

## THE TAMIL NADU PROHIBITION ACT, 1937.

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SCHEDULE II.

**THE TAMIL NADU PROHIBITION ACT, 1937**

**[TAMIL NADU ACT X OF 1937]**

An Act to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the State of Tamil Nadu.

WHEREAS it is expedient as early as possible to bring about the prohibition, except for medicinal, scientific industrial or such like purposes of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of intoxicating liquors and drugs in the State of Tamil Nadu.

AND WHEREAS it is desirable to give effect to the above mentioned policy by introducing it in certain selected areas in the said State and utilizing the experience gained therein for extending it to the other areas thereof:

It is hereby enacted as follows:-

**CHAPTER I**

**PRELIMINARY**

- 1. Short title, extent and commencement** – (1) This Act may be called the Tamil Nadu Prohibition Act, 1937.  
(2) It extends to the whole of the State of Tamil Nadu.  
(3) (a) This Section and Sections 3 and 6 shall come into force in the whole of the State of Tamil Nadu at once.  
(b) The rest of this Act shall come into force—
  - i. in the district of Salem, at once; and
  - ii. in any other local area in the State of Tamil Nadu on such date as the State Government may, by notification, appoint.

**2. Repeals** – From the date on which the provisions of this Act other than Sections 1, 3 and 6 come in to force in any local area, the enactments mentioned in Schedule I shall cease to be in force in such area to the extent specified in the fourth column thereof:

Provided that the State Government may, by notification, declare that the provisions of this Act other than Sections 1, 3 and 6 shall cease to be in force in any local area on such dates as may be specified in the notification and thereupon the enactments mentioned in Schedule I with any subsequent statutory

modifications thereof shall revive and come into force in such area with effect on and from such date.

Explanation -- For the removal of doubts, it is hereby declared that if a notification is issued in pursuance of the foregoing proviso, in respect of any area which formerly formed part of the State of Pudukottai the enactments mentioned in Schedule I with any subsequent statutory modifications thereof come into force into such area with effect on and from such date as may be specified in the notification.

**3. Definitions** -- In this Act, unless there is something repugnant in the subject or context --

(1) "blending unit" means a unit where Indian made foreign spirits are manufactured.

(1-A) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or pot or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes re-bottling.

(2) "buy" or "buying" includes any receipt including gift.

(3) "Collector" means a Collector of land revenue or any person appointed under clause (d) of Section 25 to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act.

Explanation -- Collector of land revenue includes Additional Collector and District Revenue Officer.

(4) "Commissioner" means the Officer appointed under clause(a) of Section 25:

(5) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed.

(5-A) "excisable article" means any alcoholic liquor for human consumption but does not include medicinal and toilet preparations mentioned in entry 48 of List I in the Seventh Schedule to the Constitution.

(6) "export" means--

- (a) to take out of any local area to which this Act applies to any other local area in the State of Tamil Nadu to which this Act has not been extended; or
- (b) to take out of the State of Tamil Nadu including crossing the customs frontiers of India. [Section 3 was amended by Tamil Nadu Prohibition (Second Amendment) Act 2017 (Tamil Nadu Act 33 of 2017)].

(6-A) “foreign liquor” includes every liquor imported into India, other than Indian made foreign spirits, plain rectified spirits and denatured and methylated spirits.

(7) “import” means--

- (a) to bring into any local areas to which this Act applies from any other local area in the State of Tamil Nadu to which this Act has not been extended: or
- (b) to bring into the State of Tamil Nadu including crossing the customs frontiers of India.
- (i) “customs frontiers of India” means the limits of the area of a customs station in which imported goods or goods for export are ordinarily kept before clearance by customs authorities;
- (ii) “customs station” means any customs port, customs airport or land customs station. [This clause was inserted by Section 3 of the Tamil Nadu Prohibition (Second Amendment) Act 2019 (Tamil Nadu Act 33 of 2017)].

(7-A) “Indian-made foreign spirits” means spirits manufactured and compounded in India and made in colour and flavour to resemble gin, brandy, whisky or rum imported into India and includes ‘milk punch’ and other liquors consisting of or containing spirits.

(8) “Intoxicating drug” means—

- i. The leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*connadis satival*) including all forms known as bhang, siddhi or ganja;

- ii. Charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulation 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 State Government may, by notification, declare to be an intoxicating drug, such substance not being opium, cocoa leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 (Central Act II of 1930).

(9) "liquor" includes toddy (arrack), spirits or wine (denatured spirits) spirits, wine, beer, and all liquid consisting of, or containing alcohol;

Explanation -- 'Denatured' means subjected to all process prescribed by the State Government by notification for the purpose rendering unfit for human consumption.

(10) "local body" means the Corporation of Chennai, any municipality constituted under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) or any local board, constituted under the Tamil Nadu Local Boards Act, 1920 (Tamil Nadu Act XIV of 1920).

(11) "manufacture" means every process, whether natural or artificial by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, prepared or blended, and also re-distillation and every process for the rectification of liquor;

(11-A) "molasses" means the heavy dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension sugars which can be fermented and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup; but does not include any article which the State Government may, by notification, declare not to be molasses, for the purposes of this Act;

(11-B) “neer or padani” means juice drawn from a coconut, Palmyra, date or any other kind of palm tree into receptacles treated so as to prevent any fermentation and not fermented.

(12) “place” includes also a house, shed, enclosure, building, shop, tent and vessel;

(13) “police station” includes any place which the State Government may, by notification, declare, to be a police station for the purposes of this Act;

(14) “prohibition officer” means the Commissioner, a Collector or any officer or other person lawfully appointed or invested with powers under Section 25;

(15) “rectification” includes every process whereby spirits are purified or are coloured or flavoured by mixing any materials therewith;

(16) “sale or selling” includes any transfer including gift;

(17) “spirits” means any alcohol and includes any liquor containing alcohol and obtained by distillation whether such liquor is denatured or not;

Explanation -- “Denatured” means subjected to a process prescribed by the State Government by notification for the purpose of rendering unfit for human consumption.

(18) (\*\*\*\*\*)

(19) “toddy” means the fermented juice drawn from a coconut, palmyrah, date or any other kind of palm tree; (Section 3 (Clause 19) was amended by Tamil Nadu Prohibition (Amendment) Act 2014 (Tamil Nadu Act 26 of 2014)).

(19-A) “transit” means to move through the territory of the State of Tamil Nadu from any place in India outside the State of Tamil Nadu to any other place in India outside the State of Tamil Nadu.

(20) “transport” means to move from one place to another within any local area to which this Act applies; and

(21) Any reference to a permit generally or to a permit granted under Sections 18,19 or 20 shall be construed as including a reference to an “authority” issued under Section (16-A).

## CHAPTER II

### PROHIBITION AND PENALTIES

#### 4. Prohibition of the manufacture of, traffic in, and consumption of liquor and intoxicating drugs -- (1) Whoever –

(a) Imports, exports, transports or possesses liquor or any intoxicating drug; or

(aa) imports, exports, transports or possesses liquor exceeding fifty litres but less than one hundred litres; or

(aaa) imports, exports, transports or possesses liquor of one hundred litres and above: or

(b) manufactures liquor or any intoxicating drugs; or

(c) Except in accordance with the rules made by the State Government in that behalf cultivates the hemp plant (*Cannabis sativa*); or collects any portion of such plant from which an intoxicating drug can be manufactured;

(d) taps any toddy-producing tree or permits or suffers to be tapped any toddy-producing tree belonging to him or in his possession; or

(e) draws toddy from any tree or permits or suffers toddy to be drawn from any tree belonging to him or in his possession; or

(f) constructs or works any distillery or brewery ; or

(g) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or keeps or has in his possession any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which any liquor or intoxicating drug has been manufactured; or

(h) bottles any liquor for purposes of sale; or

(i) sells liquor or any intoxicating drug; or

(j) consumes or buys –

i. any liquor other than such liquor as may be specified by the State Government, by notification, in their behalf; or

ii. any intoxicating drug; or

(jj) knowingly expends or applies any money in direct furtherance or support of the commission of any of the acts specified in clauses (a) to (j)

(k) allows any of the acts aforesaid upon premises to his immediate possession,

shall be punished.--

(a) in the case of offences falling under clauses (aaa), (b), (f) and (h) with rigorous imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees;

(b) In the case of offence falling under clause (aa), with imprisonment for a term which may extend to six months in with fine which may extend to two thousand rupees; and

(c) In the case of offences falling under other clauses, with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

Provided that nothing contained in this sub-section shall apply—

(i) to any act done under, and in accordance with the provisions of this Act or the terms of any rule, notification, order, licence or permit issued there under;

(ii) to the possession, sale, purchase, use or consumption of duty paid medicinal or toilet preparations for their bonafide medicinal or toilet purposes; or

(iii) to the transport or possession for personal consumption of the prescribed quantity of any liquor specified by the State Government under sub-clause (i) of clause (j)

(1-A) Where in the case of an offence falling under clause (a) [clause (aa), clause (aaa)] clause (b), clause (h), or clause (i) of sub-section (1), the liquor or any intoxicating drug involved contains any ingredient which is likely to cause death or grievous hurt to the consumer, then the offender, on conviction, shall be punished.

(i) If death has ensued due to its consumption with rigorous imprisonment for life and with fine which shall not be less than five thousand rupees; and

(ii) In any other case, with rigorous imprisonment for a term which may extend to ten years and with fine which may extend to seven thousand rupees.

(2) It shall be presumed until the contrary is shown --

(a) that a person accused of any offence under clauses [(a) to (jj)] of sub-section (1) has committed such offence in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug or any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which any liquor or intoxicating drug has been manufactured, for the possession of which he is unable to account satisfactorily, and

(b) that a person accused of any offence under clause (k) of sub-section (1) has committed such offence if an offence is proved to have been committed in premises in his immediate possession in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug or any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which may liquor or intoxicating drug has been manufactured.

