 1889, or any offence punishable under sections 482 to 489 (both inclusive) of the [Pakistan] Penal Code 1860, or of any offence punishable under '[No. 9 of the Table below section 156 of the Customs Act, 1969.]

II of
1930,
IV of
1889,
XLV
of
1860,
IV of
1969.

I of
1878.

(2) when a licence, permit or pass held by any person is cancelled under clause (a) or clause (b) of sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person [by, or by the authority of, the Provincial Government] under this Act or under any other law for the time being in force relating to Abkari-revenue or under the Opium Act, 1878.

(3) The holder shall be entitled to no compensation for the cancellation or suspension of his licence, permit or pass under this section, nor to refund of any fee paid or deposit made in respect thereof.

32A. (1) Whenever the authority granting a licence considers that it should be cancelled for any cause other than those specified in section 32, he may cancel the licence either—

Cancellation
for other
reasons.

- (a) on the expiration of not less than 15 days' notice in writing of his intention to do so;

1. Ins. by Act 2 of 1930, s. 40, Sch II.

2. The word "Indian" omitted by the Sind Laws (Alteration, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4, (w.e.f. 1st May 1951).

3. Subs. *ibid.*, for "Indian".

4. Subs. by Sind Act 17 of 1975, s. 3, Sch., for "No. 8 of the Schedule to section 167 of the Sea Customs Act, 1878".

5. Ins. by the A. O., 1937.

(b) forthwith without notice.

(2) When a licence is cancelled under sub-section (1) the authority cancelling the licence shall pay to the licensee a sum equal to the amount of the fees payable in respect thereof for fifteen days and such further sum in compensation as the [Director General] may direct.

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

Attachment
of licence.

32B. Notwithstanding anything contained in section 32 when a licence is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof the authority granting the licence may attach and take such licence under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the licence was attached and the amount falling due on such licence during the remaining period of such licence, the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the foregoing provisions of this Act, and in the event of the said profits exceeding the amount so due under the licence, the licensee shall not be entitled to receive any of the said profits.]

Surrender of
licence.

[32C. No holder of a licence granted under this Act to sell an intoxicant shall surrender his licence except 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 licence for the whole period for which it would have been current but for the surrender:

Provided that if the Collector is satisfied that there is sufficient reason for surrendering the licence he may, with the previous sanction of [the Director General may] remit to the holder thereof the sum so payable on surrender or any portion thereof.

Explanation.—The words "holder of a licence" as used in this section include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence.]

Restriction to
issue of
licence, pass
or permit to
Muslims.

[32D. Notwithstanding anything contained in this Act, no licence, permit or pass shall be issued to a Muslim except for a purpose for which a licence is issuable under article 17 of the Prohibition (Enforcement of Hadd) Order, 1979.]

1. Subs. by Sind Ordinance III of 1972, s.2, Sch., for "Commissioner".

2. Subs. by the A. O., 1937, for "Govt".

3. S. 32-C, Ins. by Sind 26 of 1949, s. 7.

4. Subs. by Sind Ordinance 3 of 1972, s.2 Sch. for "the Revenue Commissioner of Sind".

5. Section 32-D, inserted by Sind Ord. XIX of 1984, s. 2.

VII—GENERAL PROVISIONS

33. Every person who manufactures or sells [any [intoxicant]] under a licence granted under this Act shall be bound—

Certain
licences
required to
keep
measure etc.

(a) to supply himself with such measures [and weights] and with such instruments for testing the strength or quantity of liquor as the Collector prescribes, and to keep the same in good condition, and

(b) on the requisition of any Abkari officer duly empowered in this behalf at any time to measure, "[weigh, or test any [intoxicant]] in his possession in such manner as the said Abkari officer may require.

34. All duties, taxes, fines, and fees leviable under any of the foregoing provisions of this Act or of any licence, permit or pass issued under it, and all amounts due from any farmer under this Act, may be recovered from [any person liable] to pay the same, or from his surety (if any) as if they were arrears of land-revenue.

Recovery of
duties, etc.

IX—POWERS OF ABKARI-OFFICERS

35. (1) [The Provincial Government] may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to Abkari-revenue.

Power of
Provincial
Government
to frame
rules.

