

SIND ACT No. IV OF 1940.¹[THE SIND CONSUMPTION OF INTOXICANTS RESTRICTION
ACT, 1940.]

[7th March, 1940]

An Act to restrict consumption of intoxicants.

WHEREAS it is expedient to restrict the consumption of intoxicants in public places and to prohibit the consumption of intoxicants by certain classes of persons ; It is hereby enacted as follows :—

1. (1) This Act may be called the Sind Consumption of Intoxicants Restriction Act, 1940.

(2) It extends to the ~~whole of the Province of Sind~~)

Short title,
extent and
commence-
ment.

(3) It shall come into force from such date² as the Provincial Government may, by notification in the *Official Gazette*, direct.

PART I.

Preliminary.

2. (1) In this Act, unless there be anything repugnant in the subject or context,—

Definition.

(a) "place" includes a house, building, shop, hut, tent, boat or vessel and any part thereof ;

(b) "public place" means a place used for public, religious or charitable purposes and includes a 'Daira', 'Durgaha', 'O tara', 'Makan', 'Marhi' and any place which the Provincial Government may, by notification in the *Official Gazette*, declare³ to be a public place ;

(c) "liquor" includes—

(i) 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;

¹ For Statement of Objects and Reasons, see S.G.G., 1940, Pt. IV, p. 45 and for Proceedings in Assembly, see S. L. A. Debates, 1940, Vol. X—Book No. 6, pp. 71—116, Book No. 7, pp. 44—48.

² Came into force w.e.f. 7th June, 1940, vide G. N., R. D. No. 1828-B/II, dated 31st May, 1940, see S. G. G., 1940, Pt. I, p. 1427.

³ For such declarations, see S. L. R. and O.

⁴ Sub. by W. P. Ord. 27 of 1957

(ii) 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;

(d) "intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the ¹[Pakistan] hemp plant (*Cannabis Sativa L.*) including all forms known as bhang, siddhi or ganja;

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

(iii) 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 cocoa leaf, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930 ;

(e) "intoxicant" means any liquor or intoxicating drug.

(2) Expressions used in this Act but not defined therein shall have the meanings respectively assigned to them in the ^{Sind}[Sind] Abkari Act, 1878. _{V of 1878}

PART II.

Consumption.

Penalty for consumption of intoxicants in a public place.

3. Whoever consumes any intoxicant ³[or makes preparations for consuming any intoxicant] in a public place shall, on conviction, be punishable for the first offence with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and on a subsequent conviction with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for allowing consumption of intoxicants in a public place.

4. Whoever having the care or management of, or control over, a public place, in any manner assists in or allows the consumption in any such place of any intoxicant, shall, on conviction, be punishable for the first offence with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both, and on a subsequent conviction with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "Indian".

² Subs. *ibid.*, s. 3 (f) (w. e. f. 30th May 1957), for "Bombay".

³ Ins. by Sind 6 of 1945, s. 2.

5. Whoever being below the age of 20 years or such other higher age as may from time to time be notified by the Provincial Government, consumes an intoxicant ¹[or makes preparations for consuming an intoxicant] shall, on conviction, be punishable, for the first offence, with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both, and on a subsequent conviction with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for consumption of intoxicants by persons below certain age.

6. [*Presumption as to commission of offences in certain cases.*] Omitted by Sind Act VI of 1945, s. 4.

PART III.

Powers of Abkari Officers.

7. A Commissioner, Collector or any other Abkari Officer duly empowered in this behalf may—

Powers of Abkari Officer to enter, search, etc.

(a) enter, at any time by day or night, any place in which he has reason to believe that any intoxicant is being consumed or is kept for being consumed contrary to the provisions of this Act ; and

(b) in case of resistance or obstruction, break open any door and remove any other obstacle to his entry into such place ; and

(c) seize any intoxicant or any material which he has reason to believe to be liable to confiscation under this Act ; and

(d) 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 Act.

8. A Commissioner, Collector or any other Abkari Officer duly empowered in this behalf may—

Power to seize intoxicants and to detain and search.

(a) seize in any open place any intoxicant or any other thing which he has reason to believe to be liable to confiscation ;

(b) detain and search any person whom he has reason to believe to be guilty of any offence under this Act.

¹ Ins. by Sind 6 of 1945, s. 3.

Searches
how to be
made.

9. All searches under the last two sections shall be made in accordance with the provisions of the Code of Criminal Procedure, ^{V of} 1898, 1898.

Arrest with-
out warrant.

10. A Commissioner, Collector or any other Abkari Officer duly empowered in this behalf may arrest without any order from a magistrate and without any warrant any person who obstructs him in the execution of his duty under this Act or who has escaped from custody in which he has been or is lawfully detained under this Act.

Disposal of
persons
arrested.

11. Subject to the provisions as to bail hereinafter contained, every person arrested under section 10 shall without unnecessary delay be taken or sent by the person arresting him before a magistrate having jurisdiction or before the officer in charge of a police station.

Procedure.

12. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests made without warrant ^{V of} by Abkari Officers. 1898.

Refusal to
give name
and resi-
dence.

13. (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.

(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 a person is not resident in ¹[Pakistan], the bond shall be secured by a surety or sureties resident in ²[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.

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".

14. All officers of the Departments of Police, Forest and Revenue shall be bound— Officers bound to assist.

(a) to give immediate information to an Abkari Officer of the commission of any offence, and of the intention or preparation to commit any offence, under this Act which may come to their knowledge ;

(b) to assist any Abkari Officer in carrying out the provisions of this Act.

