

THE KARNATAKA EXCISE ACT, 1965
ARRANGEMENT OF SECTIONS

Statements of Objects and Reasons:

Sections:

CHAPTER I
PRELIMINARY

1. Short title, extent, commencement and application.
2. Definitions.

CHAPTER II
ESTABLISHMENT AND CONTROL

3. Appointment of Excise Commissioner.
4. Deputy commissioner.
- 4A. Joint Commissioner of Excise and Deputy Commissioner of Excise
5. Appointment of Superintendents of Excise and Deputy Superintendents of Excise.
- 5A. Constitution of an Intelligence Bureau and appointment of Superintendents and Deputy Superintendents of Excise (Intelligence Bureau)
6. Appointment of Inspectors of Excise, Sub-Inspectors of Excise and other Subordinate Officers.
7. Delegation of powers.

CHAPTER III
IMPORT, EXPORT AND TRANSPORT

8. Import of intoxicant.
9. Export of intoxicant.
10. Prohibiting of transport of intoxicant.
11. Transport of intoxicant.
12. Permits for transport.

CHAPTER IV
MANUFACTURE, POSSESSION AND SALE

13. Manufacture, etc., of excisable article prohibited except under a licence.
14. Possession of excisable articles in excess of the quantity prescribed.

15. Sale of excisable articles without licence prohibited.
- 15A. Consumption or allowing consumption of Liquor unlicensed Public Places.
16. Establishment of distilleries and warehouses.
- 16A. Licence to manufacture bottle or manufacture and bottle arrack for sale.
- 16B. Licences granted for manufacture and bottling of arrack cease to be valid.
17. Power to grant lease of right to manufacture, etc.
18. Lessee's permission to draw toddy.
19. Duties of licensees with regard to measurement and testing.
20. Prohibition of employment of children and of women.
21. Closing of shops for the preservation of public peace ,etc.

CHAPTER V

EXCISE DUTY AND COUNTERVAILING DUTY

22. Excise duty or countervailing duty on excisable articles.
23. Ways of levying such duties.
24. Payment of fees for grant of lease.
- 24A. Grant of Exclusive or other Privilege in respect of foreign liquor.
25. Tax for tapping tress from whom leviable.

CHAPTER VI

LICENCES AND PERMITS

26. Form and conditions of licence, etc.
27. Power to take security and counterpart agreement.
28. Technical defects, irregularities and omissions.
29. Power to cancel or suspend licence, etc.
30. Power to withdraw licence.
31. Surrender of licence.

CHAPTER VII

OFFENCES AND PENALTIES

32. Penalty for illegal import, etc.
33. Penalty for rendering denatured spirit fit for human consumption.

34. Penalty for illegal possession.
35. Penalty for offence not otherwise provided for.
36. Penalty for misconduct of licensee, etc.
37. Penalty for adulteration, etc., by licenced vendor or manufacturer.
38. Penalty for consumption in Chemist's shop, etc.
- 38A. Penalty for allowing permises, etc, to be used for the purposes of committing an offence under this Act.
39. Manufacture, sale or possession by one person on account of another.
40. Presumption as to commission of offence in certain cases.
41. Criminal liability of licensee for acts of servants.
42. Enhanced punishment after previous conviction.
- 42A. Security for abstaining from commission of certain offences
43. Liability of certain things to confiscation.
- 43A. Confiscation by Excise Officers in certain cases
- 43B. Issue of show-cause notice before confiscation under section 43A
- 43C. Order of confiscation when an offender is not known or cannot be, found etc.
- 43D. Revision.
- 43E. Appeal.
- 43F. Award of confiscation not to intrefere with other punishments
- 43G. Bar of jurisdiction in certain cases
44. Omitted.
45. Compounding of offences.
- 45A. Omitted
- 45B. Omitted
46. Penalty on Excise Officer making vexatious search, seizure, detention or arrest.
47. Penalty for Excise Officer refusing to do duty.
48. Penalty for vexatious delay.
49. Penalty for abetment of escape of persons arrested, etc.

CHAPTER VIII**DETENTION, INVESTIGATION AND TRIAL OF OFFENCES**

50. Landholders, officers and others to give information.
51. Power to enter and inspect places of manufacture and sale.
- 51A. Thrid Party Inspection or special Audit
52. Power to arrest without warrant, to seize articles liable for confiscation and to make searches.
53. Power of magistrate to issue a warrant.
54. Power to search without warrant.
55. Power of Excise Officers in matters of investigation.
56. Report by investigating Officer.
57. Report by Excise Officer.
58. Arrest, search, etc., how to be made.
59. Security for appearance in case of arrest without warrant.
- 59A. Certificate of Inspectors of Excise to be evidence
60. Procedure for prosecution.
- 60A. Procedure to be followed by Magistrate

CHAPTER XI**APPEALS AND REVISION**

61. Appeals.
62. Revision.

CHAPTER X**MISCELLANEOUS**

63. Recovery of Government dues.
- 63A. Recovery of certain tax arrears as arrears of excise revenues.
64. Government lien on property of defaulters.
65. Recovery of dues by lessee under section 17.
66. Refund in cases of exported liquor.
67. Power of State Government to exempt, etc.
68. Protection of action taken under this Act.

- 68A. Suit or prosecution in respect of acts done under colour of duty not to be entertained without sanction of the State Government.
- 68B. Bar of jurisdiction of Civil Courts
- 68C. Injection not to be granted in respect of recovery of exercise dues
- 68D. Excise revenue to be paid irrespective of pendency of any Writ Petition, Suit, etc
- 69. Limitation of suits.
- 70. Offences by companies, etc.
- 71. Power to make rules.
- 72. Repeal and saving.

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STATEMENTS OF OBJECTS AND REASONS

I

Act 21 of 1966.- After reorganisation of the States on 1st November 1956, there are different Acts in force in the New Mysore State Viz., in Old Mysore Area and Hyderabad Karnataka area and Madras Karnataka area respectively as noted below:-

1. The Mysore Excise Act, 1901 (Act No. V of 1901).
2. The Hyderabad Abkari Act, 1316 (No.1 of 1316 F).
3. The Madras Abkari Act, 1886 (Madras Act I of 1886).

The existence of different sets of laws in different areas causes considerable administrative and procedural difficulties and also in conveniences in the proper implementation of Excise Act, on a uniform basis throughout the State. Therefore, with a view to have a uniform law for the entire New Mysore State, a uniform Excise bill has been prepared and it replaces the Acts referred to above.

(Obtained from L.A. Bill No. 4315 dated 16-6-1962.)

II

Amending Act 1 of 1970.- A large number of licensees dealing in Indian made Foreign Liquor have challenged the validity of levy and collection of litre fee on Indian made foreign liquors, on the ground that the Mysore Excise Act 1965 does not specifically empower the Government to levy litre fees. It was considered necessary to make specific provision to levy excise duty in the form of litre fees with retrospective effect.

At present there is an Enforcement Branch in the Excise Department, with a Deputy Commissioner and a number of Excise Officers. They have been detecting cases of illicit manufacture, sale, transport, possession, import and export of liquors.

It was considered necessary to give statutory status to the Intelligence Bureau so that the work of the officers could be carried on in a more effective manner under the authority of law.

In order to ensure expeditious disposal of the trial of offences under the Act, it was considered necessary to provide that offences under the Act should be tried summarily.

As the Houses of Legislature were not in Session and the matter was urgent, the Mysore Excise (Second Amendment) Ordinance, 1970 was promulgated on the 7th August 1970, for the purposes indicated above and for making some other provisions found necessary for carrying on the administration of the Excise Department effectively.

This Bill is intended to replace the Ordinance.

(Vide Notification No. 5249/L.A., Bangalore-1, dated 11-9-1970.)

III

Amending Act 1 of 1971.- The Mysore Excise Act, 1965 (Mysore Act 21 of 1966) does not empower the State Government to delegate its powers under the Act to the Excise Commissioner or to any other officer. It was considered necessary for the effective implementation of the Act to have power enabling the Government to delegate its powers under the Act to the Excise Commissioner or to any other officer. In order to effectively prevent commission of certain offences, it was considered necessary to provide the minimum punishment for such offences. It was also considered necessary to prohibit the sale or supply of consumption of any intoxicant in a hotel, boarding house or refreshment room not licensed under the Act except in a place used for lodging of persons in such hotel or boarding house or refreshment room. In the light of the experience gained in the working of the Act, it was also considered necessary to make certain other amendments.

For this purposes, the Mysore Excise (Amendment) Ordinance, 1969, was promulgated. The Bill seeks to replace the Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No. 9 dated 10-1-1970 at page 9.)

IV

Amending Act 61 of 1976.- Under section 67 of the Karnataka Excise Act, 1965, the State Government may exempt or reduce the excise duty leviable under section 22 of the said Act on any liquor sold for use or consumption by the members of the

Armed Forces of the Union. In exercise of these powers, Government has reduced the excise duty leviable on RUM manufactured in the State and sold for use or consumption by the Armed Forces of the Union and exported outside the State to twenty five paise per proof litre.

Representations have been made to Government from certain para-military Units for granting them concessional rate of export duty on supplies of Rum. Some of these para-military Units are subject to Army Act and are being deployed in the border areas in high altitudes and in times of operation, they are also engaged in operational duty along with the Army in the forward areas. Para-military Unit cannot however be regarded as Armed Forces and granted the concessional rate of excise duty on RUM unless Section 67 of the Karnataka Excise Act 1965 is amended. Considering these facts, the issue of Rum at the concessional rate of export duty to para-military Units is justified. Hence, for this purpose Section 67 of the Karnataka Excise Act had to be amended.

As the Karnataka legislative Assembly was not in session and as the matter was urgent, the Karnataka Excise (Amendment) Ordinance, 1976 was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 4424 dated 8-11-1976 at page 3.)

V

Amending Act 32 of 1982.- Consequent on the new Code of Criminal Procedure 1973 (Central Act 2 of 1974), coming into force with effect from 1st April 1974 the nomenclature and relevant sections referred to in the Karnataka Excise Act has to be substituted.

At present under Section 67 the State Government is empowered to exempt or reduce either prospectively or retrospectively the excise duty

payable under section 22 of any liquor sold to certain categories of institutions. The Accountant General has argued that licence fee is not in the nature of excise duty or countervailing duty and therefore exemption cannot be granted with retrospective effect to the licence fee. Therefore it is proposed to take the power to exempt licence fee also in respect of certain categories of institutions by amending clause (a) of section 67 of the said Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 167 dated 10-3-1981 at page 4)

VI

Amending Act 28 of 1987.- It is considered necessary to amend the Karnataka Excise Act, 1965 to provide that no licence to manufacture or to bottle, or to manufacture and bottle arrack for sale shall be granted to persons who are not the holders of distillery licence, under section 16.

As the Karnataka Legislative Council was not in session and the matter was urgent the Karnataka Excise (Amendment) Ordinance, 1987 (Karnataka Ordinance 2 of 1987) was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 574 dated 2-9-1987 at page 3.)

VII

Amending Act 36 of 1987.- It is considered necessary to amend the Karnataka Excise Act 1965 (Karnataka Act No. 21 of 1966) to provide for stringent measure to prevent illegal import, export, transport, manufacture and possession of intoxicants.

Provision is also proposed for closure of liquor shops in the event of out-break of infectious diseases.

As the existing punishment provided under sections 32 and 34 is inadequate, a provision is made to enhance the same.

Similarly, the fee for compounding of offences under section 45 is also enhanced.

Section 55 is amended to provide for the investigation of offences arising under section 38 and 38A by the Excise Officers.

Provision is further made for confiscation by the Excise Officers of the vehicle involved in a commission of offences under the Act. Provision is also made for appeal and revision against the order of confiscation.

The jurisdiction of Criminal Courts is taken away from adjudicating the matters pertaining to confiscation of properties.

The remaining amendments are consequential in nature.

As the Karnataka Legislative Council was not in session and the matter was urgent, the Karnataka Excise (Second Amendment) Ordinance, 1987 (Karnataka Ordinance No. 4 of 1987) was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 576 dated 2-9-1987 at page 8.)

VIII

Amending Act 1 of 1994.- It was considered necessary to amend the Karnataka Excise Act, 1965 to terminate the existing licences for manufacturing and bottling of arrack given to the private distillery by the end of 30th June, 1993 and to entrust the manufacturing and bottling of arrack to the Government agencies like Mysore Sugar Company and Mysore Sales International Limited with effect from the 1st July 1993.

As the matter was urgent and both the Houses of the State Legislature were not in session, the Karnataka Excise (Amendment) Ordinance 1993 (Karnataka Ordinance 6 of 1993) was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Obtained from L.A. Bill No. 29 of 1993.)

IX

Amending Act 2 of 1994.- The High Court of Karnataka in Writ Petition No. 1956 of 1971 had declared sub-rule (1) of rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 as invalid in so far as it relates to levy of licence fee retail vending of Indian and Foreign Liquors. It also directed the State Government to refund the petitioner the amount collected from him within three years next before 2-8-1971 by way of licence fee for retail vending of Indian and Foreign Liquors. The Supreme Court in civil appeal no. 1801 of 1974, while confirming the judgement of the High Court has held that rule 8(1) has gone beyond the enabling provision in the section, by requiring licence fee to be paid. It has also observed that it may be possible for the Legislature to make a statutory provision for a licence fee of the type contemplated under the rules but without authority of the statute a rule of the type impugned should not have been made.

Accordingly, it was considered necessary to amend the Karnataka Excise Act, 1965, retrospectively to take specific power for making rules to levy fee and also to validate the collection of fee made under the impugned rule.

Hence the Bill.

(Obtained from L.A. Bill 30 of 1993.)

X

Amending Act 2 of 1995.- It is considered necessary to restrain the Civil Courts from granting injunctions for recovery of Excise revenue and to bar jurisdiction of Civil Courts in respect of any action taken, or to be taken by such officer or authority in pursuance of powers conferred under the Karnataka Excise Act, 1965.

Hence the Bill.

(Obtained from L.A. Bill No. 42 of 1993.)

XI

Amendeing Act 7 of 1997.- It is considered necessary to amend the Karnataka Tax on Luxuries (Hotel, Lodging Housed and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Tax on Entry of Goods Act 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Professions, Traders, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976), the Karnataka Excise Act, 1966 (Karnataka Act 21 of 1966), the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958), the Karnataka Agricultural Income tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), and to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill No. 12 of 1997.)

XII

Amending Act 21 of 1998.- Certain Posts of Deputy Commissioner of Excise have been recently upgraded as Joint Commissioner of Excise. The Joint Copmmissioner of Excise is required to exercise statutory powers under the Karnataka Excise Act , 1965. But, the defintion "Excise Officer "does not include Joint Commissioner of Excise. The term "Joint Commissioner of Excise" is also not defined in the Act. Therefore, it is considered necessary to amend the Karnataka Excise Act, 1965,-

(i) to define the term "Joint Commissioner of Excise";

(ii) to bring the Joint Commissioner of Excise within the defintion of Excise Officer; and

(iii) to enable the Joint Commissioner of Excise to exrecise certain statutory powers.

Hence the Bill.

(Obtained from L.A. Bill No. 5 of 1998)

XIII

Amending Act 12 of 1999.- To provide a deterrent in order to minimise the Excise offences it is proposed to prescribed a minimum penalty of fine of Rs. 5,000 and a maximum of Rs. 25,000 for each offence under section 45 of the Karnataka Excise Act, 1965. Presently the maximum penalty leviabale under this section is fine of Rs 5,000 only. Accordingly policy announcement has been made in the Budget Speech 1998-99. In order to give effect to the said policy announcement section 45 of the Karnataka Excise Act, 1965 requires amendment.

Hence the Bill.

(Obtained from L.C. Bill No. 8 of 1998. File No. DPAL 28, Samvyasahe 98.)

XIV

Amending Act 21 of 2000.- Representation were made to the Government by the manufacturers, Wholesalers and Retail Traders of Liquor for Merger of Sales Tax with the Excise duty, since for payment of Sales Tax and Excise duty, the trade has to deal with two Department resulting in administrative and procedural difficulties and inconvenience. Further merger of sales tax with Excise duty will simplify the procedural complication etc. On examination of the above representations the Government considered it necessary to amend the Karnataka Sales Tax Act, 1957 and the Karnataka Excise Act, 1965, to provide for,

- (i) levy of additional excise duty on the value, cost or price of the excisable articles.
- (ii) recovery of sales tax arrears as arrears of excise revenue.
- (iii) treating tax or other amount due as arrears of excise revenue for the purpose of recovery of such tax or other amount due.

Hence the Bill.

(Obtained from L.A. Bill No. 38 of 2000)

XV

Amending Act 15 of 2001.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Excise Act, 1965.

Hence the Bill.

(Vide L.A. Bill No. 11 of 2001 Filed No. SAMVYASAHE 16 SHASANA 2001)

XVI

Amending Act 38 of 2003.- It is considered necessary to amend the Karnataka Excise Act, 1965.-

- i) to remove the ambiguity in the definition of "toddy" and "excise tree" by omitting the words "of which contains alcohol and " appearing in the definition of excise tree;
- ii) to provide for giving the interim custody of the property seized under sub-section (1) of section 43A to the owners of such property on production of a Bank Guarantee equal to the value of the seized property;
- iii) to provide for acceptance of money or imposition of penalty in lieu of cancellation or suspension of a license for contravention of conditions of license or of any rule made under the Act.

Hence the Bill.

(LAbil No. 4 of 2003 DPAL 38 SHASANA 2003)

XVII

Amending Act 27 of 2004.- Section 16-A of the Karnataka Excise Act, 1965 provides for entrusting the task of manufacture and/or bottle arrack for sale to a Company or agency owned or controlled by the State Government or a State Government Department. Accordingly, at present, M/s. MSIL and M/s. Mysugar Co., have been entrusted with this task. MSIL does not have primary distillery. M/s. Mysugar Co., is not in a position to supply the required quantity as the Company is in difficult financial position. Of late, due to scarcity of molasses, which is the main raw material for providing rectified spirit, the manufacture and supply of arrack has been gradually affected. After the Government of India has rescinded Molasses Control Order and the State has no control to regulate the manufacture and sale of molasses. However, the Karnataka legislature has recently passed a bill to regulate it and the same has been sent to Government of India to get the assent of the President. Further, there is an element of non-duty paid arrack in the open market. In order to ensure supply of the required quantity of rectified spirit for manufacture of arrack, it is necessary to liberalise arrack manufacture.

