# The Himachal Pradesh Excise Act, 2011

Act H.P. Act No. 33 of 2012. 82 sections. Bare Act with the official footnotes.

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Official file: https://indiacode.gov.in/server/api/core/bitstreams/de031dcc-426b-4a21-b3ba-36bb653dc517/content

Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/himachal-pradesh-excise-act-2011

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(Received the assent of the President of India on the 19th July, 2012 and was published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 18th August, 2012, pp. 2737-2849).

An Act to consolidate, amend and update the law relating to production, manufacture, possession, import, export, transport, purchase and sale of intoxicating liquors and levy of duties of excise and countervailing duties on alcoholic liquors.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-second Year of the Republic of India as follows:-

## CHAPTER-I PRELIMINARY AND DEFINITIONS

### Section 1. Short title

This Act may be called the Himachal Pradesh Excise Act, 2011.

### Section 2. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

(a) "beer" means alcoholic beverage prepared from malt or grain with or without addition of sugar and hops and includes black beer, ale, stout, porter and such other substance as may be specified by the State Government;

(b) "to bottle" means transfer of liquor from a cask or other vessel to a bottle or other approved receptacle and includes rebottling ;

(c) "brewery" means premises where beer is manufactured and includes every place therein where beer is stored or wherefrom it is issued;

(d) "Collector" means any officer appointed by the State Government, under sub-section (2) of section 5 of this Act;

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

(f) "distillery" means premises where spirit is manufactured and includes every place therein where it is stored or wherefrom it is issued;

(g) "excise duty" and "countervailing duty" mean any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of List-II of the Seventh Schedule to the Constitution;

(h) "Excise Officer" means any officer or person appointed, or invested with powers, under section 6 of this Act;

(i) "excise revenue" means revenue derived or derivable from any payment, duty, license fee, or other fee levied or payable, fine or penalty imposed or confiscation ordered under this Act, or the rules made thereunder, but does not include a fine imposed by a court of law;

(j) "export" means to take out of Himachal Pradesh otherwise than across a custom frontier as defined by the Central Government;

(k) "Financial Commissioner" means the Excise and Taxation Commissioner appointed under sub-section (1) of section 5;

(l) "import" (except in the phrase "import into India") means to bring into Himachal Pradesh otherwise than across a customs frontier as defined by the Central Government;

(m) "license" means a license granted under this Act;

(n) "liquor" means intoxicating liquor and includes all liquid consisting of or containing alcohol, whether obtained by fermentation or by subsequent distillation, and also includes any substance which the State Government may, by notification, declare to be liquor;

(o) "manufacture" includes any process, whether natural or artificial by which any liquor is produced or prepared, and also re-distillation, and every process for the rectification, reduction, flavoring, blending or colouring or bottling of liquor;

(p) "medicinal preparations" and "toilet preparations" shall have the same meaning as assigned to them under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;

(q) "molasses" means heavy dark coloured viscous liquid produced, in the final stage of manufacture of Gur or Sugar including Khandsari Sugar, from sugar cane or Gur, when liquid as such or in any form or admixturer containing sugar which can be fermented;

(r) "notification" means a notification issued under this Act or the rules made thereunder and published in the Official Gazette;

(s) "pass" means a document which actually authorizes the removal or transportation of liquor;

(t) "permit" means a no objection statement issued by the Collector of the district of destination concerned or an officer authorized in this behalf in the import and transport of liquor and includes a document authorizing possession of liquor exceeding the limit of retail-sale;

(u) "place" includes a building, shop, tent, enclosure, booth, vehicle, vessel, boat and raft;

(v) "prescribed" means prescribed by rules made under this Act;

(w) "sale" includes any transfer otherwise than by way of gift;

[1][(wa) "spurious liquor" means liquor made by improper distillation;]

(x) "State" means the State of Himachal Pradesh;

(y) "State Government" means the Government of Himachal Pradesh;

(z) "spirit" means any liquor containing alcohol obtained by distillation, whether denatured or not;

(za) "transport" means to move from one place to another place within the State;

(zb) "vehicle" means wheeled conveyance of any description, which is capable of being used for movement and includes aircraft, boat, vessel, raft, motor vehicle, a cart and any carriage by cattle;

(zc) "warehouse" means a place where storage of liquor is permitted and includes a relevant part of manufactory; and

(zd) "winery" means premises where wine is manufactured and includes every place therein where wine is stored or wherefrom it is issued.

[1] Clause "(wa)" inserted vide H.P. Act No. 10 of 2024.

## Section 3. Country liquor and foreign liquor

The State Government may by notification declare what, for the purpose of this Act, shall be deemed to be country liquor and foreign liquor.

### Section 4. Power to limit application of notifications, license etc. issued

Where under this Act, any notification is issued, any appointment made, any power conferred, or any license, permit or pass granted, it shall be lawful for the State Government to direct that-

(a) it shall apply to the whole of the State or to any specified local area or areas;

(b) it shall apply to all or any class of persons, officers or functions and powers of such officers;

(c) it shall apply to all or any specified liquor(s) or classes thereof; and

(d) it shall be in force only for some special period or occasion.

## CHAPTER-II ESTABLISHMENT AND CONTROL

### Section 5. Financial Commissioner and Collector

(1) The State Government may, by notification, appoint an Excise and Taxation Commissioner who shall exercise all the powers of Financial Commissioner, and subject to the control of the State Government, the general superintendence and administration of all matters relating to excise shall vest in him.

(2) The State Government may, by notification, appoint as many Collectors as it may deem fit, to discharge in any specified area the functions of the Collector under this Act and the Collector shall, subject to the control of the Financial Commissioner, control all other Excise Officers within his jurisdiction.

(3) The jurisdiction of the Financial Commissioner shall extend to the whole State and the jurisdiction of Collectors shall extend to the areas of the State in which they are for the time being employed.

### Section 6. Other classes of Excise Officers and their powers and jurisdiction

[1]["(l) There shall be the following classes of Excise Officers within their respective jurisdictions:-

(i) an officer not below the rank of Assistant State Taxes and Excise Officer in the State Taxes and Excise Department;

(ii) Executive Magistrate not below the rank of Tehsildar; and

(iii) Police Officer not below the rank of Assistant Sub-Inspector in the Police Department.

(2) The aforesaid Excise Officers shall exercise the powers to enter, inspect, investigate, search and seize and obtain information under sections 8, 9, 10, 12 and 54 of this Act.

(3) The State Government shall, by notification appoint Police Officer or official, on secondment basis from the Himachal Pradesh Police, for carrying out the purposes of this Act.]

[1] Section "(6)" substituted vide H.P. Act No. 10 of 2024

### Section 7. Persons appointed under this Act to be public servants

All persons appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

### Section 8. Power to enter and inspect

Any Excise Officer, not below such rank as the State Government may, by notification specify,-

(a) 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 liquor;

(b) enter and inspect, at any time, any place in which any liquor is kept for sale by any person holding a license under this Act;

(c) examine any accounts and registers, test, measure or weigh any materials, stills, utensils, implements, apparatus or testing instruments or liquor found in that place;

(d) seize any accounts, register, measure, weights or testing instruments which he has reason to believe to be false or incorrect; and

(e) seize any liquor which he has reasons to believe to be un-accounted for in the accounts and registers maintained by the licensee.

