

CHAPTER 64

EXCISE

Ordinances

Nos. 8 of 1912,
25 of 1914,
17 of 1929,
4 of 1931,
3 of 1933,
4 of 1936,
25 of 1938,
27 of 1943

Acts

Nos. 41 of 1954,
22 of 1955,
9 of 1956,
36 of 1957,
49 of 1961,
17 of 1962,
8 of 1965,

Laws

Nos. 27 of 1974,
14 of 1977.

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE IMPORT, EXPORT, TRANSPORT, MANUFACTURE, SALE, AND POSSESSION OF INTOXICATING LIQUOR AND OF INTOXICATING DRUGS.

{1st January, 1913.}

CHAPTER I

PRELIMINARY

administration of the Excise Department and of the collection of : the excise revenue;

Short title. 1. This Ordinance may be cited, as the Excise Ordinance.

"excise officer" means a Government Agent, Assistant Government Agent, or any officer or other person appointed or invested with powers under section 8 ;

interpretation. 2. In this Ordinance, unless there be something repugnant in the subject or context—

" excise revenue " means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law), or confiscation imposed or ordered under the provisions of this Ordinance or of any other law for the time being in force relating to liquor;

"beer" includes ale, stout, porter, and all other fermented liquors made from malt;

"country liquor" means any liquor manufactured in Sri Lanka on which duty of excise has not been levied or is not leviable at the full rate of duty chargeable on like liquor imported into Sri Lanka from foreign countries;

" export " means to take out of Sri Lanka to sea or to foreign territory;

"denatured" means effectually and permanently rendered unfit for human consumption;

" foreign liquor " includes all liquor other than country liquor:

"excisable article" means and includes any liquor as defined by this Ordinance;

Provided that, in any case in which doubt may arise, the Minister may by notification declare, whether for the purposes of this Ordinance or any rules made thereunder, any particular liquor shall be deemed to be "country liquor " or " foreign liquor ";

" Excise Commissioner" means the officer who has the control of the

- " import " means to bring into Sri Lanka from sea or from any place beyond the limits of Sri Lanka;
- " liquor " includes spirits of wine, spirit, wine, toddy, beer, and all liquid consisting of or containing alcohol; also any substance which the Minister may by notification declare to be liquor for the purposes of this Ordinance;
- " manufacture " includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also re-distillation, and every process for the rectification, flavouring, blending, or colouring of liquor;
- " place " includes a house, building, shop, tent, boat, or other vessel;
- " sale " or " selling " includes any transfer otherwise than by way of gift;
- " spirit " means any liquor containing alcohol obtained by distillation, whether it is denatured or not ;
- to " bottle " means to transfer liquor from a cask or other receptacle to a bottle or other receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes re-bottling ;
- to " tap " includes every part of any process by which the spathe or flower of any toddy-producing tree is prepared for the drawing of toddy;
- " toddy " means fermented or unfermented juice drawn from any coconut, palmyra, kitul, or other kind of palm tree;
- " transport " means to move from one place to another within Sri Lanka.
3. The Minister may by notification either wholly or partially exempt any excisable article from all or any of the provisions of this Ordinance, either throughout Sri Lanka or in any specified area, or for any specified period or occasion, or as regards any specified class of persons, and may attach such conditions as he thinks fit to such exemption.
4. The Minister may by notification declare, with respect either to the whole of Sri Lanka or to any local area, and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Ordinance, be the limit of sale by retail and sale by wholesale respectively.
5. Nothing contained in this Ordinance shall apply to any canteen, shop, or tavern opened or kept under military or naval regulations and subject to the supervision of military or naval officers.
- Power of Minister to exempt excisable articles from the provisions of this Ordinance.
- Limits of sale.
- Saving of military and naval canteens.

CHAPTER II

ESTABLISHMENT AND CONTROL

6. Except as otherwise provided by this Ordinance, the collection of the excise revenue shall be under the charge of the Government Agent.

The collection of the excise revenue to lie with the Government Agent.

7. There shall be appointed—

(a) an Excise Commissioner who shall, subject to the general direction and control of the Minister, have the control of the administration of the Excise Department and of the collection of excise revenue, and exercise all or any of the powers, and perform all or any of the duties, of a Government Agent under this Ordinance, either concurrently with him or in his place, and

Appointment of Excise Commissioner and other officers of Excise Department. [§ 2, 36 of 1957.]

(b) such officers of the Excise Department as may be necessary to give effect to the provisions of this Ordinance.

8. The Minister may by notification applicable to the whole of Sri Lanka or to any district or local area in which this Ordinance is in force—

Powers of Minister.

CHAPTER III

IMPORT, EXPORT, AND TRANSPORT

May appoint persons other than the Government Agent to exercise all or any of his powers.

(a) appoint any person other than the Government Agent to exercise all or any of the powers and to perform all or any of the duties of a Government Agent in respect of the excise revenue, either concurrently with or in exclusion of the Government Agent, subject to such control as the Minister may direct;

May appoint officers to take action under sections 33, 35, and 48(o), and other officers.

(b) appoint officers or persons to perform the acts and duties mentioned in sections 33, 35, and 48 (a);

(c) set out the designations, powers and duties of officers of the Excise Department under the Ordinance ;

May appoint any Government officer or other person to act as above.