Presently, inspection and scrutiny of records maintained by a distillery or a brewery is the responsibility of the Excise Department. This responsibility is discharged primarily by officers posted at the distillery or brewery and through special inspections. However, more than the inspection and scrutiny of records mandated by the Karnataka Excise Act, 1965, it is necessary to form an opinion on the output produced by the manufacturer vis-à-vis the inputs consumed. The essential feature of such an inspection/audit is to correlate the input and output. This is a specialised function for which expert help is necessary. A similar requirement is mandated under section 14AA of the Central Excise Act, 1944. Section 51 of the Karnataka Excise Act, 1965 empowers Excise Commissioner, Deputy Commissioner, Excise Officer and Police Officers to enter and inspect places of manufacture and sale. In order to empower the proposed third party similarly, it is necessary to amend the Karnataka Excise Act, 1965.

In the budget speech for the year 2004-05, the Hon'ble Deputy Chief Minister had announced to liberalise manufacture of arrack by allowing primary distilleries to undertake this activity. The primary objective of this policy is to eliminate 'seconds' or non-duty paid arrack and to thus enhance arrack revenues significantly. Further by liberalising the manufacture of arrack it will be made as market driven such that it should not be responsibility of the Government to supply arrack but rather the function of demand and supply in the market.

Hence the Bill.

(L.A. Bill No. 19 of 2004)

XVIII

Amending Act 14 of 2005.- It is felt necessary to make the excise law more stringent in order to net more revenue, check evasion of excise duties, by taking away the existing compounding powers and making the law more stringent by rendering the offences under the Act cognizable and non-bailable.

Hence the Bill.

[L.A. Bill No. 13 of 2005]

XIX

Amending Act 27 of 2007.- In the Budget speech for the year 2007-08, it has been announced banning of sale of arrack in the State from 1st July 2007. Hence, it is considered necessary to amend section 16A and 16B of the Karnataka Excise Act, 1965.

It is considered necessary to prevent hooch tragedies which occurred in Bangalore and Hassan districts recently, claiming 45 lives and one of the main causes of these tragedies has been the sale of illicit arrack and spurious and adulterated liquor by unauthorized vendors in unauthorized places. In order to prevent recurrence of such tragedies, it is proposed to amend section 37 by introducing stringent punishment to the persons who indulge in adulteration of liquor with harmful poisonous substances or chemicals or methyl alcohol or any other poison as defined in Indian Poisons Act, 1919 or substances, which endanger human life or cause grievous hurt to human beings.

It is considered that public Transport vehicle belonging to the Karnataka State Transport Undertaking shall not be confiscated when an offence is reported under the provisions of the Karnataka Excise Act, 1965. Therefore an amendment to section 43 is proposed.

Section 51 A is proposed to be substituted to empower the state Government to prescribe the conditions and restrictions subject to which accounts or records of every licensee shall be audited by a cost Accountant.

Hence the Bill.

[L.A. Bill No. 39 of 2007]

[Entry 51 of List II of the Seventh Schedule to the Constitution of India.]

XX

Amending Act 19 of 2010.- At present under Section 67 of the Karnataka Excise Act, 1965, the State Government is empowered to exempt or reduce either prospectively or retrospectively the excise dues payable under Section 22 of any liquor sold to certain categories of institutions.

Of late, more number of consulates/diplomatic agents has started functioning in the State Headquarters. The offices of Consulates of Germany, Japan, France, Britain, Switzerland, Ireland, Maldives, Finland, and Spain are established in Bangalore. It is the privilege of the State Government to extend benefit of exemption of tax on liquor to the diplomats as a matter of honouring their dignity.

Therefore, it is proposed to amend Section 67(1)(i) of the Karnataka Excise Act, 1965 with an enabling provision to extend the benefit of exemption of tax on liquor to 'diplomatic agents'.

Hence the Bill.

[L.A.Bill No. 41 of 2009, File No.DPAL 38 Shasana 2009]

[Entry 8 and 51 of List II of the Seventh Schedule to the Constitution of India.]

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सत्यमेव जयते

¹[KARNATAKA]¹ ACT 21 OF 1966

(First published in the ¹[Karnataka]¹ Gazette on the Eighteenth day of August, 1966)

THE ¹[KARNATAKA]¹ EXCISE ACT, 1965

(Received the assent of the President on the Third day of August, 1966)

(As amended by 1 of 1970, 1 of 1971, 61 of 1976, 32 of 1982, 28 of 1987, 36 of 1987, 1 of 1994, 2 of 1994, 2 of 1995, 7 of 1997, 21 of 1998, 12 of 1999, 21 of 2000, 15 of 2001, 38 of 2003, 27 of 2004, 14 of 2005, 27 of 2007 and 19 of 2010)

An Act to provide for a uniform excise law in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to provide for a uniform law relating to the production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicating drugs and the levy of duties of excise thereon, in the ⁴[State of Karnataka]⁴ and for certain other matters hereinafter appearing;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Sixteenth Year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application.- (1) This Act may be called the ¹[Karnataka]¹ Excise Act, 1965.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

(3) It shall come into force on such ¹[date]¹ as the State Government may by notification, appoint.

1. Act came into force on 30-9-1967 by notification.

(4) All the provisions of this Act shall be applicable to the areas of the State in which the ¹[Karnataka]¹ Prohibition Act, 1961 (¹[Karnataka]¹ Act 17 of 1962) is not in operation and shall apply to such extent as is specified in the said Act in the areas in which the said Act, is in operation.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

2. Definitions.- In this Act, unless the context otherwise requires,-

(1) "beer" includes ale, stout and porter;

(2) " to bottle" means to transfer liquor from a cask or other vessel to a bottle, jar,

flask ¹[polythene satchet] or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes re-bottling;

1. Inserted by Act 1 of 1994 w.e.f. 1-7-1993.

(3) "cultivation" includes the tending or protection of a plant during growth and does not necessarily imply raising it from seed;

(4) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption;

¹[(5) "Deputy Commissioner" means the Deputy Commissioner of the revenue district;]¹

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

¹[(5A) 'Deputy Commissioner of Excise' means a Deputy Commissioner of Excise appointed under section 4A;]¹

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

(6) "excisable article" means,-

(a) any liquor;

(b) any intoxicating drug;

(c) opium; or

(d) other narcotic drugs, narcotics and non-narcotic drugs which the State Government may by notification declare to be an excisable article;

(7) "Excise Commissioner" means the officer appointed as Excise Commissioner under section 3;

(8) "excise duty" and "countervailing duty" means 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;

¹[(9) 'Inspector of Excise' means an Inspector of Excise appointed under section 6 ;]¹

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(10) "Excise Officer" means the Excise Commissioner, ¹[a Joint Commissioner of Excise]¹ a Deputy Commissioner, ²[a Deputy Commissioner of Excise]² or any officer or other person lawfully appointed or invested with power under ³[section 5, section 5A or section 6]³;

1. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.

2. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

3. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(11) "excise revenue" means revenue derived or derivable from any duty, fee, tax,

rent, fine or confiscation imposed or ordered under the provisions of this Act or any other law for the time being in force relating to liquor or intoxicating drugs;

¹[(11A) 'excise tree' includes the Gulmohwa, cocoanut, palm, palmyra, date, bagani or doddasal tree, or any other tree, the fermented or unfermented juice ²[x x x]² from which toddy or any other liquor can be prepared;]¹

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

2. Omitted by Act 38 of 2003 w.e.f. 3.9.2003.

(12) "export" means to take out of the State otherwise than from a Customs station as defined under section 2 of the Customs Act, 1962 (Central Act 52 of 1962);

¹[(13) "foreign liquor" includes every liquor imported into India;]¹

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(14) "import" except in the phrase "import into India", means to bring into the State otherwise than from a Customs station as defined under section 2 of the Customs Act, 1962 (Central Act 52 of 1962);

¹[(15) 'Indian liquor' means liquor produced, manufactured or compounded in India in the same manner as Gin, Brandy, Whisky or Rum imported into India, and includes 'milk punch' and other liquor consisting of or containing spirits;]¹

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(16) "intoxicant" means any liquor as defined in clause (18) or any intoxicating drug as defined in clause (17);

(17) "intoxicating drug" means,-

(i) the leaves, small stalk and flowering or fruiting tops of the Indian hemp plant including all forms known as bhang, siddi or ganja;

(ii) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(iii) any mixture with or without neutral materials of any of the above forms of intoxicating drug or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf or manufactured drug as defined under section 2 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930);

¹[(17A) "Joint commissioner of Excise" means a Joint Commissioner of Excise appointed under section 4A]¹

1. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.

(18) "liquor" includes,-

(a) spirits of wine, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol ¹[or wash]¹; and

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

(b) any other intoxicating substance, which the State Government may by notification, declare to be liquor for the purposes of this Act;

(19) "manufacture" includes every process whether natural or artificial, by which any fermented, spirituous or intoxicating liquor or intoxicating drug is produced or prepared and also redistillation and every process for the rectification of liquor;

¹[(19A) "material" includes mhowra flower, molasses, wash, rotten jaggery, grapes, cashewnut fruits, and such other substances as the State Government may by notification specify;

(19B) "mhowra flower" means the flower of passialatifolla(ippe) but does not include the berry or seed of the mhowra tree;

(19C) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of jaggery or sugar containing in solution or suspension, sugars which can be fermented, and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup; but does not include any article which the State Government may by notification declare not to be molasses, for the purposes of this Act;]¹

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

(20) "notification" means a notification published in the official Gazette;

(21) "place" includes a house, building, shop, booth, tent, vessel, raft and vehicle;

(22) "police station" includes any place which the State Government may, by notification, declare to be a police station for the purpose of this Act;

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

(24) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

¹[(24A) "rotten jaggery" means jaggery which is unfit for human consumption or the consumption of which is injurious to health;

Explanation.-'jaggery' shall be deemed to be unfit for human consumption or the consumption of it shall be deemed to be injurious to health if it is of dark brown colour with strong smell or if on chemical analysis it is found to contain more than fifteen percent of reducing sugar or less than seventeen percent of total sugar;]¹

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

(25) "sale" or "selling" includes any transfer otherwise than by way of gift;

(26) "spirit" means any liquor containing alcohol and obtained by distillation, whether it is denatured or not;

¹[(26A) 'Sub-Inspector of Excise' means an officer appointed as Sub-Inspector of Excise under section 6;]¹

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

(27) "toddy" means fermented or unfermented juice drawn ¹[from an excise tree]¹;

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

¹[(28) xxx]¹

1. Omitted by Act 1 of 1971 w.e.f. 7-8-1970.

(29) "transport" means to move from one place to another within the State whether the intervening area lies wholly within the State or not.

¹[(30) "wash " includes fermented wort and a dilute solution of sugar from which spirit is distilled.]¹

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

CHAPTER II

ESTABLISHMENT AND CONTROL

3. Appointment of Excise Commissioner.- (1) The State Government may appoint, by notification, an officer not below the rank of a Deputy Commissioner, as Excise Commissioner for the ¹[State of Karnataka]¹, who subject to the general or special orders of the State Government in this behalf, shall be the chief controlling authority in all matters connected with the administration of this Act.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1-11-1973.

(2) The Excise Commissioner shall exercise all the powers of the Deputy Commissioner in respect of the administration of this Act and shall have the control of the administration of the Excise Department.

4. Deputy Commissioner.- (1) The Deputy Commissioner shall within the limits of his jurisdiction exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act to a Deputy Commissioner subject to such control as the State Government may from time to time direct.

(2) For the purposes of this Act, all Deputy Commissioners shall be subordinate to the Excise Commissioner.

¹**4A.** ²**[Joint Commissioner of Excise and Deputy Commissioner of Excise]**².-

(1) The State Government may appoint, by notification, as many ²[Joint

Commissioners of Excise or Deputy Commissioners of Excise]² as it thinks fit, for such area or areas as may be specified in the notification.

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

2. Substituted by Act 21 of 1998 w.e.f.28-5-1998.

(2) ¹[A Joint Commissioner of Excise or a Deputy Commissioner of Excise]¹ appointed under sub-section (1), shall exercise such powers and perform such duties and functions assigned to a Deputy Commissioner under this Act, as may be specified by the State Government in the notification, and thereupon the Deputy Commissioner shall not be competent to exercise the powers or perform the duties and functions so specified.

1. Substituted by Act 21 of 1998 w.e.f.28-5-1998.

(3) ¹[A Joint Commissioner of Excise or a Deputy Commissioner of Excise]¹ shall be subordinate to the Excise Commissioner and shall be subject to the control of the Excise Commissioner and the State Government.]¹

1. Substituted by Act 21 of 1998 w.e.f.28-5-1998.

5. Appointment of ¹[Superintendents of Excise and Deputy Superintendents of Excise]¹.- (1) The State Government may appoint an officer as ¹[Superintendent of Excise]¹ for a district or part of a district to exercise all or any of the powers and to perform all or any of the duties of a Deputy Commissioner in respect of the administration of this Act, either concurrently with or in subordination to the Deputy Commissioner subject to such control as the State Government may direct.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(2) The State Government may appoint such number of ¹[Deputy Superintendents of Excise]¹ for a district or part of a district as it thinks fit to exercise such powers and perform such duties as the State Government may direct.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

¹[5A. Constitution of an Intelligence Bureau and appointment of Superintendents and Deputy Superintendents of Excise (Intelligence Bureau).-

(1) There shall be an Intelligence Bureau headed by the Excise Commissioner and consisting of a ²[Joint Commissioner of Excise or a Deputy Commissioner of Excise]² and such number of Superintendents of Excise (Intelligence Bureau) and Deputy Superintendents of Excise (Intelligence Bureau) as may be appointed by the State Government under sub-section (2) and such other officers as may be appointed by the Excise Commissioner with the prior approval of the State Government.

(2) The State Government may appoint,-

- (i) an officer as Superintendent of Excise (Intelligence Bureau) for a district or part of a district or for more than one district;

- (ii) an officer as Deputy Superintendent of Excise (Intelligence Bureau) for a district or part of a district or for more than one district,

to exercise the powers relating to detection, investigation and trial of offences under the Act, and to perform such duties and functions of an Excise Officer as the Excise Commissioner may direct subject to such rules as may be prescribed.]¹

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

2. Substituted by Act 21 of 1998 w.e.f. 28-5-1998.

6. Appointment of ¹[Inspectors of Excise, Sub-Inspectors of Excise]¹ and other subordinate officers.- (1) The State Government may appoint ¹[Inspectors of Excise and Sub - Inspectors of Excise]¹ to exercise the powers and to perform the duties in connection with detection, investigation and trial of offences under this Act.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(2) The State Government may appoint subordinate officers of such classes and with such designations, powers and duties under this Act as it may think fit.

(3) The State Government may, by notification direct that all or any of the powers and duties assigned to an ¹[Inspector of Excise, Sub-Inspector of Excise]¹ or subordinate officer under sub-sections (1) and (2), shall be exercised and performed by any officer of the State Government.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

(4) The State Government may, by notification, delegate its powers under sub-sections (1), (2) and (3) to the Excise Commissioner, ²[the Joint Commissioner]² the Deputy Commissioner ¹[the Superintendent of Excise or the Deputy Superintendent of Excise]¹, as the case may be.

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

2. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.

¹[7. Delegation of powers- (1) The State Government may by notification delegate to the Excise Commissioner or to any other Excise Officer any of its powers under this Act except the powers under section 67 and 71.

(2) The State Government may by notification delegate subject to such conditions and as may be specified therein any of the powers conferred by or under this Act on the Excise Commissioner ²[or the Joint Commissioner of Excise]² or the Deputy Commissioner, to any Excise Officer.]¹

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

2. Inserted by Act 21 of 1998 w.e.f. 28-5-1998.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

8. Import of intoxicant.- (1) No intoxicant shall be imported except under a permit granted by the Deputy Commissioner on payment of such countervailing duty and fees, as may be levied under this Act and on such other terms as may be prescribed:

Provided that the Deputy Commissioner may subject to such restrictions and conditions as may be prescribed to ensure the collection of the countervailing duty, permit the import of any intoxicant without the payment of the countervailing duty:

Provided further that no countervailing duty shall be payable on any intoxicant which being liable to the payment of duty under the Indian Tariff Act, 1934, or any other law, for the time being in force, relating to the duties of customs on goods imported into India, it has been dealt with according to such law.

(2) A permit granted under sub-section (1), may be cancelled by the Deputy Commissioner for breach of any of the terms subject to which it was granted or for any other reason to be recorded in writing.

9. Export of intoxicant.- (1) No intoxicant shall be exported except under a permit granted by the Deputy Commissioner on payment of such fee as may be levied under this Act and on such terms as may be prescribed:

Provided that no intoxicant produced or manufactured in India shall, save as provided in section 66, be permitted to be exported unless the excise duty or countervailing duty to which such intoxicant is liable, has been paid.

(2) A permit granted under sub-section (1) may be cancelled by the Deputy Commissioner for breach of any terms subject to which it was granted or for any other reason to be recorded in writing.

10. Prohibiting of transport of intoxicant.- The State Government may, by notification, prohibit the transport of intoxicants or any kind of intoxicants from any local area into any other local area.

11. Transport of intoxicant.- No intoxicant exceeding such quantity as may be prescribed either generally or for any local area shall be transported, except under a permit issued under section 12.

12. Permits for transport.- (1) The Deputy Commissioner or any other person duly empowered by the State Government in that behalf may issue a permit for the transport of intoxicants.

(2) A permit under sub-section (1) may be either a general permit for definite periods and kinds of particular intoxicants or a special permit for specified occasions and particular consignments only:

Provided that a general permit shall be granted only to persons licensed under this Act and may cover any quantity of liquor transported at any one time not exceeding the quantity specified in the permit.