### Section 9. Power to investigate

(1) The State Government may, by notification, invest any Excise Officer, with power to investigate any offence punishable under this Act, committed within the limits of the area in which the officer exercises jurisdiction.

(2) Every officer so empowered may within those limits exercise the same powers in respect of such investigation as

an officer-in-charge of a police station may exercise in a cognizable case under the provisions of Chapter XII of the Code of Criminal Procedure, 1973.

### Section 10. Powers of Excise Officer to search, seize etc

(1) Whenever any Excise Officer not below such rank as the State Government may, by notification, specify has reason to believe that an offence punishable under this Act, has been, is being, or is likely to be, committed by any person, in any place, and that a search warrant can not be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time, by day or night, enter and search such place.

(2) Any Excise Officer specified in sub-section (1) may seize anything found in such place which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

### Section 11. Powers of Magistrate to issue warrant for search or arrest

A Magistrate having reason to believe that an offence under this Act has been, is being, or is likely to be, committed may-

(a) issue a warrant for the search of any place in which he has reason to believe that any liquor, still, utensil, implement, apparatus or materials, in respect of which such offence has been, is being, or is likely to be, committed are kept or concealed; and

(b) issue a warrant for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be, engaged in the commission of any such offence.

### Section 12. Powers of Excise Officers to obtain information

(1) Any Excise Officer, not below such rank as the State Government may, by notification specify, may by order require any person to furnish to any specified authority or person any such information in his possession concerning any unlawful import, export, transport, manufacture, sale, purchase or possession of any liquor, or any material, still, utensil, implement or apparatus whatsoever, for the purpose of manufacturing any liquor, as may be specified in the order.

(2) Any person upon whom an order is served under sub-section (1) shall be bound, in the absence of reasonable excuse, to furnish correct information.

### Section 13. Police Officers to aid Excise Officers etc. and to take charge of articles seized

(1) All Police Officers shall aid the Excise Officers and other authorities in carrying out the purposes of this Act.

(2) Every officer-in-charge of a police station shall take charge of, and keep in safe custody, pending the orders of a Judicial Magistrate or Collector concerned or an officer empowered under section 9 of this Act, to investigate the case, all articles seized under this Act which may be delivered to him, 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 the articles and take samples of and from them and all samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

### Section 14. Power to close liquor vends

The Financial Commissioner shall prescribe the day(s) on which any liquor vend shall remain closed for observance of the dry days approved by the State Government or the Election Commission of India or the State Election Commission:

Provided that if the District Magistrate receives an information that a riot or unlawful assembly has occurred or is likely to occur in the vicinity of a liquor vend, he may, subject to the reasons to be recorded in writing, by order, require the licensee of such a liquor vend to keep the vend closed at such time as may be specified in such order:

Provided further that the order passed under the preceding proviso shall, at one time, remain in force for not more than twenty-four hours from the time, when it is made:

Provided further that the District Magistrate shall inform the Financial Commissioner and the Collector concerned of the order passed by him as soon as such order is made.

# CHAPTER-III PRODUCTION, MANUFACTURE, POSSESSION, IMPORT, EXPORT, TRANSPORT, PURCHASE OR SALE

## PART-A MANUFACTURE

### Section 15. Prohibition of manufacture of liquor except under this Act

(1) No person shall-

(a) manufacture or produce any liquor, or

(b) construct or work a distillery, brewery, winery or a warehouse (wherein any liquor may be deposited and kept without payment of excise duty or countervailing duty), or

(c) bottle any liquor, or

(d) use, keep or have in his possession, any materials, still, utensils, implement or apparatus whatsoever for the purpose of manufacturing or producing any liquor,

except under the authority, and subject to the terms and conditions as may be prescribed, in this behalf, by the Financial Commissioner.

(2) The State Government may, by notification, prohibit the use of distilled liquor of any description in the manufacture of any kind or class of liquor.

### Section 16. Establishment or licensing of distilleries, breweries winery or warehouse

The Financial Commissioner, subject to such restrictions or conditions as the State Government may impose, may-

(a) establish a distillery in which spirit may be manufactured under a license granted under section 15;

(b) discontinue any distillery so established;

(c) license the construction and working of a distillery or brewery or a winery;

(d) establish and license a warehouse wherein any liquor may be deposited and kept without payment of duty;

(e) discontinue any warehouse so established; and

(f) make rules regarding-

(1) grant of licenses for distilleries, stills, breweries or wineries;

(2) the security to be deposited by the licensee of a distillery, brewery or winery;

(3) the period for which the license shall be granted;

(4) the inspection and examination of such distillery, brewery or winery and the warehouses connected therewith and of the spirit or fermented liquor made and stored therein;

(5) the management and working of the distillery, brewery or winery;

(6) the form of accounts to be maintained and the returns to be submitted by the licensee;

(7) the upkeep of buildings and plant;

(8) the size and description of stills, and other plant;

(9) the manufacturing, storing and passing out of spirit or fermented liquor and the contents of passes;

(10) the prices to be charged by the licensee; and

(11) any other matters connected with the working of distilleries, breweries or wineries.

### Section 17. Prohibition of removal of liquor manufactured or stored in a distillery, brewery or warehouse etc

No liquor manufactured or stored in any distillery, brewery, winery or warehouse or any other place of storage established or licensed under this Act shall be removed therefrom unless the excise duty or, as the case may be, the countervailing duty, if any, levied and payable under section 36 has been paid or a bond, as prescribed, has been executed for payment thereof.

## PART-B POSSESSION

### Section 18. Prohibition of possession of liquor

(1) No person shall have in his possession any quantity of liquor in excess of such quantity as the State Government has under section 25, declared to be the limit of retail sale, except under the authority and in accordance with the terms and conditions of-

(a) a license for the manufacture, storage, sale or supply of such article, or

(b) a permit or a pass granted by the Collector in that behalf:

Provided that nothing contained in this sub-section shall apply to any liquor in the possession of a common carrier or an Excise Officer or a Police Officer or other official or person who has its lawful custody under this Act.

(2) A licensed vendor shall not have in his possession at any place, other than that authorized by his license, any quantity of any liquor in excess of such quantity as the State Government has, under section 25, declared to be the limit of sale by retail, except under a permit granted by the Collector in that behalf.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the State Government may, by notification, prohibit the possession of any liquor or restrict such possession by such conditions as it may impose.

### Section 19. Possession of unused and printed labels, corks, etc. by certain person to be punishable

No person shall have in his possession any unused and printed label, cork, capsule or seal duly approved by any authority under this Act or under any rule or order made thereunder for use by a person licensed to establish or work a distillery or brewery, winery or warehouse or to bottle liquor, or any other label, cork capsule, or seal which is an imitation of such unused and printed label, cork, capsule, or seal, as the case may be:

Provided that nothing therein shall apply to-

(a) a person licensed to establish or work a distillery, brewery, winery or warehouse or to bottle liquor; or

(b) a person who, in execution or an order received from a person specified in clause (a), manufactures or prints any such label, cork, capsule or seal.