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

(a) regulating the delegation of any powers by the [Director General] or by Collector;

(b) prescribing the powers and duties of officers of the Abkari Department;

(c) regulating the import, export or transport of any [intoxicant] or hemp;

(d) regulating the periods and localities for which licences for the wholesale or retail vend of any [intoxicant] or hemp may be granted;

1. Subs. by Sind 12 of 1912, s. 17(a), for "liquor".

2. Subs. by the A. O., 1937, for "excisable article".

3. Ins. by Sind 12 of 1912, s. 17(b).

4. Subs. *ibid.*, s. 17(c), for "out or test the strength or quality of any liquor".

5. Subs. *ibid.*, s. 18 for "the person primarily liable".

6. Ss. 35 and 35A. Subs. *ibid.*, s. 19, for the original s. 35.

7. Subs. by the A. O., 1937, for "Govt."

8. Subs. by Sind Ordinance No. 3 of 1972, s. 2, Sch., for "Commissioner".

- (e) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any licence for such vend is granted for any locality;
- (f) prohibiting the employment by the licence-holder of any person or class of persons to assist him in his business in any capacity whatsoever;
- (g) prescribing the persons or classes of persons to whom any '[intoxicant] may or may not be sold;
- (h) for the prevention of drunkenness, gambling disorderly conduct in or near any licensed premises and the meeting or remaining of persons of bad character on such premises;
- (i) regulating the grant of expenses to persons called on to give information in investigations conducted by Abkari officers, and of compensation to persons charged with offences punishable under this Act and acquitted.

(3) The power to make rules under this section shall be subject to the condition of previous publication:

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

35A. The '[Director General] may make rules—

- (a) regulating the manufacture, supply or storage of any '[intoxicant] or hemp including—
 - (i) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article or hemp, and the fittings, implements and apparatus to be maintained therein;
 - (ii) the cultivation of hemp and collection of the spontaneous growth of such plant and the preparation of any intoxicating drug from such growth;
 - (iii) the tapping of toddy-producing trees and the drawing of toddy from such trees;
 - (iv) the bottling of foreign liquor;

1. Subs. by the A. O., 1937, for "excisable article".

2. Subs. *ibid.* for "Govt."

3. Subs. by Sind Ordinance III of 1972, s. 2, Sch., for "Commissioner".

- (b) regulating the deposit of any '[intoxicant]' or hemp in a warehouse and the removal of such article from any such warehouse or from any distillery or brewery;
- (c) prescribing in the case of any '[intoxicant]' the way in which the duty on such article shall be levied;
- (d) prescribing the scale of fees or the manner of fixing the fees payable in respect of any privilege, licence, permit or pass or of the storing of any '[intoxicant]' or hemp;
- (e) regulating the time, place and manner of payment of any duty or fee;
- (f) prescribing the restrictions under and the conditions on which any licence, permit or pass may be granted, including—
 - (i) the prohibition of the admixture with any '[intoxicant]' of any substance deemed to be noxious or objectionable;
 - (ii) the fixing of the strength, price or quantity in excess of or below which any '[intoxicant]' shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any '[intoxicant]';
 - (iii) the prohibition of sale except for cash;
 - (iv) the prescription of the days and hours during which any licensed premises may or may not be kept open provision for the closure of such premises on special occasions;
 - (v) the prescription of the nature of the premises on which any '[intoxicant]' may be sold and the notices to be exposed at such premises;
 - (vi) the prescription of the accounts to be maintained and the returns to be submitted by licence-holders;
 - (vii) the regulation or prohibition of the transfer of licences;
- (g)
 - (i) declaring the process by which spirits shall be denatured in the areas to which this Act extends;
 - (ii) for causing such spirits to be denatured through the agency or under the supervision of '[servants of the State]';
 - (iii) for ascertaining whether such spirits have been denatured;
- (h) providing for the destruction or other disposal of any '[intoxicant]' deemed to be unfit for use;

1. Subs. by the A. O., 1937, for "excisable article".

2. Subs. for the words "Servants of the Crown" by W.P.A.O., 1964, Sch. Part IV-E, which was subs. by the A. O., 1937, for "Government Officers".

- (i) regulating the disposal of confiscated articles.
- (j) prescribing the occasions on which special orders may be granted under section 17 for the sale by retail of larger quantities of country liquor or intoxicating drugs than are prescribed in any notification issued under the said section, and the conditions on which such sales may be made;
- (k) prescribing the amount of security to be deposited by the holder of any licence, permit or pass for the performance of the conditions for the same.]

Powers exercisable by Abkari-Officer on information that liquor etc., is unlawfully manufactured etc.

36. [The Director General] or Collector, or other Abkari Officer duly empowered in this behalf, may—

- (a) enter any inspect, at any time by day or by night, [any land on which toddy-producing trees are growing, whether such trees are licence for tapping or not, and] any [warehouse,] shop or premises in which any licensed manufacturer or vendor carries on the manufacture or sale of [any [intoxicant] or hemp] or draws toddy, or stores [any [intoxicant] or hemp] and examine, test, measure or weigh any such person's stock of [any [intoxicant] or hemp] or materials; or
- (b) enter, at any time by day or by night, any building, vessels, [vehicle] or enclosed place in which he has reason to believe that [any [intoxicant] or hemp] liable to confiscation under this Act is manufactured, kept or concealed or that toddy is drawn, or, that any still, utensil, implement or apparatus is used, kept or concealed for the purpose of manufacturing [any [intoxicant] contrary to the provisions of this Act; and
- (c) in case of resistance, break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel, [vehicle] or other place; and