(3) Every permit under this section shall specify,-

- (a) the name of the person authorised to transport intoxicants;
- (b) the period for which the permit is to be in force;
- (c) the quantity and description of intoxicants for which it is granted; and
- (d) any other particulars which may be prescribed.

(4) A permit granted under this section shall extend to and include servants and other persons employed by the grantee and acting on his behalf.

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

13. **Manufacture, etc., of excisable article prohibited except under a licence.-**

(1) No person shall,-

- (a) manufacture or collect an intoxicant; or
- (b) cultivate hemp plant; or
- (c) tap a toddy producing tree or draw toddy from any tree; or
- (d) construct or work a distillery or brewery; or
- (e) bottle liquor for sale; or
- (f) use, keep, or have in his possession, any material, still, utensil, implement or apparatus, whatsoever for the purposes of manufacturing any intoxicant other than toddy,

except under the authority and subject to the terms and conditions of a licence granted by the Deputy Commissioner in that behalf or under the provisions of section 18.

(2) A licence granted under this section shall extend to and include servants and other persons employed by the licensee and acting on his behalf.

14. **Possession of excisable articles in excess of the quantity prescribed.-** (1)

The State Government may, by notification, prescribe a limit of quantity for the possession of any intoxicant:

Provided that different limits may be prescribed for different qualities of the same article.

(2) No person shall have in his possession any quantity of any intoxicant in excess of the limit prescribed under sub-section (1), except under the authority and in accordance with the terms and conditions of,-

(a) a licence for the manufacture, cultivation, collection, sale or supply of such article; or

(b) a permit granted by the Deputy Commissioner in that behalf.

15. Sale of excisable articles without licence prohibited.- (1) No intoxicant shall be sold except under the authority and subject to the terms and conditions of a licence granted in that behalf:

Provided that, subject to such restrictions and conditions as the Excise Commissioner may by general or special order specify,-

(a) a person having the right to the toddy drawn from any tree may sell such toddy without a licence to a person licensed to manufacture or sell toddy under this Act;

(b) a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a licence those portions of the plant from which the intoxicating drug is manufactured or produced, to any person licensed under this Act to sell, manufacture or export the intoxicating drugs or to any officer, whom the Excise Commissioner may generally or specially authorise.

(2) A licence for sale under sub-section (1), shall be granted,-

(a) by the Deputy Commissioner, if the sale is within a district, or

(b) by the Excise Commissioner, if the sale is in more than one district:

Provided that subject to such conditions as may be determined by the Excise Commissioner, a licence for sale granted under the Excise law in force in any other State may be deemed to be a licence granted under this Act.

(3) Nothing in this section shall apply to the sale of any 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 decease.

(4) Notwithstanding anything contained in sub-sections (1) and (2), no club shall supply liquor to its members on payment of a price or of any fee or subscription except under the authority of and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner and on payment of such fees according to a scale of fees to be fixed by the State Government in this behalf.

¹[15A. Consumption or allowing consumption of Liquor in unlicensed Public Places.- No person being the owner or incharge of the management or control of any public place shall allow consumption of liquor or no person shall consume liquor in any public place unless consumption of liquor in such place is permitted under a licence granted by the Excise Commissioner or the Deputy Commissioner.

Explanation 1.- For the purposes of this section and section 32 "public place"

means any public office or any place of public amusement or resort, recreation centre or on board, any passenger boat or vessel or any public passenger vehicle or a dining or refreshment room in a restaurant or hotel where different individuals or groups of persons consume food, but shall not include any private residential room or private residential house.

Explanation 2.- For the purposes of Explanation 1, "public passenger vehicle" means a vehicle used for carrying passengers for hire or reward other than a vehicle which carries passengers for hire or reward under a contract, express or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum.]¹

1. Inserted by Act 15 of 2001 w.e.f. 19.4.2001.

16. Establishment of distilleries and warehouses.- (1) The Excise Commissioner may, with the previous sanction of the State Government,-

(a) establish a distillery, in which spirit may be manufactured under licence granted under section 13 on such conditions as the State Government may impose;

(b) discontinue any distillery so established;

(c) licence, on such conditions as the State Government deems fit to impose, the construction and working of a distillery or brewery;

(d) licence a private bonded warehouse;

(e) establish or licence a warehouse wherein intoxicants may be deposited and kept without payment of duty; and,

(f) discontinue any warehouse so established.

(2) A warehouse established under sub-section (1), shall be for general accommodation to warehouse intoxicants subject to duty pending removal for local consumption or for export.

(3) Without the sanction of the State Government no intoxicants shall be removed from any distillery, brewery, warehouse or other place of storage established or licenced under this Act, unless the duty, if any, imposed under this Act has been paid or a bond has been executed for the payment thereof.

¹[16A. Prohibition on grant or renewal of licence for manufacture, bottle or manufacture and bottle Arrack for sale etc.,- (1) Notwithstanding anything contained in this Act or rules made thereunder, no licence to,-

(a) manufacture; or

(b) bottle; or

(c) manufacture and bottle;

arrack for sale shall be granted or renewed to any person with effect from the 1st day of July, 2007.

(2) Notwithstanding anything contained in this Act or rules made thereunder or in any judgement, decree or order of any court, every licence granted to,-

- (a) manufacture; or
- (b) bottle; or
- (c) manufacture and bottle;

arrack for sale shall be ceased to be valid on the expiry of 30th day of June 2007:

Provided that nothing contained in this section shall affect any obligation or liability in respect of such licence granted before the 1st day of July, 2007."

1.Substituted by Act 27 of 2007 w.e.f. 1-7-2007.

¹[16B. Prohibition on grant or renewal of lease or licence to sell arrack.- (1) Notwithstanding anything contained in this Act or rules made thereunder, no lease of right, the exclusive or other right,-

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

shall be granted or renewed with effect from the 1st day of July 2007.

(2) Notwithstanding anything contained in this Act or rules made thereunder, or in any judgement, decree or order of any court, every lease of right, the exclusive or other right,-

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

shall be ceased to be valid on the expiry of 30th day of June 2007:

Provided that nothing contained in this section shall affect any obligation or liability in respect of such lease of right the exclusive or other right.]¹

1. Substituted by Act 27 of 2007 w.e.f. 1-7-2007.

17. Power to grant lease of right to manufacture, etc.- (1) The State Government may lease to any person, on such conditions and for such period as it may think fit, the exclusive or other right,-

- (a) of manufacturing or supply by wholesale or of both, or
- (b) of selling by wholesale or by retail, or
- (c) of manufacturing or supplying by wholesale, or of both and of selling by retail, any Indian liquor or intoxicating drug within any specified area.

¹[(1A) No lease granted under sub-section (1) shall be transferred:

Provided that the State Government may grant permission to the lessee to transfer the lease or a part thereof in favour of any other person subject to such terms and conditions (including the transferee entering into an agreement of lease with the State Government), as may be prescribed.];¹

1. Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

(2) The licensing authority may grant to a lessee ¹[under sub-section (1) or a transferee under sub-section (1A)]¹, a licence in the terms of his lease; and when there is no condition in the lease, which prohibits sub-letting may, on the application of the lessee, grant licences to any sub-lessee approved by such authority.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

¹[(3) A lease referred to in sub-section (1) or sub-section (1A) may be determined,-

- (a) if any duty or fee payable by the lessee is not duly paid; or
- (b) in the event of breach of any term or condition of the lease by the lessee or any of his servants or any person acting on behalf of or under the express or implied permission of the lessee; or
- (c) if the lessee becomes incapable of carrying on the business; or
- (d) if the conditions of the lease provide for determination at will:

Provided that no such determination shall be made unless the person affected has had a reasonable opportunity of showing cause against such determination.

(4) Where a lease is determined under clause (a), (b), or (c) of sub-section (3), the State Government may direct the Deputy Commissioner, to take the right under his management and to lease it again by re-sale or other-wise; and if on such management or re-sale, the amount realised is less than the amount payable under the lease which was determined, the loss shall be payable by the person whose lease was determined.]¹

1. Sub-sections (3) and (4) Inserted by Act 1 of 1971 w.e.f. 7-8-1970.

18. Lessee's permission to draw toddy.- Where a right to manufacture toddy has been leased under section 17, the State Government may declare that the written permission of the lessee to draw toddy shall have the same force and effect as a licence under section 13 from the Deputy Commissioner for that purpose.

19. Duties of licensees with regard to measurement and testing.- Every person, who manufactures or sells any intoxicant under a licence granted under this Act shall be bound,-

- (a) to provide himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition and on the licensed premises, and

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

20. Prohibition of employment of children and of women.- (1) No person, who is licensed to sell any intoxicant for consumption on his premises shall, during the hours in which such premises are kept open for persons employ or permit to be employed, either with or without remuneration, any children under such age as the State Government may, by rule, prescribe in this behalf, in any part of such premises in which such excisable article is consumed by the public.

(2) No person who is licensed to sell any intoxicant for consumption at his premises shall, without the previous permission in writing of the Deputy Commissioner, during the hours in which such premises are kept open for persons, employ or permit to be employed, either with or without remuneration any woman in any part of such premises in which such excisable article is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the licence and may be modified and withdrawn.

21. Closing of shops for the preservation of public peace ¹[etc.,]¹.- (1) The District Magistrate may, by notice in writing to the licensee require that any shops in which any intoxicant is sold shall be closed at such times and for such period as he may think necessary for the preservation of the public peace ¹[or the prevention of the spreading of any infectious diseases]¹

1. Inserted by Act 36 of 1987 w.e.f. 10-8-1987.

(2) If any riot or any unlawful assembly is apprehended or occurs in the vicinity of any such shop, any Magistrate or any Police Officer not below the rank of a Sub-Inspector, who is present, may require such shop to be kept closed for such period as he may think necessary :

Provided that where a riot or unlawful assembly so occurs, the licensee shall in the absence of such Magistrate or officer, close the shop without any order and keep it closed during the continuance of such riot or unlawful Assembly.

CHAPTER V

EXCISE DUTY AND COUNTERVAILING DUTY

22. Excise duty or countervailing duty on excisable articles.- (1) An excise duty at such rate or rates as the State Government may prescribe, shall be levied on any excisable article manufactured or produced in the State under any licence or permit granted under this Act.

(2) A countervailing duty at such rate or rates as the State Government, may prescribe shall be levied on any excisable article manufactured or produced in India

outside the State and imported into the State under a licence or permit granted under this Act.

(3) The rates prescribed under sub-sections (1) and (2) may be different for different kinds of excisable articles and may also be different when levied in the different ways specified in section 23.

23. Ways of levying such duties.- Subject to such rules regulating the time, place and manner, as may be prescribed, excise duty and countervailing duty under section 22 shall be levied in one or more of the following ways as may be prescribed, namely :-

(a) rateably on the quantity of any excisable article produced or manufactured in or issued from a distillery, brewery, manufactory or warehouse, or imported into the State;

¹[(aa) by fees (called litre fees) on the quantity of excisable article imported by any person or received by any person when issued from a distillery, brewery, manufactory or warehouse, as the case may be;

Explanation.- In this clause, 'warehouse' includes a place where liquor is kept by a person selling liquor by wholesale.]¹

1. Inserted by Act 1 of 1971 w.e.f. 30-9-1967.

¹[(aaa) in the form of duty or additional duty on the value or cost price of the excisable articles produced or manufactured in, or issued from, a Distillery, Brewery, Winery or Manufactory or Warehouse or in the form of countervailing duty or additional countervailing duty on the value, cost or price of the liquor imported into the State, at such rate or rates or at such stage or stages and in such manner as may be prescribed.]¹

1. Inserted by Act 21 of 2000 w.e.f. 11-1-2001 by notification.

(b) in the case of spirit or other liquor produced in any distillery established or any distillery, brewery or manufactory licensed under this Act, in accordance with its quality or strength, or in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as may be prescribed;

(c) in the case of toddy, by tax on each tree from which toddy is drawn;

(d) by fees on licences in respect of the manufacture or sale of any excisable article.

¹[24. Payment of fees for grant of lease.- Instead of or in addition to any excise duty or countervailing duty leviable under sections 22 and 23, the State Government may, accept payment of a sum or levy such licence fee or privilege fee as may be prescribed, in consideration of grant of a lease or licence or both, by or under this Act.]¹

1. Substituted by Act 2 of 1994 w.e.f. 30-9-1967.

¹[24A. Grant of Exclusive or other privilege in respect of foreign liquor.- (1) The Excise Commissioner or Deputy Commissioner may subject to such rules as may be prescribed grant to any person a licence for the exclusive or other privilege for the entire State or for any specified area,-

(a) for importing directly from outside the country or from outside the State any foreign liquor manufactured outside India, or

(b) for supplying by wholesale or by retail or for selling by Wholesale or retail any foreign liquor manufactured outside India and imported into the State.

(2) The licence to import foreign liquor under sub-section (1) shall be granted only to a person who has got the authority to import foreign liquor under the licence or authority granted by the Government of India.

(3) For grant of the licence under sub-section (1), the State Government may levy such licence fee, privilege fee, vend fee or any other form of fee as consideration.]¹

1. Inserted by Act 15 of 2001 w.e.f. 19.4.2001

25. Tax for tapping trees from whom leviable.- When duty is levied by way of tax on ¹[excise trees]¹ under section 23 and ¹[excise trees]¹ are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him, from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied, from the person, if any, who owns or is in possession of the trees, unless he proves that the trees were tapped without his consent.

1. Substituted by Act 1 of 1971 w.e.f. 7-8-1970.

CHAPTER VI LICENCES AND PERMITS

26. Form and conditions of licence, etc.- (1) Every licence or permit granted under this Act shall be granted on payment of such fees for such period, and subject to such restrictions and on such conditions, and shall be in such form and shall contain such particulars, as may be prescribed.

(2) The conditions prescribed under sub-section (1) may include provision of accommodation by the licensee to Excise Officers at the licenced premises or the payment of rent or other charges for such accommodation at or near the licensed premises, and the payment of the costs, charges and expenses (including the salaries and allowances of the Excise Officer) which the State Government may incur in connection with supervision to ensure compliance with the provisions of this Act, the rules made thereunder and the licence.

27. Power to take security and counterpart agreement.- Subject to such rules as may be prescribed, any authority granting a licence under this Act may require the licensee,-

- (a) to give security for the observance of the terms of his licence, and
- (b) to execute a counterpart agreement in conformity with tenor of his licence.

28. Technical defect, irregularities and omissions.- (1) No licence granted under this Act, shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceeding taken prior to the grant thereof.

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

29. Power to cancel or suspend licence, etc.- (1) Subject to such restrictions as the State Government may prescribe, the authority granting any licence or permit under this ¹[shall cancel it]¹,-

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

- (a) if any duty or fee payable by the holder thereof is not duly paid; or
- (b) in the event of any breach by the holder thereof, or by any of his servants or by any one acting on his behalf with his express or implied permission, of any of the terms and conditions thereof ; or
- (c) if the holder thereof or any of his servants or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act; or
- (d) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930, or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, or under the Trade and Merchandise Marks Act, 1958, or under section 481, 482, 483, 484, 485, 486, 487, 488 or 489 of the Indian Penal Code or of any offence punishable under section 112 or 114 of the Customs Act, 1962; or
- (e) if the conditions of the licence or permit provide for such cancellation or suspension at will.

¹[Provided that in case of contravention of provisions of sub-section (1) of section 36 except clauses (c), (g) and (h), the authority granting the licence or permit shall have discretion to cancel or suspend a licence or permit:

Provided further that a licence or permit shall not be cancelled or suspended without giving an opportunity of being heard to the licensee or the holder of permit, as the case may be.]¹

1. Inserted by Act 14 of 2005 w.e.f. 11.4.2005.

(2) Where a licence or permit held by any person is cancelled under ¹[xxx]¹ sub-section (1) the authority aforesaid may cancel any other licence or permit granted to such person under this Act or under the Opium Act, 1878.

1. Omitted by Act 14 of 2005 w.e.f. 11.4.2005.

(3) The holder 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.

30. Power to withdraw licence.- (1) Whenever the authority which granted any licence under this Act considers that such licence should be withdrawn for any cause other than those specified in section 29, it may withdraw the licence on the expiration of not less than thirty days' notice in writing of its intention to do so.

(2) When a licence is withdrawn under sub-section (1), a part of the licence fee proportionate to the unexpired portion of the term of the licence and the deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount due from him to the State Government.

31. Surrender of licence.- (1) Any holder of a licence granted under this Act to sell an excisable article may surrender his licence on the expiration of one month's notice in writing given by him to the Deputy Commissioner of his intention to surrender the same and on payment of the fee payable for the licence for the remainder of the period for which it would have been current but for such surrender :

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

(2) Sub-section (1) shall not apply in the case of any licence granted under section 17.

CHAPTER VII OFFENCES AND PENALTIES

32. Penalty for illegal import, etc.- (1) Whoever, in contravention of this Act, or any rule, notification or order, made, issued or given thereunder, or of any licence or permit granted under this Act, imports, exports, transports, manufactures, collects or possesses any intoxicant, shall, on conviction, ¹[be punished for each offence with rigorous imprisonment for a term which may extend to ²[five years and with fine which may extend to fifty thousand rupees.]²]¹

¹[Provided that the punishment,-

(i) for the first offence shall be not less than ²[one year rigorous imprisonment and fine of not less than ten thousand rupees]²; and

(ii) for the second and subsequent offences shall be not less than ²[two years rigorous imprisonment and fine of not less than twenty thousand rupees]² for each such offence.]¹

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.
2. Substituted by Act 36 of 1987 w.e.f.10-8-1987 and again Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

(2) Whoever in contravention of this Act, or of any rule, notification or order made, issued or given thereunder, or of any licence or permit granted under this Act,-

- (a) save in the cases provided for in section 37, sells any intoxicant; or
- (b) cultivates or fails to take the measures prescribed for checking the spontaneous growth or for the extirpation of the hemp plants; or
- (c) taps or draws toddy from any toddy-producing tree or;
- (d) constructs or works any distillery or brewery; or
- (e) uses, keeps or has in his possession any materials, still, utensil, apparatus or implement whatsoever for the purpose of manufacturing any intoxicant other than toddy ; or
- (f) removes any intoxicant from any distillery, brewery or warehouse licenced, established or continued under this Act ; or
- (g) bottles any liquor;

shall, on conviction, ¹[be punished for each offence with rigorous imprisonment for a term which may extend to ²[five years and with a fine which may extend to twenty thousand rupees]²]¹.