### Section 20. Prohibition of possession of liquor un-lawfully manufactured, imported, transported etc

No person shall have in his possession any quantity of any liquor, knowing the same to have been unlawfully manufactured, imported, transported, or knowing that the prescribed excise duty, countervailing duty or other fee not to have been paid thereon.

## PART-C IMPORT, EXPORT AND TRANSPORT

### Section 21. Prohibition of import, export or transport of liquor

No liquor shall be imported, exported or transported except,-

(a) after payment of any excise duty or fee or countervailing duty, if any, to which it may be liable under this Act, or on execution of a bond, as prescribed, for such payment, and

(b) in accordance with such conditions as the State Government may impose.

### Section 22. Power of the State Government to prohibit or permit import, export or transport of liquor

(1) The State Government may, by notification, prohibit,-

(a) the import or export of any liquor into or from the State or any part thereof, or

(b) the transport of any liquor.

(2) Save as otherwise provided by any rule made under this Act, no liquor exceeding such quantity, as the State Government may prescribe, shall be imported, exported or transported except under the authority of a pass granted by the Collector:

Provided that on such conditions as the Financial Commissioner, may prescribe, a pass granted under the excise law in force in another State may be deemed to be a pass granted under this Act.

## PART-D SALE etc

### Section 23. Prohibition of sale etc. of liquor

(1) No liquor shall be sold except under the authority and subject to the terms and conditions of a license granted, in this behalf, by the Financial Commissioner or Collector, as the case may be.

(2) No liquor shall be sold from a place other than the place specified in the license granted under sub-section (1).

(3) No person shall allow consumption of liquor at any public place, except under the authority of a license granted under sub-section (1).

(4) Nothing in this section applies to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his demise.

### Section 24. Prohibition of sale etc. of adulterate liquor

No licensed vendor and no person in the employ of such vendor or acting on his behalf shall adulterate any liquor, which the vendor is licensed to sell, by adding any substance in such a manner as to vary the prescribed strength or the quality of such liquor and no such vendor or person shall possess, store, sell or expose for sale, any such adulterated liquor.

### Section 25. Power of the State Government to declare limit of sale of liquor by retail and by whole sale

The State Government may, by notification, declare with respect either to whole of State or to any local area comprised therein, and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion, the maximum or minimum quantity or both of any liquor, which for the purpose of this Act may be sold by retail sale and by whole sale.

### Section 26. Prohibition of sale to minor or his employment

(1) If any license holder or any person acting on his behalf sells or delivers any liquor to any person apparently under the age of 18 years, he shall be punishable with fine [1][of thirty thousand rupees.]

(2) If a license holder or any person acting on his behalf employs, in a liquor Vend or Bar or any other place where liquor or other intoxicants are sold or stored or served, any person under the age of 18 years, he shall be punishable with imprisonment for a term which may extend to [2][six months or with fine of fifty thousand rupees] or with both.

[1] The words "which may extend to ten thousand rupees but shall not be less than two thousand rupees" substituted vide H.P. Act No. 10 of 2024.
[2] The words "three months and with fine which may extend to fifty thousand rupees" substituted vide H.P. Act No. 10 of 2024.

## CHAPTER-IV LICENSES, PERMITS AND PASSES

### Section 27. Grant of leases of manufacture, sale etc

(1) The State Government may lease to any person, competent to contract, on payment of such sum in addition to excise duty or countervailing duty, on such conditions and for such period, as it may deem fit, the right-

(a) of manufacturing or of supplying by wholesale, or of both, or

(b) of selling by wholesale or by retail, or

(c) of storing for manufacture or sale,

any country liquor, foreign liquor, beer, wine spirit within any specified area.

(2) The State Government may lease to any person, competent to contract, on payment of such fee and on such conditions as the Financial Commissioner may direct under section 28, the right of manufacturing and possessing for home consumption-

(a) country liquor by distillation from specified fruits or grains in tribal areas, or

(b) country fermented liquor from grains in any specified area.

Explanation.- For the purpose of this sub-section 'tribal area' or 'specified area' shall mean such area which stand notified as 'tribal area' or 'notified area' under the repealed Punjab Excise Act, 1914, on the date of commencement of the Himachal Pradesh Excise Act, 2011.

(3) The Financial Commissioner may grant to a lessee, a license for manufacturing or supplying the liquor in accordance with the terms of such lease as may be approved by the State Government under sub-section (1); provided that Collector may grant to a lessee, such licenses for sale of liquor by wholesale or by retail as the Financial Commissioner may prescribe.

(4) The Collector may grant to a lessee under sub-section (2) a permit in such form as the Financial Commissioner may prescribe.

### Section 28. Fees and other conditions for grant of licenses, permits and passes

(1) Every license, permit or pass, under this Act, shall be granted-

(a) on payment of such fees, if any,

(b) in such form and containing such particulars,

(c) subject to such restrictions and on such conditions, and

(d) for such period,

as the Financial Commissioner may direct.

(2) For the purposes of sub-section (1), the power of the Financial Commissioner to issue directions shall include the power to direct the licensee of a distillery, brewery, winery or warehouse to-

(a) provide free accommodation to the Excise Officer concerned at or near the licensed premises, failing which to pay to the State Government the rent and other charges for such accommodation as may be fixed by the Financial Commissioner; and

(b) pay to the State Government the costs, charges and expenses, including salaries and allowances of such Excise Officers, which the State Government may incur in connection with the supervision of such distillery, brewery, winery or warehouse.

(3) The authority granting a license under this Act, may require the licensee to give such security for the observance of the terms of his license, or to make such deposit in lieu of security, as such authority may direct.

(4) Subject to the rules made by the Financial Commissioner, the Collector may grant licenses for the sale of any liquor within a district:

Provided that a license for sale in more than one district shall be granted by the Financial Commissioner only.

(5) Before any license is granted in any year for the retail sale of liquor for consumption on any premises which have not been so licensed in the preceding year, the Collector shall take such measures as the State Government may prescribe, as may best enable him to ascertain local public opinion in regard to the licensing of such premises.

### Section 29. Power to cancel or suspend licenses etc

Subject to such restrictions as the State Government may prescribe, the authority granting any lease, license, permit or pass under this Act, may cancel or suspend it-

(a) if it is transferred or sublet by the holder thereof without the permission of the said authority; or

(b) if any excise duty or countervailing duty or, other fee payable by the holder thereof is not duly paid; or

(c) in the event of any breach by the holder of such lease, license, permit or pass or by his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions of such license, permit or pass; or

(d) if the holder thereof is convicted of any offence punishable under this Act or the Himachal Pradesh Value Added Tax Act, 2005, the Central Sales Tax Act, 1956 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983 or of any cognizable and non-bailable offence, or any offence punishable under the Narcotic Drugs and Psychotropic Substances Act, 1985, or under the Trade and Merchandise Marks Act, 1958 or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 or of any offence punishable under sections 482 to 489 ( both inclusive) of the Indian Penal Code, 1860 or any offence referred to in section 135 of the Customs Act, 1962; or

(e) where a license, permit or pass has been granted on the application of the grantee of a lease under this Act, on the request in writing of such grantee; or

(f) at will, if the conditions of the license, permit or pass provides for such cancellation or suspension.