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- 1. Subs. by Sind Ordinance III of 1972, s. 2, for "Any Commissioner".
 - 2. Ins. by Sind 12 of 1912, s. 20.
 - 3. Ins. by Sind 5 of 1901, s. 13.
 - 4. Subs. by Sind 12 of 1912, s. 20, for "any liquor, hemp or intoxicating drug".
 - 5. Subs. by the A.O., 1937, for "excisable article".
 - 6. Subs. by Sind 12 of 1912, s. 20, for "any such liquor, hemp or drug".
 - 7. Subs. *ibid.*, for "liquor, hemp, drugs".
 - 8. Ins. *ibid.*.
 - 9. Subs. *ibid.*, for "liquor, hemp or any intoxicating drug".

37. The Director General or Collector, or other Abkari officer duly empowered in this behalf, may

Power to seize liquor, etc., in open places, for Genl. search and arrest.

- (a) seize in any open place or in transit, any ¹intoxicant, hemp or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to Abkari-revenue;
- (b) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law and, if such person has any ¹intoxicant, hemp or other thing in his possession, arrest him.

38. All searches under the two last preceding sections shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made.

38-A. The Director General or Collector or Abkari officer duly empowered in this behalf may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duty under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Arrest without warrant.

38-B. Subject to the provisions as to bail hereinafter contained every person arrested under section 38-A shall, without unnecessary delay be taken or sent by the person arresting him before a Magistrate having jurisdiction in the case or before the officer in charge of a Police-station.

Disposal of person arrested.

38-C. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests made without warrant by Abkari-Officers.

Procedure.

38-D. (1) When any person who in the presence of any officer of the Abkari Department of such rank as the Provincial Government may prescribe has committed or has been accused of committing an offence under this Act refuses, on demand of such officer, to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

Refusal to give name and residence.

1. Subs. by Sind Ordinance 3 of 1972, s.2, Sch., for "Any Commissioner".
2. Subs. by Sind 12 of 1912, s.21, for "liquor, hemp or intoxicating drug".
3. Subs. by the A.O., 1937, for "excisable article".
4. Subs. by Sind 12 of 1912, s.21, for "such liquor, hemp, drug".
5. Sections 38A, 38B, 38C and 38D ins. *ibid.*, s.22.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required;

Provided that, if such person is not resident in 'Pakistan', the bond shall be secured by a surety or sureties resident in 'Pakistan'.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction].

[39. All village officers * * * useful to 'the Provincial Government] and all officers of the Departments of Police, Forest, Customs, Salt and Revenue and 'of the Karachi Port Trust] shall be bound—

- (a) to give immediate information to an Abkari officer of the commission of any offence, and of the intention of preparation to commit any offence, under this Act which may come to their knowledge;
- (b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed;
- (c) to assist any Abkari officer in carrying out the provisions of this Act].
- (d) to seize 'any 'intoxicant] or 'hemp] and any material used in the manufacture therefore, and any still, utensil, implement or apparatus, and any other thing which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to Abkari-revenue; and
- (e) to detain and search and, if he thinks proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to Abkari-revenue.

1. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3, (ii) (b), (w.e.f 30th May, 1951) for "British India".
 2. Sections 39 and 39-A subs. by Sind 12 of 1912, s. 23, for the original s.39.
 3. The words "all village servants" rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.
 4. Subs. by the A.O., 1937 for "Government."
 5. Subs. by Sind 26 of 1940, s. 8, for "of the Bombay, and Karachi Port Trusts."
 6. Subs. by Sind 12 of 1920, s. 20, for "any liver or hemp or drug".
 7. Subs. by the A.O., 1937, for "excisable article".

[39A. Every owner or occupier of land and the agent of any such owner or occupier of land on which there shall be any manufacture of any '[intoxicant] not licensed under this Act, or the unlawful cultivation or collection of any plant from which an intoxicating drug can be produced, shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the departments of Abkari, Police or Revenue immediately the same shall have come to his knowledge.]

Duty of land-holders and other to give information.

40. The '[Director General], or Collector, or other Abkari-officer duly empowered in this behalf, or a Magistrate, may issue a warrant—

Issue of warrants.

- (a) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to Abkari-revenue for the time being in force, or
- (b) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any '[* '[intoxicant] or hemp] is manufactured or sold, or that any toddy is drawn contrary to the provisions of this Act, or that any '[* '[intoxicant] or hemp] or other thing liable to confiscation under this or any other law for the time being in force relating to Abkari revenue is kept or concealed.