¹[Provided that the punishment,-

(i) for the first offence shall be not less than ²[one year rigorous imprisonment and fine of not less than five thousand rupees]²; and

(ii) for the second and subsequent offences shall be not less than ²[one year rigorous imprisonment and fine of not less than ten thousand rupees]² for each such offence.]¹

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.
2. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

¹[(3) Whoever, being the owner or incharge of management or control of any public place allows consumption of liquor or whoever consumes liquor in any public place in which consumption of liquor is not permitted under a licence granted by the Excise Commissioner or the Deputy Commissioner, in contravention of the provisions of section 15A, shall on conviction be punished with fine which shall not be less than rupees two hundred but which may extend to ²[five thousand rupees.]²]¹

1. Inserted by Act 15 of 2001 w.e.f. 19.4.2001.
2. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

33. Penalty for rendering denatured spirit fit for human consumption.-

Whoever,-

(a) renders fit for human consumption any spirit, which has been denatured; or

(b) has in his possession any spirit in respect of which he knows, or has reason to believe that any such offence has been committed or that an attempt to commit such an offence has been made;

shall, on conviction, ¹[be punished for each offence with rigorous imprisonment for a term which may extend to ³[four years and with fine which may extend to twenty thousand rupees.]¹

²[Provided that the punishment,-

(i) for the first offence shall be not less than ³[two years rigorous imprisonment and fine of not less than five thousand rupees]³; and

(ii) for the second and subsequent offences shall be not less than rigorous imprisonment for ³[two years and fine of not less than ten thousand rupees]³ one thousand, for each such offence.]²

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

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

2. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

3. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

34. Penalty for illegal possession.- Whoever, without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall, on conviction, be punished with imprisonment for a term which may extend to ¹[four years and with fine which may extend to fifty thousand rupees.]¹²

²[Provided that the punishment,-

(i) for the first offence shall be not less than ¹[one year imprisonment and fine of rupees ten thousand]¹; and

(ii) for the second and subsequent offences shall be not less than imprisonment for ¹[two years and fine of not less than rupees twenty thousand]¹, for each such offence:

Provided further that the fine inflicted, shall not be less than four times the amount of duty leviable on such intoxicant.]²

1. Substituted by Act 36 of 1987 w.e.f. 10-8-1987 and again substituted by Act 14 of 2005 w.e.f. 11.4.2005.

2. Substituted by Act 1 of 1970 w.e.f.23-12-1969.

35. Penalty for offence not otherwise provided for.- Whoever does any act 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, on conviction, be punished ¹[with fine which shall not be less than two hundred rupees and not more than one thousand rupees.]¹

1. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

36. Penalty for misconduct of licensee, etc.- (1) Whoever, being the holder of a licence or permit granted under this Act, or being in the employ of such holder and acting on his behalf,-

- (a) fails to produce such licence or permit on the demand of any Excise Officer or of any other person duly empowered to make such demand; or
- (b) wilfully does or omits to do, anything in breach of any of the conditions of his licence, or permit, not otherwise provided for in this Act; or
- (c) save in a case provided for by section 32 wilfully contravenes any rule made under section 71; or
- (d) permits drunkenness, disorderly conduct or gaming in any place wherein any intoxicant is sold or manufactured; or
- (e) permits or suffers persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes or habitual offenders, to resort to, or assemble or remain in or on the premises where any excisable article is sold or manufactured; or
- (f) sells any intoxicant to a person who is drunk; or
- (g) sells or gives any intoxicant to any child apparently under eighteen years of age or permits or suffers such child or remain in or on the premises where any excisable article is sold, or manufactured; or
- (h) in contravention of section 20 employs or permits to be employed on any part of his licenced premises referred to in that section any child or women,

shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Where any holder of a licence or permit under this Act or any person in his employ or acting on his behalf is charged with permitting drunkenness on the premises of such holder, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the holder of the licence and the persons

employed by him took all reasonable steps for preventing drunkenness on such premises.

37. Penalty for adulteration, etc., by licensed vendor or manufacturer ¹[or any other person]¹.- (1) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder ¹[or any other person]¹ mixes or permits to be mixed with the intoxicant sold or manufactured by him, any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under this Act, when such admixture does not amount to an offence of adulteration under section 272 of the Indian Penal Code, shall, on conviction be punished with imprisonment for a term ²[three years and with a fine which shall not be less than ten thousand rupees and not more than fifty thousand rupees.]²

1. Inserted by Act 27 of 2007 w.e.f. 29-8-2007.

2. Substituted by Act 1 of 1970 w.e.f. 23-12-1969 and substituted by Act 14 of 2005 w.e.f. 11.4.2005

(2) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder ¹[or any other person]¹, -

1. Inserted by Act 27 of 2007 w.e.f. 29-8-2007.

- (a) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be Indian liquor; or
- (b) marks any bottle or the cork of any bottle, case, package, or other receptacle containing Indian liquor or uses any bottle, case, package or other receptacle containing Indian liquor, with any mark thereon or on the cork thereof, with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade mark with intention to deceive or injure any person under section 482 of the Indian Penal Code; or
- (c) sells or keeps or exposes for sale any Indian liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with counterfeit trade mark under section 486 of the Indian Penal Code;

shall, on conviction, be punished with imprisonment for a term which may extend to ¹[five years and with fine which may extend to fifty thousand rupees.]¹

²[Provided that the punishment, -

(i) for the first offence shall be not less than ¹[three years' imprisonment and fine of not less than twenty thousand rupees]¹; and

(ii) for the second and subsequent offences shall be not less than imprisonment for ¹[five years and fine of not less than fifty thousand rupees]¹ for each such offence;²

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

2. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

38. Penalty for consumption in Chemist's shop, etc.- (1) A chemist druggist, apothecary or keeper of a dispensary, who allows any intoxicant which has not been bona fide medicated for medicinal purposes to be consumed on his business premises by any person shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2) Any person not employed as aforesaid, who consumes any such intoxicant on such premises shall, on conviction, be punished with fine which may extend two hundred rupees.

¹[38A. Penalty for allowing premises, etc, to be used for the purpose of committing an offence under this Act.- Whoever, being the owner or occupier or having the use or care or management or control, of any place, room, enclosure, space, vessel, vehicle, or place knowingly permits it to be used for the purpose of commission by any other person of an offence punishable under sections 32, 33, 34, 36 and 37 shall, on conviction, be punished as if he has committed the offences punishable under the respective sections.]¹

1. Inserted by Act 1 of 1970 w.e.f. 23-12-1969.

39. Manufacture, sale or possession by one person on account of another.- (1) Where any intoxicant has been manufactured or sold or if

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 purposes of this Act, be deemed to have been manufactured or sold by or to be in the possession of such other person.

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

40. Presumption as to commission of offence in certain cases.- In prosecutions under section 32 and section 34, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of,-

- (a) any intoxicant; or
- (b) any still, utensil, implement or apparatus whatsoever in the manufacture of any intoxicant other than toddy; or
- (c) any material which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured,

for the possession of which he is unable to account satisfactorily.

41. Criminal liability of licensee for acts of servants.- Where any offence under section 32, section 33, section 34, section 36 or section 37 is committed by any person in the employ and acting on behalf of the holder of a licence or permit granted under this Act, such holder shall also be punishable as if he had committed himself the said offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

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

42. Enhanced punishment after previous conviction.- If any person after having been previously convicted of an offence punishable under ¹[xxx]¹ section 38 or under the corresponding provisions of any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under ²[the said section]², he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under ³[Chapter XXI of the Code Of Criminal Procedure, 1973]³, from being so tried.

1. Omitted by Act 1 of 1970 w.e.f. 23-12-1969.

2. Substituted by Act 1 of 1970 w.e.f. 23-12-1969.

3. Substituted by Act 32 of 1982 w.e.f. 4.9.1982.

¹[42A. Security for abstaining from commission of certain offences.- (1) Whenever any person is convicted of an offence punishable under section 32, section 33, section 34, section 36, or section 37 and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of such offence, the court may, at the time of passing sentence on such person, order him to execute a bond in the prescribed form for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

(2) The provisions of the ¹[Code of Criminal Procedure, 1973]¹, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

1. Substituted by Act 32 of 1982 w.e.f. 04.09.1982

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of appeal or revision.]¹

43. Liability of certain things to confiscation.- Whenever an offence has been committed, which is punishable under this Act, the following things shall be liable to confiscation, namely :-

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

(2) any intoxicant lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any intoxicant liable to confiscation under clause (1); and

(3) any receptacle, package, or covering in which anything liable to confiscation under clause (1) or clause (2), is found, and the other contents, if any, of such receptacle, package or covering and any animal, vehicle, ¹[except the vehicles owned by the State Road Transport Undertaking or Corporation]¹ vessel, raft or other conveyance used for carrying the same ;

²[Proviso x x x]²

1. Inserted by Act 27 of 2007 w.e.f. 29.08.2007.

2. Omitted by Act 36 of 1987 w.e.f. 10.08.1987.

¹[43A. Confiscation by Excise Officers in certain cases.-(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, where anything liable for confiscation under section 43 is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay, produce the same before an officer not below the rank of a Superintendent of Excise authorised by the Government in this behalf by notification (hereinafter referred to as the authorised officer).

1. Sections 43A to 43G Inserted by Act 36 of 1987 w.e.f. 10.08.1987.

(2) On production of the seized property under sub-section (1), the authorised officer, if satisfied that an offence under this Act has been committed may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property:

¹[Provided that the authorised officer may pending final disposal of the proceedings in respect of the property seized under sub-section (1) and subject to this section and sections 43B to 43G,-

- (i) release the seized property except excisable articles to the owner of such property;
- (ii) release the seized excisable articles to their owner if he possesses a licence under the Act or the rules made thereunder;

on production of a Bank Guarantee issued from a Scheduled Bank for a sum equal to the value as estimated by the authorised officer, (which shall be renewable by him from time to time till final disposal of such proceeding) and on execution by the owner thereof a bond for production of such property or as the case may be, excisable articles so released, if and when so required, before the authorised officer.]¹

¹ Inserted by Act 38 of 2003 w.e.f. 03.09.2003.

(3) When making an order of confiscation under sub-section (2), the authorised officer may also order that such of the properties to which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed.

(4) Where the authorised officer after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction.

(5) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses, relating thereto, shall, where the order of confiscation made under this section is set aside or annulled by an order under section 43D or 43E, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

43B. Issue of show-cause notice before confiscation under section 43A.-(1)

No order confiscating any property shall be made under section 43A unless the person from whom the same is seized,-

(a) is given a notice in writing informing him the grounds on which it is proposed to confiscate such property;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) is given a reasonable opportunity of being heard in the matter.

(2) without prejudice to the provisions of sub-section (1), no order confiscating any animal, cart, vessel or other conveyance shall be made under section 43A, if the owner of the animal, cart, vessel or other conveyance proves to the satisfaction of the authorised officer that it was used in carrying the liquor or intoxicants or the material, still, utensil, implements or apparatus or the receptacle, package or covering without the knowledge or connivance of the owner himself, his agent, if any, and the person

incharge of the animal, cart, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.

43C. Order of confiscation when an offender is not known or cannot be found etc.-When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act, and not in the possession of any person cannot be satisfactorily accounted for, the authorised officer may order such confiscation:

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

43D. Revision.-Any Excise Officer not below the rank of a Deputy Commissioner of Excise specially empowered by the State Government in this behalf, may before the expiry of thirty days from the date of order of the authorised officer under section 43A or 43C suo-motu call for and examine the records of that order and may make such inquiry or cause such inquiry to be made and may pass such orders as he deemed fit after giving the person against whom such order is made an opportunity of being heard.

43E. Appeal.-Any person aggrieved by an order passed under section 43A, 43C or 43D may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which such order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant to be heard pass such orders as he deems fit and such order shall be final.

43F. Award of confiscation not to interfere with other punishments.-The award of any confiscation under sub-section (2) of section 43A or section 43C or section 43D or section 43E shall not prevent infliction of any other punishment to which the person affected thereby is liable under this Act.

43G. Bar of jurisdiction in certain cases.-Whenever any liquor, intoxicant, material, still, utensil, implements or apparatus or any receptacle, package or covering in which such liquor, intoxicant, material, still, utensil, implement or apparatus found or any animal, cart, vessel or other conveyance is used in committing any offence is seized and detained under the provisions of this Act, the authorised officer appointed under section 43A or the officer specially empowered under section 43D or the Sessions Judge hearing an appeal under section 43E, shall have, and notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or any other law for the time being in force, any other officer or Court, Tribunal or authority shall not have, jurisdiction to

make orders with regard to the custody, possession, delivery, disposal or distribution of such property.]¹

¹[44. xxx]¹

1. Omitted by Act 36 of 1987 w.e.f. 10.08.1987.

¹[45. Compounding of offences.- (1) The Excise Commissioner, the Deputy Commissioner or any Excise Officer specially empowered in this behalf may accept from any person who is reasonably suspected of having committed an offence,-

- (i) under sub-section (3) of section 32, a sum of money not less than two hundred rupees but which may extend to five thousand rupees;
- (ii) under sub-section (1) of section 36 except clauses (c), (g) and (h) a sum of money not less than five thousand rupees but which may extend to fifty thousand rupees;

by way of compensation for the offence which may have been committed.]¹

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005.

(2) On the payment by such person of such sum of money or such value or both, as the case may be, such person, if in custody, shall be set at liberty and all the property seized may be released and no proceeding shall be instituted against such person in any Criminal Court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case shall any further proceeding be taken against such person or property with reference to the said act.

¹[45A. xxx]¹

1. Omitted by Act 14 of 2005 w.e.f. 11.4.2005

¹[45B. xxx]¹

1. Omitted by Act 14 of 2005 w.e.f. 11.4.2005

46. Penalty on Excise Officer making vexatious search, seizure detention or arrest.- Any Excise Officer or other person who vexatiously and without 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 punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

47. Penalty for Excise Officer refusing to do duty.- Any Excise Officer, who, without lawful excuse shall cease or refuse to perform or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his official superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction, be punished with imprisonment, which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

48. Penalty for vexatious delay.- Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to the nearest Excise Officer or to the officer in charge of the nearest police station, as required by sub-section (2) of section 59 any person arrested, shall, on conviction, be punished with fine which may extend to two hundred rupees.

49. Penalty for abetment of escape of person arrested, etc.- Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act or abets the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purposes of enabling any person to do anything whereby any of the provisions of this Act may be evaded or contravened or the excise revenue may be defrauded and any officer of any other Department referred to in section 50 who abets the commission of any offence against this Act in any place, shall, on conviction, for every such offence, be punished with imprisonment for a term which may extend to 1[three years and with fine which may extend to five thousand rupees]1, or with both.

1. Substituted by Act 14 of 2005 w.e.f. 11.4.2005

CHAPTER VIII

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES

50. Landholders, officers and others to give information.- (1) Whenever any intoxicant is manufactured or collected, or any hemp-plant is cultivated, in or on any land or building, in contravention of this Act,-

- (a) all owners and occupiers of such land or building or their agents, and
- (b) (i) village officers or servants including members of the village police,
 - (ii) Chairman, members and officers of the village panchayat, and
 - (iii) all officers (other than Excise Officers), employed in the collection of revenue or rent of land on behalf of the State Government, or a local authority in the locality in which such land or building is situate,

shall, in the absence of reasonable excuse, be bound to give notice of the fact to a magistrate or to an officer of the Excise or Police or Revenue Department as soon as the fact comes to their knowledge.

(2) Every Excise Officer shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act, which may come to his knowledge under sub-section (1) or otherwise.

(3) All such officers, chairmen, members or servants as are referred to in sub-section (1) shall be bound,-

- (a) to take all reasonable measures in their power to prevent the commission of such breaches which they may know, or have reason to believe are about or likely to be committed; and
- (b) to assist the Excise Commissioner in carrying out the provisions of this Act.

51. Power to enter and inspect places of manufacture and sale.- The Excise Commissioner or a Deputy Commissioner or any Excise Officer not below such rank as may be prescribed, or any Police Officer duly empowered in that behalf, may,-

(a) enter and inspect, at any time, by day or by night, any place in which any licensed manufacturer manufactures or stores any intoxicant, and

(b) enter and inspect at any time within the hours during which sale is permitted, and at any other time during which the same may be open, any

place in which any intoxicant is kept for sale by any person holding a licence under this Act; and

© examine the accounts and registers, and examine, test measure or weigh any materials, stills, utensils, implements, apparatus, or intoxicant found in such place.

¹[51A. Third party inspection or audit.- (1) Subject to such conditions or restrictions as may be prescribed, every licensee shall get his accounts or records of a financial year audited by a cost accountant before the date specified by the Excise Commissioner and by that date furnish the report of such audit in the prescribed form duly signed and verified by such cost accountant setting forth such particulars as may be prescribed or specified by the Excise Commissioner, from time to time.

(2) The report of audit referred to in sub-section (1) shall contain, inter alia, the following information,-

- (i) whether the licensee has maintained proper books of accounts and records as provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner from time to time;
- (ii) whether the licensee has manufactured excisable goods or spirit as provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner;

- (iii) whether the input-output of raw materials and final products are as per norms provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner from time to time and to point out deviations if any;
- (iv) whether the wastages occurred during the manufacture or processing of spirits and liquor are as per the norms provided under this Act or the rules framed there under or as per the orders issued by the Government or the Excise Commissioner from time to time; and
- (v) any other items and particulars that may be provided under this Act or the rules framed thereunder or as per the orders issued by the Government or the Excise Commissioner from time to time.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the records or books of accounts of the said licensee have been audited or liable to be audited under any other law for the time being in force or otherwise.

(4) The licensee shall be given an opportunity of being heard in respect of any material gathered on the basis of audit under sub-section (1) and proposed to be utilized in any proceedings under this Act or rules made thereunder.