15. A Commissioner, Collector, or any other Abkari Officer Issue of warrants. duly empowered in this behalf, or a magistrate, may issue a warrant—

(a) for the arrest of any person whom he has reason to believe to have committed an offence against this Act, or

(b) for the search, whether by day or by night, of any place in which he has reason to believe that any intoxicant is being consumed or is kept for being consumed contrary to the provisions of this Act.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, v of 1898, 1898. by a police officer or by an Abkari Officer duly empowered in this behalf.

16. (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 Officers to have powers of investigation.

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

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 he shall release him on his executing a bond with or without sureties, to appear, if and when so required, before a magistrate 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.

17. Every person arrested and thing seized under sections 7, 8 or 15 shall, unless the arrest or seizure has been made by an Abkari Officer exercising powers under section 16 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.

18. (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, V of 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 10 for a bailable offence under the ¹[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, 1860. XLV of 1860.

Articles
seized.

19. When anything has been seized by an Abkari Officer exercising powers under section 16 or has been sent to him under section 17, such officer, after such inquiry as may be necessary— V of 1898.

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward it to the magistrate ²[before] whom such person is produced, or where such person has been released on bail to the magistrate before whom he is required by his bail bond ;

(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 seizure to the Collector ;

(c) if no offence appears to have been committed, shall return it to the person from whose possession it was taken.

20. Whenever an offence under this Act has been committed,

(a) any intoxicant in respect of which the offence has been committed ; ³[and]

(b) the receptacles, packages and coverings in which any article liable to confiscation under clause (a) may be found and the other contents of such receptacles, packages and coverings ;

shall be liable to confiscation.

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 Subs. by Sind 6 of 1945, s. 5, for "to".

³ Added by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III.

Things
liable to
confis-
cation.

21. (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 may give the owner an option to pay such fine as the magistrate deems fit in lieu of confiscation. Procedure
in confis-
cation.

(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 enquired 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 :

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.

¹[(4) An appeal against an order passed under sub-section (2) by an Assistant or Deputy Collector shall lie to the Collector and by a Collector to the Commissioner.]

¹ Ins. by Sind 6 of 1943, s. 2.

PART IV.

Procedure.

Cognizance
of offences.

22. All offences against this Act shall be cognizable.

Compound-
ing of
offences.

23. (1) A Commissioner, Collector or any other Abkari Officer specially empowered by the Provincial Government in this behalf may accept from any person who is reasonably suspected of having committed an offence under sections 3, 4 or 5 a sum of money, not exceeding Rs. 200, by way of composition for the offence which may have been committed.

(2) On the payment by such person of such sum of money to such officer, 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.

PART V.

Miscellaneous.

Penalty for
maliciously
giving false
informa-
tion.

24. Whoever maliciously gives false information that any person has committed or been concerned in any offence, punishable under this Act, with the intent that such person be arrested or that any 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.

Penalty
for vexa-
tious search
or arrest.

25. Any Abkari or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched any place or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall, for every such offence, be punished with fine which may extend to five hundred rupees.

Vexatious
delay in
forwarding
to a magis-
trate a person
arrested
der sec-
n 10.

26. 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 11 any person arrested under section 10 shall be punished with fine which may extend to two hundred rupees.

27. Any Abkari or other officer or person who vexatiously and unnecessarily delays acting in the manner required by section 17 or 19 with respect to any person arrested, or any article seized under this Act shall be punished with fine which may extend to two hundred rupees.

Vexatious delay in acting in the manner required by section 17 or section 19.

28. 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

For connivance at escape of person arrested, etc.

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,

and any officer named in section 14 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 five hundred rupees or with imprisonment for a term which may extend to six months, or with both.

29. (1) No action shall lie against the Province for any act done or ordered to be done by the Provincial Government in pursuance of this Act.

Bar of action.

(2) No action shall lie against any Abkari Officer for damages in any Civil Court for any act *bona fide* done or ordered to be done by him in pursuance of this Act and all prosecutions of any Abkari Officer and all actions which may be lawfully brought 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.

30. (1) The Provincial Government may make rules for the purpose of carrying out the provisions of this Act.

Power of Provincial Government to make 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 Commissioner or Collectors ;

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

¹ For Rules see G. N., R.D., No. 1828-B/I, dated 31st May 1940, see S. G. G., 1940, Pt. I p. 1427.

(c) 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.

Power of Commissioner to make rules.

31. The Commissioner may make rules—

- (a) regulating the disposal of confiscated articles ;
- (b) regulating rewards to be granted to persons giving information and detecting officers and persons.

Rules to be published.

32. All rules made under this Act shall be published in the *Official Gazette* and on such publication shall have effect as if enacted in this Act.

Rules to be laid on the table of the Legislative Assembly.

33. Rules made under section 30 shall be laid upon the Table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall, after publication by a notification in the *Official Gazette*, be deemed to have come into force.

Amendment of section 17A, Sind V of 1878.

34. In the ¹[Sind] Abkari Act, 1878, in section 17-A,—

(a) for the word "fourteen" the word "twenty" shall be substituted ;

(b) the word "intoxicant" shall for the purposes of this section, be deemed to include opium.

Sind
V of
1878.

Savings.

35. Nothing in this Act apply to,—

(a) the use or consumption of foreign liquor by a person who is either born or brought up or domiciled in any country outside ²[Pakistan] where such liquor is generally used or consumed and who is ordinarily using or consuming such liquor ;

(b) the use or consumption of liquor by a sick or an infirm person in accordance with a prescription given by a medical practitioner possessing such qualifications as may be prescribed by the Provincial Government ; or

(c) the use or consumption of liquor by a Christian or a Parsee at the time of any sacramental purpose.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (i) (w. e. f. 30th May 1951), for "Bombay".

² Subs. *ibid*, s. 3 (ii)(b), for "India".