### Section 30. Power to cancel any other license and to recover fee

(1) When a license, permit or pass held by any person is cancelled under clauses (a), (b), (c) or (d) of section 29, the authority granting the license may cancel any other license, permit or pass granted to such person by such authority within his jurisdiction but if such other license, permit or pass has been granted by any other authority, the Financial Commissioner may cancel or suspend the same.

(2) In the case of cancellation or suspension of a license under clauses (a), (b), (c) or (d) of section 29, the fee payable for the balance of the period for which any license would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise revenue.

### Section 31. No compensation or refund claimable for cancellation or suspension of license etc

When a lease, license, permit or pass is cancelled or suspended under clauses (a), (b), (c) or (d) of section 29 or under section 30, the holder of such lease, license, permit or pass, as the case may be, shall not be entitled to any compensation for its cancellation or suspension nor to the refund of any fee paid or deposit made in respect thereof.

### Section 32. Power to withdraw license etc

(1) Whenever the authority which granted a license, permit or pass under this Act considers that such license, permit or pass should be withdrawn for any cause other than those specified in section 29, it may,-

(a) withdraw the license, permit or pass on the expiration of fifteen days' notice in writing of its intention to do so; or

(b) withdraw any such license, permit or pass forthwith without notice.

(2) If any license, is withdrawn forthwith without notice under clause (b) of sub-section (1), there shall be paid to the licensee such sum, by way of compensation, as the Financial Commissioner may direct.

(3) When a license, permit or pass is withdrawn under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, after deducting the amount, if any, due to the State Government.

### Section 33. Technical irregularities in license etc

(1) No lease, license, permit or pass granted under this Act shall be deemed to be invalid by reasons merely of any technical defect, irregularity or omission in the lease, license, permit or pass or in any proceedings taken prior to the grant thereof.

(2) The decision of the Financial Commissioner as to what is a technical defect, irregularity or omission shall be final.

### Section 34. No claim in consequence of refusal to renew a license etc

No person to whom a lease, license, permit or pass has been granted shall be entitled to claim any renewal thereof and no claim shall lie for damages or otherwise in consequence of any refusal to renew a lease, license, permit or pass on the expiry of the period for which it remains in force.

### Section 35. Surrender of license

No holder of a license granted under this Act to sell liquor shall surrender his license except on the expiration of one month's notice in writing given by him, to the authority which granted the license, of his intention to surrender the same and on payment of the fee payable for the license for the whole period for which it would have been current but for the surrender:

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

Explanation.- The expression "holder of a license" as used in this section includes a person whose tender or bid or application for allotment of a license for any liquor vend has been accepted, although he may not actually have received the license.

## CHAPTER-V DUTIES OF EXCISE AND COUNTERVAILING DUTIES

### Section 36. Excise duty and countervailing duty

(1) There shall be levied and paid an excise duty or the countervailing duty, as the case may be, at such rate or rates as the State Government may, by notification direct, on any alcoholic liquor for human consumption-

(a) manufactured, produced or bottled in the State under any license granted under section 15 of this Act;

(b) manufactured or produced elsewhere in India but imported or transported into State; and

(c) imported, exported or transported in accordance with the provisions of section 21 of this Act.

(2) The excise duty or countervailing duty may be imposed under sub-section (1) at different rates according to varying kind, strength, quality or price of alcoholic liquor for human consumption.

(3) Notwithstanding anything contained in sub-section (1), no excise duty or countervailing duty shall be levied on-

(a) any alcoholic liquor for human consumption imported into India and which, on its importation, was liable to duty under the Customs Tariff Act, 1975 or the Customs Act, 1962, and

(b) medicinal preparations and toilet preparations containing alcohol on which excise duty is levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

### Section 37. Manner in which duty be levied

Subject to such rules regulating the time, place and manner as the Financial Commissioner may prescribe, such duty shall be levied rateably, on the quantity of alcoholic liquor for human consumption imported, transported or manufactured in, or issued from a distillery, brewery, winery or warehouse.

### Section 38. Payment for grant of leases

The State Government may, in addition to or instead of any excise duty or countervailing duty leviable under this Chapter, accept a sum in consideration of the lease of any right under section 27.

## CHAPTER-VI OFFENCES AND PENALTIES

### Section 39. Penalty for unlawful production, manufacture, possession, import, export, transport, sale etc

[1][(1) Whoever, in contravention of any provisions of this Act, or of the rules made thereunder or notification issued, or any order made, or of any license, permit or pass granted under this Act-

(a) produces, manufactures, possesses, imports, exports or transports any liquor, or

(b) constructs or works any distillery or brewery or winery or warehouse, or

(c) uses, keeps or has in his possession any material, still, utensil, implement or apparatus whatsoever, for the purpose of manufacturing or producing any liquor,

shall be punishable for every such offence with imprisonment for a term which may extend to three years but shall not be less than six months and with fine which may extend to three lakh rupees but shall not be less than fifty thousand rupees:

Provided that in the case of an offence relating to the possession of-

(i) a working still for manufacture of any liquor, the imprisonment for a term which may extend to five years but shall not be less than three years and with fine which may extend to three lakh rupees but shall not be less than one lakh rupees;

(ii) lahan, the imprisonment for a term which may extend to five years but shall not be less than one year and with fine which may extend to five lakh rupees but shall not be less than fifty thousand rupees;

(iii) country liquor manufactured otherwise than in a licensed distillery or warehouse in Himachal Pradesh-

(a) in a quantity not exceeding seven-and-a-half litres, the imprisonment for a term which may extend to one year but shall not be less than six months and with fine which may extend to one lakh rupees but shall not be less than thirty thousand rupees; and

(b) in a quantity exceeding seven-and-a-half litres, the imprisonment for a term which may extend to three years but shall not be less than one year and with fine which may extend to five lakh rupees but shall not be less than one lakh rupees;

(iv) foreign liquor other than,-

(a) manufactured in a licensed distillery or brewery or winery or warehouse in India; or

(b) imported into India on which custom duty is leviable under the Customs Tariff Act, 1975 or the Customs Act, 1962,

the imprisonment for a term which may extend to three years but shall not be less than one year and with fine which may extend to three lakh rupees but shall not be less than one lakh rupees:

Provided further that in the case of an offence relating to import, export or transport of-

(i) country liquor exceeding two hundred and twenty-five litres, "FOR SALE IN HIMACHAL PRADESH" or eighteen litres of liquor other than "'FOR SALE IN HIMACHAL PRADESH"; or

(ii) foreign liquor exceeding two hundred and twenty-five litres, "FOR SALE IN HIMACHAL PRADESH" or eighteen litres of liquor other than "FOR SALE IN HIMACHAL PRADESH"; or

(iii) other spirits for which there is provision for grant of license, permit and pass, exceeding five litres,

such imprisonment for a term which may extend to three years but shall not be less than one year and with fine which may extend to three lakh rupees but shall not be less than one lakh rupees"; and

(b) in sub-section (2), for the words "shall not be less than six months but which may extend to two years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees", the words "may extend to three years but shall not be less than one year and with fine which may extend to three lakh rupees but shall not be less than one lakh rupees.".]