(d) order that all or any of the powers and duties assigned to any officer under paragraphs (b) and (c) of this section shall be exercised and performed by any Government officer or any person;

May delegate any of his powers to any excise officer.

(e) delegate to any excise officer in whole or in part all or any of his powers under the following sections of this Ordinance :—sections 8 (c), 12,14, 19,20,24,25;

May withdraw powers.

(f) withdraw from any officer or person any or all of the powers conferred or imposed upon him by or under this Ordinance;

And may permit delegation of powers.

(g) permit the delegation by the Excise Commissioner or by Government Agents of any powers conferred by this Ordinance, or exercised in respect of excise revenue under any enactment for the time being in force.

Orders of Excise Commissioner or Government Agents appealable to Minister.

9. (1) All orders passed by the Excise Commissioner or by a Government Agent under this Ordinance shall be appealable to the Minister in the manner provided by the rules made under section 32 (2) (c).

(2) On any such appeal the Minister may make such orders as the circumstances may require.

10. No excisable article which is liable to the payment of duty under this Ordinance or under the Customs Ordinance, or any other law for the time being in force relating to the duties of customs on goods imported into Sri Lanka, shall be imported, unless the duty prescribed by such law has been paid, or a bond executed for the payment of such duty.

Import of excisable articles.

11. No excisable article which has been manufactured in Sri Lanka shall be exported unless the duty, if any, leviable under this Ordinance or under the Customs Ordinance, has been paid, or a bond executed for the payment of such duty.

Export of excisable articles.

12. The Minister may by notification prohibit the import or export of any excisable article, and may permit the import or export of any excisable article subject to such conditions and to the payment of such duty as he may think fit, and may prohibit the transport of any excisable article from any local area into any other local area.

Prohibition of import, export, and transport of excisable articles.

13. No excisable article exceeding such quantity as the Minister may prescribe by notification, either generally for the whole of Sri Lanka or for any local area, shall be imported, exported, or transported, except under a pass issued under the provisions of the next following section:

Pass required for import, export, and transport of excisable articles.

Provided that in the case of duty paid foreign liquor other than denatured spirit, such passes shall not be necessary, unless the Minister shall by notification otherwise direct with respect to any local area.

14. (1) Passes for the import, export, or transport of excisable articles may be granted by the Government Agent. Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only-

Passes for import, export, or transport.

(2) Passes granted under this section shall be in such form, and shall contain such particulars, and be granted to such persons as the Minister may, by notification prescribe.

CHAPTER IV

MANUFACTURE, POSSESSION, AND SALE

Manufacture of excisable articles prohibited except under provisions of this Ordinance.

15. Except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Government Agent, or under the provisions of section 20—

- (a) no excisable article shall be manufactured;
- (b) no toddy-producing tree shall be tapped;
- (c) no toddy shall be drawn from any tree;
- (d) no distillery, brewery, or warehouse shall be established or worked;
- (e) no person shall use, keep, or have in his possession any materials, still, utensils, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy;
- (f) no liquor shall be bottled for sale.

Establishment of distilleries, breweries, and warehouses.

16. (1) The Excise Commissioner may—

- (a) establish or authorize the establishment of distilleries and breweries in which liquor may be manufactured under a licence granted under section 15 on such conditions as the Minister deems fit to impose;
- (b) establish or authorize the establishment of warehouses wherein any excisable article may be deposited and kept without payment of duty ; and
- (c) subject to the provisions of sections . 27 and 28 discontinue any distillery, brewery, or warehouse.

(2) No distillery, brewery, or warehouse as aforesaid shall be established or worked except by, or under the authority of, the Excise Commissioner.

17. No person not-being a licensed manufacturer or vendor of any excisable article shall have in his possession any quantity of any excisable article in excess of such quantity as the Minister under section 4 may declare to be the limit of sale by retail, unless under a permit granted by the Government Agent in that behalf:

Possession of excisable articles in excess of the quantity prescribed by Government prohibited.

Provided that—

- (i) no fee shall be charged for any such permit granted for the possession of such excisable article for bona fide private consumption or use;
- (ii) nothing in this section extends to any foreign liquor other than denatured spirit in the possession of any common carrier or warehouseman as such, or purchased by any person for his bona fide private consumption and not for sale;
- (iii) the Minister may by notification prohibit the supply to, or possession by, any person or class of persons, either throughout the whole of Sri Lanka or in any local area, of any excisable article, either absolutely or subject to such conditions as he may prescribe.

No fee to be charged for permit for possession for private consumption. Section not to apply to foreign liquor other than denatured spirit.

Prohibition of possession in certain cases.

18. No excisable article shall be sold, or kept or exposed for sale, without a licence from the Government Agent:

Sale of excisable articles without licence prohibited.

Provided that —

- (o) a person having the right to the toddy drawn from any tree may sell the same without a licence to a person licensed to manufacture and sell toddy under this Ordinance or to a person licensed under this Ordinance to manufacture arrack or vinegar from toddy;
- (b) a licence for sale in more than one administrative district shall be granted by the Excise Commissioner;
- (c) nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf, or on behalf

of his representatives in interest upon his quitting a station or after his decease.

Exclusive privileges of manufacture, &c., may be granted.