**4-A. Punishment for being found in a State of intoxication:** Whoever is found in a state of intoxication in any public place and whoever, not having been permitted to consume any liquor or intoxicating drug in pursuance of this Act, is found in a state of intoxication in any private place, [shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees].

**5. Punishment for rendering or attempting to render denatured spirit fit for human consumption:** Whoever renders or attempts to render fit for human consumption any spirit whether manufactured in India or not, which has been denatured or any preparation containing such spirit or has, in his possession, any spirit or preparation containing spirit in respect of which he knows or has reason to believe that any such attempt has been made (shall be punished with rigorous imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees).

For the purpose of this section, it shall be presumed until the contrary is proved that any spirit or preparation containing spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is, or contains or has been, derived from, denatured spirit.

**6. Prohibition of advertisement:** Whoever prints or publishes in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise displays or distributed any advertisement or other matter soliciting the use of, or offering any liquor or untonicating drug other than liquor, or drugs exempted under Section 16, shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that this section shall not apply:--

- (a) to plain catalogues and price lists which may be generally or specially approved by the Commissioner; or
- (b) to advertisements in medical journals, or to notices and literature circulated exclusively to members of the medical profession, if such advertisements, notices or literature relate to say liquor or intoxicating drug which has been specially approved as of medicinal value:--
  - i. by the Medical Council established by the Tamil Nadu Medical Registration Act, 1914 (Tamil Nadu Act V of 1914); or
  - ii. by any other Medical Council which has been established under any law for the time being in force in any other State or which has been recognised by the Government of such State; or
  - iii. by such authority in respect of Indian medicine as may be notified by the State Government; or
- (c) to the normal circulation within the State of newspapers, periodicals and books printed and published in accordance with law outside the State; or
- (d) to any advertisement contained in a newspaper printed and published in the State before the first day of January 1938.

**6-A. Control and regulation of molasses:** (1) Except as otherwise provided in sub-sections (2) and (3), no person shall import, export, transport, sell or have in his possession any quantity of molasses.

(2) The State Government may, by general or special order, authorise any officer to grant licences for the import, export, sale or possession of molasses.

(3) The State Government may also authorise any officer to grant permits for the transport of molasses.

**6-B. Regulation of transit of liquor:** -- (1) Except as otherwise provided in sub-section (2), no person shall transit any liquor.

(2) Subject to the control of the State Government, the Collector or any officer not below the rank of a Deputy Collector empowered by him in this behalf may issue permit for transit of any liquor in such form and subject to such conditions as may be prescribed. Every application for transit permit shall be made within such time as may be prescribed and shall be accompanied by copies of the export, and import permits issued by the concerned States from which, and to which, the liquor is in transit.

(3) The following shall be conditions of every permit issued under sub-section (2) –

(a) that the transit of liquor shall be made along the routes or route specified in the permit ; and

(b) that the transit shall be under police escort at such scale as may be prescribed provided by the prescribed authority at the cost of the person who transits liquor.

**7. Punishment for conspiracy;** -- When two or more persons agree --

(i) To commit or cause to be committed any offence under sub-section (1) of Section 4 or under Section 5 ; or

(ii) To evade or nullify the provisions of this Act,

each of such person shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof, be

punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees :]

[Provided that if the agreement relates to an offence under clause (aaa), clause (b), clause (f) or clause (h) of sub-section(1), or punishable under sub-section (1-A) of section 4, each of such persons shall be punished with rigorous imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.]

**8. Punishment for vexatious search or arrest** -- Any officer or person exercising powers under this Act, who --

(a) without reasonable ground of suspicion, enters or searches or causes to be searched, any closed place ; or

(b) 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

(c) vexatiously and unnecessarily detains, searches or arrests any person; or

(d) maliciously and falsely lays information leading to a search, seizure, detention or arrest; or

(e) in any other way maliciously exceeds his lawful powers, shall be punished [with [\*\*\*] imprisonment] which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**9. Punishment for vexatious delay** -- Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to a Prohibition Officer or to the officer-in-charge of the nearest police station as required by Section 38, any person arrested or any articles seized under this Act, shall be punished with fine which may extend to two hundred rupees.

**10. Punishment for abetment of escape of person arrested, etc.** -- Any officer or person exercising powers under this Act who --

(a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or

(b) acts in any manner inconsistent with his duty for the purpose of enabling any persons to be anything whereby any of the provisions of this Act may be evaded or broken, and any other officer of the <sup>3</sup>[State] Government or of a local body who abets the commission of any offence against this Act, shall be punished [with [\*\*\*] imprisonment] which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**11. Punishment for offences not otherwise provided for.--**

Whoever is guilty of any willful act or intentional omission in contravention of any of the provisions of this Act or of any rule, notification or order made thereunder and not otherwise provided for in this Act, shall be punished [with [\*\*\*] imprisonment] which may extend to six months or with fine which may extend to five hundred rupees or with both.

**12. Punishment for abetment of offence against Act in area to which Act is not extended.**—Where any offence against this Act is committed in any area to which it has been extended, whoever, commits, or attempts to commit, or abets the commission of any of the acts making up the offence shall be liable to be punished thereof, whether such commission, attempt or abetment takes place within or outside such area.

**13. [ Drug,etc., liable to confiscation].**—In any case in which an offence has been committed [against this Act, or the rules made thereunder] [in relation to drug, the drug] material, still, utensil, implement or apparatus in respect or by means, of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

**[13-A. Liquor, etc., liable to confiscation** - Whenever an offence in relation to liquor has been committed, which is punishable under this Act or the rules made thereunder, the following things shall be liable to confiscation, namely:-

(1) any liquor, material, still, utensil, implement, apparatus in respect or by means , of which such offence has been committed;

(2) any liquor lawfully imported, exported, transported, manufactured, held in possession or sold along with, or in addition to, any liquor liable to confiscation under this section;

(3) any receptacle, package or covering in which anything liable to confiscation under clause (1) or clause (2), is found, and the other contents, if any, of such receptacle or package or covering and any animal, cart, vessel or other conveyance used for carrying the same:

Provided that, if anything specified in clause (3) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed.]

**14. Confiscation how ordered.-** (1) When the offender is convicted or when the person charged with an offence against this Act is acquitted, but the court decides that anything is liable to confiscation, such confiscation [shall be ordered by the court].

[(2) Where, during the trial of a case for an offence against this Act, the court decides that anything is liable to confiscation, the court shall order the confiscation;

Provided that no animal, vessel, cart or other vehicle shall be confiscated under sub-section (1), or sub-section (2), if the Court after hearing the owner of such animal, vessel, cart or other vehicle and any person claiming any right thereto, is satisfied that the owner and such person had exercised due care in the prevention of the omission of such an offence].

[(3) When an offence against this Act has been committed but 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 or other Prohibition Officer-in-charge of the district or by any other officer authorised by the State Government in that behalf who shall order such confiscation;

Provided that no such order shall be made until the expiration of fifteen days from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims.]

[(4) Notwithstanding anything contained in sub-sections (1) to (3), the Collector or other Prohibition Officer in-charge of the district or any other officer authorised by the State Government in that behalf is satisfied that an offence has been committed against this Act and whether or not a prosecution is instituted for such offence, he may, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of any animal, vessel, cart or other vehicle used in the commission of such offence:

Provided that, before passing an order of confiscation, the owner or the person from whom such animal, vessel, cart or other vehicle is seized, shall be given-

(i) a notice in writing informing him of the grounds on which it is proposed to confiscate the animal, vessel, cart or other vehicle:

(ii) an opportunity of making a representation in writing within a reasonable time, not exceeding fourteen days, as may be specified in the notice, against the grounds of confiscation ; and

(iii) a reasonable opportunity of being heard in the matter:

Provided further that the owner or the person from whom such animal, vessel, cart or other vehicle is seized shall be given an option to pay, in lieu of its confiscation, an amount not exceeding the market price of such animal, vessel, cart or other vehicle.

(5) Any person aggrieved by an order of confiscation under sub-section (4) may, within one month from the date of the receipt of such order, appeal to the Court of Sessions having jurisdiction.]

**14-A. Owner of animal, vessel, cart or other vehicle deemed to be guilty in certain cases:** Where any animal, vessel, cart or other vehicle is used in the

commission of any offence under this Act, and is liable to confiscation, the owner thereof shall be deemed to be guilty of such offence and such owner shall be liable to be proceeded against had punished accordingly unless he satisfies the Court that he had exercised due care in the prevention of the commission of such an offence.

**15. Offences under Act to be cognizable:** All offences under this Act shall be cognizable and the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) with respect to cognizable offences shall apply to them.

**15-A. Summary trial of certain offences:** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the State of Government may confer on –

- (i) Any Judicial Magistrate of the first class, or
- (ii) Any Judicial Magistrate of the second class, or
- (iii) any Special Judicial Magistrate appointed under Section 13 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974),

power to try summarily in accordance with the provisions contained in Sections 262 to 265 of the said Code, all or any of the offences which are punishable under this Act with imprisonment for a term not exceeding six months, or with fine, or with both, but as a result of such trial no sentence except a sentence of fine shall be imposed.

**15-B. xxxxx**

**15-C. Offences to be non-bailable:** (1) The offences punishable under this Act with rigorous imprisonment for a term which may extend to three years and upwards shall be non-bailable and the provision of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) with respect to non-bailable offences, shall apply to those offences.

(2) Nothing contained in Sections 27, 28, 29, 32, 38 and 39 shall be construed as enabling a person to be admitted to bail, if the offence alleged to have been committed by such persons is one referred to in sub-section (1).

**CHAPTER –III**  
**EXEMPTION AND LICENCES**

**16. Power to notify exemptions--** (1) The State Government may, by notification and subject to such conditions as they think fit, exempt any specified liquor or intoxicating drug or article containing such liquor or drug from the observance of all or any of the provisions of this Act on the ground that such liquor, drug or article is required for a medicinal, scientific, industrial or such like purpose.

(2) Whoever commits a breach of any of the conditions subject to which the exemption is notified under sub-section (1), shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees].