[1] Section "39" substituted vide H.P. Act No. 10 of 2024.

### Section 40. Penalty for rendering or attempting to render denatured spirit fit for human consumption

Whoever renders or attempts to render fit for human consumptions any denatured spirit or knowingly possesses any spirit so rendered or attempted to be rendered, fit for human consumption, shall be punishable with imprisonment which shall not be less than [1][three years and with fine of three lakh rupees.]

[1] The words "six months but which may extend to five years and with fine which shall not be less than fifty thousand rupees but which may extend

to two lakh rupees" vide H.P. Act No. 10 of 2024.

## Section 41. Penalty for mixing noxious substance with liquor

Whoever mixes or permits to be mixed with any liquor sold or manufactured or possessed by him any noxious drugs or any foreign ingredient [1][or spurious liquor] likely to cause disability or grievous hurt or death to human beings, shall on conviction be punishable,-

(a) if as a result of such an act, death is caused to any person, with punishment which may extend to death and with fine which may extend to ten lakh rupees;

(b) if as a result of such an act, grievous hurt is caused to any person, with imprisonment which shall not be less than six years but which may extend to life term and with fine which may extend to five lakh rupees;

(c) if as a result of such an act, any other consequential injury is caused to any person, with imprisonment for a term [2][of one year and with fine of two lakh fifty thousand rupees] and

(d) if as a result of such an act, no injury is caused to any person, with imprisonment [3][for a term of six months and with fine of one lakh rupees.]

[4][(e) It shall not be lawful for any person to whom this section applies to hold any illegally acquired property either by himself or through any other person on his behalf or related to or associated with him. If the District Magistrate or the Collector finds that any property has been illegally acquired, such property shall vest in the State Government free from all encumbrances.]

Explanation.- For the purpose of this section the expression "grievous hurt" shall have the same meaning as defined in section 320 of the Indian Penal Code, 1860.

[1] The words inserted vide H.P. Act No. 10 of 2024.
[2] Substituted vide H.P. Act No. 10 of 2024.
[3] The words "which may extend to six months and with fine which may extend to one lakh rupees" substituted vide H.P. Act No. 10 of 2024.
[4] Clause "(d)" inserted vide H.P. Act No. 10 of 2024.

## Section 42. Payment of compensation

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 and without prejudice to any other punishment, the court when passing judgment in a case under section 41, may, if it is satisfied that death or injury has been caused to any person due to consumption of such liquor, order the person found guilty to pay, by way of compensation, an amount-

(a) not less than three lakh rupees to the legal representatives of each of the deceased, or

(b) not less than two lakh rupees to the person to whom grievous hurt has been caused, or

(c) not less than twenty thousand rupees to the person for any other consequential injury.

(2) Any person aggrieved by an order passed under sub-section (1) may, within ninety days from the date of order, prefer appeal in the High Court:

Provided that no appeal shall be entertained unless the amount of compensation ordered to be paid under sub-section (1) is deposited in the court:

Provided further that the High Court may entertain appeal after expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

## Section 43. Penalty for certain acts by licensee or his servant

Whoever, being the holder of a licence, permit or pass granted under this Act or being in the employ of such holder or acting on his behalf-

(a) allows disorderly conduct or gaming or prostitution on the licenced premises; or

(b) fails wilfully to produce such license, permit or pass on demand of any Excise Officers; or

(c) in any case not provided for in section 39, wilfully contravenes any rules made under sections 80 or 81; or

(d) wilfully does or omits to do anything in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Act; or

(e) reduces the strength of any liquor below the prescribed limit;

shall be punishable with fine which may extend to [1][one lakh rupees but shall not be less than fifteen thousand rupees.]

[1] The words "fifty thousand rupees but shall not be less than five thousand rupees" substituted vide H.P. Act No. 10 of 2024.

### Section 44. Penalty for fraud by licensed manufacturer or vendor or his servant

If any licensed manufacturer or licensed vendor or any person in his employ or acting on his behalf-

(a) sells, or keeps, or exposes for sale as foreign liquor any liquor which he knows or has reason to believe to have been manufactured from rectified spirit or country liquor; or

(b) marks any bottle, case, package or other receptacle containing liquor so manufactured from rectified spirit or country liquor, or other receptacle containing such liquor with the intention of causing it to be believed that such bottle, case, package, or other receptacle contains foreign liquor,

he shall be punishable with imprisonment for a term [1][of one year and with fine of fifty thousand rupees.]

[1] The words "which may extend to one year and with fine which may extend to two thousand rupees" substituted vide H.P. Act No. 10 of 2024.

### Section 45. Penalty for consumption of liquor in chemist's shop

(1) If any chemist, druggist, apothecary or keeper of a dispensary, allows any liquor which has not been bonafide medicated for medicinal purposes to be consumed on his business premises by any person, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees.

(2) If a person consumes any such liquor on such premises he shall be punishable with fine which may extend to two thousand rupees.

### Section 46. Penalty for consumption of liquor in public places

Whoever in contravention of any of the provisions of this Act or of any rule, notification or order made thereunder,-

(a) consumes liquor in any unlicensed public place, or

(b) after consuming liquor at any place creates nuisance in a public place, shall be punishable -

(i) in the case of an offence falling under clause (a), with fine which shall not be less than one thousand rupees and which may extend to five thousand rupees; and

(ii) in the case of offence falling under clause (b), with imprisonment for a term which may extend to three months and fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees.

### Section 47. Penalty for offences not otherwise provided for

Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given thereunder, and not otherwise provided for in this Act, shall be punishable for every such act or omission with a fine which [1][shall not be less than ten thousand rupees.]

[1] The words "may extend to one thousand rupees" substituted vide H.P. Act No. 10 of 2024.

### Section 48. Manufacture, sale or possession by one person on account of another

(1) When any liquor has been manufactured or sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture or sale was, or that such possession is, on his account, the article shall for the purpose of this Act be deemed to have been manufactured or sold by or deemed to be in the possession of such other person.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or possesses any liquor on account of another person from liability to any punishment under this Act for the unlawful manufacture, sale or possession of such article.

### Section 49. Enhanced punishment for certain offences after previous conviction

Whoever having been convicted, of an offence under section 39 of this Act, is subsequently convicted of a similar offence under the said section, shall be punishable for every such subsequent offence with double the sentence of imprisonment and fine awarded on previous conviction:

Provided that the enhanced punishment shall not exceed the imprisonment of five years and a fine of three lakhs rupees:

Provided further that the enhanced punishment in any case shall not affect the minimum sentences provided for the offences specified in the first or the second proviso of sub-section (1) of section 39 of this Act.

### Section 50. Attempt to commit or abet offences punishable

Whoever attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for the offence.

### Section 51. Procedure relating to arrests, searches etc

Save as otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973, relating to arrests, detentions in custody, searches, summons, warrants of arrest, search-warrants, production of persons arrested and investigation of offences etc. shall be applicable to all action taken in relation there to under this Act:

Provided that any offence under this Act may be investigated by an officer empowered under section 9 without the order of a Judicial Magistrate:

Provided further that whenever an Excise Officer makes any arrest, seizure or search, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail is accepted under this section, take or send the person arrested, or the article seized, with convenient dispatch to a Judicial Magistrate for trial or adjudication.

