

## THE EXCISE ACT, 1871.

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SCHEDULE—(Acts repealed).



## ACT No. X OF 1871.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 24th  
March 1871).*

An Act to consolidate and amend the laws relating to the Excise Revenue in Northern India, British Burma and Coorg.

**WHEREAS** it is expedient to consolidate and amend the laws in force in Northern India, British Burma and Coorg relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom: It is hereby enacted as follows:—

Preamble.

### I.—PRELIMINARY.

1. This Act may be called "The Excise Act, 1871." Short title.

It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg. Local extent.

It shall come into force in the North-Western Provinces, the Panjáb, Oudh and the Central Provinces on the passing thereof, and in British Burma and Coorg on the first day of April 1872. Commence-  
ment of Act.

2. The Acts mentioned in the schedule hereto annexed are repealed. Repeal of  
Acts.

3. In this Act,  
"Chief Revenue Authority" means,—  
in the territories subject to the Lieutenant-Governor of the North-Western Provinces, the Board of Revenue,

Interpreta-  
tion-clause.

in

in the Panjáb and Oudh, the Financial Commissioner, and

in the Central Provinces, British Burma and Coorg, the Chief Commissioner :

“Collector.”

\*“Collector” includes any Revenue Officer in independent charge of a District and a Superintendent of Excise Revenue :

“Magistrate.”

“Magistrate” means any Magistrate exercising powers not less than those of a Subordinate Magistrate of the first class :

“Country-spirit.”

“Country-spirit” means any spirit made by the Native process of distillation :

“Intoxicating drugs.”

“Intoxicating drugs” includes ganja, bhang, charas, opium and every preparation and admixture of the same.

Saving of Act No. XVI of 1863.

4. Nothing herein contained affects Act No. XVI of 1863 (*to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*).

## II.—MANUFACTURE OF SPIRITS AND FERMENTED LIQUOR.

English distilleries not to be constructed or worked without license.

5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the District in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

6. The Chief Revenue Authority may from time to time make rules relative to—

- (a) the granting of licenses under section five,
- (b) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work,
- (c) the size and description of the stills,
- (d) the passing and storing of the spirits,
- (e) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein ;

(f) the

(f) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks and other utensils used in the distillery.

7. The Collector, with the sanction of the Chief Revenue Authority, may—

Collectors may establish distilleries for country spirits.

(a) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process,

(b) from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery, and

(c) discontinue any distillery so established.

8. The Chief Revenue Authority may from time to time make rules relative to

Chief Revenue Authority may prescribe rules for distilleries.

(a) the management of distilleries established under section seven,

(b) the conditions on which spirits may be manufactured in the said distilleries, and

(c) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

9. No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

Breweries not to be constructed or worked without license.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

10. Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate rules under sections six, eight and nine.

Sanction to rules under sections 6, 8 and 9.

11. No person shall manufacture spirits after the Native process except under license from the Collector.

Prohibition of unlicensed manufacture of country spirits.

### III.—SALE OF SPIRITS, FERMENTED LIQUOR AND INTOXICATING DRUGS.

12. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors

English spirits and fermented liquor not to be sold without license.

liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Fee for wholesale license.

**13.** Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, such sum as the Chief Revenue Authority from time to time prescribes.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue Authority from time to time prescribes, a general license authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

Fee for retail license.

**14.** Persons taking out licenses for the retail sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee or tax as the Chief Revenue Authority fixes, and such fee or tax shall be payable at such periods as the said Authority directs.

What to be held a retail sale.

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail sale.

Country spirits and drugs not to be sold without license.

**15.** No person shall sell spirits manufactured by the Native process, or *tárí*, or *pachwái*, or any intoxicating drug, except under license from the Collector.

*Tárí* to be deemed a fermented liquor.

**16.** All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of *tárí*, whether in a fermented state or otherwise; and all *tárí*, both fresh and fermented, is included in the expression "fermented liquors" as used in the following sections.

Proviso.

**17.** Provided that the Local Government may suspend the operation of all the provisions relating to *tárí* contained in this Act, with respect to any district in which the consumption of *tárí* in a fermented state is inconsiderable; and thereupon *tárí* may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

**18.** Opium



18. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Chief Revenue Authority from time to time directs: and no other description of opium shall be sold by such vendors.

Supply of opium to licensed vendors.