[\*\*\*]

**16-A, Authorities for bonafide religious purposes.--** The State Government shall make suitable provision for issuing, 'Authorities' to person and institutions for the possession and use of such liquor as may be required by them for any bonafide religious purpose in accordance with ancient custom, under such terms and conditions, and penalties for infringement, as may be prescribed.

**17. Exemption of bonafide travelers and lawful consignment.--** Until the State Government by notification otherwise direct, the provisions of this Act shall not be deemed to apply—

(a) to liquor in the possession of bonafide travelers for their own personal use while passing through any local area in which this Act is in force; or

(b) to lawful consignments of [liquor carried into any such local area on of] intoxicating drugs carried through or into any such local area.

**[17-A, Exemption of members of armed forces, etc.--** (1) The State Government may, by notification and subject to such condition as they think fit, exempt members of the armed forces of the Union or of any other armed forces raised or maintained by the Union or attached to or operating with any of its armed forces and the member of the medical or other staff attached to any of the armed forces aforesaid, from all or any of the provisions of this Act.

(2) Whoever commits a breach of any of the conditions subject to which the exemption is notified under sub-section (1), [shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees].

[\*\*\*]

**17-B. Licence for manufacture, etc., of potable liquor.—**

The State Government, or subject to their control, the Collector may, subject to such conditions as may be prescribed, issue licence to any person or any institution whether under the management of Government or not ----

- (a) for the manufacture of liquor for human consumption --
  - (i) for the purpose of sale to persons and institutions who hold permits or licences for sake of such liquor;
  - (ii) for other purpose permitted under this Act' or
- (b) for the import, export or transport of liquor for human consumption.

**17-C. Exclusive Privileges for manufacture, etc., may be granted.—**

(1) It shall be lawful for the State Government to grant to any person or persons on such conditions and for such period as they may deem fit the exclusive of other privilege.-

- (a) of manufacturing [\*\*\*] [Indian - made foreign spirits and foreign liquor], or;
- (b) of selling by retail [\*\*\*] [Indian - made foreign spirits and foreign liquor],

Within any local area.

(1-A) (a) Notwithstanding anything contained in this Act, the Tamil Nadu State Marketing Corporation Limited, which is Corporation wholly owned and controlled by this State Government, shall have the exclusive privilege of supplying, by wholesale, [\*\*\*] [Indian - made foreign spirits and foreign liquor], for the whole of the State of Nadu and no other person shall be entitled to any privilege of supplying, by wholesale [\*\*\*] [Indian - made foreign spirits and foreign liquor], for the whole or any part of the State

(b) Notwithstanding anything contained in this Act, the Tamil Nadu State Marketing Corporation Limited shall be granted the licence by the Commissioner for the exercise of the exclusive privilege referred to in clause (a) and such licence shall be subject to the

rules made by the State Government in this behalf and to such condition and restrictions as the Commissioner may, from time to time, specify.

(c) The Tamil Nadu State Marketing Corporation Limited shall, as soon as may be, after the grant of the licence under clause (b) for the exercise of the exclusive privilege referred to in clause (a) open its branches in the State in such places and subject to such conditions as the Commissioner may specify:

Provided that the said Corporation shall open not less than one branch in each district.

[1-B] (a) Notwithstanding anything contained in this Act, the Tamil Nadu State Marketing Corporation Limited, which is a Corporation wholly owned and controlled by the State Government shall have the exclusive privilege of selling, by retail, Indian-made foreign spirits for the whole of the State of Tamil Nadu and no other person shall be entitled to any privilege of selling, by retail, Indian-made foreign spirits for the whole or any part of the State.

(b) Notwithstanding anything contained in this Act, the Tamil Nadu State Marketing Corporation Limited shall be granted the licence by the Commissioner for the exercise of the exclusive privilege referred to in clause (a) and such licence shall be subject to the rules made by the State Government in this behalf and to such conditions and restrictions as the Commissioner may, from time to time specify.

(c) (i) The Tamil Nadu State Marketing Corporation Limited shall, as soon as may be after the grant of the licence under clause (b) for the exercise of the exclusive privilege referred to in clause (a), fix, locate and open as many shops as may be necessary to effectively carry on the business of sale, by retail, of Indian made foreign spirits in the State and the said Corporation in so fixing the shops, shall take into account the population of the locality, the needs of the locality and other relevant factors.

(ii) The Tamil Nadu State Marketing Corporation Limited shall carry on the business of selling, by retail, Indian-made foreign spirits –

(A) either directly by the said Corporation; or

(B) through Co-operative Societies appointed by the said Corporation as agents to act on its behalf and on such terms and conditions as the said Corporation may specify; or

(C) by both the methods specified in sub-items (A) (B) of this item.

(iii) Any dispute between the said Corporation and the Co-operative Society, appointed as its agent, in respect of any matter shall be referred to the Commissioner or an officer not below the rank of District Revenue Officer specially empowered by the State Government in this behalf, whose decision thereon shall be final and such decision shall not be called in question any Court.

Explanation.--- For the purposes of this Act, a Co-operative Society, appointed as agent by the Tamil Nadu State Marketing Corporation Limited for selling on its behalf, by retail, Indian-made foreign spirits shall not be deemed to be exercising any privilege of selling, by retail, Indian-made foreign spirits and accordingly the provisions of this Act relating to the grant of such privilege and licence for selling, by retail, Indian-made foreign spirits shall not apply to such agent.]

**[17-D) Payment of a sum in consideration of the grant of any exclusive or other privilege or fee on licences for manufacture or sale.---** The State Government may, by rules, levy a sum or fee or both in consideration of the grant of any exclusive or other privilege under Section 17-C and also fee on licenses granted under Section 17-C.

**17-E. Licence for export, Import, etc.,---** (1) The State Government or subject to the control of the State Government, the Collector, may issue licences to any person or in respect of any institution whether under the management of the Government or not, for the export, import, transport or possession of any liquor or article containing such liquor on the ground that such liquor or article is required by such person or in respect of such institution for bonafide purpose.

(2) Section 18 shall, in so far as it relates to any liquor or article containing such liquor, cease to be in force with effect on and from 1<sup>st</sup> May 1981].

**18. Licences for bonafide medicinal or other purposes.—**The State Government or subject to the control of the State Government the Collector, may issue licences to any person or in respect of any institution whether under the management of Government or not, for the manufacture, export, import transport, sale or possession of any liquor or drug, on the ground that such liquor drug or article is required by such person or in respect of such institution for a bonafide medicinal, scientific, industrial or such like purpose.

**[18-A. Excise Duty or countervailing duty on liquors and intoxicating drugs.--**  
(1) An Excise Duty or countervailing duty of such amount as the <sup>2</sup>State Government may, by notification in the Fort St. George Gazette, specify, from time to time, shall, if they

so direct, be levied on all liquors and intoxicating drugs permitted to be imported, exported, transported, manufactured, issued from any manufactory or institution or sold, under the provisions of this Act or any rule, notification, licence or permit issued thereunder.

(2) Such duty may be levied in any one or more of the ways prescribed in the rules made under this Act.

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

**18-B. Excise Duty or countervailing duty on excisable articles.—**

(1) Notwithstanding anything contained in Section 18-A, an excise duty or countervailing duty at such rate not exceeding—

- (a) rupees two hundred and fifty per proof litre, for ordinary brands;
- (b) rupees three hundred per proof litre, for medium brands;
- (c) rupees five hundred per proof litre, for premium brands, as the State Government may, from time to time, by notification specify, shall be levied only under this section on all excisable articles—
  - (a) permitted to be imported under this Act;
  - (b) permitted to be exported under this Act;
  - (c) permitted to be transported under this Act;
  - (d) manufactured under any licence granted under this Act;
  - (e) manufactured at any distillery, blending unit or brewery licensed or established under this Act;
  - (f) issued from a distillery, blending unit, brewery or warehouse licensed or established under this Act; or
  - (g) sold in any part of this State.

Explanation.-- For the purpose of this sub-section,--

(a) ordinary, medium and premium brands mean the Indian-made foreign spirits brands classified as such by notification by the State Government;

(b) each case of Indian-made foreign spirits containing nine bulk litres or less than nine bulk litres shall be considered as containing 6.75 proof litres and excise duty shall be levied accordingly.

(2) Nothing in this section shall authorize the levy of any duty which, as between excisable articles manufactured or produced in the state and similar excisable articles not so manufactured or produced, discriminates in favour of the former or which in the case excisable articles manufactured or produced outside the State discriminates between excisable articles manufactured or produced in one locality and similar excisable articles manufactured or produced in another locality.

(3) Section 18-A shall, in so far as it relates to matters specified in this section, cease to be in force with effect on and from 1<sup>st</sup> May 1981.]

**18-BB. Special fee on import of excisable articles.--** A special fee at such rate not exceeding rupee four hundred and fifty per proof litre, as the State Government may from time to time, by notification specify shall be levied on all excisable articles permitted to be imported under this Act.

**18-C. How duty may be imposed.--** The Excise duty or the countervailing duty under Section 18-B may be levied in one or more of the following ways:--

(a) by duty of Excise to be charged in the case of spirits or beer either on the quantity produced in, or passed out of a distillery, blending unit, brewery or warehouse licensed or established under this Act, or in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the Wash or Wart, as the case may be, as may be prescribed.

[\*\*\*]

[\*\*\*]

(e) by import, export or transport duties assessed in such manner as the State Government may direct:

Provided that where there is a difference of duty as between two licence periods, such difference may be collected in respect of all stocks of liquor other than foreign liquor held by licences at the close of the former period.

**[18-D to 18-G – Omitted]**

**[18-H. Exemption from payment of Excise Duty, countervailing duty or fee.--**

The State Government may, by notification subject to such conditions, if any, as the State Government may specify in such notification,--

- (1) make an exemption, reduction in rate or other modification in regard to the Excise duty, countervailing duty or any fee payable by or under this Act by any person or class of persons; and
- (2) cancel or vary such exemption, reduction or other modification.]