Explanation.- (1) For the purpose of this section "cost accountant" shall have the same meaning assigned to it in clause (b) of sub-section (1) of Section 2 of the cost and works Accountant Act, 1959 (Central Act 23 of 1959).

(2) "Licensee" means a person who holds a license granted under this Act or the rules made thereunder.]¹

1. Substituted by Act 27 of 2007 w.e.f. 29.08.2007.

52. Power to arrest without warrant, to seize articles liable for confiscation and to make searches.- (1) Any officer of the State Government ¹[employed in the Excise Department, or any officer of the Police or Revenue Department empowered by the State Government in this behalf]¹, subject to such restrictions as may be prescribed, and ²[x x x]² may,-

(a) arrest without warrant any person ¹[for]¹ an offence punishable under section 32, section 33, section 34, section 36 or section 37;

(b) seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Act, or any other law for the time being in force relating to excise revenue; and

(c) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

2. Omitted by Act Act 1 of 1971 w.e.f. 07.08.1970.

(2) When any person is accused or is reasonably suspected of committing an offence under this Act, other than an offence under section 32, section 33, section 34, section 36 or section 37 and on demand of any such officer as aforesaid, refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer, in order that his name and residence may be ascertained.

53. Power of magistrate to issue a warrant.- If a magistrate, upon information and after such enquiry (if any) as he thinks necessary, has reason to believe that an offence under section 32, section 33, section 34, section 36 or section 37 has been, is being, or is likely to be, committed, he may issue a warrant,-

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

(b) 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.

54. Power to search without warrant.- Whenever the Excise Commissioner or a Deputy Commissioner or any police officer not below the rank of an officer in charge of a police station or any Excise Officer not below such rank as may be prescribed, has reason to believe that an offence under section 32, section 33, section 34, section 36 or section 37 has been, is being, or is likely to be, committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief,-

(a) at any time by day or by night enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and

(b) 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.

55. Power of Excise Officers in matters of investigation.- (1) Any ¹[Inspector of Excise or a Sub- Inspector of Excise]¹ or any Excise Officer not below such rank and within such specified area as the State Government may, by notification, prescribe, may, as regard offences under section 32, section 33, section 34 ²[section 35, section 36, section 37, section 38 or section 38A]² exercise powers conferred on an officer in charge of a police station by the provisions of the ³[Code of Criminal Procedure 1973]³ :

Provided that any such power shall be subject to such restrictions and modifications, if any, as the State Government may prescribe.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.
2. Substituted by Act 36 of 1987 w.e.f. 10.08.1987.
3. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

(2) For the purposes of section 156 of the Code, the area in regard to which an ¹[Inspector of Excise or a Sub-Inspector of Excise or an Excise Officer]¹ is empowered under sub-section (1), shall be deemed to be a police station and such officer shall be deemed to be the officer in charge of such station.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

56. Report by Investigating Officer.- If, on any investigation by an ¹[Inspector of Excise, a Sub-Inspector of Excise]¹ or an Excise Officer empowered under sub-section (1) of section 55, it appears that there is sufficient evidence to justify the prosecution of the accused, the Investigating Officer, shall submit a report (which shall, for the purposes of section 190 of the ²[Code of Criminal Procedure, 1973]², be deemed to be a police report) to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports.

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.
2. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

57. Report by Excise Officer.- Where any Excise Officer below the rank of ¹[a Sub-Inspector of Excise]¹ makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter,-

(a) make a full report of all the particulars of the arrest, seizure or search to his immediate official superior ²[;]²

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.
2. Substituted by Act 36 of 1987 w.e.f. 10.08.1987.

(b) unless bail be accepted under section 59, take or send the person arrested ²[x x]², with all convenient despatch, to a Magistrate for trial or adjudication ¹[; and]¹

1. Substituted by Act 36 of 1987 w.e.f. 10.08.1987.
2. Omitted by Act Act 36 of 1987 w.e.f. 10.08.1987.

¹[(c) make a report of such seizure and take or send the thing seized, with all convenient despatch, to the authorised officer.]¹

1. Inserted by Act 36 of 1987 w.e.f. 10.08.1987.

58. Arrest, search, etc., how to be made.- Any person arrested under this Act shall be informed, as soon as may be, of the grounds for such arrest and save as in this Act otherwise expressly provided, the provisions of the ¹[Code of Criminal Procedure, 1973]¹, relating to arrest, detention in custody, searches, summonses, warrants of arrests, search-warrants, the production of persons arrested and the disposal of

things seized, shall apply, as far as may be, to all action taken in these respects under this Act:

²[Provided that no search shall be deemed to be irregular by reason only of the fact that witnesses for the search are not inhabitants of the locality in which the place searched is situated.]²

1. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

2. Inserted by Act 1 of 1971 w.e.f. 07.08.1980.

59. Security for appearance in case of arrest without warrant.- (1) The State Government may, by notification, empower any Excise Officer to release on bail person arrested under this Act, otherwise than on a warrant.

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

- (a) the nearest Excise Officer who has authority to release arrested persons on bail, or
- (b) the nearest officer in charge of the 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 who has authority to release arrested persons on bail, he shall be released on bail or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of ¹[sections 441 to 446 and section 449 of the Code of Criminal Procedure, 1973]¹, shall apply, so far as may be, in every case, in which bail is accepted or bond taken under this section.

1. Substituted by Act 32 of 1982 w.e.f. 04.09.1982.

¹[59A. Certificate of Inspectors of Excise to be evidence-Any document purporting to be a certificate under the hand of an Inspector of Excise who has undergone the prescribed training in the examination and analysis of intoxicants and materials and who is authorised by the State Government in this behalf, in respect of any matter or thing submitted to him for examination or analysis and report may be used as evidence of the facts stated in such certificate, in any proceedings under this Act: but the court may, if it thinks fit, and shall on the application of the prosecution or the accused person summon and examine any such Inspector of Excise as to the subject matter of his certificate.]¹

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

60. Procedure for prosecution.- No Magistrate shall take cognizance of an offence punishable,-

(a) under section 35 or section 38 except on the complaint or report of the Deputy Commissioner or of an Excise Officer authorised by the Deputy Commissioner in this behalf, or

(b) under any other section of this Act other than section 46 or section 48, except on his own knowledge or suspicion or on the complaint or report of an Excise or Police Officer.

¹[60A. Procedure to be followed by Magistrate.- (1) In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of summary cases in which an appeal lies:

Provided that if in respect of any case, the Magistrate for reasons to be recorded in writing, decides that it is not desirable to follow such procedure, he shall follow the procedure prescribed in Chapter XX or Chapter XXI of the said Code according as the case is a summons case or a warrant case.]¹

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

CHAPTER IX APPEAL AND REVISION

61. Appeals.- (1) Any person aggrieved by an order passed by any officer other than the Excise Commissioner or the Deputy Commissioner under this Act may, within sixty days from the date of communication of such order, appeal to the Deputy Commissioner.

(2) Any person aggrieved by an order passed by the Deputy Commissioner under this Act, may, within ninety days from the date of communication of such order, appeal to the Excise Commissioner.

(3) Any person aggrieved by an order passed by the Excise Commissioner under sub-section (2), may, within ninety days from the date of communication of such order appeal to the ¹[Karnataka Revenue Appellate Tribunal.]¹

1. Adapted by Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(4) Subject to the foregoing provisions, appeals under this section, shall be subject to the rules which the State Government may make in this behalf.

62. Revision.- The State Government may call for and examine the records of any proceedings before any officer including those relating to the grant or refusal of a licence, or permit, for the purposes of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit :

Provided that no order shall be annulled, reversed or modified except after giving a reasonable opportunity of being heard to the person affected by that order.

CHAPTER X MISCELLANEOUS

63. Recovery of Government dues.- (1) The following moneys, namely:-

- (a) all excise revenue,
- (b) any loss that may accrue when, in consequence of default, a lease under section 17 has been taken under management by the Deputy Commissioner, or has been re-sold by him, and
- (c) of amounts due to the Government by any person on account of any contract relating to the excise revenue,

may be recovered from the person primarily liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

(2) When a lease has been taken under management by the Deputy Commissioner, or has been re-sold by him, the Deputy Commissioner may recover, in the manner authorised by sub-section (1), any money due to the defaulter by any lessee or assignee.

¹[63A. Recovery of certain tax arrears as arrears of excise revenue.- Notwithstanding anything contained in the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) and this Act or the rules made thereunder where any amount payable under that Act has become due before or is becoming due on or after the commencement of the Karnataka Sales Tax and Excise Laws (Amendment) Act, 2000 from a person engaged in manufacture or sale of liquor including beer, spirit or alcohol and such due is accepted without any dispute by the assessee as the final amount due from him before the Commercial Tax Authority, such amount shall, after receipt of a revenue recovery certificate from the Commercial Tax authorities be recovered as if it were an arrear of excise revenue under this Act.]¹

1. Inserted by Act 21 of 2000 w.e.f. 16.02.2001 by notification.

64. Government lien on property of defaulters.- In the event of default by any person licensed or holding lease under this Act, all his distillery, brewery or warehouse or shop or premises, fittings or apparatus, and all stocks of intoxicants or materials for the manufacture of the same held in or upon any distillery, brewery, warehouse or shop or premises, shall be liable to be attached in satisfaction of any claim for excise revenue, or in respect of any losses incurred by the State Government through such default and to be sold to satisfy such claim which shall be a first charge upon the sale proceeds.

65. Recovery of dues by lessee under section 17.- Any person to whom a lease has been granted in accordance with the provisions of section 17, may, in a case where sub-letting is not forbidden by the terms of the lease, proceed against any

person holding under him for the recovery of any money due in respect of such sub-lease as if it were an arrear of rent recoverable under the law for the time being in force with regard to land-lord and tenant :

Provided that nothing in this section shall affect the right of any such grantee to recover any such money by a civil suit.

66. Refund in case of exported liquor.- Where excise duty has been levied in respect of the manufacture or production of any liquor in the State and such liquor is subsequently exported to any other State in India and is subjected to excise or countervailing duty in that State, the Excise Commissioner may on production of proof of such payment of duty, grant refund of duty already paid to such extent as the State Government may prescribe :

Provided that where the State Government so directs, the Excise Commissioner may, permit during such period or periods as may be specified in such direction, the export of any liquor on which excise duty is payable, on the furnishing of adequate security for payment of the excise duty due thereon; and, on production of proof of payment of countervailing duty on such liquor in any other State give rebate to the extent prescribed under this section and collect the balance of the excise duty.

67. Power of State Government to exempt, etc.- The State Government may, by notification, and subject to such restrictions and conditions as may be specified in such notification, -

(a) exempt or reduce ¹[whether prospectively or retrospectively]¹ the excise duty levied under section 22 ²[or the licence fee payable by or under this Act, in respect of any liquor sold]², -

³[(i) for use or consumption by the members of the Armed Forces including Para-Military units) of the Union and Diplomatic agents;]³

1. Inserted by Act 1 of 1970 w.e.f. 23.12.1969.

2. Substituted by Act 32 of 1982 w.e.f. 4.9.1992.

3. Substituted by Act 19 of 2010 w.e.f.16.04.2010.

(ii) for use for bona fide medicinal, scientific, industrial or such like purposes ;¹[or]¹

1. Inserted by Act 1 of 1970 w.e.f. 23.12.1969.

¹[(iii) to any industrial concern or class or classes of industrial concerns;]¹

1. Inserted by Act 1 of 1970 w.e.f. 23.12.1969.

¹[(b) exempt, any intoxicant from any of the provisions of this Act, other than those of Chapter V, in any specified area or for any specified period or occasion.]¹

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

68. Protection of action taken under this Act.- No suit or other legal proceeding shall lie against the State Government or any Excise Officer or any other person empowered to exercise powers or to perform the functions under this Act for anything in good faith done or intended to be done under this Act.

¹[68A. Suit or prosecution in respect of acts done under colour of duty not to be entertained without sanction of the State Government- (1) In any case of alleged offence or of wrong alleged to have been done by any any Excise Officer, by any act done under colour or in excess of any such duty or authority under this Act, or wherein it shall appear to the court that offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained except with the previous sanction of the State Government.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer one month's notice at least of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if so, what tender or amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.]¹

1. Inserted by Act 1 of 1971 w.e.f. 07.08.1970.

¹[68B. Bar of jurisdiction of Civil Courts. - No Civil Court shall have jurisdiction in respect of any matter which any excise officer or other authority empowered by or under this Act has to determine and no injunction shall be granted by any court in respect of any action taken or to be taken by such excise officer or authority in pursuance of any power conferred by or under this Act.

68C. Injunction not to be granted in respect of recovery of excise dues.- (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act V of 1908) or in any other law for the time being in force, no court shall grant any permanent or temporary injunction or make any interim order restraining any proceeding which is being or about to be taken for,-

(i) the recovery of any sum or fee or both levied in consideration of grant or lease of any exclusive or other right under this Act, or the rules made thereunder or any fee, duty or countervailing, duty and including licence fee and litre fee or any other fee levied under this Act or the rules made thereunder;

(ii) the grant of any exclusive or other right under section 17.

(2) All interim orders issued or made by such court whether in the nature of temporary injunction or otherwise, restraining any proceeding referred to in clauses (i) and (ii) of sub-section (1) which is being or about to be taken shall stand dissolved or vacated, as the case may be.

68D. Excise revenue to be paid irrespective of pendency of any Writ Petition, Suit etc.,- Notwithstanding that a writ petition has been preferred before the High Court or a suit or other proceeding has been instituted in any Court or any appeal has been filed before any Court, the Karnataka Appellate Tribunal or the Excise Commissioner or a revision has been filed before the State Government, any sum due to the State Government under this Act as a result of demand or order made or passed by any officer or authority empowered in this behalf by or under this Act shall be payable in accordance with such demand or order.]¹

1. Sections 68B to 68D Inserted by Act 2 of 1995 w.e.f. 25.02.1995.

69. Limitation of suits.- No suit shall lie against the State Government, or against an Excise Officer, other than a suit by the State Government, in respect of anything done or alleged to have done in pursuance of this Act, unless the suit is instituted within six months from the date of the act complained of.

70. Offences by companies, etc.- (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

71. Power to make rules.- (1) The State Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

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

(a) prescribing the powers and duties of Excise Officers;

¹[(b) x x x]¹

1. Omitted by Act 1 of 1971 w.e.f. 07.08.1970.

(c) prescribing the time and manner of presenting appeals and the procedure for dealing with appeals;

(d) regulating the import, export, transport, manufacture, cultivation, collection, possession, supply or storage of any intoxicant and may, by such rules, among other matters,-

- (i) regulate the tapping of toddy producing trees, the drawing of toddy from such trees, the marking of the same, and the maintenance of such marks;
- (ii) declare the process by which spirit shall be denatured and the denaturation of spirit ascertained; and
- (iii) cause spirit to be denatured through the agency or under the supervision of its own officers;

(e) regulating the periods and localities in which, and the persons or classes of persons to whom, licences for the wholesale or retail sale of any intoxicant may be granted and regulating the number of such licences which may be granted in any local area;

(f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted for any locality;

(g) regulating the time, place and manner of payment of any duty or fee and the taking of security for the due payment of any duty or fee;

(h) prescribing the authority by which, the form in which and the terms and conditions on and subject to which any licence or permit shall be granted, and may, by such rules, among other matters,-

- (i) fix the period for which any licence or permit shall continue in force;
- (ii) prescribe the scale of fees, or the manner of fixing the fees payable in respect of any lease, licence or permit, or the storing of any exercisable article;

- (iii) prescribe the amount of security to be deposited by the holders of any licence or permit for the performance of the conditions of the same;
 - (iv) prescribe the accounts to be maintained and the returns to be submitted by licence holders;
 - (v) prohibit or regulate the transfer of licences; and
 - (vi) prescribe the age under which it shall be unlawful to employ children and to sell or give to children exercisable article;
- (l) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;
- (j) regulating disposal of confiscated article;
- (k) regulating the grant of expenses to witnesses and to persons charged with offences under this Act, and subsequently released or acquitted;
- (l) regulating the power of Excise Officer to summon witnesses;
- (m) prescribing the rent payable to the Government in respect of ¹[excise tree]¹ from which toddy is drawn;

1. Substituted by Act 1 of 1971 w.e.f. 07.08.1970.

(n) any other matter that may be prescribed under this Act.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (4), every rule made under this Act shall have effect as if enacted in this Act.

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty 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, both Houses agree in making and modification in the rule or both Houses agree 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.

72. Repeal and saving.- The following enactments, namely :-

- (a) The Mysore Excise Act, 1901 (Mysore Act V of 1901);
- (b) The Abkari Act, 1316 F.(Hyderabad Act I of 1316 F.) and the Intoxicating Drugs Act, 1333 F. (Hyderabad Act IV of 1333 F.); (c) The Madras Abkari Act, 1886 (Madras Act I of 1886), shall stand repealed:

Provided that section 6 of the ¹[Karnataka]¹ General Clauses Act, 1899 (¹[Karnataka]¹ Act 3 of 1899) shall be applicable in respect of such repeal, and section 8 and section 24 of the said Act shall be applicable as if the said enactments were enactments within the meaning of the said Act and had been repealed and re-enacted by this Act.

1. Adapted by Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

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NOTIFICATIONS

I

Bangalore dated 28-8-1967 [No. HD 154 EDC 67-I]

S.O. 1665.- In exercise of the powers conferred by sub-section (3) of section 1 of the Mysore Excise Act, 1965 (Mysore Act No. 21 of 1966), the Government of Mysore hereby appoints the 30th day of September 1967 as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

N.LAKSNMAN RAU,

Secretary to Government,

Home Department.

(Published in the Kanataka Gazette Part IV -2C (ii) dated 31-8-1967)

II

Bangalore dated 11-1-2001 [(No. FD 20 PES 2000 (P))]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Sales Tax and Excise Laws (Amendment) Act, 2000 (Karnataka Act 21 of 2000), the Government of Karnataka hereby appoints the 11th day of January, 2001 as the day from which sub-section (1) of section 3 of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

C.S. JAGADEESHAIAH

Under Secretary to Government (Excise),

Finance Department

(Published in the Karnataka Gazette (Extraordinary) Part IV-A as No. 32, dated 12-1-2001.)