V. of 1898.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, by a Police officer or by an Abkari-officer duly empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

[41. (1) Every Abkari-officer not below such rank as '[the Provincial Government] may prescribe shall within the area for which he is appointed have power to investigate all offences punishable under this Act.

Certain Abkari Officer to have powers of investigation.

V. of 1898.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a Police-station for the investigation of a cognizable offence:

1. See foot note to section 39 supra.
2. Subs. by the A. O., 1937, for "excisable article".
3. Subs. by Sind Ordinance III of 1922, s. 2, Sch., for "Any Commissioner".
4. Subs. by Sind 12 of 1912, s. 24, for "liquor, hemp or intoxicating drug" and "liquor, hemp, intoxicating drug", respectively.
5. Ss. 41, 41A, 41B and 41C, subs. by Sind 12 of 1912 s. 25, for the original s. 41.
6. Subs. by the A. O., 1937, for "Govt".

Provided that—

- (i) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence, and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report;
- (ii) the powers of an officer empowered under this section shall be subject to such further modifications or restrictions as [the Provincial Government] may prescribe.

Procedure
On arrest.

41A. Every person arrested and thing seized under section 36, 37 or 40 shall, unless the arrest or seizure has been made by an Abkari-officer exercising powers under section 41, be forwarded without delay to the nearest Abkari-officer exercising such powers; or, if there be no such officer within a reasonable distance, to the officer in charge of the nearest Police-station.

Bail.

41B. (1) Any Abkari-officer empowered to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence punishable under this Act. V of 1898.

(2) When any person has been arrested under section 38A for a bailable offence punishable under the [Pakistan] Penal Code any Abkari-officer empowered under sub-section (1) to grant bail shall have power to grant bail to such person in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Articles
Seized.

41C. When anything has been seized by an Abkari-officer exercising powers under section 41 or has been sent to him in accordance with the provisions of section 41A, such officer, after such inquiry as may be necessary,—

- (a) if it appears that such thing is required as evidence in the case of any person arrested,—shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

1. Subs. by the A. O., 1937, for "Govt".
 2. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955 (Sind 5 of 1955), s. 4 (w.e.f. 10th May, 1951), for "Indian".

- (b) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid,—shall send it with a full report of the particulars of the seizure to the Collector.
- (c) if no offence appears to have been committed,—shall return it to the person from whose possession it was takenl.

42. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which [any 'intoxicant']] is sold by retail shall be closed at such time as he may deem it necessary for the sake of public peace and order that such shop should remain closed.

Closing of shop for sake of public peace.

[If a riot or unlawful assembly is imminent or occurring] in the vicinity of any such shop, it shall be lawful for any Magistrate or Police-officer who is present to require such shop to be kept closed for such period as he deems fit.

For illegal import, etc.

X—PENALTIES

43. (1) Whoever in contravention of this Act or of any rule or order made under this Act or of any licence, permit or pass obtained under this Act,

- (a) exports or transports any intoxicant or hemp, or
- (b) cultivates or collects hemp, or
- (c) taps any toddy-producing tree, or
- (d) draws toddy from any tree, or
- (e) bottles any foreign liquor, or

(f) imports, possess [consumes or sells] any intoxicant or hemp which is not contraband shall, on conviction be punished with imprisonment for a term which may extend to [Seven years or with fine which may extend to one lac rupees or with both].

(2) Whoever in contravention of this Act or of any rule or order made under this Act or of any licence, permit or pass obtained under this Act—

- (a) manufactures any intoxicant, or
- (b) constructs or works any distillery or brewery, or

1. Subs. by Sind 12 of 1912, s. 26(a), for "liquor or any intoxicating drug".

2. Subs. by the A. O., 1937, for "excisable article".

3. Subs. by Sind 12 of 1912, s. 26(b), for "in the event of the occurrence of a riot or unlawful assembly".

4. Subs. by Sind 26 of 1940, s. 9, for the original s. 43.

5. Subs. by W. P. Ordinance XII of 1968, s. 3.

6. The words "six months or with fine which may extend to one thousand rupees or with both" were first subs. by Sind Act 18 of 1973 to read as "three years with fine which may extend to five thousand rupees or with both" and then by Sind Act 10 of 1975, to read as above.

(c) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than toddy,

shall, on conviction, be punished with rigorous imprisonment for a term which may extend to '[Seven years and fine which may extend to one lac rupees].

(3) Whoever imports, possesses or sells any contraband intoxicant or hemp knowing the same to be contraband shall, on conviction, be punished with rigorous imprisonment for a term not exceeding '[Seven years and fine which may extend to one lac rupees].

Explanation.—"contraband intoxicant or hemp" means—

(a) when used with reference to import of such articles, any intoxicant or hemp manufactured in contravention of this Act or the rules made thereunder or on which the prescribed duty has not been paid;

(b) when used with reference to possession or sale of such articles, any intoxicant or hemp which is imported, transported or manufactured in contravention of this Act or the rules made thereunder or on which the prescribed duty has not been paid.]