**[18-I. Recovery of amount due to the State Government. —**

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force and without prejudice to any other mode of recovery which is being taken or may be taken, any amount due to the State Government under any of the provisions of this Act or the rules made thereunder along with interest, at such rate as may be specified by the State Government,--

- (a) by deducting the amount due with interest from any money owing to the person which may be in the hands or under the control or disposal of any officer of the State Government; or
  - (b) by recovering the amount due with interest by attachment and sale of excisable articles belonging to the person from whom such amount is due.
- (2) If the amount due to the State Government with interest cannot be deducted or recovered in the manner provided for in sub-section (1) or the money so deducted or recovered is not sufficient to satisfy the amount and interest so due, the officer empowered may prepare a certificate signed by him specifying the amount with interest due or, as the case may be, the balance of the amount due from the person, and send it to the Collector of the district in which such person resides or carries on business and the Collector, on receipt of such certificate, shall recover the amount with interest specified therein as an arrear of land revenue from the said person.

(3) Notwithstanding anything contained in any law for the time being in force and subject to the prior claim, if any, of the State Government in respect of land revenue, any amount due to the State Government with interest shall be a first charge upon the property or interest in the property of the person from whom the amount is due.]

**19. Licence for tapping neera or padani, etc. —**

The Commissioner of Prohibition and Excise or the Functional Registrar of the Tamil Nadu Palm Products Development Board or any Registrar of the Tamil Nadu Palm Products

Development Board or any other Officer authorized by the State Government in this behalf, may issue.

(a) licences for the tapping of neera or padani for consumption thereof without fermentation or for use in the manufacture of jaggery, honey, biscuit, sugar and such other products as may be notified by the State Government or

(b) permits for the possession, transport or sale of such neera or padani. (This clause was inserted by Section 19, of the Tamil Nadu Prohibition (Amendment) Act, 2017. (Tamil Nadu Act 26 of 2017)

**20. Permits and licences.--** The State Government or any officer empowered by them in this behalf may issue,--

(a) permit authorizing any person [to consume and possess for personal consumption any liquor other than those specified by the State Government under sub-clause (i) of clause (f) of sub-section (j) of Section 4] or intoxicating drug;

[(b) licences to any institution to possess liquor and issue it to such of its members as hold permits under clause (a); [\*\*\*]

(c) licences to any person incharge of a restaurant car attached to a railway train to possess liquor and serve it to bonafide passengers traveling by the train;

[(d) licences to any person to possess liquor and issue it to persons or institutions who hold permits or licences under this Act, or who have been exempted under this Act from so much of the provisions of Section 4, sub-section (1), [clause (a), (aa), (aaa) or(j) as relates to the possession, consumption of buying of liquor

**[20-A. Matters to be taken into consideration by the licensing authority.--** Subject to the provisions of Section 20-B, in considering an application for the grant of a licence or permit under this Act, the authority competent to grant such licence or permit, as the case may be, shall have regard to the following matters, namely:--

(a) the suitability of the applicant for the grant of licence or permit, as the case may be;

[\*\*\*]

( c ) such other matters as may be prescribed.

[Explanation.-- It is hereby declared that, in judging the suitability of the applicant for the grant of licence or permit, as the case may be, the authority competent to grant such licence or permit shall have regard to the following factors, namely:-

- (a) solvency of the applicant;
- (b) whether the applicant has contravened any of the provisions of this Act, or of any rule, notification or order made thereunder or has committed the breach of any of the terms and conditions of any licence or permit granted under the provisions of this Act or of any rule made thereunder'
- (c) whether the applicant has convicted of any offence punishable under this Act or of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930 (Central Act II of 1930) or under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) or under Sections 482 to 489 of the Indian Penal Code (Central Act XLV of 1860)
- (d) whether the applicant carries on any other business which is likely to prevent him from giving his due attention to the purpose for which the licence or permit under this Act is sought for;
- (e) whether the applicant was a defaulter in payment of any amount due to the State Government under this Act or the rules made thereunder or of any taxes or other amounts due to the State Government;
- (f) any other matter relevant to the purpose for which the licence or permit under this Act is sought for.]

**20-B. Co-operative societies to be given preference.—** Where any co-operative society registered or deemed to have been registered under any law in force for the time being, makes an application for the grant of a licence under clause (d) of section 20, the authority competent to grant such licence shall, in granting such licence, give preference to such co-operative society over every other applicant.

**20-C. Licence for possession and use of denatured spirit in the manufacture of specified commodities, etc.,--** Notwithstanding anything contained in this Act, no licence under this Act shall be issued—

(i) for the possession and use of denatured spirit in the manufacture of Varnish (French Polish), Picture Varnish, Insulating Varnish, Paint Remover, Gasket Shellac, Printing ink or such other commodities as may be specified by the State Government, from time to time, except to the units of any department of the State Government or of any Government Company within the meaning of the Companies Act, 1956 (Central Act 1 of 1956) or any Corporation owned or controlled by the Central Government or the

State Government and to manufactures or spirit based products who are registered with the Director-General of Technical Development, Government of India or the Director of Industries and Commerce, [Chennai].;

(ii) for the possession and sale, whether wholesale or retail, or denatured spirit or of Varnish (French Polish) except to the units of any department of the State Government or of any Government company within the meaning of the Companies Act, 1956 (Central Act 1 of 1956) or any Corporation owned or controlled by the Central Government or the State Government or a co-operative society registered or deemed to have been registered under any law in force for the time being.

**21. Form and conditions of licences and permits.--** Every licence or permit granted under Sections 6-A, [17-B, 17-C, 18, 19 [\*\*\*] or 20] shall --

(1) be granted on payment of such fees, if any, for such period, and subject to such restrictions and limitations and, [ on such terms and conditions including—

(a) the condition for deposit of such sum as may be prescribed as security for the observance of the terms and conditions of any such licence or permit;

(b) the condition for forfeiture of the whole or part of the sum so deposited for contravention of any term or condition on which the licence or permit has been granted;

(c) the condition for the replenishment of the sum so forfeited within such time as may be prescribed; and]

(2) be in such form and contain such particulars as the [State] Government may be direct either generally or in any particular case.

**[21-A. Power to prescribe limit of wastage or shortage of spirits .—**The State Government may with a view to prevent or check the misuse of spirits, prescribe the limit of –

(a) wastage of spirits in the distillery, blending unit, brewery or ware-house licensed or established under this Act; or

(b) shortage of spirits in transport:

Provided that different limits may be prescribed for different varieties of spirits].

**22. Counterpart agreement to be executed by licensees .--** Every person taking out any licence or permit under sections 6-A, 17-B, 17-C, 18, 19 [\*\*\*] or 20 shall, if so required, execute a counterpart agreement in conformity with the tenor of his license or

permit and give such security for the performance of the agreement as the State, or the Collector or the prescribed authority, as the case may be required].

**22-A. Cancellation of licence granted under Tamil Nadu Distillery Rules, 1960.--**

(a) Every distillery licence granted in Form II under the Chennai City Distillery Rules, 1960 or deemed to have been granted under the Tamil Nadu Distillery Rules, 1981, for the manufacture of rectified spirit and denatured spirit, shall stand cancelled on the expiry of fifteen days from the 23<sup>rd</sup> May 1981.

(b) Every person who held the licence which stands cancelled under clause (a), shall on application made within a period of fifteen days from the 23<sup>rd</sup> May 1981 or such further period as the State Government, may specify, from time to time, be entitled to the grant of licence under Section 17-B and for the grant of privilege of manufacturing rectified spirit under sub-section (1) of Section 17-C and a licence under sub-section (2) of the said Section 17-C for the manufacture of rectified spirit and denatured spirit under the Tamil Nadu Distillery Rules, 1981, subject to the provisions of the said rules.

(c) Any application made for the grant or renewal of licence for the manufacture of rectified spirit and denatured spirit in a distillery and pending before the State Government or any other authority on the 23<sup>rd</sup> May 1981 shall abate and the fee, if any, already paid, shall be refunded. Any person who had made such application may apply afresh under the Tamil Nadu Distillery Rules, 1981, for the grant of Privilege of manufacturing rectified spirit and denatured spirit and for licence under the said rules, and such application shall be disposed of in accordance with the said rules.

[22-B \*\*\*]

**[22-C. Specification of route for transport of liquor.--** Notwithstanding anything contained in this Act, the prescribed authority may, from time to time, specify the route or routes through which the export, import or transport of any liquor or article containing liquor shall be made and the specifications of such route or routes shall be deemed to be an additional condition and restriction subject to which the licence or permit has been granted].

**[22-CC. Repeal of rules.--** (1) Notwithstanding anything contained in any judgment, decree or order of any Court, rule 14 of the Tamil Nadu Liquor (Retail Vending) Rules, 1989, is repealed with effect from 22<sup>nd</sup> day of June 2001.

(2) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court, --

(i) the licence granted for selling, by retail, Indian-made Foreign Spirit on or after the 22<sup>nd</sup> day of June 2001, under the Tamil Nadu Liquor (Retail Vending) Rules, 1989, shall be deemed to have been granted without the right of renewal;

(ii) any grant of renewal of licence for selling, by retail, Indian-made Foreign Spirit on or after the 22<sup>nd</sup> day of June 2001, under the rule repealed under sub-section (1) of this section shall be deemed to be a grant of licence for selling by retail, Indian-made Foreign Spirit without the right of renewal and shall cease to be valid on the expiry of the 28<sup>th</sup> day of November 2003.

(3) Notwithstanding anything contained in any judgment, decree or order of any Court, Rule 5 of the Tamil Nadu Liquor (Retail Vending in Bar ) Rules, 2002 is repealed with effect from the 23<sup>rd</sup> day of April 2002.