III

Bangalore dated 13-2-2001 [(No. FD 20 PES 2000 (P))]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Sales Tax and Excise Laws (Amendment) Act, 2000 (Karnataka Act 21 of 2000), the Government of Karnataka hereby appoints the sixteenth day of February, 2001 as the day from which section 2 and sub-section (2) of section 3 of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

C.S. JAGADEESHAIAH

Under Secretary to Government,

Finance Department (Excise)

(Published in the Kanataka Gazette (Extraordinary) Part IV-A as No. 329, dated 12-2-2001.)

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सत्यमेव जयते

**THE KARNATAKA AGRICULTURAL PRODUCE MARKETING
(REGULATION AND DEVELOPMENT) ACT, 1966
ARRANGEMENT OF SECTIONS**

Statement of Object and Reasons

Sections:

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II
ESTABLISHMENT OF MARKETS**

3. Notification of intention of regulating the marketing of specified agricultural produce in specified area.
4. Declaration of market area and of regulation of marketing of specified agricultural produce therein.
5. Alteration of market area and of items of regulated agricultural produce.
6. Markets, market yards, market sub-yards, sub-markets and sub-market yards.
7. Establishment of markets.
8. Control of marketing of agricultural produce.

**CHAPTER III
CONSTITUTION OF MARKET COMMITTEES**

9. Establishment of market committee and its incorporation.
10. Constitution of the first market committee.
11. Constitution of second and subsequent market committees.
12. Provisions for elections.
13. Superintendence, direction and control of elections.
14. Constituencies for election of certain members.
15. Qualification for candidates for election.
16. Disqualifications for membership.

17. Disqualification of sitting member.
18. Constituency or institution failing to return representative.
19. Prohibition of simultaneous membership.
20. Determination of validity of election.
21. Grounds for declaring election to be void.
22. Grounds for which a candidate other than the returned candidate may be declared to have been elected.
23. Procedure in case of an equality of votes.
24. Corrupt practices.
25. Other orders to be made by the Munsiff.
26. Appeal against orders of Munsiff.
27. Publication of names of elected members.
28. Casual vacancies.
29. Prohibition of canvassing in or near polling stations.
30. Penalty for disorderly conduct in or near polling station.
31. Penalty for misconduct at polling station.
32. Maintenance of secrecy of voting.
33. Officers, etc., at elections not to act for candidates or influence voting
34. Breaches of official duty in connection with elections.
35. Removal of ballot papers from polling stations to be an offence.
36. Other offences and penalties therefor.
37. Prosecution of certain offences.
38. Term of office of members.
39. Commencement of term of office.
40. Resignation of members.
41. Election of Chairman and Vice-Chairman.
42. Term of office of Chairman or Vice-Chairman.
43. Vacancy in office of Chairman and Vice-Chairman.
44. Motion of no-confidence. 45. Leave of absence to Chairman and Vice-Chairman and consequences of absence without leave.

CHAPTER IV

CONDUCT OF BUSINESS

46. Powers and duties of Chairman.
47. Powers and duties of Vice-Chairman.
48. Meeting of the market committee.
49. Quorum and procedure at meetings.
50. Modification or cancellation of resolutions.
51. Minutes.
52. Confirmation of minutes.
53. Interpellation and resolutions.
54. Bye-laws to regulate detailed procedure at meetings.
55. Mode of making contracts.
56. Powers, functions and duties of the Secretary.
57. Acts of market committee, etc., not to be invalidated.

CHAPTER V

STAFF OF THE MARKET COMMITTEES

58. Appointment of Secretary and technical staff to the market committee.
59. Absorption of staff of market committees in Government service.
60. Omitted.
61. Appointment of other staff of market committee.
- 61A. Reservation of posts in appointments
62. Karnataka State Marketing Service, etc.

CHAPTER VI

POWERS AND DUTIES OF MARKET COMMITTEES

63. Powers and duties of market committee.
- 63A. The market committee and Secretary to exercise powers and functions under the Karnataka Act Nos.22 of 1964, 14 of 1976 and 20 of 1985.
64. Appointment of sub-committees.
- 64A. Duties and responsibilities of a private market yard licensee.
- 64B. Constitution of revolving fund.
- 64C. Application of the revolving fund.

- 65. Levy of market fees.
- 65A. Power of market committee to impose penalty.
- 66. Power to order production of accounts and Power of entry, inspection and seizure.
- 67. Power to stop vehicles, etc.
- 68. Power to borrow.
- 69. Acquisition of lands.
- 70. Composition of offences.
- 71. Power to write off irrecoverable amount.



CHAPTER VII
REGULATION OF TRADING

- 72. Grant of licences.
- 72A. Establishment of private market yards and direct purchase from agriculturist or from producer.
- 72B. Establishment of farmer - consumer market for direct sale by the producer.
- 72C. Grant /Renewal of licence of private market yard and farmer-consumer market.
- 72D. Power to cancel or suspend licence.
- 72E. Appeal.
- 73. Power to cancel or suspend licences.
- 74. Appeal.
- 75. Payment of Price.
- 76. Sale of agricultural produce.
- 77. Agreement of sale.
- 77A. Payment of price of notified agricultural produce by the traders.
- 78. Commission agent's commission and responsibility.
- 78A. Additional Payment etc., by Commission Agent in case of default.
- 79. Prohibition of certain collections.
- 79A. Market charges by whom payable.
- 80. No. deductions in weight or payment other than those specified.
- 81. Reports by market functionaries.
- 81A. Reports by private market licensee, farmer - consumer market licensee.

82. Assistance by the market functionaries.
- 82A. No market functionary to participate in strike, etc.,
83. Production of account books, etc., by market functionaries.
- 83A. Best of judgment assessment of market fee.
84. Provision for settlement of disputes.
- 84A. Provision for settlement of disputes between producer, buyer, seller, private market licensee, licensee for direct purchase or farmer-consumer market licensee.
85. Security by traders.
86. Security by commission agents.
87. Deposit of cash security in Bank.
88. Charge on security and refund of security deposit.
89. Power of committee and Chairman to impose penalties.

CHAPTER VIII THE MARKET FUND

90. Market fund, its custody and investment.
91. Contribution to the consolidated fund of the State.
92. Contribution to State Agricultural Marketing Board.
93. Purposes for which the market fund shall be expended.
94. Honorarium and travelling allowances to the Chairman and the Vice-Chairman
95. Manner of preparing budget, etc.

CHAPTER IX SPECIAL COMMODITY MARKETS

96. Establishment of independent markets and market committees for special commodities.

CHAPTER X MANDAL PANCHAYATS AS AGENTS OF MARKET COMMITTEES

97. Mandal Panchayats as agents of market committees.
98. Grants and loans to Mandal panchayats.
99. Effect of entrustment of powers and functions to Mandal Panchayats.

CHAPTER XI
STATE AGRICULTURAL MARKETING BOARD

100. State Agricultural Marketing Board.
101. Composition of the State Marketing Board.
102. Publication of the names of the elected members of the Board.
103. Determination of the validity of election.
104. Cessation of membership of elected members of the Board.
105. By-election.
106. Term of office of the members of the Board.
- 106A. Sitting fees and allowance to Chairman, Vice-Chairman and other members.
107. Powers and duties of the Chairman and the Vice-Chairman.
108. Conduct of business of the Board.
109. Grants by the State Government.
- 109A. Functions of the Managing Director.
110. Marketing Development Fund
- 110A. Power to borrow.
111. Purposes for which the Marketing Development Fund shall be expended.
112. Functions of the Board.
113. Provisions of the Act and Rules to apply to the Board.

CHAPTER XII
PENALTIES

114. Penalties for evasion of payment of fee, etc.
115. Liability of accused to pay fee, cess or other amount.
116. Power of Magistrate to recover summarily fee, or other amount.
117. Penalty for contravention of section 8.
- 117A. Penalty for contravention of section 66.
- 117B. Penalty for contravention of section 75.
118. Penalty for contravention of sections 72A, 72B, 79 and 80.
- 118A. Penalty for contravention of section 78.
119. Penalty for failure to obey order under section 123.
120. Penalty for contravening the provisions of section 123 or 124.

- 121. Penalty for contravention of section 125.
- 122. General provisions for punishment of offences.

CHAPTER XIII

CONTROL

- 123. Inspection, inquiry, submission of statements, etc.
- 124. Duty of officers and members to furnish information to Director of agricultural Marketing, authorised officers and State Government.
- 125. Seizure of account books and other documents.
- 126. Power of State Government to call for proceedings of market committee and to pass order thereon.
- 126A. Power of the Government to give direction to the market committee, private market licensee and farmer - consumer licensee.
- 127. Supersession of market committee.
- 128. Liability of members , officers and employees of market committee for loss, waste, misappropriation, etc.
- 129. Liability of Chairman, Vice-Chairman and members for removal from office.
- 130. Administrator to exercise powers and perform duties of market committees not validly constituted or in the working of which a deadlock is created.
- 131. Recovery of sums due to Government from market committee or Board.

CHAPTER XIII-A

NATIONAL INTEGRATED PRODUCE MARKET

- 131A. Establishment of National Integrated Produce Market etc.,
- 131B. Removal of difficulties.

CHAPTER-XIII-B

CONTRACT FARMING

- 131C. Procedure and Form of contract farming agreement.

CHAPTER XIII-C

E-TRADING

- 131D. Establishment of Spot Exchange.
- 131E. Reports to be submitted by the spot exchange licensee.
- 131F. Power to cancel or suspend spot exchange licenses.

- 131G. Redressal of disputes.
- 131H. Bar of Jurisdiction on Civil Courts.
- 131I. Penalty for contravention of section 131D.
- 131J. Cognisance of Offence.

CHAPTER XIV MISCELLANEOUS

- 132. Recovery of sums due to market Committee, Board or the Seller.
- 133. Power to exempt certain class of Co-operative Societies etc. from the provisions of Act.
- 134. Provisions of Act not to apply to Central and State Governments.
- 135. Proof of entries in market committee's or Board's registers, etc.
- 136. Chairman, Vice-Chairman, members, officers and servants of market committee or Board to be public servants.
- 137. Bar of suit or other legal proceeding in absence of notice.
- 137A. Appeal.
- 138. Powers and duties of police officer.
- 139. Duty of local authorities to give information and assistance.
- 139A. Duty of officers of the Departments to give information and assistance.
- 140. Delegation of powers of State Government and Director of Agricultural Marketing.
- 141. Protection to persons acting in good faith.
- 142. Effect of mere alteration of limits of market area.
- 143. Denotification of a market area and its consequences.
- 144. Amalgamation of market committees.
- 145. Division of market area into two or more separate market areas.
- 146. Rules.
- 147. Regulations.
- 148. Bye-laws.
- 149. First bye-laws on the establishment of markets.
- 150. Director of Agricultural Marketing power to direct the making or amendment of bye-laws.

- 151. Power to make Standing Orders.
- 152. Orders for bringing this Act into force.
- 152A. Power to amend the Schedule.
- 153. Rules, orders and notifications to be laid before legislature.
- 154. Repeal and savings.
- 154A. Transitory Provisions.
- 155. Power of state Government to transfer assets, etc., in cases of market committees constituted for excluded areas under repealed Acts.
- 156. Amendment of Karnataka Act 16 of 1958.
- 157. Amendment of Karnataka Act 11 of 1959.

SCHEDULE.

* * * * *

STATEMENTS OF OBJECTS AND REASONS

I

Act 27 of 1966.- This Bill is intended to provide for a uniform law relating to the better regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce throughout the new State of Mysore repealing and replacing the following Acts which are in force in the several areas:-

(1) The Bombay Agricultural Produce Markets Act 1939 (Bombay Act 22 of 1939) as in force in the Bombay area;

(2) The Madras Commercial Crops Markets Act, 1933 (Madras Act 20 of 1933) as in force in the Madras Area and as in force in Bellary District;

(3) The Coorg Agricultural Produce Markets Act, 1956 (Coorg Act 7 of 1956) as in force in the Coorg District;

(4) The Hyderabad Agricultural Market Act, 1339F (Hyderabad Act 2 of 1339F) as in force in the Hyderabad Area;

(5) The Mysore Agricultural Produce Markets Act. 1939 (Mysore Act 16 of 1939) as in force in the Mysore Area.

This Bill has been prepared taking into consideration the suggestions of the Government of India that there is need for reorienting the pattern of regulation of markets so as to effectively regulate the sale and purchase of agricultural produce.

Among other things, provision is made in this Bill for-

(i) defining 'agriculture produce' to include all produce of agriculture, animal husbandry, apiculture, horticulture or pisciculture, forest produce and any other produce, live-stock and poultry;

(ii) notifying the intention of Government to regulate the purchase and sale of agricultural produce in specified area and declaration of market area and of market yard;

(iii) establishment of market committees for trading in specified kinds of agricultural produce and also separate market committees within the same market area for trading in any particular kind of agricultural produce;

(iv) representation on the market committee to purchasers of agricultural produce, representatives of the purchasers' co-operative societies, representatives of co-operative marketing and processing societies, municipalities, taluk boards and the Central Warehousing Corporation or State Warehousing Corporation;

(v) levy and collection of market fees by the market committee;

(vi) constitution of market committee funds and Central Market Fund;

(vii) conferring borrowing powers on market committee;

(viii) appointment of Government servants as Secretaries, Assistant Secretaries, Technical Accounts and Audit Staff of Market Committees to ensure efficient administration and control of market;

(ix) inquiry or inspection by the Chief Marketing Officer; and

(x) suspension of market committee for failure to perform duties.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 30-3-1963 as No. 47)

II

Amending Act 19 of 1969.- The Karnataka Agricultural Produce Marketing (Regulation) Act, 1966, came into force on 1st May, 1968. Section 154(1) of the Act repeals the previous Acts on the subject in force and provides for the continuance of the market committees constituted under those Acts until the constitution of market committees under the new Act. By this provision it was intended to bring into existence elected market committees under the new Act in place of the old market committee. But in *Marularadhyha -Vs- Regulated Market Committee, Shimoga & Others, 1969 (1) Kar. L.J.533*, the High Court of Karnataka has held that the election of a market committee under Section 11 of the Act should be preceded by the composition of a nominated market committee under section 10 and that it is only by that process that an old Market Committee which continues to function under proviso (c) to Section 154(1) can vacate office. A market committee nominated under Section 10 will hold

office for a period of two years. Government considered that it was not desirable in the democratic set up to nominate members to all these committees.

Some of the existing committees had not been reconstituted for the last 10-12 years, and the pattern of representation on the committees was substantially different from the pattern prescribed under the new Act and some of the constituencies prescribed under the new Act were totally unrepresented in these committees. In many market committees representatives of the traders were functioning as Chairman which was inconsistent with the fundamental principles of the new Act. In some of the committees the bodies had ceased to exist as their period has expired and only the Chairmen were functioning on behalf of the committees. It will take nearly a year to prepare the voters list, to publish them and to hold the elections. It was, therefore, decided to terminate the period of office of all the existing market committees and to appoint administrators for a period not exceeding one year in place of the existing market committees in order to ensure their proper working.

The administrators will also take immediate action to constitute the market committees within a period of one year.

Under the new Act, in respect of every market area, there should be a market and a market yard, and the market fee can be levied in respect of agricultural produce brought by a trader or other person in the yard. It was found that in respect of many existing market areas, the market and market yards had not been duly notified. A removal of Difficulties Order was therefore issued under Section 152 empowering the Chief Marketing Officer to issue necessary notifications in this behalf. To place the matter beyond doubt, it was considered desirable to validate the notifications issued by him.

This opportunity has been taken to make certain clarificatory amendment.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 16-8-1969 as No. 402) (Obtained from L.A. Bill No. 26 of 1969)

III

Amending Act 3 of 1970.- The election to the Market Committee have to be held within one year from 19th July 1969. It was considered necessary that only occupants and tenants cultivating the agricultural lands should be registered as the voters in the agriculturists' constituencies as this would facilitate preparation of the voters' list without delay.

Where there are more than one Taluk Marketing Societies in a Taluk it was considered necessary that any member of the committee of any society might be nominated to the first Market Committee. It was also considered necessary to provide that all elected Directors should form an electoral college to elect one from among themselves to be member of a Market Committee in respect of the Taluk Marketing Societies.

It was considered necessary to prohibit a person from being a member of more than one Market Committee.

Certain necessary clarification amendments were also considered necessary.

An Ordinance was promulgated for these purposes and Bill is intended to replace the Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 12-1-1970 as No. 17 at page 5.)

IV

Amending Act 20 of 1973.- Under Section 65 of the Act market committee may levy market fees as prescribed by bye law upto 30 paise per 100 rupees price of the produce sold.

For developing regulated markets in the State, the International Development Association has agreed to advance a loan of rupees ten crores to the State Government on the condition among others, that the maximum market fee to be levied may be one rupee per one hundred rupees of the price of the agricultural produce sold.

The loan had to be expeditiously obtained. In view of this urgency and as both Houses of the Legislature were not in session, the Mysore Agricultural Produce Marketing (Regulation) (Amendment) Ordinance, 1973 was promulgated. Since the loan would be advanced through commercial banks, another amendment was made to section 90 to authorise investments by the Market Committees in Scheduled Banks also.

The Bill is to replace the Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 30-8-1973 as No. 690 at page 3.)

V

Amending Act 24 of 1975.- There has been an incessant and continuous demand from within and outside the Legislature to provide adequate communication facilities to all the villages in the State in order that the agriculturists may better utilise the facilities of regulated markets provided under the Act. In spite of ad-hoc arrangements made from time to time, it has not been possible to fully meet the said demand for roads in rural areas, due to mainly lack of regulated flow of funds for the purpose. It is therefore considered necessary to provide for levy of a market fee on the sellers also and utilise the proceeds for the development of rural roads.

Hence this Bill.

(Obtained from File No. LAW 25 LGN 75.)

VI

Amending Act 14 of 1976.- In the existing section 60, the Chief Marketing Officer has to transfer the Secretary of the Market Committee only if 3/4 of the total number of members of the Committee vote for such a transfer. Since the Secretaries of the Market Committees are Government servants, such a legal obligation on the part of the Chief Marketing Officer is not proper. Hence, section 60 is proposed to be deleted.