Security for
abstaining
from com-
mission of
certain
offences.

¶43A. (1) Whenever any person is convicted of an offence punishable under section 43 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 that section, 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 to be prescribed by the Provincial Government and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code. V of 1898.

(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.

1. The words "twelve months and fine which may extend to one thousand rupees" were first substituted by Sind Act 18 of 1973 to read as "five years and fine which may extend to seven thousand rupees" and then by Sind Act 10 of 1975, to read as above.

2. S. 43-A, 43-B and 43-C inserted by Sind 26 of 1940, s. 10.

3. S. 46, by G. O. No. 19 of 1955, s. 3, for "Chief Court".

43B. Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

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of
1860.

43C. Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the [Pakistan] Penal Code be punished with the punishment provided for the offence.]

44. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any licence, permit or pass obtained under this Act,—

(a) neglects to supply himself with measure [and weights] for measuring [and weighing] [any [intoxicant]] or with instruments for testing the strength of liquor, or to keep the same in good condition, or

(b) refuses to measure, [weigh] or test [any [intoxicant]] in his possession, shall be punished for each such offence with fine which may extend to [one thousand rupees].

45. Whoever, being the holder of a licence, permit or pass granted under this Act [or a person in the employ of such holder or acting with his express or implied permission on his behalf]—

(a) fails to produce such licence, permit or pass on the demand of any [duly empowered officer either of the Abkari Department or of any of the departments named in section 39, if such licence, permit or pass is in his possession or control], or

(b) wilfully does, or omits to do, anything in contravention of any rules or orders made under this Act, or

1. Subs. by the Sind laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s.4 (w.e.f.30th May, 1951) for "Indian".
2. Ins. by Sind 12 of 1912, s.28.
3. Subs. ibid, for "liquor".
4. Subs. by the A.O., 1937, for "excisable article".
5. Subs. by Sind 12 of 1912, s.28, for "the strength or quality of any liquor".
6. Subs. by Sind Ordinance 8 of 1970, s. 2, for "two hundred."
7. Ins. by Sind 12 of 1912, s. 29 (a).
8. Subs. ibid, s. 29 (b), for "Abkari-officer duly empowered to make such demand, or of any officer of the departments named in s. 39, superior in rank to a peon or constable".

(c) 'wilfully does, or omits to do, anything] in breach of any of the conditions of [such licence, permit or pass] not otherwise provided for in this Act.

* * * * *

'shall, on conviction before a Magistrate, be punished for each such offence with imprisonment which may extend to [one year or with fine which may extend to one thousand rupees, or with both].

Penalty for
offence not
otherwise
provided
for.

'45A. Whoever is guilty of any act or intentional' omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall on conviction before a Magistrate be punished for each such act or omission with fine which may extend to [one thousand rupees].

46. 'Whoever, being the holder of a licence for the sale or manufacture of any 'intoxicant] under this Act, or a person in the employ of such holder or acting with his express or implied permission in his behalf.—

(a) mixes or permits to be mixed with the 'intoxicant] sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under '[clause (f) (i) of section 35A,] 'for water except for the purpose of reducing liquor to the strength prescribed in the licence, or any diluting or colouring substance or any ingredient whatsoever like to render the 'intoxicant] inferior in quality whether such ingredient is or is not prohibited as aforesaid] when such admixture shall not amount to the offence of adulteration under section 272 of the '[Pakistan] Penal Code,

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of
1860.

1. Subs. by the Sind Repealing and Amending Act, 1905 (Sind 4 of 1905), s. 2, Sch. I, for "commits any act".
2. Subs. by Sind 12 of 1912, s. 29(c), for "this licence".
3. Cts. (d)(e),(f) and the word "or" at the end of cl. (c) ren. *Ibid.*, s. 29 (d).
4. Subs. *ibid.*, s. 29(e), for "shall be punished for each such offence with fine which may extend to one hundred rupees".
5. Subs. by Sind Ordinance 8 of 1970, s. 3, for "three months or with fine which may extend to two hundred rupees or with both".
6. S.45A. *ibid.*, s. 30.
7. Subs. by Sind Ordinance 8 of 1970, s. 4, for "two hundred rupees".
8. Subs. *ibid.*, s. 31 (a), for "Whoever being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act".
9. Subs. by the A.O., 1937, for "excisable article".
10. Subs. by Sind 12 of 1912, s. 31 (b)(ii), for "section 35 clause (b)".
11. Ins. *ibid.*, s. 31 (b)(iii).
12. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s.4 (w.e.f. 30th May 1951), for "Indian".