(4) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court, ---

(i) the licence granted for vending liquor in bar, on or after the 23<sup>rd</sup> day of April 2002, under the Tamil Nadu Liquor (Retail Vending in Bar ) Rules, 2002 shall be deemed to have been granted without the right of renewal;

(ii) any grant of renewal of licence for vending liquor in bar, on or after the 23<sup>rd</sup> day of April 2002 under the rule repealed under sub-section (3) of this section shall be deemed to be a grant of licence for vending liquor in bar without the right of renewal and shall cease to be valid on the expiry of the 28<sup>th</sup> day of November 2003.]

**[22-D. Licence granted for selling, by retail, Indian-made Foreign Spirits to cease to be valid.--** (a) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court, [every licence granted or renewed (which is deemed to be a grant of licence under sub-sections (2) and (4) of Section 22-CC)] in respect of any privilege of selling, by retail, Indian-made Foreign Spirits (other than the licence granted or renewed for supply in hotels, clubs and stores and depots run by the Defence Department, Government of India) and which is valid on the 26<sup>th</sup> day of October 2003 shall cease to be valid on the 26<sup>th</sup> day of October 2003 shall cease to be valid on the expiry of the 28<sup>th</sup> day of November 2003 on which date the validity of the said licence shall, under the existing rules, expire and [any licence renewed (which is deemed to be a grant of licence under sub-sections (2) and (4) of section 22—CC)] for any period beyond 28<sup>th</sup> day of November 2003 shall cease to be valid and in such cases all fees

(including the licence fee and the privilege amount) paid for renewal of licence shall be refunded.

(b) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court, every application made for the grant or renewal of licence for selling, by retail, Indian-made foreign spirits and pending before the Commissioner or before the State Government or any other authority on the 26<sup>th</sup> day of October 2003 and every action taken, or enquiry made, in respect of such application, shall abate and all fees in connection with such application (including the application fee and the licence fee, if any), already paid shall be refunded.

(c) Tamil Nadu Liquor (Retail Vending in Bar) Rules, 1989 and the Tamil Nadu Liquor (Retail Vending in Bar) Rules, 2002 are hereby repealed with effect from the 29<sup>th</sup> day of November 2003:

(d) (i) Notwithstanding anything contained in sub-section (1-B) of section 17-C and without prejudice to the provisions contained in section 54, the State Government may make rules for grant of licences to such hotels, clubs and stores and depots run by the Defence Department, Government of India, as may be prescribed and for the purpose of carrying into effect the provisions of this section and sub-section (1-B) of section 17-C.

(ii) Within a period of one month commencing on and from the 29<sup>th</sup> day of November 2003, the State Government shall, on payment of the price, take over the entire stock of Indian-made Foreign Spirits, if any, which on the 29<sup>th</sup> day of November 2003, is in possession of any holder of a licence which shall cease to be valid under clause (a).

Explanation.-- For the purposes of item (ii) of this clause, the expression "stock of Indian-made Foreign Spirits" shall include stocks in movement on the 29<sup>th</sup> day of November 2003, consequent on the orders placed by such holder with the suppliers in pursuance of permits granted by the Competent Authority under this Act.]

### **23. Power to cancel or suspend licences and permits.--**

- (1) [The State Government or the Collector or the prescribed authority, as the case may be,] may cancel or suspend any such licence or permit—
  - (a) if any payable by the holder thereof be not duly paid; or
  - (b) in the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit; or

- (c) if the holder thereof is convicted of any offence against this Act, or of any cognizable and non-bailable offence; or
- (cc) if the holder thereof has furnished false or incorrect information in connection with the obtaining or renewal of such licence or permit
- (d) if the conditions of such licence or permit provide for its cancellation or suspension at will; or
- (e) if the purpose for which the licence or permit is granted ceases to exist.

[(2) The State Government may cancel or suspend any such licence or permit [issued by Collector or the prescribed authority] for any of the aforesaid reasons.

(3) Before any licence or permit is cancelled or suspended under sub-section (1) or sub-section (2), the holder of the licence or permit shall be given an opportunity to state his objection within a reasonable time, not ordinarily exceeding fourteen days, and any representation made by him in this behalf shall be duly taken into consideration before final orders are passed].

(4) Notwithstanding anything contained in sub-section (3) in so far as it relates to suspension of any such licence or permit, where a prima facie case has been made out, the State Government or the Collector or the prescribed authority, as the case may be, may, at any time and for reasons to be recorded in writing, suspend any such licence or permit and in such a case, it shall not be necessary to give an opportunity to the holder of the licence or permit to state his objections].

**[23-A. Licence for possession and sale or issue of bottled liquor to cease.--**

(1) Every licence for possession and sale or issue of bottled liquor under the Tamil Nadu Liquor (Licence and Permit) Rules 1960, shall cease to be in force on the expiry of the 30<sup>th</sup> day of September 1981.

Provided that such cesser shall not affect the previous operation of –

- (i) the said licence; and
- (ii) anything done or any action taken in pursuance of the said licence; and
- (iii) every proceeding by way of investigation or otherwise made or taken by the State Government or other authority in respect of the said licence and any such proceeding shall be continued or enforced as if this sub-section had not been enacted.

(2) Every person who held the licence which has ceased to be in force under sub-section (1) may apply for the grant of privilege and licence under the Tamil Nadu Indian-Made Foreign spirits (Supply by Wholesale) Rules, 1981 or the Tamil Nadu Liquor (Licence and Permit Rules, 1981.

(3) The State Government may make rules for the refund of the proportionate fee and for the disposal of the unsold stock of liquor in the possession of any holder of a licence which has ceased to be in force under sub-section (1)].

**[23-B. Licences granted for selling, Indian-made Foreign Spirits to cease to be valid.--** (1) Notwithstanding anything contained in this Act or in any rule made thereunder or in any judgment, decree or order of any court or other authority, every licence granted in respect of any privilege of selling, by retail, Indian-made foreign spirits shall cease to be valid on the expiry of the 31<sup>st</sup> day of May 1992;

Provided that nothing contained in this sub-section shall affect any liability in respect of such privilege incurred before the 1<sup>st</sup> day of June 1992.

(2) The State Government may make rules for the refund of the proportionate fee and for the disposal of the unsold stock of Indian-made foreign spirits in the possession of any holder of the licence which has ceased to be in force under sub-section (1).

(3) Notwithstanding anything contained in this Act or in any rule made thereunder or in any judgment, decree or order of any court or other authority, every application made for the renewal of any licence for selling, by retail Indian-made foreign spirits and pending before the State Government or before the Commissioner or any authority on the 12<sup>th</sup> day of May 1992 and every action taken or enquiry made in respect of such application, shall abate and all fees in connection with such application (including the application fee and the licence fee, if any) already paid shall be refunded].

**24. Penalty for breach of the conditions of licence and permits.--** In the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit, such holder, shall, in addition to the cancellation or suspension of the licence or permit granted to him, (be punished with imprisonment) for a term which may extend to three years and with fine which may extend to three thousand rupees.

[ \*\*\*]

**[24-A. Punishment for adulteration, etc., by licensed vendor or manufacturer.--**

Whoever, being the holder of licence or permit for the sale or manufacture of liquor under this Act, [or whoever being an employee of the Tamil Nadu State Marketing Corporation Limited [\*\*\*]

[\*\*\*]

(a) mixes or permits to be mixed with the liquor sold or manufactured by him,--

(i) any noxious drugs or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code (Central Act XLV of 1860); or

(ii) any illicit liquor; or

[ (aa)\*\*\*]

[ (b)\*\*\*\*]

(c)sells or keeps or exposes for sale,---

(i) as foreign liquor, liquor which he knows or has reason to believe to be liquor other than foreign liquor; or

[ (i-a) as Indian-made foreign spirits, liquor which he knows or has reason to believe to be liquor other than Indian-made foreign spirits ; or]

(ii) as illicit liquor, liquor which he knows or has reason to believe to be illicit liquor; or

(d) dilutes or permits to be diluted any liquor sold or manufactured by him with any matter what so ever; or

(e) makes the cork of any bottle or any bottle, case, package or other receptacle containing liquor other than foreign liquor or uses any bottle, case, package or other receptacle containing liquor other than foreign 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 Indian Penal Code (Central Act XLV of 1860); or

(f) sells or keeps or exposes for sale any liquor other than foreign 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 Indian Penal Code (Central Act XLV of 1860) shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to three thousand rupees.

[ \*\*\*\* ]

**24-B Offences by companies.--** (1) Where an offence under this Act has been committed, by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence, has been committed with the consent or connivance of, or it attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be, liable to be proceeded against and punished accordingly.

Explanation.-- For the purposes of this section.—

(a) 'Company' means any body corporate and includes a Firm or other association of individuals, and

(b) 'Director' in relation to a Firm means a partner in the Firm]

**[24-C. Penalty for furnishing false or incorrect information.--** Whoever, being the holder of any licence or permit in respect of liquor under this Act, furnishes any information in connection with the obtaining or renewal of licence or permit under this Act, which is either false or which he knows or has reason to believe to be incorrect, shall in addition to the cancellation or suspension of the licence or permit granted to him in

respect of such liquor, be punished with [ \*\*\*] imprisonment for a term which may extend to three years and with fine which may extend to two thousand rupees.

**[24-D. Power to compound offences.—**(1) Any Prohibition Officer specially empowered by the State Government in this behalf may accept, from any person who has committed or is reasonable suspected of having committed an offence under this Act or the rules made other than [ the offence under clauses (aaa), (b), (f), and (h) of sub-section (1), and offence punishable under sub-section (1-A) of Section 4 and offences under Section 6 and Section 52-E] by way of composition of such offence a sum of money not exceeding [ ten thousand rupees but not less than one thousand rupees].

(2) On payment of such sum of money to such officer, the accused person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person.