19. (1) The Excise Commissioner may with the approval of the Minister grant to any person on such conditions and for such period as he may deem fit the exclusive privilege—

- (a) of manufacturing, or of supplying by wholesale, or of both ; or
- (b) of selling by wholesale or by retail; or
- (c) of manufacturing, or of supplying by wholesale, or of both, and of selling by retail,

any country liquor within any local area; or

- (d). of selling any foreign liquor by retail in a tavern within any local area under a tavern licence prescribed by rule made under section 32 or by direction of the Minister issued under section 25.

(2) No grantee of any privilege under this section shall exercise the same until he has received a licence in that behalf from the Government Agent.

Power of Government Agent to take possession of premises for certain purposes. [2,17 of 1962]

19A. (1) It shall be lawful for the Government Agent of any Administrative District (hereinafter referred to as the "Government Agent"), with the prior approval of the Minister, to take possession of any premises, formerly used for the purposes mentioned in paragraphs (a) and (b) of this subsection, situated within such Administrative District and to give such written directions as appear to him to be necessary or expedient in connexion with the taking of possession of such premises in any case where it appears to him that the premises are required—

- (a) for any one or more of the following purposes:—
 - (i) manufacturing, or
 - (ii) storing, or
 - (iii) supplying by wholesale, or
 - (iv) selling by wholesale, or
 - (v) selling by retail,

any country liquor within any local area, or

- (b) for the purpose of selling any foreign liquor by retail in a tavern within any local area under a tavern licence in that behalf from the Government Agent.

(2) Any police officer shall, if requested so to do by the Government Agent, take such steps and use such force as may be reasonably necessary for securing compliance with directions given under subsection (1) in relation to the taking, or giving up, of possession of any premises.

(3) The period during which possession may be retained of any premises of which possession is taken under subsection (1) shall be fixed by the Government Agent at the time of taking of possession, but such period may from time to time be varied by the Government Agent.

(4) It shall be lawful for the Government Agent, for the whole or a part of the time during which he is in possession of any premises under this section, to permit the occupation of the premises by any person (hereinafter called the "occupant ").

(5) The occupant shall pay compensation, calculated in the manner set out in subsection (6), to the person to whom rent would have been payable if the Government Agent had not taken possession of the premises and if the occupant was a tenant in respect of the premises of which he is in occupation.

(6) The amount of compensation referred to in subsection (5) in respect of any premises shall be a sum equal to the rent which, in the opinion of the Government Agent, might reasonably be expected to be payable by a tenant in occupation of the premises, where the tenant undertook to pay all usual rates and to bear the cost of the repairs:

Provided, however, that in the case of any premises to which the Rent Act applies, the amount of the rent shall not exceed the authorized rent of the premises as determined under that Act.

(7) The occupant shall pay all usual rates and bear the cost of the repairs.

(8) Compensation under subsection (5) shall be considered as accruing due from day to day for the period during which

the premises are permitted to be occupied under subsection (4), and be apportionable in respect of time accordingly, and shall be payable in respect of any particular month not later than the tenth day of the month next following.

(9) In any case where a dispute arises as to the person to whom any compensation under subsection (5) in respect of any premises is payable, the provisions of sections 10 to 14 of the Land Acquisition Act shall, in so far as may be, apply in like manner as they apply where any land is to be acquired under that Act.

(10) Any person who is dissatisfied with the manner in which the amount of compensation has been calculated under subsection (6) may appeal to have that amount revised to the Board of Review constituted under section 19 of the Land Acquisition Act; and the provisions of subsections (2) and (3) of section 22 of that Act and of sections 23 to 28 of that Act shall, mutatis mutandis, apply in relation to any appeal so preferred.

Grantee of toddy privileges may grant licence.

20. When any exclusive privilege of manufacturing and selling toddy has been granted under section 19, the Minister may declare that the written permission of the grantee to draw toddy shall have the same force and effect as a licence from the Government Agent for that purpose under section 15.

Grantee may let or assign.

21. Subject to any conditions imposed by section 19, and subject to the approval of the Government Agent, any grantee of any exclusive privilege may let or assign the whole or any portion of his privilege; but no lessee or assignee of such privilege shall exercise any rights as such unless and until the grantee shall have applied to the Government Agent for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

CHAPTER V

DUTIES ON EXCISABLE ARTICLES

Duties may be imposed by the Minister by Order published in the Gazette, [§3,49 of 1961]

22. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may, by Order published in the Gazette, from time to time impose a duty at such rate or rates, either generally or for any specified local area, on any excisable article—

- (a) permitted to be imported or exported in accordance with the provisions of section 11 or section 12; or
- (b) permitted to be transported; or
- (c) manufactured under any licence granted in respect of paragraphs (a) (b), (c), and (d) of section 15 ; or
- (d) manufactured in any distillery or brewery established under section 16.

Explanation.—Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption.

(2) The power conferred by subsection [§3,49 of 1961.] (1) to impose by Order published in the Gazette a duty on any excisable article referred to therein shall include the power—

- (a) by the same or a subsequent Order to grant any exemption from the duty and to specify the circumstances in which, and the conditions subject to which, the exemption is granted;
- (b) by a subsequent Order to amend any earlier Order so as to increase or reduce the duty or vary the description of the article or the scope of any exemption granted to any class or description of the article or include within or exclude from the scope of the earlier Order any class or description of such article; and
- (c) by a subsequent Order to rescind any earlier Order so as to abolish any duty or withdraw any exemption.