(b) sells or keeps, or exposes for sale as * * * foreign liquor, liquor which he knows or has reason to believe to be country-liquor, or

(c) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country-liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains * * * foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the [Pakistan] Penal Code, or

(d) sells or keeps or exposes for sale, any country-liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains * * * foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the [Pakistan] Penal Code, [or]

[(e) sells any [intoxicant] which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any [intoxicant] which is not of the nature, substance and quality authorised by the terms of the licence to be kept for sale by the holder of the licence,] shall be punished for each such offence with fine which may extend to [one lac rupees or with imprisonment which may extend to seven years, or with both.]

[47. The holder of a licence, permit or pass under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission in his behalf under sections 43, 44, 45, 45A or 46 as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence: Liability of licensee for acts of servants.

1. The words "European or" rep. by Sind 12 of 1912, s. 31 (e).
2. Subs. by the Sind Laws (Adaptation, Revision, Renewal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w.e.f. 30th May, 1951) for "Indian".
3. After cl. (d), the word "or" and cl. (e) ins. by Sind 12 of 1912, s. 31 (d).
4. Subs. by the A. O., 1937, for "excisable article".
5. The words "five hundred rupees, or with imprisonment for a term which may extend to three months, or with both" have successively been amended by Sind Ordinance 8 of 1970, Sind Act 18 of 1973 and Sind Act 10 of 1975, to read as above.
6. S. 47, subs. by Sind 12 of 1912, s. 32.

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

For maliciously giving false information.

48. Whoever maliciously gives false information that any person has committed, or been concerned in, any offence against this Act, with the intent that such person be arrested, or that any building, vessel or other place be searched to the injury or annoyance of such person or of any other person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For vexatious search or arrest.

49. Any Abkari or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person [or in any other way vexatiously exceeds his lawful powers], shall, for every such offence, be punished with fine which may extend to five hundred rupees.

Failure of Abkari-Officer in duty.

149A. Any Abkari-officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless with the express written permission of [Director General] or unless he shall have given to his superior officer two months notice in writing of his intention to do so, or who shall be guilty of cowardice, shall on conviction before a Magistrate be punished with imprisonment which may extend to three months, or with fine which may extend to three months' pay, or with both]

150. Any Abkari or other officer or person who vexatiously and unnecessarily delays forwarding to a Magistrate or to the officer in charge of a Police-station as required by section 38B any person arrested under section 38A shall be punished with fine which may extend to two hundred rupees.]

Vexatious delay in forwarding to a Magistrate a person arrested under section 38-A. Vexatious delay in acting in the manner required by section 41A or 41C.

150A. Any Abkari or other officer or person who vexatiously and unnecessarily delays acting in the manner required by section 41A or 41C with respect to any person arrested, or any illicit article seized under this Act, shall be punished with fine which may extend to two hundred rupees.]

1. Ins. by Sind 26 of 1940, s. 11.

2. S. 49A ins. by Sind 12 of 1912, s. 33.

3. Subs. by Ordinance No. 3 of 1972, s. 2, Sch., for "Commissioner".

4. Ss. 50 and 50A subs. *ibid*, s. 34, for s. 50.

51. Any Abkari or other officer who unlawfully releases or connives at the escape of any person arrested under this Act, or connives at the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Akbari-revenue defrauded,

For conniving at escape of persons arrested, etc.

and any officer * * * named in section 39 invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall, for every such offence, be punished with fine which may extend to [one lac rupees, or with imprisonment for a term which may extend to seven years, or with both].

52. Any officer * * * named in section 39 who, without lawful excuse, neglects or refuses to [give information or to take preventive measures or to give assistance to an Abkari-officer in the manner required by the said section] shall be punished with fine which may extend to five hundred rupees.

For neglecting to assist an Abkari officer.

53. In prosecutions under section 43 * * * it shall be presumed [without further evidence] until the contrary is proved, that the accused person has committed an offence under [that section] in respect of [any [intoxicant] or hemp or any still, utensil, implement or apparatus whatsoever for the manufacture of [any [intoxicant] [* * *] or any such materials as are ordinarily used in the manufacture of [any [intoxicant] for the possession of which he is unable to account satisfactorily.

Presumption as to commission of offence in certain case.

11 * * *

1. The words "of any other department" rep. by Sind 12 of 1912, s. 35.
2. Subs. by Sind Act 10 of 1975, for the words "five thousand rupees, or with imprisonment for a term which may extend to three years, or with both" which were previously subs. by Sind Act 18 of 1973, for "five hundred rupees, or with imprisonment for a term which may extend to six months or with both".
3. The words "of any of the departments" ren. *ibid*.
4. Subs. *ibid*, for "assist any Abkari-officer in carrying out the provisions of this Act".
5. The words "or section 47" rep. by Sind 12 of 1912, s. 36 (a).
6. Ins. *ibid*., s. 36 (b).
7. Ins *ibid*, s. 36 (c), for "those sections".
8. Subs. *ibid*, s. 36 (d), for "any liquor or hemp or intoxicating drug."
9. Subs. by the A.O., 1937, for "excisable article".
10. Subs. by Sind 12 of 1912, s. 36 (e), for "liquor or intoxicating drugs" and "liquor or of any intoxicating drug".
11. The words "or mhowra flowers", which were ins. by Sind 3 of 1892, s. 4, rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.
12. The second para rep. by Sind 12 of 1922, s. 36 (f).