### Section 52. Report by investigating officer for institution of proceedings

(1) Subject to the other provisions of this Act, if on an investigation by an Excise Officer, empowered under section 9 of this Act, it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he submits the report for orders of the Collector under section 66, shall submit a report, which shall for the purposes of section 190 of the Code of Criminal Procedure, 1973 be deemed to be a police report, to a Judicial Magistrate having jurisdiction to enquire into or try the case and empowered to take cognizance of offences on police report.

(2) If the Excise Officer is satisfied on completion of investigation that there does not exist sufficient evidence to justify the prosecution of the accused, he shall submit a report to the Collector concerned, who may pass such order as may deem fit.

### Section 53. Offences to be bailable etc

All offences punishable under this Act shall be bailable within the meaning of Code of Criminal Procedure, 1973:

Provided that the offences punishable under the first proviso and second proviso of sub-section (1) of section 39, and sections 40 and 41 of this Act shall be [1][cognizable and] non-bailable.

[1] The words "cognizable and" inserted vide H.P. Act No. 10 of 2024.

### Section 54. Security for appearance in case of arrest without warrant

(1) The State Government may empower any Excise Officer to grant bail, notwithstanding that such officer is not empowered under section 9.

(2) When a person is arrested under this Act, otherwise than on warrant, by a person or officer who is not empowered to grant bail, he shall be produced before-

(a) the nearest Excise Officer empowered by the State Government to grant bail, or

(b) the nearest officer-in-charge of a police station,

whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by, or produced in accordance with sub-section (2) before an officer empowered to grant bail, he shall be released upon bail, or, at the discretion of the officer releasing him, on his own bond.

(4) The provision of Chapter XXXIII of the Code of Criminal Procedure, 1973 shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

### Section 55. Cognizance of offences

(1) No Judicial Magistrate shall take cognizance of any offence punishable,-

(a) under sections 39, 40 or 41, except on the complaint or report of an Excise Officer; or

(b) under sections 26, 43, 44, 45, 46, 47 or 59, except on the complaint of the Collector or an Excise Officer authorized by him in that behalf.

(2) Except as otherwise provided elsewhere in this Act, no court shall take cognizance of an offence under sub-section (1), after the expiry of the period of limitation specified in sub-section (3).

(3) The period of limitation for the offences shall be-

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year; and

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year.

(4) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

### Section 56. Presumption as to commission of offence in certain cases

(1) Whenever any person is found in possession of-

(a) any still, utensil, implement or apparatus whatsoever or any part or parts thereof, as are ordinarily used for the manufacture of any liquor, or

(b) any materials which has undergone any process towards the manufacture of liquor or from which liquor has been manufactured,

it shall be presumed, until the contrary is proved, that his possession was in contravention of the provisions of this Act.

(2) It shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence under section 40 in respect of any denatured spirit which has been or attempted to be rendered fit for human consumption.

### Section 57. Liability of employer for offence committed by the employee or agent

The holder of a license, permit or pass under this Act as well as the actual offender, shall be liable to punishment for any offence punishable under sections 26, 39, 40, 43 or 44 committed by any person in his employ or acting on his behalf as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

### Section 58. Relevancy of statements under certain circumstances

A statement made and signed by a person before any officer empowered under section 9 for the investigation of offences, during the course of any inquiry or proceedings by such officer, shall be relevant for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains-

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b)` when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

### Section 59. Penalty for any excise officer making vexatious search, seizure, detention or arrest

Any excise officer who vexatiously and without specific information or reasonable ground for suspicion,-

(a) enters or searches or causes to be entered or searched any closed place under colour of exercising any power conferred by this Act, or

(b) seizes the moveable property of any person on the pretext of seizing or searching for any article liable to confiscation under this Act, or

(c) searches, detains or arrests any person, or

(d) in any other way exceeds his lawful powers under this Act,

shall, on conviction, be punishable with fine which may extend to ten thousand rupees.

## CHAPTER-VII CONFISCATION

### Section 60. Confiscation of article in respect of which offence committed

(1) Whenever an offence punishable under this Act has been committed,-

(a) every liquor or excise bottle in respect of which such offence has been committed, together with the contents of such bottle, if any;

(b) every still, utensil, implement or apparatus and all materials in respect of or by means of which such offence has been committed;

(c) every liquor or excise bottle lawfully imported, transported or manufactured, had in possession or sold alongwith or in addition to, any liquor liable to confiscation under clause (a);

(d) every receptacle, package, container and covering in which any liquor, excise bottle, materials, still, utensil, implement or apparatus as aforesaid is or are found together with the other contents, if any, of such receptacle, package, container or covering; and

(e) every cart, vessel, raft or other conveyance used in carrying such receptacle, package, container, covering or articles as aforesaid;

shall be liable to confiscation.

(2) When in the trial of any offence punishable under this Act, the Judicial Magistrate decides that anything specified in clauses (a), (b), (c) or (d) of sub-section (1) is liable to confiscation, he may order confiscation thereof, except the liquor, the vehicle or the conveyance as specified in section 61.

(3) When there is reason to believe that an offence under this Act has been committed, but the offender is not known or cannot be found and when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactory accounted for, the case shall be enquired into and determined by the Collector concerned, who may order confiscation thereof:

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

Provided further that if the thing in question is liable to speedy and natural decay or if the Collector concerned is of opinion that the sale of the thing in question would be for the benefit of its owner, he may, at any time, direct it to be sold; and the provisions of this section and section 62 shall, so far as may be, apply to the net proceeds of such sale.

## Section 61. Inspection and seizure of vehicle, conveyance and liquor liable to confiscation

(1) Any Excise Officer may, if he has reasons to believe that a vehicle or conveyance has been or is being used in the commission of offence under section 39 of this Act, require the driver or other person-in-charge of such vehicle or conveyance to stop it and cause it to remain stationary as long as may reasonably be necessary to examine the contents in it and inspect all records relating thereto, which are in the possession of such driver or other person-in-charge of such vehicle or conveyance.

(2) When there is reason to believe that an offence has been committed under section 39, in respect of any liquor, such liquor together with vehicle or conveyance used in committing such offence, may be seized by any Excise Officer.

(3) Every Excise Officer seizing any liquor or vehicle or conveyance under this section shall place on such liquor or vehicle or conveyance a mark indicating that the same has been seized and shall, as soon as may be, make a report of such seizure to the Excise Officer-in-charge of the district.

(4) The Excise Officer seizing the liquor or vehicle or conveyance shall take appropriate steps for the safe custody of the liquor, vehicle or conveyance till the orders under section 62 are passed by the Excise Officer-in-charge of the district.

## Section 62. Confiscation of vehicle or conveyance by Excise Officer in certain cases

(1) Where an offence is believed to have been committed under section 39 of this Act, in respect of any liquor, the Excise Officer-in-charge of the district on being satisfied that the vehicle or conveyance has been used for commission of offence under section 39, may order confiscation of the vehicle or conveyance so seized together with the liquor.