## CHAPTER IV

### EXTABLSHMENT AND CONTROL

**25. Appointment of officers and withdrawal of powers:-** The [State] Government may, from time to time, by notification :-

(a) appoint an officer to exercise all the powers of a Collector under this Act in all local areas in which it is in force and to have the control of the administration of the provisions of this Act in such areas ;

(b) appoint any person other than the Collector of land revenue to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or in exclusion of the Collector of land revenue, subject to such control as the [State] Government may from time to time, direct;

(c) withdraw from the Commissioner or the Collector of land revenue any or all of the powers conferred on him by this Act ;

(d) appoint paid or honorary officers with such designations, powers and duties as the [State] Government may think fit ;

(e) order that all or any of the powers and duties assigned to any person under clause (d) shall be exercised and performed by any existing Government official or any other person ; and

(f) delegate to any Prohibition Officer all or any of their powers under this Act.

#### **25-A. Delegation of powers of State Government :-**

(1) The State Government may, by notification, authorize the Commissioner or any other officer sub-ordinate to them to exercise any of the powers vested in them under this Act except the power to make rules and to issue notifications.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and condition as may be specified in the notification and subject also to control and revision by the State Government.]

#### **26. Prohibition committees :-**

(1) The State Government may, for the whole of the [State of Tamil Nadu] and the Collector of a district may, for such area in the district as the State Government may, by general or special order, determine in this behalf, constitute prohibition committees to assist them or him in carrying out the objects of this Act.

(2) Every member of a prohibition committee shall observe the working of this Act and report thereon and on every matter connected therewith at the prescribed intervals and at any other time he thinks fit, to the State Government in case he is a member of the prohibition committee constituted by the State Government and to the Collector in case he is a member of the prohibition committee constituted by the Collector.

(3) Every member of a prohibition committee shall be entitled to give information at any police station regarding the commission or suspected commission of any offence against this Act in the area of the committee concerned and the officer-in-charge of such station shall take action on such information and investigate the case in the manner laid down in the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)].

**27. Power of State Government to authorize officers to admit persons arrested to bail :-** The [State] Government may, by notification, and subject to

such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers or person mentioned in section 32 through out the [State] or any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed, before a Police or Prohibition Officer or Magistrate having jurisdiction to enquire into the offence for which such person has been arrested, and may cancel or vary such notification.

## **CHAPTER V**

### **POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.**

**28. Issue of search warrants.** – If any Collector, Prohibition Officer or magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under sub-section (1) of Section 4 has been committed, he may issue a warrant for the search for any liquor, intoxicating drug materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed. Any person who has been entrusted with the execution of such a warrant may obtain and search, and if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any of offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or prohibition Officer, as the case may be.

Before issuing such warrant the Collector, Prohibition Officer or Magistrate shall examine the information oath and the examination shall be reduced in writing in a summary manner and be signed by the informant and also by the Collector, Prohibition Officer or Magistrate.

**29. Powers of entry and search without warrant.**– Whenever a Collector, any Prohibition Officer not below such rank as the [State] Government may determine, any Police Officer not below the rank of Sub-Inspector, any Officer in-charge of a police station, or any other paid or honorary officer authorized by the [State] Government in this behalf has reason to believe that an offence under sub-section (1) of section 4 has been committed and that the delay occasioned by

obtaining a search warrant under Section 28 will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid, if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer, as the case may be.

**30. Power of entry and inspection --** The Collector, any Prohibition Officer not below such rank as the State Government may determine or any police or other paid or honorary officer authorised by the State Government in this behalf, may enter and inspect at any time by day or by night, any place in which it is reasonable suspected---

- (a) that any toddy is drawn, or the manufacture of any other liquor or of any intoxicating drug is carried on ; or
- (b) that any liquor or intoxicating drug is kept for sale or stored ; or
- (c) that an offence under [\*\*\*\*] section 5 has been, or is being committed;

and may examine, test, measure or weigh any material still, utensil, implement , apparatus, liquor or intoxicating drug found in such place.]

**31. Power to use force in case of resistance to entry. ---** If any officer empowered to make an entry under sections 28,29 or 30 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place.

**32. Arrest of offenders and seizure of contraband liquor and articles without warrant.----** Any prohibition Officer, any officer of the Police or Land Revenue Departments, and any other person authorized in that behalf—

- (a) may arrest without warrant any person found committing an offence punishable [under section 4, sub-section (1) [\*\*\*], or Section 5 [or section 7 or

Section 24 or any offence punishable with rigorous imprisonment for three years and upwards];

b) may seize and detain any liquor, drug or other article which he has reason to believe to be to confiscation under this Act; and

c) may search any person, vessel, vehicle, animal package, receptacle or covering, upon whom or in or upon which, he may have reasonable cause to suspect any such liquor, drug or other article to be or to be concealed:

Provided that if the officer or person making the arrest under this section be not empowered under section 27 to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered; if such an officer is known to be within a distance of five miles from the place where such arrest took place and is shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the case:

[Provided further that where any toddy or wash or any sonti soru is seized under this section by any officer or person, such officer or person may destroy or cause to be destroyed on the spot, the toddy, wash or sonti soru and send the pots or other receptacles in which the toddy, wash or sonti soru was kept the Police or prohibition Officer or Magistrate having jurisdiction to inquire into the case [\*\*\*].

[Provided also that where any [illicit arrack] is seized under this section by any officer or person, such officer or person may, in the presence of a prohibition Officer or any Police officer not below the rank of Inspector,----

(i) take two samples of the [illicit arrack] or such quantity and in such manner as may be prescribed, and

(ii) destroy or cause to be destroyed the [illicit arrack] and send the pots or other receptacles in which the [illicit arrack] was kept together with the samples taken and a certificate from the Officer in whose presence the samples were taken and the [illicit arrack] was destroyed, as to the total quantity of [illicit arrack] seized, the total quantity taken as samples and the total quantity destroyed, to the Magistrate having jurisdiction to inquiry into the case. The Magistrate shall, upon

the receipt of the samples, retain one in his Court and send the other to such Officer as may be prescribed for chemical Analysis.]

Explanation .- For the purpose of this section,-----

“sonti soru” means a liquid prepared from rice or starch which is in the process of vinous or alcoholic fermentation or in which such fermentation has ceased; and

“wash” means a mixture of water and sacharine materials which is in the process of vinous or alcoholic fermentation or in which such fermentation has ceased.

**32-A. Establishment of check post or barrier and inspection of liquor while in transit, etc. ---**(1) If the State Government consider that with a view to prevent or check the import, export, transport or transit of liquor without obtaining a licence or permit as required under the provisions of this Act, it is necessary so to do, they may, by notification, direct the setting up of check post or the erection of barrier or both, at such place or laces as may notified.

(2) At every chekpost or barrier mentioned in sub-section (1) or at any other place when so required by the Prohibition Officer or the officer-in-charge of the checkpoint or barrier or any other officer empowered by the State Government in this behalf, the driver or any other person in-charge of any animal, vessel, cart or other vechicle, as the case may be, and keep it stationery so long as may reasonably be necessary and allow the Prohibition Officer or officer in-charge of the checkpoint, or barrier or the Officer empowered as aforesaid to inspect the licence or permit obtained under the provisions of this Act.

(3) Any Prohibition Officer or any other officer specially empowered in this behalf, may at any place require the driver or any other person in-charge of any animal, vessel, cart or other vehicle who imports, exports, transports or transits the liquor to stop the animal, vessel, cart or other vehicle or keep it stationery so long as may reasonably be necessary for the purpose of satisfying himself that a licence or permit has been duly obtained in respect of such import, export, transport or transit of liquor and the conditions of such licence or permit and the provisions of this Act and the rules made thereunder have been duly complied with in respect of such import, export, transport or transit of liquor.

(4) If, on such examination and inspection under sub-section (2) or sub-section (3), it appears—

(a) that the licence or permit as required under the provisions of this Act in respect of the liquor carried has been obtained and the provisions of this Act and the rules made thereunder or the notification or order issued thereunder are complied with, the said officer shall release the animal, vessel, cart or other vehicle with the liquor carried, or

(b) that the licence or permit as required under the provisions of this Act has not been obtained or any of the provisions of this Act or any of the terms of any rule, notification, order, licence or permit, issued thereunder has not been complied with in respect of the liquor carried, the said officer, after making such inquiry as he deems fit and satisfying himself as to such non-obtainment or non-compliance, as the case may be, shall seize and confiscate such liquor.

(5) The driver or any other person in-charge of the animal, vessel, cart or other vehicle shall, if so required, give his name and address and the name and address of the owner of the animal, vessel, cart or other vehicle as well as those of the consignor and consignee, if any, of the liquor carried on such animal or in such vessel, cart or other vehicle, as the case may be.

(6) The driver of vessel, cart or other vehicle, shall, on demand by the said officer, produce for inspection his driving licence.

(7) If it appears to the said officer that the driver or the person in-charge of the animal, vessel, cart or other vehicle is not giving the correct name and address of the owner of the animal, vessel, cart, or other vessel or of the consignor or of the consignee, if any, of the liquor carried on such animal or in such vessel, cart or other vehicle and if the said officer is satisfied after making such inquiry as he deems fit that with a view to prevent the evasion of the provisions of this Act or the rules made there under it is necessary to confiscate such liquor, he may take steps for the seizure and confiscation of such liquor, in accordance with the provisions of this Act.]

**33. Arrest of person refusing to give name or giving false name.—**Any person who may be accused or reasonably suspected of committing an offence against this Act and who on demand made by any Prohibition Officer or any officer of the Police or Land Revenue Departments or by any other person authorised in that behalf refuses to give his name and residence or who gives a

name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

**34. Searches how to be made.**----- All searches under the provisions of this Act shall be made in accordance with the provisions of the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)].

**35. Duty of officials of all departments and local bodies to assist.**--- Officials of all departments of the [State] Government and of all local bodies shall be legally bound to assist any prohibition or Police Officer in carrying out the provisions of this Act.

**36. Offences to be reported, etc.,**-- Every official employed by the [State] Government or by any local body, other than a Police or prohibition Officer, shall be bound to give immediate information at the nearest police station or to a Prohibition Officer of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officials shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

**37. Land holders and others to give information.**—All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land or house property on or in which there shall be any tapping for toddy or manufacture of liquor or intoxicating drugs shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an officer of the Police or Land Revenue Departments immediately the same shall have come to their knowledge.