The Local Government may, from time to time, by order, exempt any district from the operation of this section.

19. Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country spirits, *tári*, and *pachwái*, and intoxicating drugs shall not be sold in larger quantities than are hereunder specified—

Sale of more than specified quantities of country spirits, &c., prohibited.

country spirits, one ser;

*tári* or *pachwái*, four sers;

ganja or bhang, or any preparation or admixture thereof, one quarter of a ser;

charas or opium, or any preparation or admixture thereof, five tolas weight;

And the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Act.

20. No cultivator of the plants producing ganja or bhang shall sell any ganja or bhang to any one other than (a) a person licensed under section fifteen to sell the same or (b) a person duly authorised to purchase the same by pass or license from the Collector.

Restriction of sale of ganja and bhang.

#### IV.—DUTIES.

21. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of three rupees the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit.

Rate of duty to be levied on English spirits.

No spirit shall be removed from any such distillery or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided.

For

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

- (a) the quantity and strength of the spirit,
- (b) the place of its destination,
- (c) the person to whom it is consigned, and
- (d) whether the duty has been paid or secured by bond.

Nothing in the former part of this section applies to British Burma.

Spirits from foreign territory subject to duty.

**22.** Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in section twenty-one :

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred rupees ; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Duty on country spirits manufactured at distilleries established by Collector.

**23.** A duty shall be levied on spirits manufactured in distilleries established under section seven at such rate as the Chief Revenue Authority, with the sanction of the Local Government, may from time to time prescribe.

Duty on retail sale of country spirits, &c.

**24.** Whenever a license for the retail sale of country spirits, *tári*, *pachwái*, or intoxicating drugs, is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue Authority.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented *tári* only, at those periods of the year when the fresh juice is in request : fees may be demanded

manded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

V.—FARM OF DUTIES.

25. The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any district or division of a district.

Power to farm out duties.

26. The Chief Revenue Authority may prescribe rules—

Tenders for farm.

(a) for the invitation and acceptance of tenders for such farms,

(b) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(c) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

27. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

Farmer to make arrangements with local manufacturers and vendors.

And all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

28. Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

List of licenses granted by farmer to be filed.

The Collector, with the sanction of the said Chief Revenue Authority, may, before entering into engagements for any such farm, make such reservations or

Restrictions as to grant of licenses.

restrictions

restrictions with respect to the grant of licenses as he thinks fit.

Lease may be cancelled.

**29.** The Collector may, with the sanction of the Chief Revenue Authority, cancel any lease granted under this Act; or may within the period of the lease, impose any new restriction on the farmer.

Compensation to farmers in certain cases.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

Recovery of arrears of tax or duty by farmers.

**30.** Every farmer of Excise revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

#### VI.—LICENSES.

Certain licensees to execute counterpart and furnish security.

**31.** Every person taking out a license for the manufacture of country spirits or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

Durations and renewal of license.

**32.** Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement



gagement entered into, by every such person, shall remain in force as if the said license and engagement had been formally renewed.

**33.** The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act.

Chief Revenue Authority to regulate form of license.

**34.** The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

Power to recall license.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

**35.** Any licensed retail vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license fees for six months as the Collector may adjudge.

Surrender of license.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

#### VII.—POWERS OF OFFICERS.

**36.** The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority.

Collectors of Land Revenue to have charge of Excise.

But the Local Government may appoint any other person to be Superintendent of Excise Revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and

and authority conferred by this Act on the Collector of Land Revenue; and the Collector of Land Revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

Power to  
appoint Com-  
missioners of  
Excise.

**37.** The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the Excise revenue in any district or districts; and when such appointment is made the Commissioner of Excise shall exercise within such District or Districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said District or Districts during the continuance of such appointment.

Collectors  
may appoint  
Excise  
Officers.

**38.** Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers, and other officers, for the collection of the Excise revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled Excise Officers.

Tahsildárs  
may be  
Excise  
dároghas.

**39.** In districts where there are tahsildárs and other local officers for the collection of the land revenue, the office of Excise dárogha may be united with that of tahsildár, or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be Excise Officers within the meaning of this Act.

Power to  
regulate sup-  
ply of tari  
and intoxi-  
cating drugs  
to licensed  
vendors.

**40.** The Chief Revenue Authority may regulate the mode in which tání shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganja, bhang, or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation, and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of  
arrears of tax  
or duty.