(2) Where the Excise Officer-in-charge of the district, after passing an order of confiscation under sub-section (1), is of the opinion that it is expedient in the public interest so to do, he may order confiscated vehicle or conveyance or liquor to be sold by public auction, and the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses relating thereto, shall, where the order of the confiscation made under sub-section (1) is set aside or annulled by an order under section 68 or 69, be paid to the owner thereof or the person from whom it was seized.

### Section 63. Issue of show cause notice before confiscation under section 62

(1) No order confiscating any vehicle or conveyance shall be made under section 62, except after notice in writing to the person from whom it is seized and the registered owner thereof, and considering their objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any vehicle or conveyance shall be made under section 62 of this Act, if the owner of such vehicle or conveyance proves to the satisfaction of the Excise Officer-in-charge of the district that it was used in carrying the liquor without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of such vehicle or conveyance and that each of them had taken all reasonable and necessary precautions against such use:

Provided that the confiscation made under section 62 of this Act shall not affect the punishment of the accused for the offence for which he is liable under this Act.

### Section 64. Penalty in lieu of confiscation

Notwithstanding anything contained in section 62, the Excise Officer-in-charge of the district may, in lieu of confiscation of the vehicle, accept by way of penalty a sum not exceeding the market price of the vehicle or the conveyance.

### Section 65. Disposal of seized liquor during the pendency of trial

(1) Whenever any liquor seized under this Act is the subject matter of any trial of an offence before a Judicial Magistrate, he may, having regard to its vulnerability to theft, substitution, constraints of proper storage space or any other relevant considerations, after its seizure, order the same to be disposed of by such officer and in such manner as the State Government may, by notification, specify, after following the procedure specified in sub-section (2).

(2) Where any liquor has been seized and forwarded to the officer-in-charge of the nearest police station, the officer referred to in sub-section (1) shall prepare an inventory of such liquor containing such details relating to its description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of such liquor or the packing in which it is packed, Country or State of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the liquor in any proceedings under this Act before a Judicial Magistrate and make an application, to him for the purpose of -

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such Magistrate, photographs of such liquor and certifying such photographs as true; or

(c) allowing to draw representative samples of such liquor, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2), the Judicial Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, the photographs of liquor and any list of samples drawn under sub-section (2) and certified by the Judicial Magistrate, as primary evidence in respect of such offence.

## CHAPTER-VIII COMPOSITION

### Section 66. Composition of offences by the Collector

(1) The Collector may, on an application from any person who is reasonably suspected of having committed an offence punishable under sections 26, 43, 44, 45, 46, 47 or 59 including the attempts to commit or abet any of these offences under section 50 of this Act, accept a sum of money [1][which may extend to fifty thousand rupees but shall not be less than twenty five thousand rupees] by way of composition, for each of such offences, and on payment of such sum of money to the Collector, the accused person if in custody shall be discharged and no further proceedings shall be taken against him in respect of such offence.

(2) If any lease, license, permit or pass has become liable for cancellation or suspension or has been cancelled or suspended under clauses (a), (b) or (c) of section 29 of this Act, the authority having power to cancel or suspend it, may, on application made by holder of such lease, license, permit or pass, after payment of [2][penalty which may extend to one lakh rupees in case of retail licensee and one lakh rupees to five lakh rupees in case of wholesaler or manufacturer or bottling plants,] revoke or forego such cancellation or suspension, as the case may be.

(3) Where any liquor has been seized under the provisions of this Act, the Collector may, if he considers it expedient but subject to the provisions of section 65, at any time, before the Judicial Magistrate has passed an order under

sub-section (2) of section 60, release it on receiving payment of the value thereof, if such liquor is fit for human consumption:

Provided that such release of liquor shall not affect the punishment of the accused for the offence for which he is liable under this Act.

[1] The words "not exceeding twenty five thousand rupees subject to a minimum of five thousand rupees" substituted vide H.P. Act No. 10 of 2024.
[2] The words "such penalty, as it may fix" substituted vide H.P. Act No. 10 of 2024.

### Section 67. Composition of certain other offences

[1][(1) Notwithstanding anything contained in section 39, any offence whether committed before or after the commencement of this Act relating to the import, export, transport or possession upto eighteen litres of lahan or two hundred and twenty-five bulk litres of liquor "FOR SALE IN HIMACHAL PRADESH" or eighteen bulk-litres of liquor other than "FOR SALE IN HIMACHAL PRADESH," may, on an application made by the accused, be compounded,-

(i) before institution of the prosecution, by the Excise Officer of first class (not below the rank of the Excise Officer Incharge of the District), and

(ii) after institution of the prosecution, by the Judicial Magistrate of first class,

by accepting an amount which may extend to twenty-five thousand rupees but shall not be less than ten thousand rupees for quantity upto forty-five bulk litres of liquor "FOR SALE IN HIMACHAL PRADESH" or eighteen litres of lahan or eighteen bulk litres of liquor other than "FOR SALE IN HIMACHAL PRADESH" and an amount which may extend to one lakh rupees but shall not be less than thirty thousand rupees for quantity of liquor exceeding forty-five bulk litres upto two hundred and twenty five bulk litres of liquor "FOR SALE IN HIMACHAL PRADESH".

[1] "Sub-section (1)" substituted vide H.P. Act No. 10 of 2024.

## CHAPTER-IX APPEAL AND REVISION

### Section 68. Appeal

(1) Any person aggrieved by an order passed by any Excise Officer under this Act may, within thirty days from the date of communication of such order, appeal to the Collector in the manner prescribed.

(2) Any person aggrieved by [1]["an original or appellate order passed by the Collector"] may, within thirty days from the communication of such order, appeal to the Financial Commissioner.

[1] The words "an order passed by the Collector, under sub-section (1)" substituted vide H.P. Act No. 10 of 2024.

### Section 69. Revision

(1) The Financial Commissioner may, of his own at any time, call for the record of any proceedings which are pending before, or have been disposed of, by any Collector or Excise Officer, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(2) No order shall be passed under this section, which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

### Section 70. Bar of certain proceedings

No proceedings undertaken or order passed, by any authority appointed under this Act, or the rules made thereunder, shall be called into question in any court.

## CHAPTER-X RECOVERY OF DUES

### Section 71. Power to recover license fee etc

In the case of cancellation or suspension of a license under clauses (a), (b), (c), (d) or (e) of section 29, the license fee payable for the balance of the period for which any license would have been current but for such cancellation or suspension, including any other fee, may be recovered from such licensee as excise revenue.

### Section 72. Power of Collector to take grants under his management or resell and recover deficiency

If any holder of a license granted under this Act, or any person to whom a lease has been granted under section 27, makes default in complying with any condition imposed upon him by such license or lease, the Collector may take the grant under his management at the risk of the person who has so defaulted, or may resell it and recover any deficiency in price and all expenses of such resale in the manner specified in section 73 of this Act.

### Section 73. Excise revenue to be first charge and recoverable as arrears of land revenue

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, any amount of excise revenue including all other amounts due to the State Government under this Act from any person shall be the first charge on the property of such person including the distillery, brewery, winery, warehouse, shop, premises, fittings, apparatus and all stocks of liquors or materials for manufacture of the same.