(3) Every Order under subsection (1) [§3,49 of 1961.] shall come into force on the date of its publication in the Gazette or on such later date as may be specified in the Order, and shall be brought before Parliament within a period of one month from the date of the publication of the Order in the Gazette, or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such

period, by a motion that the Order shall be approved. There shall be set out in a schedule to every such motion the text of the Order to which the motion refers.

[§3,49 of 1961.] (4) Any Order under subsection (1) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the Gazette.

How duty may be levied.

23. Subject to such rules regulating the time, place, and manner of payment as the Minister may prescribe, such duty may be levied in one or more of the following ways:—

- (a) with reference to paragraph (a) of section 22 (1)~
 - (i) by payment of duty either at the place of import OF at the place of export, or
 - (ii) by payment upon issue for sale from a warehouse established under section 16(1) (b) or licensed under section 15 (d);
- (b) with reference to paragraph (b) of section 22(1)—
 - (i) by payment in the district from which the excisable article is to be transported, or
 - (ii) by payment upon issue for sale from a warehouse established under section 16(1) (b) or licensed under section 15 {d);

- (c) with reference to paragraphs (c) and (d) of section 22(1)—

by duty to be charged in the case of spirit or beer, either—

- (i) on the quantity produced in, or issued from, the distillery or brewery, as the case may be, or issued from a warehouse established under section 16(1) (b) or licensed under section 15 (d), or

(ii) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Minister may prescribe;

- (d) generally by such other methods of taxation as Parliament may, by resolution, from time to time appoint.

24. Instead of, or in addition to any duty leviable under this Part, the Excise Commissioner may accept payment of a sum in consideration of the grant of any exclusive privilege under section 19.

Payment for exclusive privileges.

CHAPTER VI

LICENCES, &c.

25. Every licence, permit, or pass Form and granted under this Ordinance shall be conditions of granted—
licences, &c.

- (a) on payment of such fees, if any ;
- (b) for such period;
- (c) subject to such restrictions and on such conditions; and
- (d) shall be in such form and contain • such particulars as the Minister may direct either generally or in any particular instance in this behalf.

26. Every person taking out a licence under this Ordinance may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the authority granting the licence may require.

Counterpart agreement to be executed by licensee.

27. (1) Subject to such restrictions as the Minister may' prescribe, the authority granting any licence, permit, or pass under this Ordinance may cancel or suspend it—

Power to cancel or suspend licences, &c.

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

- (b) in the event of any breach by the holder of such licence, permit, or pass, or by his servants, or by anyone acting with his express or implied permission on his behalf of any of the terms or conditions of such licence, permit, or pass; or
- (c) if the holder thereof is convicted of any offence under this Ordinance, or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence under section 152 of the Code of Intellectual Property Act, or is punished for any offence referred to in section 129 of the Customs Ordinance; or
- (d) where a licence, permit, or pass has been granted on the application of the holder of an exclusive privilege under this Ordinance on the requisition in writing of such person.

(2) When a licence, permit, or pass held by any person is cancelled under paragraph (a) or paragraph (b) of subsection (1), the authority aforesaid may cancel any other licence, permit, or pass granted to such person under this Ordinance or under any other law for the time being in force relating to excise revenue.

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

Further power to cancel licences.

28. (1) Whenever the authority stated in section 27 considers that a licence should be cancelled for any cause other than those specified in that section, he shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may cancel the licence either—

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

(2) If any licence be cancelled under this section, the aforesaid authority may, in addition to remitting such sum aforesaid pay to the licensee such further sum by way of compensation as the Excise Commissioner may direct.

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

28A. (1) Notwithstanding anything in this Ordinance, if, upon representation made or otherwise, the Minister considers it necessary to do so, he may, without assigning any reason therefor, direct the authority granting a licence, to grant a licence, or to renew or cancel a licence, and such authority shall give effect to such direction.

Powers of Minister in respect of licences. [§2, Law 14 of 1977.]

(2) No action for compensation or damages shall lie in respect of the cancellation, on a direction given by the Minister under subsection (1), of any licence by the authority granting such licence.

29. Any holder of a licence to sell under this Ordinance may surrender his licence on the expiration of one month's notice in writing given by him to the Government Agent of his intention to surrender the same, and on payment of the fee payable for the licence for the whole period for which it would have been current but for such surrender:

Surrender of licence

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

CHAPTER VII
GENERAL PROVISIONS

30. (1) Every person who manufactures or sells any excisable article under a licence granted under this Ordinance shall be bound—

Certain licensees required to keep instruments for testing, &c.

- (a) to supply himself with such measures, weights, and instruments as the Minister may prescribe, and to keep the same in good condition; and

- (b) , when such measures, weights, and instruments have been prescribed, on the requisition of any excise officer duly empowered in that behalf, at any time to measure, weigh, or test any excisable article in his possession in such manner as the said excise officer may require.