**41.** The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of Excise revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

**42.** Any Excise officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

Power of  
Excise officers  
to inspect  
shops.

**43.** Any Excise officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

And to arrest  
persons  
carrying  
spirits, &c.,  
liable to  
confiscation.

and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

**44.** Any Excise officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

And to arrest  
unlicensed  
distillers,  
&c.

and may seize such still with the materials for working it, and all such liquors and drugs.

And to seize  
stills.

**45.** Whenever any Excise officer above the rank of a jamadár of peons, has reason to believe, from information given by any person (which information shall be taken down in writing)

And to search  
on informa-  
tion of illicit  
manufacture  
or possession.

that spirits are unlawfully manufactured,

or that any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any house, boat, or other place,

such

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadár), enter into any such house, boat, or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

Police, Customs, and Revenue Officers may exercise powers of Excise officers.

46. The powers of seizure, search, and arrest, given to Excise officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs, and Revenue Departments according to their respective grades.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be deemed to be Excise officers within the meaning of this Act.

Excise officer to report arrests, &c.

47. Whenever an Excise officer arrests any person, or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat, or place for the purpose of searching for any such illicit articles,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest or seizure,



seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch to the Magistrate for trial or adjudication.

and to take person arrested to Magistrate.

48. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue warrant of arrest in certain cases.

49. The Collector may issue his warrant for the search of any house, boat, or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Collector may issue search-warrant.

Such warrant may be executed by any officer above the rank of a jamadár of peons, at the time and in the manner prescribed in section forty-five.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorising the search to be so made. Such warrant may be executed by any officer above the rank of a jamadár of peons, in the manner prescribed in section forty-five and shall cease to be in force at sunrise on the day next following.

Special warrant authorising search between sunset and sunrise.

50. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Procedure after arrest or seizure

51. All Police officers are required to aid the Excise officers in the due execution of this Act, upon notice given or request made by such officers.

Police to assist Excise officers.

52. Whoever

## VIII.—PENALTIES.

For constructing or working a distillery without license.

**52.** Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees ;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For non-observance of rules prescribed by Chief Revenue Authority.

**53.** Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section six, or willfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees ;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

For removing spirituous liquors without payment of duty.

**54.** Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees ;

and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

For irregular re-land of spirituous liquors.

**55.** Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special

special pass from the Collector of Revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees;

and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

**56.** Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.

For working  
brewery  
without  
license.

**57.** Every person licensed to manufacture country spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any Excise officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.

For refusing  
to produce  
license.

For breach of  
license.

**58.** Every licensed retail vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail sale, shall for every such offence be punished with fine not exceeding two hundred rupees :

For sale in  
contravention  
of license.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

Proviso.

**59.** Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

For permit-  
ting drunk-  
enness, &c.,  
in shop.

**60.** Whoever conveys or attempts to convey any country spirits from a distillery established under section seven without a pass, or exceeding the quantity for which a pass has been granted,

For convey-  
ing country  
spirits from  
distillery  
without pass  
&c.

OR

or introduces or attempts to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

For contravening rules prescribed by Chief Revenue Authority.

**61.** Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees.

For illicit manufacture or sale of country spirits, &c.

**62.** Every person other than a licensed manufacturer who manufactures any country spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Proviso.

Nothing in this section or in section twelve applies to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

For illegal possession of country spirits, &c.

**63.** Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country spirits, or *tári*, or *pachwái*, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of section nineteen,

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the

Collector



Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Provided, that nothing in this section extends to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale. Proviso.

64. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of *tári* the produce of the date tree, when supplied or used for the manufacture of *gúr* or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale and possession of ganja or bhang by the cultivators of the plants which produce those drugs respectively. Exceptions as to *tári*, ganja and bhang.

Every such cultivator selling ganja or bhang in breach of the prohibition contained in section twenty, shall for every such offence be punished with fine not exceeding five hundred rupees.

65. Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight, shall for every such offence be punished with fine not exceeding five hundred rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser for all the opium so found in excess of that weight; and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation. For possessing more opium than five tolas weight.

66. Nothing in section sixty-five applies to the persons and circumstances hereinafter specified, namely:— Exception in favour of—

(a) Authorized opium cultivators having newly extracted opium in their possession during the usual Opium cultivators.  
period

period between the full growth of the poppy and the delivery of the produce to the opium agent.