(2) All excise revenue including all other amounts due to the State Government under this Act, which remain unpaid after the due date, shall be recoverable as arrears of land revenue under the provisions of the Himachal Pradesh Land Revenue Act, 1954.

## CHAPTER-XI GENERAL PROVISIONS

### Section 74. Measures, weights and testing instruments

Every person who manufactures or sells any liquor under a license granted under this Act shall be bound-

(a) to keep such measures, weights and instruments as the Financial Commissioner may prescribe, and to keep the same in good condition; and

(b) on the requisition of any Excise Officer, duly empowered by the Collector in that behalf, at any time, to measure, weigh or test any liquor in his possession in such manner as the said Excise Officer may require.

### Section 75. Power to exempt

The State Government may, by notification, either wholly or partially and subject to such conditions as it may think fit, exempt any liquor from all or any of the provisions of this Act.

### Section 76. Delegation of powers

(1) The State Government may, by notification, delegate to the Financial Commissioner any of its powers under this Act, except the powers conferred by sections 5, 6, 8, 9, 12, 15, 16, 36, 75 and 80.

(2) The State Government may, by notification, permit the delegation by the Financial Commissioner or Collector to any person or class of persons specified in such notification of any powers conferred on them by this Act.

### Section 77. Power to regulate advertisement

No advertisement, direct or surrogate, shall be made for promoting consumption of liquor.

### Section 78. Establishment of check posts or barriers

The Financial Commissioner may, by notification, establish check posts or barriers at such places as it thinks fit, for prevention and checking of illegal transport of liquor by any means and for carrying out the purposes of this Act.

### Section 79. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie in any court against the State Government or any officer of the State Government or any other person exercising any power or discharging any functions or performing any duties under this Act, for anything done or ordered to be done or intended to be done in good faith under this Act or any rules or order made thereunder.

### Section 80. Powers of the State Government to make rules

(1) Except as otherwise provided in section 81, the State Government may, by notification, make rules for carrying out the purposes of this Act.

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

(a) to provide for the powers and duties of Excise Officer;

(b) to permit delegation of powers by the Financial Commissioner or the Collector;

(c) to provide for the time and manner of presenting appeals and the procedure for prosecuting and dealing with appeals;

(d) regulating import, export, transport, manufacture, collection, possession supply or storage of any liquor, molasses or excise bottle and wholesale or retail sale of any liquor;

(e) regulating the time, place and manner of payment of Excise duty or countervailing duty and taking of security for its due payment;

(f) providing for grant of award to Excise Officer and informers;

(g) regulating the power of Excise Officers to summon witnesses;

(h) curbing activities of boot-leggers who distill, manufacture, store, import, export, transport, sell or distribute any liquor in contravention of any provisions of this Act or the rules made thereunder;

(i) regulating the periods and localities for which, and the persons, or classes of persons, to whom, licenses, permits and passes for the vend by wholesale or by retail of any liquor may be granted and regulating the number of such licenses which may be granted in any local area;

(j) providing for the procedure to be followed and the matters to be ascertained before any license is granted for the retail vend of liquor for consumption on the premises;

(k) prohibiting the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending or soliciting the use of, or offering any liquor calculated to encourage or incite any individual or class or classes of individuals or the public generally to commit an offence under this Act, or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any license, permit or pass obtained thereunder;

(l) prohibiting within the State the circulation, distribution or sale of any newspaper, book, leaflet, booklet, or other publication printed and published outside the State which contains any advertisement or matter of the nature described in clause (k);

(m) declaring any newspaper, book, leaflet, booklet, or other publication wherever printed or published, containing any advertisement or matter of the nature described in clause (k) to be forfeited to the State Government; and

(n) implementing generally the policy of prohibition.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## Section 81. Powers of Financial Commissioner to make rules

The Financial Commissioner may, by notification, make rules-

(a) regulating the manufacture, supply, storage or sale of any liquor including the character, erection, alteration, repair, inspection, supervision, management and control of any place for the manufacture, supply, storage or sale of such article and the fittings, implements, apparatus and registers to be maintained therein;

(b) regulating the bottling of liquor for purposes of sale;

(c) regulating the deposit of any liquor in a warehouse and the removal of any liquor from any warehouse or distillery, or brewery or winery;

(d) providing for the scale of fees or the manner of fixing the fees payable in respect of any license, permit or pass, or in respect of the storing of any liquor;

(e) regulating the time, place and manner of payment of any fee;

(f) providing for the authority by whom, the restrictions under which and the conditions on which, any license, permit or pass may be granted, which may include-

(i) the prohibition of the admixture with any liquor of any substance deemed to be noxious or objectionable;

(ii) the regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength;

(iii) the fixing of the strength, or price below or above which any liquor may not be sold, supplied or possessed;

(iv) the prohibition of sale of any liquor, except for cash;

(v) the fixing of the days and hours during which any licensed premises may or may not be kept open, and the closure of such premises on special occasions;

(vi) the specification of the nature of the premises in which any liquor may be sold, and the notices to be exposed at such premises;

(vii) the form of the accounts to be maintained and the returns to be submitted by license holders;

(viii) the prohibition or regulation of the transfer of licenses;

(ix) declaring the process by which spirit shall be denatured;

(x) causing spirit to be denatured through the agency or under the supervision of its own officers; and

(xi) ascertaining whether such spirit has been denatured;

(g) providing for the destruction or other disposal of any liquor deemed to be unfit for human consumption or use;

(h) regulating the disposal of confiscated articles; and

(i) providing for the amount of security to be deposited by holders of leases, licenses, permits or passes for the performance of the conditions of the same.

## Section 82. Repeal and savings

(1) Except the provisions contained in section 1, clauses (3), (5), (6), (6-b), (9), (10), (11), (12), (12-a), (14), (16), (19) and (21) of section 3 and sections 16, 20, 21, 22, 23, 31, 32, 33-A, 58, 59 and 60 of the Punjab Excise Act, 1914 (Punjab Act No. 1 of 1914), (hereinafter called the 'said Act') as in force by virtue of section 88 of the Punjab Re-organization Act, 1966 (Act No. 31 of 1966) in the areas added to Himachal Pradesh under section 5 thereof and as applied to the areas which comprised Himachal Pradesh immediately before the 1st day of November, 1966, by virtue of the Himachal Pradesh (Application of Laws) Order, 1948 and the Bilaspur (Application of Laws) Order, 1949, all other provisions of the said Act are hereby repealed:

Provided that the repeal of these provisions of the said Act shall not affect,-

(a) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or

(c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and

any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the provisions of the said Act had not been repealed:

Provided further that anything done or any action taken, including any appointment or delegation made, notification, order or directions issued, rule made, license granted, duty levied, license fee or other fee imposed, under the repealed provisions of the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and such appointment, delegation, notification, order, direction, rules, license, duty, license fee or other fee shall continue to be in force accordingly until superseded.

(2) For carrying out the purposes of the un-repealed provisions of the said Act, the relevant provisions of this Act relating to, -

(i) definitions,

(ii) establishment, control, powers and duties of officers,

(iii) appeals and revision,

(iv) delegation of powers, and

(v) establishment of check posts or barriers,

subject to the unrepealed provisions of the said Act, shall apply mutatis mutandis.

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