Things
liable to
confiscation.

[54. Whenever an offence under this Act has been committed,

- (a) any [intoxicant], hemp, * * * * * materials, still, utensil, implement or apparatus in respect of which the offence has been committed;
- (b) any [intoxicant], hemp * * * * * lawfully imported, transported, manufactured, had in possession or sold alongwith, or in addition to, any article liable to confiscation under clause (a);
- (c) the receptacles, packages and coverings in which any article liable to confiscation under clause (a) or clause (b) is found and the other contents of such receptacles, packages and coverings, and the animals, carts, vessels or other conveyance used in carrying any such article;

shall be liable to confiscation.

Procedure
in confisca-
tion.

55. (1) When in any case tried by him the Magistrate decides that anything is liable to confiscation under the foregoing section, he may, after hearing the person, if any, claiming any right thereto, and the evidence, if any, which he produces in support of his claim, order confiscation, or, in the case of any article other than an [intoxicant] or hemp may give the owner an option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(2) When an offence under this Act has been committed and the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto, and the 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 the 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 shall apply so far as may be to the net proceeds of the sale.

1. Ss. 54, 55 and 55-A subs. by Sind 12 of 1912, s. 37, for ss. 54 and 55.

2. Subs. by the A.O., 1937 for "excisable article".

3. The words "mhowra flowers" and the words "or mhowra flowers" respectively rep. by Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

Provided further that in the case of anything liable to speedy and natural decay the Collector may, if the circumstances so require, direct it to be destroyed.

(3) The Collector may delegate his powers under this section to any Assistant or Deputy Collector, either by name or in virtue of his office.

55A. [The Director General] or Collector, or any Abkari-officer specially empowered by [the Provincial Government] in this behalf, may accept from any person whose licence, permit or pass is liable to be cancelled or suspended under clause (a) or clause (b) of section 32, or who is reasonably suspected of having committed an offence under sections 43, 44, 45, 45A or 46, a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property other than an [intoxicant] or hemp has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer. Compounding offences.

Provided that where a person who is reasonably suspected of having committed an offence under section 43 or 45A is not the holder of a licence, permit or pass granted under this Act, or a person in the employ of such holder or a person acting with his express or implied permission on his behalf the sum of money which may be accepted from such person by way of composition shall not exceed [one lac rupees].

On the payment by such person of such sum of money, or such value, or both, as the case may be, to such officers, such person, if in custody, shall be set at liberty and the property seized shall be released, and if magisterial proceedings shall have been instituted against such person the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.]

XI—PROCEDURE.

56. No offence punishable under this Act shall be tried by a court other than the court of the Magistrate of the first class.] Cognizance of offences.

1. Subs. by Sind Ordinance III of 1972, s.2, Sch., for "Any Commissioner".

2. Subs. by the A.O. 1937, for "Government".

3. Subs. *ibid.*, for "excisable article".

4. The words "two hundred" have successively been amended by Sind Ordinance 8 of 1970, Sind Act 13 of 1973 and Sind Act 10 of 1975, to read as above.

5. S. 56 Subs. by Sind Act I of 1977, s. 2.

57. [Applicability of certain portions of Indian Penal Code.] Rep. Sind Act III of 1886.

58. [Disposal of things confiscated.] Rep. Sind Act XII of 1912.

58A. [Procedure in case of illegal cultivation of hemp.] Rep. Sind Act XII of 1912.

59. [Payments of rewards.] Rep. Sind Act XII of 1912.

Appeals 60. All orders passed by any Abkari-officer other than the Collector or [Director General] under this Act shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

All orders passed by a Collector or [Director General] shall be appealable to the [Director General] or to [the Provincial Government], respectively, at any time within ninety days from the date of the order complained of:

Provided that no appeal shall lie against an order passed by a [Director General] on appeal.

Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

Revision. 160A. The Provincial Government may call for and examine the record of any proceedings before any Abkari-Officer for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in and as to the regularity of such proceedings, and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit.]

Opportunity of ed./ins. on appeal or revision. 160B. No order, in appeal or revision under the foregoing provision, shall be passed unless the person likely to be affected thereby has been given an opportunity of being heard.]

XII.—MISCELLANEOUS

Saving of certain Actr. 61. Nothing in this Act affects [the Cantonments Act, 1924 (sections 56 to 59, both inclusive)].