In the existing Act, the functions of the Agricultural Produce Market Committees are limited to regulate buying and selling of agricultural produce. It is felt necessary to help forge a link between producers with consumers by the establishment of processing units in or around the Market Areas for fair distribution of processed agricultural produce to the consumer at reasonable rates, for the benefit of both the producer and the consumer.

In the existing Act, there is no power to exempt any Market Committee levy and collection of Market Fee in respect of agricultural produce. It is proposed to empower the State Government to exempt any Market Committee from levying and collecting Market Fees and sellers in respect of any agricultural produce sold by such sellers in the Market Area. This provision is considered necessary in order to prevent large diversion of trade particularly in the market functioning in the border areas of the State. The loss of income on this account is likely to be made good, many times more as a result of the stoppage of diversion of trade.

The proposal is to reduce the quantum of contribution by the State Government to the State Agricultural Marketing Board from the existing rate of five per cent of the total income of the Market Committees in the State to one per cent of the gross receipts of the Market Committees during that year by way of Market Fees and Licence Fees. This provision reduces the

burden of financial commitments on the part of the State Government to the State Agricultural Marketing Board.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 5-2-1976 as No. 689 at pages 3-4.)

VII

Amending Act 43 of 1976.- In line with the current thinking on the subject it is proposed to expand the objectives of the Act so as to include within its ambit regulation of grading, processing, transport, packaging etc.

It is also proposed to provide that wholesale trade in notified agricultural produces can be conducted only in the market yards and sub-market yards so as to have effective regulation of trade and to afford on the spot processing and packaging facilities to the traders as well.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 7-4-1976 as No. 1858 at page 4.)

VIII

Amending Act 47 of 1976.- Section 41 of the Act which deals with the procedure for election of the Chairman and Vice- Chairman does not provide for what should happen when the meeting cannot be concerned within the prescribed time limit, or having been convened does not meet for some reason or other. This results in a stalemate, much to the detriment of the functioning of the Committee. It is necessary to amend this section making suitable provisions.

Section 133 of the Act which provides exemptions, permits exemptions only in favour of such class of societies of which all members are either agriculturists or primary producers of any notified agricultural produce. Recently the definition of the word "Marketing" in the Act has been enlarged. In view of this other co-operatives also will have to be brought within the exemption clause. It is proposed to do so.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 24-5-1976 as No. 2815 at page 5.)

IX

Amending Act 17 of 1980.- It is proposed to specify in a schedule the agricultural produces, the marketing of which are to be regulated in the market areas in the State. It is also provided to treat the market committees as local authorities for all purposes. Section 10 and 11 are proposed to be amended providing for the reservation of one seat among the agriculturists constituency for the Scheduled Castes and Scheduled Tribes in all the market committees and power is also taken to nominate one person on all the market committees who shall be as far as possible a person belonging to the Scheduled Castes and Scheduled Tribes.

Power is taken to notify the classes of officers and servants specified by the Government as officers and servants of the State, and to constitute a separate service for them. Provision is also made to advance loans by the market committees which are financially sound to the other needy market committees and the State Agricultural Marketing Board. It is proposed to validate the levy and collection of market fees from the seller since service corers of rupees is to be refunded in view of the recent judgment of the High Court. The refund would have considerably affected the finance of the State. It is now proposed to empower the market committees to levy market fee on the buyers only at a rate not exceeding two per cent of the price of the agricultural produce brought. Some consequential amendments are also effected. It is also proposed to increase the rate of commission from 1 1/2 per cent to 2 per cent and in case of fruits and vegetables 4 per cent. Providing facilities for the transport of

agricultural produces to the market yard is made as one of the obligatory duty of the market committees. Provision is made to amalgamate two or more market areas into to one single market area. Since the Legislative Council was not in session, an Ordinance was promulgated and hence this Bill to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 24-9-1979 as No. 955 at page 18.)

X

Amending Act 4 of 1982.- The Bill seeks to validate certain acts of the Chief Marketing Officer and the market committees in the matter of levy and collection of market fees, the making of bye-laws which were vitiated only due to purely technical and Procedural irregularities. The Bill also seeks to vest the control of elections in the matter of cancellation of calendar of events or postponement of poll in the Government.

The other main features of the Bill are -

(a) Where there is an alteration in any market area or the notified agricultural produce relating thereto but the market or sub-market continues to be the same, it is provided that it is not necessary to notify the market or sub-market etc., again.

(b) the CMO is given the power to cancel the allotment of sites made for market committees for reasons to be recorded in writing.

(c) the Market Committees are required to make reservation of posts in favour of SCs, STs, and other backward classes.

(d) the market fee on cattle is to be collected, on the basis of number and not on their value.

(e) Market fee is made payable on the purchase of wood from the State or Central Government.

(f) CMO is empowered to revise the contributions to be made to the consolidated fund of the State by the market committees for services rendered by Government.

(g) Some other incidental and minor matters.

Two ordinances were promulgated in this behalf. This Bill seeks to replace the said two Ordinances.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 6-2-1982 as No. 89 at page 7.)

XI

Amending Act 2 of 1984.- In the Karnataka Marriages (Registration and Miscellaneous Provisions) Act, 1976 (Karnataka Act 2 of 1984) certain consequential amendment were made to the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966).

XII

Amending Act 35 of 1986.- In the Course of implementation of Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 the Market Committee and the Department of Marketing have felt the need for amendments to the existing provisions of the Act. It is also found necessary to add certain provisions to the Act by way of amendment to avoid leakage in market fees and effective regulation of trade in the notified commodities. One of the important amendments is regarding charging commission on Commission Agents. At present the Commission Agents are recovering their commission from the sellers at 2%. Most of the Chairmen of the Agricultural Produce Marketing Committees who are members of the Karnataka State Agricultural Marketing Board have informed that even though statute restricts the commission charge at 2%, the Commission Agents in practice collect more from the agriculturists as most of the producers/sellers are illiterate. It is also felt necessary to define commission sales and to provide penal provisions.

2. The amendments now proposed seek to over-come some of the practical difficulties faced by Market Committees in the State. Certain modifications in the existing provisions of the Act have become necessary due to absorption of the employees of the Market Committee in Government service with effect from 1.3.1982.

3. Hence this bill.

(Obtained from File No.LAW 48 LGN 86) (L.A. Bill No 36 of 1986.)

XIII

Amending Act 29 of 1987.- It is considered necessary to amend the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966.-

(i) to restrict the sale and purchase of notified agricultural produce to a market yard, market subyard or sub-market yard except in cases of certain co-operative societies, and sale by a retail trader;

(ii) to make provision for disqualification of a commission agent or a market functionary for membership of a market committee.

(iii) to prohibit moving of a no-confidence motion within a period of one year after the failure of a similar motion of no-confidence moved earlier;

(iv) to provide for cancellation or suspension of a licence if licensee is in arrears of market fee or penalty;

(v) to remove the existing classification of traders for the purpose of obtaining security;

(vi) to provide punishment for contravention of section 66.

Opportunity is also taken to make certain consequential amendments.

As the Karnataka Legislative Council was not in session and the matter was urgent, the Karnataka Agricultural Produce Marketing (Regulation) (Amendment) Ordinance, 1987 (Karnataka Ordinance 5 of 1987) was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 2-9-1987 as No. 572 at page 6.)

XIV

Amending Act 6 of 1988.- It is considered expedient further to amend the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966) to enable the Agricultural Produce Marketing Committees to contribute towards the Promotion of agricultural engineering and research in the state.

As the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Agricultural Produce Marketing (Regulation) (Second Amendment) Ordinance, 1987 (Karnataka Ordinance 6 of 1987) was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 23-1-1988 as No. 53 at page 4.)

XV

Amending Act 14 of 1990.- In the Karnataka State Civil Service Act, 1976 (Karnataka Act 14 of 1990) certain consequential amendments were made to the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966.

XVI

Amending Act 16 of 1991.- Having regard to the amendment suggested by the Committee constituted on 15-10-87 it is considered necessary to make the following changes namely;-

(1) To specify, that market area shall not be less than a Taluka and more than a district.

(2) To enable the market committee to enter into agreement with the owner of any land or building to purchase such Land or building after getting approval of the Director of Agricultural Marketing and obtaining a valuation Certificate from the Deputy Commissioner.

(3) To enhance the number of agriculturist, representatives in the market committee from 9 to 11 and to provide for reservation of one seat for women and two seats for persons belonging to Scheduled Caste and Scheduled Tribes and consequent to this to omit the provision relating to nomination of two persons belonging to Scheduled Caste and Scheduled Tribes.

- (4) To exclude commission agents from the market committee.
- (5) To have one representative each from amongst the Co-Operative Market Societies and the Agricultural Co-Operative Processing Societies carrying on business in notified agricultural Produce within the market area instead of the representatives of Taluka marketing Society.
- (6) To provide for disqualification for membership of a representative of agriculturist, if such person was doing business as a trader, commission agent, broker, importer, exporter till such date not later than five years immediately preceding the date of election.
- (7) To provide for disqualification if a person defaults for a period of seven days or more by failing to pay the sale proceeds or other amount due to seller.
- (8) To make it obligatory to hold the election of market committee before expiry of term of office of members.
- (9) To enable the prescribed officer to hold election of Vice-Chairman also which is now being conducted by the Chairman.
- (10) To provide for appointment of an officer to preside over the meeting where a motion of no confidence is made both against the Chairman and Vice-Chairman.
- (11) To provide for one single service by amalgamating the Karnataka State Market Committee Service and the Karnataka State Marketing Service.
- (12) To enable the market committee to grant loans to Co-Operative Marketing Societies and Agricultural Co-Operative Societies and other Co-Operative Societies dealing in notified Agricultural Produce within the market area and contribute shares to the Co-operative Marketing Societies and Agricultural Co-operative processing societies within the market area and dealing in notified agricultural Produce.
- (13) To empower the market committee to take steps for purchase, sale, etc., of agricultural produce during the disruption of functioning in the market yard or sub-yard, due to strike.
- (14) To enable the market committee to provide, within the market area, any infrastructural facilities for the benefit of the user's of market.
- (15) To empower the market committee and Secretary of market committee to exercise certain powers under the Karnataka Municipal Corporations Act, the Karnataka Municipalities Act, and the Karnataka Zilla Parishads etc., Act.
- (16) To raise the market fee in respect of cattle from rupee five per head to five rupees and in case of sheep or goat from twenty five paise per head to one rupee.
- (17) To levy market fee at the rate of eighty per cent in the case of Co-Operative Societies.

(18) To specify the maximum commission in the case of coconuts as rupees fifteen per one thousand and in other cases rupees fifteen per quintal.

(19) To enhance security amount payable by the traders and commission agents from Rs. 1,000-00 to Rs. 5,000-00 in addition to a continuous Bank guarantee of Rs.10,000-00 or an amount equal to two per cent of the annual turn over, whichever is more.

(20) To include Secretary to Government , Co-Operation Department, or his nominee, Secretary to Government Agricultural Department or his nominee and the Director of Agricultural Marketing as the members of the State Marketing Board.

(21) To specify the functions of the Board and Managing Director of the Board.

(22) To restore to the State Government the powers of the Director to supersede the market committee.

(23) To restore to the State Government the powers of the Director to remove Chairman and Vice-Chairman of the market committee.

(24) To amend the Karnataka Rent Control Act. 1961 to exclude premises of the market committee from the purview of that Act.

(25) To Amend the Karnataka Public Premises (Eviction of Unauthorised occupants) Act, 1974 to extend the provisions of the Act to premises of market committee.

(26) Certain consequential and incidental changes are also made.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 26-3-1991 as No. 137 at page 499-501.)

XVII

Amending Act 16 of 1998.- The Karnataka Agricultural Produce Marketing (Regulation) Act, 1959 stipulates that payment has to be made to the farmers who sell their agricultural produce, on the very day of the sale of their produce, yet, the market functionaries are found delaying payment to the sellers and also making unauthorised deductions as commission out of the sale price.

The subject committee has suggested that the commission agents as also purchasers should be required to remit the amount directly to the Market Committee instead of making payment other than through the Market Committee, so that the Market Committee can make payments to the farmers immediately and without deductions. Therefore it is considered necessary to amend the Act suitably and for certain other purposes.

Hence the Bill.

(Obtained from L.A.Bill No.19 of 1997)

XVIII

Amending Act 17 of 1998.- Section 11 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 provides for Constitution of second and subsequent Market Committees. There was no provision for nomination of members to a Market Committee except nomination of an officer by the Director of Agricultural Marketing. Since Market Committees handle huge public funds released by way of marketing fees, constructive guidance and vigilance are necessary for proper utilisation of funds for various developmental activities. In order to ensure this it was considered necessary to nominate three members by amending section 11. Accordingly the Karnataka Agricultural Produce Marketing (Regulation) (Amendment) Ordinance, 1997 was promulgated on 22nd May 1997. It has now lapsed.

A Bill to replace the said Ordinance was introduced in the last session held during the year 1997. But it was not taken up for consideration. After promulgation of the said Ordinance the Government nominated Members to some of the Market Committees. Meanwhile, the ordinance was questioned in the High Court and the High Court quashed the ordinance. Against that judgement, the Government filed writ appeal No. 5052-5053 of 1997 and in the said appeals the order of the single judge quashing the ordinance was set aside.

The High Court had directed the State Government in Writ Petition No.18486 of 1997 to hold election to the offices of the Chairman and Vice-Chairman of the Market Committees before 30th April 1998. The Bill pending in the Legislative Assembly was not taken up for consideration even during the last session.

It has become necessary to make nominations to all the Market Committees in the State before holding election to the offices of the Chairman and Vice-Chairman.

As the matter was urgent and Karnataka Legislative Council is not in session the Karnataka Agricultural Produce Marketing (Regulation) (Amendment) Ordinance, 1998 was promulgated.

Hence the Bill.

(Obtained from L.A. Bill No.12 of 1998)

XIX

Amending Act 22 of 2000.- Note.- By this Act certain obsolete laws were repealed and certain minor and consequential amendments were made to certain laws including Act 27 of 1966.

(Obtained from L.A. Bill No. 17 of 2000)

XX

Amending Act 31 of 2000.- Keeping in view the liberalisation of the economy and opportunities and challenges to horticulture in meeting the

demands of domestic consumers, there is a need to have modern, hygienic, transparent, and professionally managed markets with forward linkages to retailers and consumers and backward linkages to producers in Karnataka. Therefore it is considered necessary to amend the Karnataka Agriculture Produce Marketing (Regulation) Act, 1966 to provide,-

(i) for establishment of National Integrated Produce Market owned and managed as an autonomous entity by National Dairy Development Board incorporated under the National Dairy Development Board Act, 1987 (Central Act 37 of 1987);

(ii) for setting up collection centers by NDDDB or for financing assisting or supporting farmers or farmers association in setting up collection center in the State;

(iii) for setting up, supporting or otherwise assisting in setting up distribution channels and institutions at various places in the State;

(iv) for levy and collection of fees, security deposit, advances and other charges for services rendered in National Integrated Produce Marketing;

(v) for making regulation by NDDDB in connection with ownership, management, etc, in relating to National Integrated Produce Market;

(vi) that the provisions of the Act or rules made thereunder do not apply to National Integrated Produce Market;

Certain incidental provisions are also made.

As the matter was urgent and the Karnataka Legislative Council was not in session, Karnataka Agriculture Produce Marketing (Regulation) (Amendment) Ordinance, 2000 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Obtained from L.A. Bill No. 26 of 2000)

XXI

Amending Act 8 of 2001.- It is considered necessary to amend the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 to provide for the following:

(i) Section 10 provides for constitution of the first market committee for a period of two years which may be extended by the state Government for one more year. It is felt necessary to enhance the maximum period of extension from the existing one year to two years to manage the Market Committee where an election is not held intime during the extended period of one year.

(ii) Section 44 provides for moving a motion of no confidence against the chairman or the Vice Chairman of a Market Committee which will be carried only if it is voted by a majority of not less than two-thirds of the members of the market committee.

Adhyakshas and Upadhyakshas of Taluk Panchayats and Zilla Panchayat may be removed by a motion of expressing want of confidence in them passed by a simple majority. It is appropriate to have similar provisions in respect of the Chairman and Vice Chairman of market committee also.

(iii) It is found necessary to have a provision to enable the market committees to contribute to the floor price scheme and Raitha Sanjeevini Accidental Insurance Scheme which are beneficial to agriculturists.

Prices of various agricultural commodities are continuously falling all over the state. This has caused great hardship to the agriculturists and has also lead to wide spread agitation. The agitation has lead to law and order problem in certain places. The floor price scheme is meant to control the falling prices of agricultural commodities. It will go a long way in giving some relief to the agriculturist. Therefore, the market committees should be empowered to make contributions to the floor price scheme as early as possible.

Since the matter was urgent and the Karnataka Legislative Council was not in session the Karnataka Agricultural Produce Marketing (Regulation) (Amendment) Ordinance 2001 (Karnataka Ordinance 1 of 2001) was promulgated to achieve the above object.

Hence the Bill.

(Vide L.A.Bill No.4 of 2001 File No. DPAL 3 Shasana 2001)

XXII

Amending Act 10 of 2001.- To give effect to the proposals made in the Budget Speech of 2001-2002, it is considered necessary to amend the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966.

Hence the Bill.

(Vide L.A. Bill No. 10 of 2001 File No. DPAL 15 Shasana 2001)

XXIII

Amending Act 13 of 2002.- With a view to provide representation and to ensure social justice for agriculturists belonging to the Backward Classes in the Market Committees, it is proposed to amend the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966

It is also considered necessary to amend the said Act to provide for commencement of the term of office of the Chairman and Vice Chairman of Elected Market Committee for which elections were held during 1997, from the date of first meeting held for election to such office in order to remove certain difficulties.

It is considered necessary further to amend sub-section (3) of section 65 of the said

Act to substitute the word "period" for the word "crop season" as the marketing of Agricultural Produce is done throughout the year irrespective of the crop season. Agricultural Produce is sold by farmers on the basis of the prevailing market rates irrespective of the crop section.

