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CHAPTER 27

OFFENCES COMMITTED UNDER THE INFLUENCE OF LIQUOR

Act No. 41 of 1979. AN ACT TO MAKE PROVISION FOR INCREASED PUNISHMENT IN RESPECT OF CERTAIN OFFENCES COMMITTED UNDER THE INFLUENCE OF LIQUOR AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[25th June, 1979.]

- 1.** This Act may be cited as the Offences Committed under the Influence of Liquor (Special Provisions) Act.
- 2.** Any person who, being under the influence of liquor, in any public place or in any place where it is a trespass for him to enter and there conducts himself in such a manner as to cause annoyance to any person shall be guilty of an offence.
- 3.** Any person who, being under the influence of liquor, causes damage to public property shall be guilty of an offence and shall be liable upon conviction to be punished with imprisonment of either description for a term of not less than six months and not exceeding two years- and shall also be liable to a fine of not less than one thousand rupees and not exceeding two thousand five hundred rupees.
- 4.** Any person who gives, or causes to be given, to any child under the age of twelve years any liquor except upon the order of a duly qualified medical practitioner or in the case of sickness or apprehended sickness shall be guilty of an offence.
- 5.** (1) Any person who sells to a person under the age of eighteen years any liquor shall be guilty of an offence and shall be liable upon conviction to be punished with imprisonment of either description for a term of not less than six months and not exceeding two years and shall also be liable to a fine of not less than one thousand rupees and not exceeding two thousand five hundred rupees,
- (2) Any peace officer may seize any liquor in the possession of any person under the age of eighteen years whom he finds drinking in any thoroughfare or public place and any liquor so seized shall be disposed of in such manner as the court may direct.
- 6.** Any peace officer may, notwithstanding anything in any written law, arrest without warrant any person who in the opinion of such peace officer is under the influence of liquor and is committing any offence under sections 2 and 3 of this Act or under those provisions of the Penal Code specified in Column I of the Schedule hereto and may, in effecting such arrest, use such force as may be reasonable- in the circumstances.
- 7.** Where a peace officer arrests any person for an offence under sections 2 and 3 of this Act or for an offence under those provisions of the Penal Code specified in Column I of the Schedule hereto, he may—
- (a) if he considers that the examination of such person by a medical practitioner is necessary for the purpose of ascertaining whether such person is under the influence of liquor, as expeditiously as possible cause such person to be examined by a Government medical officer. The Government medical officer shall forthwith report to the peace officer the result of any such examination;
- (b) if, he considers it necessary and facilities are available for the carrying out of a breath analysis test, require such person to submit himself immediately to such test.
- 8.** The breath analysis test specified in paragraph (b) of section 7 shall be carried out by an approved operator in accordance with such regulations as may be prescribed.
- 9.** Any person who refuses to submit himself to an examination by a Government medical officer or by an approved operator when called upon to do so under section 7

Arrest without warrant.

Examination by medical practitioner.

Approved operator to carry out the breath analysis test.

Punishment for refusing to be examined.

or resists or obstructs a peace officer in the performance of his duties under that section shall be guilty of an offence, and shall be liable upon conviction to imprisonment of either description for a term not exceeding six months or to a fine not exceeding five hundred rupees or to both such imprisonment and fine.

Enhanced punishment in respect of certain offences.

10. Notwithstanding anything in the Penal Code every Magistrate's Court which convicts a person of an offence set out in Column I of the Schedule hereto shall, notwithstanding its ordinary powers of punishment, where such offence has been committed by that person while under the influence of liquor impose on that person the punishment set out in the corresponding entry in Column II of that Schedule.

Person presumed to be under influence of liquor if he is smelling of liquor, Ac.

11. (1) A person shall be presumed to be under the influence of liquor if at or about the time of the commission of the act he is smelling of liquor or if he conducts himself in such manner that it may be reasonable to infer that he has consumed liquor unless evidence to the contrary has been adduced.

(2) The report of a Government medical officer to the effect that a person is under the influence of liquor or the report of an approved operator to the effect that the concentration of alcohol in a person's blood is equal to or exceeds the prescribed limit shall be deemed to be sufficient evidence of the facts therein contained unless evidence to the contrary has been adduced.

All offences triable by Magistrate's Court.

12. (1) The Magistrate's Court shall have jurisdiction to try all offences under this Act.

(2) Every person guilty of an offence under section 2 or 4 of this Act shall on conviction after trial be liable to a fine of not less than one thousand rupees and not exceeding two thousand five hundred rupees or to imprisonment of either description for a term of not less than one year and not exceeding two years notwithstanding that such fine or imprisonment is in excess of the ordinary jurisdiction of such court.

Regulations.

13. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and in particular in respect of all or any of the following matters:—

- (a) all matters required by this Act to be prescribed;
- (b) the mode and manner and the requirements for carrying out any breath analysis test; and
- (c) the concentration of alcohol in a person's blood at or above which a person shall be deemed to be under the influence of liquor for the purposes of this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be laid before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

14. In this Act, unless the context Interpretation, otherwise requires—

"approved operator" means a peace officer who has undergone special training in the operation of breath analysing equipment and who is appointed in that behalf by the Inspector-General of Police;

"breath analysis test" means an analysis of a sample of a person's breath carried out for the purposes of this Act by means of an approved breath analysing instrument;

"breath analysing instrument" means an instrument of a type as may be prescribed;

"liquor" includes spirit, wine, toddy, beer, and all liquid consisting of or containing alcohol;

"peace officer" has the same meaning as in the Code of Criminal Procedure Act;

"public corporation" means any corporation, board or other body which was or is established by or

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under any written law other than the Companies Ordinance,* with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise; and

" public property" means any property of the State or that of any public corporation.

[Sections? and 10.]

SCHEDULE

<i>Column I</i>	<i>Column III</i>
<i>Enactment and sections</i>	<i>Punishments</i>
1. Penal Code—Section 183	Imprisonment for a term which may extend to nine months or with fine which may extend to three hundred rupees or with both.
2. Penal Code —Section 186	Imprisonment for a term which may extend 10 four years.
3. Penal Code — Section 298	Imprisonment for a term which may extend to five years.
4. Penal Code — Section 314	Imprisonment for a term which may extend to one year.

* Repealed and replaced by the Companies Act, No. 17 of 1982.