1. Subs. by Sind Ordinance III of 1972, s. 2, Sch., for "Commissioner".

2. Subs. by the A.O., 1937 for "Government".

3. S.60-A ins. by Sind 20 of 1943, s. 7.

4. Section 60-B ins. by Sind Ordinance XIX of 1984, s.3.

5. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III for the words beginning with "Act XVIII of 1853" and ending with "in the Bombay Presidency".

14. * * * * * or any enactment passed by the [Central Legislature] since the 16th November, 1861, the date on which the [Indian Councils Act came into force.

62. Nothing in the foregoing provisions of this Act, applies to the manufacture, sale or supply of any *bona fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for [the Provincial Government] at any time, by notification in the [Official Gazette], to prohibit the sale of any such article [or class of such article] within any defined local area or place [or generally] except under a licence from the Collector, which shall be granted on payment of such fees and subject to such conditions as [the Provincial Government] may deem fit to prescribe. Exception of medicated articles.

63. [Annual payment to Bombay Municipal Corporation in lieu of money received under Bombay Act IX of 1867.] Omitted by Sind 26 of 1940, s. 12.

[64. All rules made under any power conferred by this Act, shall be published in the [Official Gazette] and on such publication, shall have affect as if enacted in this Act.] Publication of rules.

[64A. Notwithstanding any thing contained in this Act or the rules made thereunder, it shall be lawful and shall be deemed always to have been lawful for the Provincial Government, by general or special order, to Powered of Provincial Government to issue orders in all matters pertaining to licences.

- (a) prohibit the grant of any kind of licences throughout the province or in any area;
- (b) prescribe the maximum number of licences of any kind which may be granted in any area.
- (c) prescribed the number of shops at which any intoxicant specified in such order or hemp may be sold in any area, the places where such shops may be situated, the days an hours during which such shops may or may not be kept open, the number of such shops in respect of which licences for sale may be granted and the number of such shops which may be managed by the Excise Department;
- (d) direct that no licences of the kind specified in such order shall be granted without the previous approval of the Provincial Government;
- (e) prescribe the maximum quantity of any intoxicant or hemp which may be sold in any area or at any shop;

1. The words "or Act XVI of 1863 (an Act to make special provision for the levy of the excise duty payable on spirits used exclusively in arts and manufacture or in chemistry)" rep. by Sind 12 of 1912, s. 39.
2. Subs. for the words "Governor General in Council" by W.P.A.O, 1964, Sch., Pt. IV-B.
3. The then constitution.
4. Subs. by the A.O., 1937 for "Government".
5. Subs. *ibid.* for "B.G.G."
6. Ins. by Sind 12 of 1912, s. 40.
7. S. 64 ins. *ibid.*, the original s. 64 was rep. by Act 16 of 1895.
8. S. 64-A ins. by Sind 20 of 1943 s. 8.

- (f) prescribe the maximum number of toddy-producing trees for tapping which or for drawing toddy from which a licence may be granted under section 14;
- (g) prescribe the procedure to be followed before granting any licence;
- (h) direct that before granting licences auctions may be held, tenders called for or offers received and that licences shall be granted to persons whose bids, tenders or offers are accepted by the Collector;
- (i) specify the persons or class of persons to whom licences may or may not be granted, and in cases in which auctions are held under clause (h), the persons or class of persons who may or may not be permitted to offer bids at such auctions;
- (j) direct that licences of the kind specified in such order shall be granted to persons specified in such order;
- (k) issue such other instructions in any matter pertaining to the grant or otherwise of licences under this Act as the Provincial Government may deem proper.

Explanation.—In this section the word 'shop' means any place where any intoxicant or hemp is sold.]

65. and 66. [Certain rights to cease.] *Rep. Act XVI of 1895.*

Bar of action.

67. No action shall lie against the [the Provincial Government] or against any Abkari officer for damages in any Civil Court for any act *bonafide* done or ordered to be done by them in pursuance of this Act, or of any law at the time in force relating to Abkari revenue;

And all prosecutions of any Abkari-officer and all actions which may be lawfully brought against [Provincial Government] or against any Abkari-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within four months from the date of the act complained of and not afterwards:

and any such action shall be dismissed—

- (a) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present; or,

1. Subs. for "the Crown" by W.P.A.O., 1964, Sch. Pt. IV-B, which was previously subs. for "Government" by the A.O., 1937."

- (b) in the case of an action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant:

Provided that nothing in this section shall be deemed to affect the Power or jurisdiction of [the High Court].

SCHEDULE.

[*Enactments repealed.*]

Repealed by Act XVI of 1895

1. Subs. by G.G.O. No. 19 of 1955 for the words "the Chief Court of Sind" which was previously subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "Her Majesty's High Court of Judicature or of the Court of Small Causes at Bombay".