Travellers.

(b) Travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, or, in British Burma, five tolas, the produce of such foreign States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter.

And horse dealers.

(c) Dealers in horses travelling with strings of horses from beyond the limits of British India, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

For possession of excessive quantity of opium by travellers, &c.

If opium be found in the possession of any such traveller, visitant, or dealer in horses in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.

For sale of adulterated opium, &c., by licensed vendors.

67. Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,

or, who, except in districts exempted from the operation of section eighteen, sells or has in his possession any opium other than the opium supplied to him from the Government stores,

shall for every such offence be punished with fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

For conniving at illicit manufacture or sale of spirits, &c.

68. Every proprietor, farmer, tahsildár, gumáshta, or other manager of land, who authorizes or connives at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.

On police neglecting to assist.

69. Any Police officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any

any dárogha or other officer in charge of a Police station, who, on application made by an Excise officer under section forty-five, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadár, shall for every such offence be punished with fine not exceeding five hundred rupees.

70. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.

For maliciously giving false information.

Such fine or any part thereof may be paid to the person aggrieved.

71. Any Excise officer who without reasonable ground of suspicion, searches or causes to be searched any house, boat, or other place,

For vexatious search or seizure.

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person, or commits any other excess not required for the execution of his duty,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved,

72. Any Excise officer who neglects to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this

On Excise officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.

Act,

Act, shall for every such offence be punished with fine not exceeding two hundred rupees.

For conniving at escape of persons arrested, &c.

**73.** Any Excise officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of the license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Excise revenue defrauded ;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Adjudication of penalties and seizures.

**74.** All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Excise officer :

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three.

Procedure in cases other than those of persons sent in custody by a Collector or Excise officer.

**75.** In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Excise officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall apply to trials under this Act.

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission

of



of the offence to which the complaint or information refers.

**76.** Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

Punishment on second or subsequent conviction.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

**77.** Every person imprisoned for an offence under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

Confinement in civil jail.

**78.** All things confiscated under this Act, except opium, shall be disposed of by the Collector by public sale.

Disposal of confiscated goods.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

**79.** One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

Disposal of fines, &c., as rewards.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each ser, shall be given to the informer.

If

Rewards where no fine is realized.

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of Excise officers shall receive rewards, and what classes shall have no title to share therein.

Fines undisposed of to belong to Government.

**80.** All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government.

Special rewards to informers.

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

#### IX.—MILITARY CANTONMENTS.

Rules respecting manufacture and sale of spirits, &c., in Military Cantonments.

**81.** Within the limits of any Military Cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors, shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the Commanding Officer;

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately withdrawn.

Mode of making arrest or search within Military Cantonments.

**82.** In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible.

Provided

Provided also that nothing herein contained shall affect the provisions of Act No. XXII of 1864 (*to make provision for the Administration of Military Cantonments*).

X.—MISCELLANEOUS.

**83.** A drawback of the duty levied under Part IV of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India, shall be allowed by the Collector of Customs at the port of exportation:

Drawback on exportation.

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

**84.** No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

No drawback on spirits exported to British Indian ports or shipped as stores.

**85.** Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Recovery of sums due under bond.

**86.** All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

Appeals from orders and sentences under this Act.

**87.** In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents

Powers vested in officers of Opium Department.

Agents and Sub-Deputy Agents shall exercise the powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium ;

and the officers of the Opium Department shall exercise the powers conferred by this Act on Excise officers for the seizure of illicit opium and the arrest of persons found in possession thereof ; and in respect to such seizures and arrests, shall be deemed to be Excise officers within the meaning of this Act.

Legalization  
of levy of  
Excise duties  
in Oudh.

**88.** All duties heretofore levied in Oudh on spirituous and fermented liquors or intoxicating drugs, shall be deemed to have been levied in accordance with law.

Indemnity-  
clause.

All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force ; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

SCHEDULE.

(See Section 2.)

NUMBER AND YEAR.	TITLE OF ACT.
XXI of 1856	... An Act to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.
XXIII of 1860	... An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).
X of 1864	... An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).
XXVIII of 1864	... An Act to provide for the extension of Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal) to the provinces under the control of the Lieutenant-Governor of the Punjab.
XXIII of 1868	... An Act to give validity to certain Abkari Rules in British Burma.