**38. Persons arrested how to be dealt with.**----- (1) When any person is arrested under the provisions of sections 28,29,32 or 33 the person arresting him shall, unless bail shall have been accepted under the provisions of sections 28,29 or 32, forthwith forward him to the nearest police station or to a Prohibition Officer, with a report of the circumstances under which such arrest was made.

(2) Procedure of police Station Officer.--- On any such person being brought to a police station as aforesaid, the officer in-charge thereof shall either admit him to bail to appear when summoned, before himself, or before the prohibition Officer, if any, or any Police Officer within the limits of the jurisdiction

of which Prohibition or Police Officer the offence, with which he is charged is suspected to have been committed, or in default of bail, shall forward him in custody to such officer.

(3) Procedure of Police or Prohibition Officer empowered to enquire.- On any such person being brought in custody before a Prohibition or Police Officer as aforesaid or appearing before such officer on bail or when such officer as aforesaid has himself made the arrest, such Officer shall hold such enquiry as he may think necessary and shall either release such person or forward him, in custody to, or admit him to bail to appear before the Magistrate having jurisdiction to inquire into or try the case:

Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such officer, he shall if sufficient bail be tendered for the appearance of the person arrested, admit such person to bail to appear on any subsequent day before himself or any other officer having jurisdiction to inquire into the case.

**39. Persons arrested to be admitted to bail.**—It shall be the duty of any officer arresting any person under the powers conferred by Section 28 or 29 and of any officer in-charge of a police station or any Police or Prohibition Officer before whom a person arrested is brought or appears under the provisions of Section 38 to release such person on bail if sufficient bail be tendered for his appearance before a Police or prohibition Officer or before a Magistrate, as the case may be.

**40. Bond of accused and sureties.**--- (1) Before any person is released on bail, a bond in such sufficient but no excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Police or Prohibition Officer before whom he was bailed to attend, or by the Magistrate, as the case may be:

Provided that the officer admitting any such person to bail, may, in his discretion, dispense with the requirement of a surety or sureties to the bond executed by such person.

(2) The [State] Government shall, from time to time, determine the form of the bond to be used in any local area.

**41. Procedure in case of default of person admitted to bail to appear before Prohibition Officer.**—When by reason of default of appearance of a person bailed to appear before a Police or Prohibition Officer, such officer is of opinion that proceeding should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce the payment of the penalty or penalties in the manner provided by the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)] for the recovery of penalties in the like case of default or appearance by a person bailed to appear before his own Court.

**[41-A. Obtaining of medical certificates in the case of persons found in a state of intoxication.]**— (1) Any officer authorised to arrest a person for an offence punishable under Section 4(1) (j) in so far as it relates to consumption of liquor or any intoxicating drug who has reason to believe that any person has consumed liquor or any intoxicating drug, may produce such person for examination, before any medical officer authorised by the State Government and request the medical officer to furnish a certificate on his finding whether such person has consumed any liquor or intoxicating drug or is in a state of intoxication or not.

(2) Any medical officer before whom such person is produced shall be bound to examine such person and furnish to the officer by whom such person has been produced a certificate as to the state of such person, and if any form has been prescribed for the purpose, in such form.

(3) If the person produced is a woman, the examination shall be carried out by a woman medical officer authorized by the State Government.

(4) Any person who has been produced before a medical officer in pursuance of this section shall allow himself to be examined by the medical officer.

(5) If any person who under this section is required to undergo medical examination resists or refuses to allow himself to be produced before or to be

examined by the medical officer, it shall be lawful to use all means necessary to secure the production and examination of such person.

(6) Resistance to production or refusal to allow examination under this section shall be deemed to be an offence under section 186 of the Indian penal Code (Central Act XLV of 1860).

(7) In trials under this Act, it may be presumed unless and until the contrary is proved, that the accused has committed an offence under section 4(1) (j) if he having been produced before a medical officer under this section had resisted or had refused to allow himself to be examined by such medical officer.

(8) Any document purporting to be a certificate signed by a medical officer authorized by the State Government may be used as evidence of the facts stated therein in any proceeding under this Act of under Sections 272 to 276 of the Indian penal Code (Central Act XLV of 1860) but the Court may at the instance of the accused order the attendance for cross examination of the medical officer who issued the certificate.

**[41-B. Presumption that the liquor consumed is an illicit variety.—**

Where in any trial of an offence punishable under section (4) (1) (j), it is proved that a person has consumed liquor or any intoxicating drug, it shall be presumed, until the contrary is proved, that such liquor or intoxicating drug is an illicit variety.]

**42. Power of Police or Prohibition Officer to summon witnesses.—**

Any Police or Prohibition Officer holding an inquiry in the manner provided in section 38 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control:

Provided that no such officer shall so summon any person to appear before him if the journey to be made for complying with such summons exceeds ten miles by road or fifty miles by rail or such other limits as the [State] Government may fix.

**43. Terms of summons.—**Every summons issued under section 42 shall state whether the person summoned is required to give evidence or to produce a document, or both and shall require shall him to appear before the said officer at a stated time and place.

**44. Examination of witnesses.—**Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by

such officer. Such answer shall be reduced to writing and shall be signed by such officer.

**45. When attendance of witness be dispensed with and procedure in such cases.-** It shall be lawful for a Police or a Prohibition Officer, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason or rank or sex, it may not be proper to summon to proceed to the residence of such person and thereto require him to answer such questions as he may consider necessary with respect to such inquiry; and such person shall be bound so to answer accordingly, and the provisions of Section 44 shall apply to such answers.

**46. Power of Police or Prohibition Officer to summon suspected persons.-** Any Police or prohibition Officer may after recording his reason in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by Sections 38 to 45 shall become applicable.

The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by Sections 42 to 45 before summoning the persons suspected.

**47. Law relating to criminal Courts as to summoning of witnesses to apply.-** The law for the time being in force as to summonses and compelling the attendance of persons summoned in criminal Courts shall, so far as the same may be applicable, apply to any summons issued by a Police or Prohibition Officer and to any person summoned by him to appear under the provisions of this Act.

**48. Report of Police or Prohibition Officer to give jurisdiction to competent Magistrate. –** When a Police or Prohibition Officer forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of

such report, the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the [Code of Criminal Procedure,1973 (Central Act 2 of 1974)].

**49. Powers of Police or Prohibition Officer to cause attendance of witnesses before Magistrate.-** When a Police or Prohibition Officer forwards in custody any person accused of an offence against this Act to the Magistrate having jurisdiction to inquire into to try the case or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the [Code of Criminal Procedure,1973 (Central Act 2 of 1974)]. On an officer in-charge of a police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary, then such Magistrate shall examine as witnesses for the prosecution of such case.

**[50. Procedure after arrest.-** Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty- four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate].

**51. Police to take charge of articles seized.---** All officers in-charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of a Prohibition Officer, all articles seized under this Act which may be delivered to them; and shall allow any Prohibition Officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in-charge of the police station.

**52. Power of District Magistrate to transfer cases.—**The District Magistrate shall have power to transfer any case under this Act pending inquiry or trial before any Magistrate or Officer in the district to any other Magistrate or Officer therein.

**52-A. Security for abstaining from Commission of certain offences.—**  
(1) Whenever any person is convicted of an offence punishable under 1[clause (a),[clause (aa), clause (aaa). Clause (b), Clause (c), Clause (e), Clause (f),

Clause (g), Clause (h), Clause (i), Clause (jj), of Section 4 (1) and the Court convicting him of opinion that such person habitually commits or attempts to commit, or abets the commission of any such offence and that it is necessary to require such person to execute a bond for abstaining from the commission of any such offence, 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 offence during such period, not exceeding three years as it thinks fit to fix.

(2) The bond shall be in the form contained in Schedule II, and the provisions of the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)] 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.

(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 power of revision.

**52-B. Power to release certain offender of Prohibition on good conduct.-** (1) Notwithstanding anything contained in the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or the probation of offenders Act, 1958 (Central Act 29 of 1958)] when any person is found guilty of—

(a) any offence punishable under [Section 6]; or

(b) the commission, attempt to commit, or abetment of the commission of any of the acts making up any such offence as is referred to in clause (a) when such commission, attempt or abetment is punishable under section 12;

[\*\*].

(c) [\*\*].and no previous conviction for any offence under this Act is proved against him the court by which he is found guilty may instead of sentencing him at once to any punishment release him on his entering into a bond, with at least one surety to appear and receive sentence when called upon at any time during such period not exceeding five years as the court may direct and in the meantime to abstain from committing any offence under this Act:

Provided that the court shall not direct the release of an offender under the section, unless it is satisfied that the offender or his surety or one of his sureties

has a fixed place of abode or regular occupation in the place for which the court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(2) Where the offender referred to in sub-section (1) is under twenty four years of age, the Court may make a supervision of such probation officer appointed under the Probation of Offenders Act, 1958 (Central Act 20 of 1958) as may be named in the order during the period specified therein and imposing such other conditions for securing such supervision as may be specified in the order;

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the court, the offender will attain the age of twenty five years.

(3) A court making a supervision order under sub-section (2) shall require the offender, before he is released to enter into a bond, with atleast one surety, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants and any other matters as the court may having regard to the particular circumstances of the case, consider fit to impose for preventing a commission of any offence under this Act by the offender.

(4) A court making a supervision order shall furnish to the offender and the surety or sureties a notice in writing stating in simple terms the conditions of the bond.

(5) An order under this section may be made by any Appellate Court or by the High Court when exercising its powers of revision.

**52-BB Person not to be released on probation.--** Except as provided in section 52-B, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and the Probation of Offenders Act, 1958 (Central Act 20 of 1958), no person convicted under this Act shall be released on probation or with admonition.