(2) The Minister may, under this section, prescribe measures, weights, and instruments, in addition to or other than those provided for by the Weights and Measures Ordinance,

31. (1) In case of default made by a holder of a licence or by a grantee of an exclusive privilege in the payment of any duty or fee, or in the performance of all or any of the terms or conditions of such licence or grant, the Government Agent may, if he thinks fit, without process of law, after fifteen days' notice in writing to the licensee or grantee of his intention to do so, take the licence or grant under management at the risk of the defaulter, or may declare the licence or grant forfeited, and re-issue or re-sell it at the risk and loss of the defaulter.

(2) When a licence or grant is under management under this section, the Government Agent may recover as excise revenue any moneys due to the defaulter by any lessee or assignee.

32. (1) The Minister may make rules for the purpose of carrying out the provisions of this Ordinance or other law for the time being in force relating to excise revenue; and all such rules shall be laid as soon as conveniently may be before Parliament, and upon being confirmed, with or without modification, by a resolution of Parliament, and upon such confirmation being notified in the Gazette, shall have the force of law from the date of such notification, or upon such date as may be therein fixed:

Provided that in any case of urgency the Minister may by notification declare any such rules to be in force from a date named therein, and such rules shall thereupon come into force on such date ; but if within forty

days of the date upon which such rules are laid before Parliament a resolution be passed by Parliament praying that all or any of such rules be modified or annulled, such rules or rule shall thenceforth be modified or annulled accordingly, but without prejudice to anything done thereunder.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Minister may make rules—

- (a) .regulating the delegation of any powers by the Excise, Commissioner or by Government Agents under section 8 (g);
- (b) prescribing the powers and duties of officers of the Excise Department;
- (c) prescribing the procedure in appeals from orders of the Excise Commissioner or the Government Agent to the Minister;
- (d) regulating the import, export, or transport of any excisable article;
- (e) regulating the manufacture, bottling, supply, or storage of any excisable article, including —
 - (i) the erection, inspection, supervision, management, and control of any place for the manufacture, bottling, supply, or storage of such article, and the fittings, implements, and apparatus to be maintained therein,
 - (ii) the tapping of toddy-producing trees and the drawing of toddy from such trees;
- (f) regulating the deposit of any excisable article in a warehouse, and the removal therefrom, of such article;
- (g) regulating the periods and localities for which licences for the wholesale or retail sale of any excisable article may be granted;

Procedure in case of default by licensee or grantee of exclusive privilege.

Power to make rules.

- (h) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted for any locality;
- (i) prescribing in the case of any excisable article the way in which the duty on such article shall be levied;
- (j) prescribing the scale of fees, or the manner of fixing the fees, payable in respect of any privilege, licence, permit, or pass or of the storing of any excisable article;
- (k) regulating the time, place, and manner of payment of any duty or fee;
- (l) prescribing the restrictions under and the conditions on which any licence, permit, or pass may be granted, including—
 - (i) the prohibition of the admixture with any excisable article of any substance deemed to be noxious or objectionable,
 - (ii) the fixing of the strength, price, or quantity in excess of or below which any excisable article shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any excisable article,
 - (iii) the prohibition of the employment by the licence holder of any person or class of persons to assist him in his business in any capacity whatsoever,
 - (iv) the prescription of the persons to whom any excisable article may or may not be sold,
 - (v) the prohibition of sale except for cash.
- (vi) the prevention of drunkenness, gambling, or disorderly conduct in or near any licensed premises, and the meeting of or remaining of persons of bad character in such premises,
- (vii) the prescription of the days and hours during which any licensed premises may or may not be kept open, and provision for the closure of such premises on special occasions,
- (viii) the prescription of the nature of the premises in which any excisable article may be sold, and the notices to be exposed at such premises, and
- (ix) the prescription of the accounts to be maintained and the returns to be submitted by licence holders;
- (m)
 - (i) declaring the process by which spirit manufactured in Sri Lanka shall be denatured,
 - (ii) for causing such spirit to be denatured through the agency or under the supervision of Government officers,
 - (iii) for ascertaining whether such spirit has been denatured;
- (n) providing for the destruction or other disposal of any excisable article deemed to be unfit for use;
- (o) regulating the disposal of confiscated articles;
- (p) prescribing the instruments to be used in the testing of liquors, and the tables of corrections according to temperature to be used therewith.

CHAPTER VIII

POWERS AND DUTIES OF OFFICERS, &C.

Power to enter and inspect places of manufacture, bottling, and sale.

33. The Excise Commissioner or a Government Agent or any excise officer not below such rank as the Minister may prescribe, or any police officer duly empowered in that behalf, may enter and inspect at any time by day or by night any place in which any licensed manufacturer carries on the manufacture of or stores any excisable article ; and may enter and inspect at any time during which the same may be open any place in which any excisable article is bottled or kept for sale by any licensed person ; and may examine, test, measure, or weigh any materials, still, utensil, implement, apparatus, or excisable article found in such place of manufacture, bottling or sale.

Powers of excise officers in matters of arrest and inquiry,

34. (1) Within such Specified area as the Minister by notification may direct any excise officer not below such rank as the Minister may prescribe shall, within the limits of the area to which he is appointed, and as regards all offences under this Ordinance, exercise the powers that may be exercised in respect of cognizable offences by an inquirer, or by an officer in charge of a police station, under the provisions of Chapter XI of the Code of Criminal Procedure Act.