**52-C. Procedure in case of offender failing to observe condition of bond.-** (1) If the Court before which the offender is bound by his bond under section 52-B to appear for sentence when called upon, or any court which could have dealt with the offender in respect of his original offence, has reason to

believe that the offender has failed to observe any of the conditions of the bond executed by him, it may issue a warrant for his apprehension or may, if it thinks fit, issue a summons to the offender and his surety or sureties requiring him or them to attend before it at such time as may be specified in the summons.

(2) The Court before which the offender is so brought or appears may either remand him to custody until the case is concluded, or admit, him to bail with at least one surety, to appear on the date of hearing.

(3) If the Court after hearing the case is satisfied that the offender has failed to observe any of the conditions of the bond executed by him, it may forthwith sentence him for the original offence.

(4) An order under this section may be made by any Appellate Court or by the High Court when exercising its powers of revision.

**52-D. Provision as to bonds.-** The provisions of sections (121, 123, 124, 373, 446, 447, 448 and 449 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)) shall, so far as may be, apply in the case of sureties given under this Act.

**52-E. Removal of persons convicted of certain offences.---**(1) when any person having been previously convicted thrice or more---

(i) of an offence falling under clause (a), [clause (aa), clause (aaa). Clause (b), Clause (c), Clause (e), Clause (f), Clause (g), Clause (h), Clause (i), Clause (jj), of sub-section (1) of Section 4, or an offence falling under clause (k) of the said sub-section in so far as it relates to an act specified in any of the clauses aforesaid; or

(ii) of an offence falling under Section 5 or Section 7, is again convicted of the same offence, the Court may, if it thinks fit at the time of passing the sentence of [\*\*\*] imprisonment on such person, also by order direct such person to remove himself after the expiry of such sentence outside the City of [Chennai] or any district in mofussil or other area specified in such order.

(2) The order under sub-section (1) shall specify the period not exceeding two years during which such order shall remain in force and shall also specify such conditions and restrictions as may be specified in the rules by the State Government.

(3) The Court may, at any time, for reasons to be recorded in writing, cancel or modify the order passed under sub-section (1).

(4) If such conviction is set aside on appeal or otherwise, such order shall become void.

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

(6) If a person to whom a direction is issued under sub-section (1) to remove himself from any area-

(i) fails to remove himself as directed ; or

(ii) having so removed himself, except with the permission in writing of the Court mentioned in sub-section (1) enter the area within the period specified in order, the Court may cause him to be arrested and removed in Police custody to such place outside the area as the court may, in each case, specify.

(7) Any person who is guilty of the breach of any order passed under sub-section (1) or if any of the conditions or restrictions specified in such order shall be punished with [\*\*\*] imprisonment which may extend to three years or with fine, or with both].

**53. Operation of the [Code of Criminal Procedure, 1973]---** [Save as expressly provided in this Act, nothing contained therein] shall affect the operation of the [Code of Criminal Procedure, 1973 (Central Act 2 of 1974)].

**[53-A. Prohibition Officer deemed to be a Police Officer for certain purposes.—**A Prohibition Officer shall be deemed to be a Police officer within the meaning and for the purpose of Section 125 of the Indian Evidence Act, 1872 (Central Act 1 of 1872)].

## CHAPTER VI

### RULES AND REGULATIONS

**54. Power to make rules.**—(1) The [State] Government may make rules for the purpose of carrying into effect the provisions of this Act.

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

(a) for the issue of licences and permits and the enforcement of the conditions thereof;

[(aa) prescribing the penalty for wastage or shortage of spirits in excess of the prescribed limits at such rate not exceeding [sixteen rupees per proof litre].

(b) prescribing the powers to be exercised and the duties to be performed by paid and honorary Prohibition Officers in furtherance of the objects of the Act;

[(bb) prescribing the ways in which the duty under Section 18-A may be levied;]

(c) determining the local jurisdiction of police and Prohibition Officers in regard to inquiries and the exercise of preventive and investigating powers;

(d) authorising any officer or person to exercise any power or perform any duty under this Act;

(e) prescribing the powers and duties of prohibition committees and the members thereof and the intervals at which the member of such committees shall make their reports;

(f) regulating the delegation by the Commissioner or by Collectors or other district officers of any powers conferred on them by or under this Act;

(g) regulating the cultivation of the hemp plant, the collection of those portions of such plant from which intoxicating drugs can be manufactured and the manufacture of such drugs there from;

(h) declaring how denatured spirit shall be manufactured;

(i) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made there under, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith;

(j) for the grant of batta to witnesses, and of compensation for loss of time to persons released under sub-section (3) of section 38 on the grounds that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;

(k) regulating the power of Police and Prohibition Officers to summon witness from a distance under section 42; (\*\*\*)

(l) for the disposal of articles confiscated and of the proceeds thereof;

[(m) for the prevention of the use of the medicinal or toilet preparations for any purposes other than medicinal or toilet purpose and for the regulation of the use of any liquor or drug exempted from all or any of the provisions of this Act;

(n) for the proper collection of duty on all kinds of liquor or drugs;

(nn) for exemption from, or suspension of, the operation of any rule made under this Act;

(o) for all matters expressly required or allowed by this Act to be prescribed.

[(2-A). A rule or notification under this Act may be made or issued so as to have retrospective effect on and from a date not earlier than,-

(i) the 1<sup>st</sup> September 1973, in so far as it relates to toddy; and

(ii) the 1<sup>st</sup> September 1974, in so far as it relates to any liquor other than toddy;]

[(iii) the 1<sup>st</sup> May 1981, in so far as it relates to the matters dealt with in sections 17-B, 17-C, 17-D, 17-E, 18-B and 18-C;

[Provided that a notification issued under sub-section (1) of section 16 may have retrospective effect from a date not earlier than 1<sup>st</sup> November 1972;

Provided further that the retrospective operation of any rule made or notification issued under this Act shall not render any person guilty of any offence in regard to the contravention of such rule or the breach of any of the conditions subject to which the exemption is notified in such notification when such contravention or breach occurred before the date on which the rule or notification is published, as the case may be.]

[(3) All rules under this Act shall, as soon as possible after they are made, be placed on the table of [the legislative Assembly] shall be subject to such modifications by way of amendments or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session].

**55. Publication of rules and notifications.-** All rules made and notifications issued under this Act shall be published in the Official Gazette and upon such publication, shall have effect as if enacted in this Act.

## CHAPTER VII

### LEGAL PROCEEDINGS

**56. Actions against the Government etc.-** No actions shall lie against the [Government ] or against any Prohibition, Police or other officer for damages in any civil Court for any act bonafide done or ordered to be done in pursuance of this Act.

**[56-A. Injunctions not to be granted in respect of sums payable in consideration of the grant of any privilege or fee or licences for manufacture, etc.-** Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act V of 1908) or in any other law for the time being in force, no Court shall grant any permanent or temporary injunction or make any interim order restraining any proceeding which is being or about to be taken for.-

(i) the recovery of any sum or fee or both levied in consideration of the grant of any exclusive or other privilege under this Act or the rules made there under or any fee including vend fee or any duty levied by or under this Act or the rules made there under;

(ii) the grant of any privilege under Section 17-C or licence under section 17-B].

**[56-B. Bar of jurisdiction of Civil Courts.-** No civil court shall have jurisdiction in respect of any matter which the Commissioner or other officer of the Tamil Nadu State Marketing Corporation Limited or other authority empowered by or under this Act has to determine and no injunction shall be granted by any court in respect of any action taken or to be taken by such Commissioner, officer, Corporation or other authority in pursuance of any power conferred by or under this Act.]

**57. Courts to take judicial notice of appointments.-** All Courts shall take judicial notice of all notification and orders conferring powers, imposing duties and making appointments under this Act.

**[SCHEDULE I]**

**(See Section 2)**

<b>Year</b>	<b>Number</b>	<b>Short title or subject</b>	<b>Extent of repeal</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1886	I	[Tamil Nadu Acts] Tamil Nadu Abkari Act, 1886.	The whole.
1905	I	The Tamil Nadu Abkari (Amendment ) Act, 1905.	Do.
1913	I	The Tamil Nadu Abkari (Amendment ) Act, 1913.	Do.
1915	I	The Tamil Nadu Abkari (Amendment ) Act, 1915.	Do.
<b>ACTS OF THE TAMIL NADU LEGISLATURE</b>			
1929	XVI I	The Tamil Nadu Abkari (Amendment ) Act, 1929.	The whole.
1930	I I	The Dangerous Drugs Act,1930.	So much of Schedule II as relates to the Tamil Nadu Abkari Act,1886.

[SCHEDULE II]

**BOND TO ABSTAIN FROM THE COMMISSION OF**

**OFFENCES UNDER THE [TAMIL NADU**

**PROHIBITION ACT,1937**

**(See Section 52-A)**

Whereas I,.....(name), inhabitant of .....  
(place) have been called upon to enter into a bond to abstain from the  
commission of any offence under Sections [4(1)(a), [4(1) (aa), [4(1) (aaa)], [4(1)  
(b), [4(1) (d), [4(1) (e), [4(1) (f), [4(1) (g), [4(1) (h), [4(1) (i) and [4(1) (jj),] of the  
[Tamil Nadu] Prohibition Act, 1937, for the term of .....

I hereby bind myself not to commit any such offence during the said term  
and, in case of my making default therein I hereby bind myself to forfeit to the  
State of [Tamil Nadu] the sum of rupees.....

Dated this .....day of .....20.....

(Signature)

Where a bond with sureties is to be executed, add.....

We do hereby declare ourselves sureties for the above named .....  
that he will abstain from the Commission of any offence under Sections [4(1)(a),  
[4(1) (aa), [4(1) (aaa)], [4(1) (b), [4(1) (d), [4(1) (e), [4(1) (f), [4(1) (g), [4(1) (h), [4(1)  
(i) and [4(1) (jj),] of the [Tamil Nadu] Prohibition Act, 1937, during the said term  
and in case of his making default therein, we bind ourselves jointly and severely,  
to forfeit to the State of (Tamil Nadu) the sum of rupees

Dated this ..... day of ..... 20.....

(Signature)

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