(2) An inquiry under this section shall be held at or in the neighbourhood of the place in which the offence is alleged to have been committed.

Cases in which offenders may be arrested, and contraband liquor and articles seized without warrant.

35. (1) Any officer of the Excise, Police, Customs, or Revenue Departments, not below such rank and subject to such restrictions as the Minister may prescribe, and any other person duly empowered, may arrest without warrant any person found committing, in any place other than a dwelling house, an offence punishable under section 46 or section 47; and may seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Ordinance or other law for the time being in force relating to , excise revenue ; and may search any person upon whom, and any vessel, vehicle, animal, package, receptacle, or covering in or upon

which, he may have reasonable cause to suspect any such article to be and, for the purposes of such search, may stop any such person, vessel, vehicle or animal.

(2) The driver of any vehicle or vessel who fails or refuses to stop or to halt such vehicle or vessel when directed to do so either verbally or by signal by an excise officer not below the rank of Inspector wearing his uniform and acting in execution of his duty, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty rupees or in default of payment of such fine to simple imprisonment for a term which may extend to six weeks.

(3) In this section "vehicle" includes any carriage coach, cart, motor car, motor cycle, omnibus, lorry, bicycle, or other mechanically propelled vehicle and the " driver " of a vehicle includes the rider of a motor cycle or of a bicycle; and " signal * includes one or more blasts of a whistle.

36. If a Government Agent or a Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under section 46 or section 47 has been or is likely to be committed, he may issue a warrant for the search for any excisable article, materials, still, utensil, implement, or apparatus in respect of which the alleged offence has been or is likely to be committed, or any paper or document relating thereto; and for the taking into custody and carrying before such an officer as is referred to in section 34 of this Ordinance any person who appears to have been privy to the commission of the offence.

Government Agent or Magistrate may issue a search warrant.

37. Whenever a Government Agent or any excise officer not below such rank as the Minister may prescribe has reason to believe that an offence under section 46 or section 47 has been, is being, or is likely to be, committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief, at any time by day or night, enter and search any place and may seize anything found

Power of excise officers to search without a warrant.

therein which he has reason to believe to be liable to confiscation under this Ordinance ; 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 such offence as aforesaid.

Power to cut spadicces of trees tapped without licence. [§2, Law 27 of 1974.]

38. (1) Where an authorized officer at any time finds fermented toddy in any pot or other receptacle hanging under a spadix from any tree, he may, if he is satisfied that no licence is in force authorizing the manufacture of fermented toddy from that tree, cut such spadix or cause such spadix to be cut in his presence and under his supervision:

Provided that where at that time a tapper is found upon such tree, such spadix shall not be cut and such tapper and the owner of such tree shall be dealt with under- sections 35 and 46.

(2) Where a spadix of a tree is cut in accordance with the provisions of subsection (1), such authorized officer shall make a report to the Government Agent and the Superintendent of Excise of the District, giving details of the location of the tree, and any other particulars as may be required to be furnished by such Government Agent or the Excise Commissioner.

(3) In this section—

" authorized officer " means—

- (a) an Excise Inspector or any other officer of the Excise Department whose rank is higher than that of an Excise Inspector ; or
- (b) any public officer authorized by the Government Agent of the District.

Release of arrested persons by excise officers.

39. Every excise officer may release any person arrested under this Ordinance on bail or on such person executing a bond with or without sureties.

Arrests, searches, Ac., how to be made.

40. The provisions of the Code of Criminal Procedure Act, relating to arrests, searches, search warrants, the release of

persons arrested on bail or on the execution of bonds, the production of persons arrested, and the investigation of offences shall be held to be applicable to all action taken in these respects under this Ordinance.

41. All offences under this Ordinance shall be bailable within the meaning of the Code of Criminal Procedure Act, and the provisions of that Act in respect of bail shall be applicable thereto.

Offences to be bailable.

42. Every officer of the Police, Customs, and Revenue Departments, and every peace officer, shall be bound to give immediate information to an excise officer of all breaches of any of the provisions of this Ordinance which may come to his knowledge, and to aid any excise officer in carrying out the provisions of this Ordinance upon request made by such officer.

Officers of certain departments bound to report offences and to assist.

43. (a) All proprietors, tenants, under-tenants, and cultivators who own or hold land on which;

Landholders and others to give information.

(b) all persons entitled, under a licence or a permit or any other document whatsoever, to the produce of, or to tap, palm trees on any land on which ; and

(c) all grama seva niladharis in whose division—

there shall be any manufacture of any excisable article not licensed under this Ordinance, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Excise, Police, or Revenue Departments, immediately the same shall have come to their knowledge.

44. All officers in charge of police stations shall take charge of and keep in safe custody, pending the orders of a Magistrate or of the Government Agent, all articles seized under this Ordinance which may be delivered to them; and shall allow any excise officer who may accompany such articles to the police station, or 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

Police to take charge of articles seized.

samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Closure of licensed premises.

45. (1) The Government Agent may, by notice in writing addressed to any person to whom a licence has been issued authorizing the sale of any excisable article) at any premises, order such person to close such premises and to refrain from selling or supplying any excisable article from such premises at such time or for such period as may be specified in the notice—

- (a) if any detachment or any larger unit of soldiers or sailors is passing through or is encamped within the area supplied by such premises;
- (b) if any riot, unlawful assembly, civil disturbance or breach of the peace exists, occurs or is apprehended within the area supplied by such premises;
- (c) if a poll for any election, or any local option poll, is to be held within the area supplied by such premises; or
- (d) if such premises are situated within or in the vicinity of any area for the time being declared to be a diseased locality under the provisions of any written law:

Provided that in any case falling under paragraph (b), the powers conferred on a Government Agent by this subsection may be exercised by a Magistrate, or by a divisional Assistant Government Agent, or by an officer of the Police Department of a rank not below that of Sub-Inspector.

(2) Every person, to whom a licence has been issued authorizing the sale of any excisable article on any premises, shall close such premises during such time as any riot or civil disturbance occurs within the area supplied by such premises.

(3) Where any person closes any premises in accordance with the provisions of this action, the Excise Commissioner may, in his discretion, direct—

- (a) that such part as the Commissioner may think fit of any amount paid in advance to the Government by such person as fee, tax, duty or rent in respect of such premises, shall be refunded; or
- (b) that payment of such part as the Commissioner may think fit of any amount due to the Government from such person as fee, tax, duty or rent in respect of such premises, shall be waived.

CHAPTER IX

PENALTIES

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

Penalties for illegal import,

- (a) imports, exports, transports, or possesses any excisable article; or
- (b) manufactures any excisable article; or
- (c) taps any toddy-producing tree; or
- (d) draws toddy from any tree; or
- (e) establishes or works any distillery, brewery, or warehouse; or
- (f) uses, keeps, or has in his possession any materials, still, utensil, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy; or
- (g) sells or keeps or exposes for sale any excisable article; or
- (h) bottles any liquor for purposes of sale,

shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both, and where the act hereby penalized is continued after

conviction, he shall be liable to the aforesaid punishment for each day on which the offence is so continued.

For illegal possession or transport. [§ 2. 8 of 1965.]

47. (1) Whoever without lawful authority has in his possession or transports any quantity of any excisable article which has been unlawfully imported or manufactured, or on which the prescribed duty has not been paid, shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to six months or to fine which may extend to one thousand rupees, or to both.

[§3,36 of 1957.] (2) Where in any prosecution of a person for the offence of possessing without lawful authority a quantity of unlawfully manufactured liquor or for the offence of transporting without lawful authority a quantity of unlawfully manufactured liquor a certificate of the Government Analyst is produced in court to the effect that he is satisfied that the liquor in respect of which the offence is alleged to have been committed is not liquor of a description that could have been manufactured under the authority of a licence issued under this Ordinance and is not liquor that could have been manufactured in a Government distillery or in a Government warehouse, the court shall presume, until the contrary is proved, that the liquor in respect of which the offence is alleged to have been committed is unlawfully manufactured.

[§ 4,49 of 1961.] (3) In subsection (2), " Government Analyst" means the person for the time being holding the office of Government Analyst and includes any person for the time being holding the office of Deputy Government Analyst or Assistant Government Analyst.

For misconduct by licensee, &c.

48. Whoever, being the holder of a licence, permit, or pass granted under this Ordinance, or being in the employ of such holder and acting on his behalf—

- (a) fails to produce such licence, permit, or pass on the demand of any excise officer, or of any other officer duly empowered to make such demand; or

- (b) wilfully contravenes any rule made under section 32;
- (c) wilfully does or omits to do anything in breach of any of the conditions of the licence, permit, or pass not otherwise provided for in this Ordinance,

shall be guilty of an offence, and be liable on conviction to imprisonment of either description which may extend to three months, or to fine which may extend to two hundred rupees, or to both ; and, in the case of an offence continued after conviction, to such punishment as aforesaid for each day on which the offence is so continued.

49. (1) Any excise officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Excise' Commissioner, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall be guilty of an offence, and be liable on conviction to imprisonment of either description which may extend to three months, or to fine which may extend to six months' pay, or to both.

For excise officer refusing to do duty or being guilty of cowardice.

- (2) Any excise officer who shall—
 - (a) wilfully fail in his duty to report any offence against this Ordinance or any rule or order made thereunder; or
 - (b) connive at the commission of any offence against this Ordinance,

Offences by excise officers.

shall be liable on conviction to imprisonment of either description which may extend to six months, or to fine which may extend to one year's pay, or to both.

50. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Ordinance, or of any rule or order made under this Ordinance, and not otherwise provided for in this Ordinance, shall on conviction be liable to fine which may extend to one hundred rupees, or, in default of payment of

For offences not otherwise provided for.

the fine, to imprisonment which may extend to six months, and, in the case of an offence continued after conviction, to such punishment as aforesaid for each day on which the offence is so continued.

(c) any such materials as are ordinarily used in the manufacture of any excisable article, ^

Enhanced punishment after previous conviction,

51. If any person, after having been previously convicted of an offence punishable under section 46 or section 47, subsequently commits and is convicted of an offence punishable under either of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Ordinance :

for the possession of which, or for his conduct in connection with which, he is unable to account satisfactorily; and the holder of a licence, permit, or pass under this Ordinance shall be punishable, as well as the actual offender, for any offence under section 46 or section 47 or section 48 committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XVII of the Code of Criminal Procedure Act, from being so tried.

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

Prosecution restricted,

52. (1) No Magistrate shall take cognizance of an offence punishable—

- (a) under sections 46, 47, or 50, except on his own knowledge or suspicion, or on the complaint or report of an excise officer; or
- (6) under section 48 or section 49, except on the complaint or report of the Excise Commissioner, Government Agent, or an excise officer authorized by either of them on that behalf.

(2) Where a person who is bound to give notice under section 43 of this Ordinance is prosecuted for the offence of intentionally omitting to give such notice in contravention of that section, it shall be presumed, until the contrary is proved, that such person has intentionally omitted to give such notice if an excise officer of a rank not below that of Superintendent certifies in writing under his hand, after such investigation as he may deem necessary, that he is satisfied that such person has omitted to give such notice.

(2) Except with the special sanction of the Attorney-General, no Magistrate shall take cognizance of any offence punishable under this Ordinance unless the prosecution is instituted within a year after the commission of the offence.

54. (1) Whenever an offence has been committed under this Ordinance, the excisable article, materials, still, utensil, implement, or apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

What things liable to, confiscation.

Presumption as to commission of offence in certain cases

53. (1) In prosecutions under section 46 shall be presumed, until the contrary is proved, that the accused person has committed an offence under that section in respect of—

- (a) any excisable article; or
- (b) any still, utensil, implement, or apparatus whatsoever for the manufacture of any excisable article other than toddy; or

(2) Any excisable article lawfully imported, transported, manufactured, had in possession, or sold along with, or in addition to, any excisable article liable to confiscation under this section, and the receptacles, packages, and coverings in which any such excisable article, materials, still, utensil, implement, or apparatus as aforesaid is found, and the other contents, if any, of the receptacles or packages in which the same is found, and the animals, carts,

vessels, or other conveyance used in carrying the same, shall likewise be liable to confiscation.

Confiscation how ordered.

55. (1) When in any case tried by him the Magistrate decides that anything is liable to confiscation under the foregoing section, he may order confiscation, or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as he thinks fit.

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

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto, and evidence, if any, which he produces in support of his claim ;

Provided further, that if the thing in question is liable to speedy and natural decay, or if the Government Agent is of opinion that the sale would be for the benefit of its owner, the Government Agent may at any time direct it to be sold ; and the provisions of this subsection shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to compound offences.

56. The Government Agent or any excise officer specially empowered by the Minister in that behalf may accept from any person whose licence, permit, or pass is liable to be cancelled or suspended under section 27, or who is reasonably suspected of having committed an offence under section 48 or section 50, in lieu of such cancellation or suspension or by way of compounding the offence which may have been committed, as the case may be, either such sum of money, not exceeding one thousand rupees, as may be specified in a notice sent by post or otherwise delivered to such person by the Government Agent or

[§5,491961.]

such excise officer if the sum so specified is tendered by such person before the expiry of fourteen days after the date of such notice, or the sum so specified and such additional amount, not exceeding ten per centum of the sum so specified, as may be determined by the Government Agent or such excise officer if the sum so specified and the additional amount so determined are tendered by such person before the expiry of twenty-eight days after the date of such notice; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Ordinance may release the same on payment of the value thereof as estimated by such officer. On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

57. All offences under this Ordinance shall be summarily triable by Magistrates, who shall have power to award the punishments herein prescribed, anything in the Code of Criminal Procedure Act, or any other enactment to the contrary notwithstanding.

Offences to be summarily triable by Magistrates.

CHAPTER X

MISCELLANEOUS

58. Nothing in the foregoing provisions of this Ordinance applies to the import, manufacture, possession, sale, or supply of any bona fide medicated article for medicinal purposes by medical practitioners, chemists, druggists, pharmacists, apothecaries or keepers of dispensaries; but the Minister may by notification prohibit throughout Sri Lanka or within any local area the import, manufacture, possession, supply, or sale of any such article either absolutely or except under such conditions as he may prescribe, and the provisions of this Ordinance shall thereafter apply to any article so prohibited.

Ordinance does not apply to bona fide medicated articles.

59. No action shall lie against the Government of Sri Lanka or against any excise officer for damages in any civil court for any act bona fide done or ordered to be done in pursuance of this Ordinance, or of

any law for the time being in force relating to excise revenue ; and all prosecutions of any excise officer, and all actions which may be lawfully brought against the Government of Sri Lanka or against any excise officer, in respect of anything done in pursuance of this Ordinance, shall be instituted within six months from the date of the act complained of, and not afterwards.

orders of Government or by the Government Printer or at the Department of Government Printing; or

(b) in any document purporting to be an extract from any issue of the Gazette,

it shall be presumed, until the contrary is proved, that an excise notification in identical terms was published in the Gazette.

Excise notifications to be judicially noticed.

60. (1) Every excise notification shall be published in the Gazette.

(2) A court shall take judicial notice of every excise notification.

(3) Where an excise notification is printed—

(a) in any Excise Manual or other book or document purporting to be printed by authority or on the

(4) In this section—

"excise notification " means a notification made or issued under this Ordinance or for the purposes thereof;

" court" has the same meaning as in the Evidence Ordinance.