Since the matter was urgent and the Karnataka Legislative Assembly was not in session, the Karnataka Agricultural Produce Marketing (Regulation) (Amendment) Ordinance 2002 (Karnataka Ordinance No 4 of 2002) was promulgated to achieve the above object. The Ordinance is to be replaced by an Act of Legislature.

Hence the Bill.

(L.A. Bill No. 26 of 2002)

XXIV

Amending Act 22 of 2004.- It is considered necessary to review the present provisions in the Karnataka Agriculture Produce Marketing (Regulation) Act, relating to 'retail sale' and 'retail trader' which prescribes the maximum quintals of agricultural produce that can be stocked by a retail trader to ensure transparency and flexibility to meet the situation arising from time to time. therefore it is considered necessary to amend Act to provide for:-

(1) Fixing of maximum quantity of agricultural produce or goods to be stocked by retail traders in the State by State Government through notification from time to time.

(2) Fixing of such quantity for retail sale by the market committees within the prescribed maximum limit in their bye-laws which enables the

consumers to purchase the commodities for domestic consumption and to restrict the same for subsequent sale or processing.

Further the system of levy of market fee on the sale of notified agricultural produce has been rationalized to provide for levy of market fee at single point once in any market committee on the first sale. The subsequent sales of the commodity in any other market area will be exempted from the levy of market fee. Further to this to give impetus to the Agro Processing Sector in the State which ensures value addition to the agricultural produce enabling the farmers to get a better price for their produce and to attract investments from private sector to the Agro Processing Sector which makes the agricultural marketing operations more effective. Therefore it is considered necessary to amend the Karnataka Agricultural Produce Marketing (Regulation) Act to provide for:-

(1) Exemption from the levy of market fee on agricultural produce on which market fee has already been levied and collected in any market area within the State and such agricultural produce is processed and sold in any other market area within the State or exported outside the State.

Hence, the Bill.

(L A Bill No.8 of 2004)

(Entries 14 and 28 of List II of the Seventh Schedule to the Constitution of India)

XXV

Amending Act 23 of 2007.- To implement the recommendations of Government of India in its Model Act, 2003, which aims at uniformity in development, reformation in regulation of marketing of agricultural produce, it is considered necessary to amend the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 to provide for,-

- (1) the better regulation of marketing of agricultural produce and the establishment and administration of markets for agricultural produce in the State. It is felt necessary to incorporate the provisions to development of efficient marketing system, promotion of agricultural processing, agricultural exports and the establishment and proper administration of agricultural markets, to provide effective infrastructural facilities for marketing in addition to the regulation of marketing of agricultural produce;
- (2) the wider meaning to the definitions of 'agriculturist', 'buyer', 'marketing' and 'processing' in terms of Model Act;
- (3) setting up a "Revolving Fund" to implement the Floor Price Scheme to protect the interest of the farmers against distress sale;
- (4) exemption of market fee from new Agricultural Produce Process Industries in line with new Industrial Policy;
- (5) the establishment of private market yards, farmers consumer markets and to empower the Director/Commissioner of Agricultural Marketing to issue licenses and regulate the activities in such markets, so as to promote development of a competitive marketing infrastructure to enable the farmers to get a remunerative price;
- (6) contract Farming System for encouraging marketing of agricultural produce with a predetermined agreed price, to ensure constant supply of agricultural produce to agri-processing sector which helps the growers to get remunerative price by way of value addition and also empower the Market Committees to regulate the activities of Contract Farming and Contract Farming Agreements;
- (7) Agricultural Produce Marketing Standards Bureau to take up quality certification and branding of commodities to encourage export oriented activities in the field of agricultural marketing;
- (8) settlement of disputes, to ensure prompt payment of sale proceeds to the seller etc;

- (9) disqualification of members of the Committee who do not attend three consecutive meetings;
- (10) enhance the penalty for non payment and delayed payments to the seller by the buyer or Commission Agent;
- (11) establishment of spot exchange to facilitate e-trading of notified agricultural produce;
- (12) payment to the sellers through the Market Committee in respect of such goods as may be notified;
- (13) Certain consequential amendments also.

Hence the Bill.

[L.A.Bill No.11 of 2007]

[Entry 14 and 28 of List II of the Seventh Schedule to the Constitution of India.]

XXVI

Amending Act 18 of 2010.- It is considered necessary to amend the Karnataka Agriculture Produce Marketing (Regulation and Development) Act, 1966, to provide a provision,-

- (1) to include a person, who cannot pay his debts in respect of financial transactions pertaining to market functionaries in the Agricultural Produce Marketing Committee, in the definition of "insolvent";
- (2) to fix the term of office of the Chairman and Vice-chairman for twenty months;
- (3) (i) to fix the minimum number of members to move motion of no-confidence;
(ii) that no, no-confidence motion shall be moved within a period of six months from the date of assuming office of Chairman or the Vice-chairman;
and
(iii) that for adopting no-confidence motion, not less than two third majority of the total number of members of market committee, is necessary.
- (4) to empower the State Government to hear appeal against the orders passed by the Director.

Hence the Bill.

[L.A. Bill No. 44 of 2009, File No. DPAL 40 Shasana 2009]

[Entry 14 and 28 of List II of the Seventh Schedule to the Constitution of India.]

XXVII

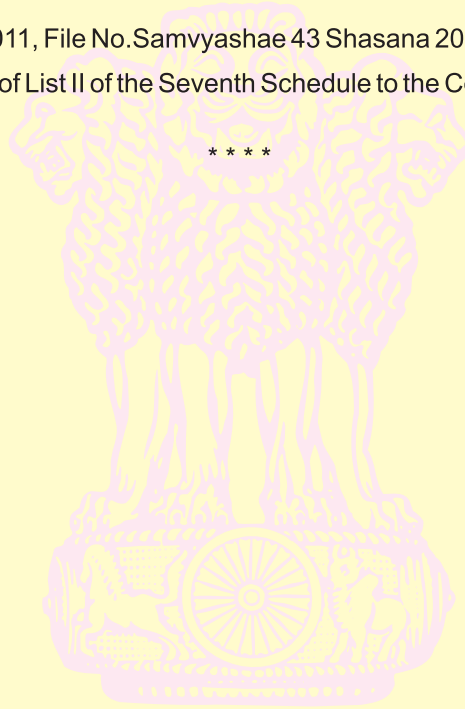
Amending Act 18 of 2011.- It is considered necessary to amend the Karnataka Agricultural Produce Marketing (Development and Regulation) Act, 1966, to provide a provision to exempt payment of market fee in respect of new Food Processing Industries in respect of purchases of agricultural produce by such processing industries and existing Industries who take up extension or modernization in accordance with the New Industrial Policies in force in the state.

Hence the Bill.

[L.C. Bill No.2 of 2011, File No.Samvyashae 43 Shasana 2010]

[Entries 14 and 28 of List II of the Seventh Schedule to the Constitution of India.]

* * * * *



सत्यमेव जयते

¹[KARNATAKA]¹ ACT NO. 27 OF 1966

(First published in the ¹[Karnataka Gazette]¹ on the Fifteenth day of September 1966)

THE ¹[KARNATAKA]¹ AGRICULTURAL PRODUCE MARKETING ²[(REGULATION AND DEVELOPMENT)]² ACT, 1966

(Received the assent of the President on the Nineteenth day of August, 1966)

(As amended by 19 of 1969, 3 of 1970, 20 of 1973, 24 of 1975, 14 of 1976, 43 of 1976, 47 of 1976, 17 of 1980, 4 of 1982, 2 of 1984, 35 of 1986, 29 of 1987, 6 of 1988, 14 of 1990, 16 of 1991, 16 of 1998, 17 of 1998, 22 of 2000, 31 of 2000, 8 of 2001, 10 of 2001, 13 of 2002, 22 of 2004, 23 of 2007, 18 of 2010 and 18 of 2011)

²[An Act to provide for improved regulation in the marketing of agricultural produce, development of efficient marketing system, promotion of agri-processing, agricultural export and the establishment and proper administration of markets for agricultural produce and for this purpose to put in place an effective infrastructure for marketing of agricultural produce and to lay down procedures and systems thereto in the state of Karnataka;

Whereas it is expedient to provide for improved regulation in the marketing of agricultural produce, development of efficient marketing system, promotion of agri-processing, agricultural export and the establishment and proper administration of markets for agricultural produce and for this purpose to put in place an effective infrastructure for marketing of agricultural produce and to lay down procedures and systems thereto in the state of Karnataka;]²

BE it enacted by the ¹[Karnataka]¹ State Legislature in the seventeenth year of Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.
2. Substituted by Act 23 of 2007 w.e.f. 16.08.2007.

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Agricultural Produce Marketing ²[(Regulation and development)]² Act, 1966.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.
2. Substituted by Act 23 of 2007 w.e.f. 16.08.2007.

(2) It extends to the whole of the ¹[State of Karnataka.]¹

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

(3) It shall come into force on such ¹[date]¹ as the State Government may, by notification, appoint.

1. Act came into force on 01.05.1968 by notification. The text of the notification is at the end of the Act

2. Definitions:- In this Act, unless the context otherwise requires, -

¹[(1)"Agricultural produce" means the produce or goods specified in the Schedule]¹

1. Substituted by Act 17 of 1980 w.e.f. 30.6.1979

¹[(2)"agriculturist" means a person cultivating any agricultural land who is an occupant of such land, or a tenant of an occupant:

Explanation.- For purposes of this clause, the expressions 'occupant' and 'tenant' shall have the meaning assigned to them in the ²[Karnataka]² Land Revenue Act, 1964. (²[Karnataka]² Act 12 of 1964);]¹

1. Substituted by Act 3 of 1970 w.e.f. 17.10.1969

2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

¹[(2A) "Agricultural Co-operative Processing Society" means an agricultural Co-operative Processing Society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959 for the purpose of processing of agricultural produce in a market area;]¹

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991 by notification .

¹[(2B)"Backward Classes" means such class or classes of citizens as may be classified as category 'A' and 'B' and notified by the State Government from time to time for the purpose of reservation of seats in the market committee."]¹

1. Inserted by Act 13 of 2002 w.e.f. 11.4.2002

(3) "Board" means the ¹[Karnataka State Agricultural Marketing Board]¹ established under this Act;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

(4) "broker" means an agent who in consideration of a commission, fee or reward, merely negotiates and brings about a contract for the purchase or sale of notified agricultural produce on behalf of his principal, but does not receive, deliver, transport, pay for the purchase of, or collect the payment for the sale of, the notified agricultural produce;

¹[(5) "Buyer" or "Purchaser" means a person, who himself or on behalf of any other person or agent buys or agrees to buy notified agricultural produce in the market area.]¹

1. Substituted by Act 23 of 2007 w.e.f. 16.08.2007.

(6) "bye-laws" means bye-laws made under this Act;

¹[(6A) "cattle " includes buffalo, bullock, cow, ²[ox, goat, sheep and their young];²;¹

1 . Inserted by Act 35 of 1986 w.e.f. 17.6 .1986

2. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(7) x x x]¹

1. Omitted by Act 35 of 1986 w.e.f. 17.6.1986

¹[(8) "commission agent" means a person who in the ordinary course of business makes or offers to make a purchase or sale of agricultural produce on behalf of the owner or seller or purchaser or such agricultural produce for commission;]¹

1. Substituted by Act 35 of 1986 w.e.f. 17. 6.1986

(9) "commodity" means any kind of agricultural produce meant for sale;

¹[(9-A) "Contract farming" means farming by an individual agriculturist or association of agriculturists by whatever name called as 'Contract farming Producer' in a written contract farming agreement with another person called 'Contract farming Sponsor' to the effect that his farm produce shall be purchased by such contract farming sponsor as may be specified in the agreement.

(9-B) "Contract farming Agreement" means the agreement made for Contract farming between a Contract farming producer and contract farming sponsor as may be specified in the agreement.]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.08.2007.

¹[(10) "Co-operative Marketing Society" means a Co-operative Marketing Society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959 for the purpose of marketing of agricultural produce in a market area;]¹

1. Omitted by Act 35 of 1986 and Inserted by Act 16 of 1991 w.e.f. 1.8.1991

(11) "delivery" means voluntary transfer of possession from one person to another;

(12) "Deputy Commissioner" includes any officer subordinate to the Deputy Commissioner not below the rank of a Tahsildar authorised by the State Government by notification to exercise the powers and perform the functions of the Deputy Commissioner under this Act in respect of any market area within the territorial jurisdiction of such officer;

¹[(12A) "Director of Agricultural Marketing" means the officer appointed by the State Government as such and includes ²[the Commissioner of Agricultural Marketing or]² any other officer or officers empowered by the State Government, by notification to exercise or perform such of the powers or functions of the Director of Agricultural

Marketing under the provisions of this Act or the rules as may be specified in such notification;]¹

1. Inserted by Act 35 of 1986 w.e.f. 17.6.1986

2. Inserted by Act 23 of 2007 w.e.f. 16.08.2007

(13) "exporter" means a person other than a producer who exports goods or causes goods to be exported on one's own account or as agent of another person, from the market area outside such area for the purpose of selling, processing, manufacturing or for any other purpose except for the purpose of one's own domestic consumption, but shall not include a public carrier; ¹[x x x]¹;

1. Omitted by Act 35 of 1986 w.e.f. 17.6.1986

(14) "goods" means any kind of notified agricultural produce;

¹[(14A) "Government" means the State Government.]¹

1. Inserted by Act 23 of 2007 w.e.f.16.08.2007

²[(14B)]² "importer" means a person who imports or causes goods to be imported on his own account or as an agent for another person from outside the market area into a market area for the purpose of selling, processing, manufacturing or for any other purpose except for one's own domestic consumption, but shall not include a public carrier;]¹

1. Inserted by Act 35 of 1986 w.e.f. 17.6.1986

2. Renumbered by Act 23 of 2007 w.e.f.16.08.2007

(15) "insolvent" means a person who ceases to pay his debts in the ordinary course of business or ¹[cannot pay his debts in respect of financial transactions pertaining to market functionaries in the Agricultural Produce Marketing Committee]¹ as they become due, whether he has committed an act of insolvency or not;

1. Substituted by Act 18 of 2010 w.e.f.16.04.2010.

¹[(16) x x x]¹;

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(17) x x x]¹

1. Omitted by Act 17 of 1980 w.e.f. 3.11.1979

(18) "market" means any notified area declared ¹[or deemed to be declared]¹ to be a market under ²[this Act]²;

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

¹[(18-A) "Marketing" means buying selling importing, exporting, grading, processing, storage, transport, branding, packaging, market information and

channels of distribution and includes all activities involved in the production of notified agricultural produce commencing from the stage of harvest till such notified agricultural produce reach the consumers ultimately.]¹

1. Substituted by Act 23 of 2007 w.e.f. 16.8.2007.

(19) "Market area" means any area declared to be a market area under section 4;

¹[(19A) "market charges" means all charges in connection with the handling of agricultural produce such as the commission of commission agents, brokerage, remuneration for weighment, loading, unloading, cleaning, sorting, counting, sieving and dressing of agricultural produce;]¹

1. Inserted by Act 35 of 1986 w.e.f. 17.6.1986

(20) "Market committee" or "committee" means a market committee constituted for a market area under this Act;

(21) "market functionary" or "functionary" includes a broker, a commission agent, an exporter, a ginner, an importer, a presser, a processor, a stockiest, a trader, and such other person as may be declared under the rules or the bye- laws to be a market functionary;

(22) "market sub-yard" means a specified place declared ¹[or deemed to be declared]¹ to be a market yard under ²[this Act]²;

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

(23) "market yard" means a specified place declared ¹[or deemed to be declared]¹ to be a market yard under ²[this Act]²;

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

(24) "market year" means the year commencing on the first day of ¹[April]¹;

1. Substituted by Act 16 of 1991 w.e.f. 1.4.1992

(25) "member" means a member of a market committee;

(26) "misconduct" in relation to a market functionary shall include any conduct of such functionary which is contrary to any of the provisions of this Act, the rules, the bye-laws or standing orders or is inconsistent with the objects and purposes of this Act;

(27) "notification" means a notification published in the official Gazette;

(28) notified agricultural produce" means any agricultural produce which the State Government has by notification issued under sections 4 and 5 declared as an agricultural produce the marketing of which shall be regulated in the market area;

(29) "over-trading" in relation to a trader means,-

- (i) buying goods on credit to an extent that the aggregate amount payable to the commission agents ¹[or sellers]¹ in the market area at any time exceeds the limit up to which he is permitted to remain indebted to the commission agent ¹[or sellers]¹ according to the bye-laws with regard to the amount of security he has deposited with or the bank guarantee he has furnished to the market committee;

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

- (ii) trading in such a manner as not to be able to pay the amounts due or deliver the goods to the persons entitled to them in respect of the agricultural produce, on the due dates;

(30) "person" includes a firm and ¹[a Joint Hindu Family, a company or firm or association or a body of individuals, whether incorporated or not]¹;

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

(31) "prescribed" means prescribed by rules made under this Act:

¹[(31-A) "Private Market Yard" means such place other than the market yard, market sub yard and sub market yard in the market area where infrastructure has been developed, managed and controlled by a person for marketing of notified agricultural produce holding a license for this purpose under this Act]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.8.2007.

(32) "process" means any one of a series of treatments to which raw agricultural produce is subjected to make it fit for ¹[use or consumption]¹;

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

(33) "processor" means a person who processes notified agricultural produce by mechanical means; ¹[(33-A) "Processing" means any one or more of a series of treatments relating to powdering, crushing, paste making, decorticating, cleaning, ripening dehusking, parboiling, polishing, ginning, pressing, curing or any other manual, mechanical, chemical or physical treatment to which raw notified agricultural produce or its product is subject to make it fit for use or consumption.]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.8.2007

(34) "producer" means who produces notified agricultural produce on one's own account,-

(I) by one's own labour, or

(ii) by the labour of any member of one's family, or

(iii) under the personal supervision of oneself or any member of one's family by hired labour or by servants on wages payable in cash or kind but not in share of the produce;

Explanation: - For the purposes of this clause, a producers' society shall be deemed to be a producer; ¹[(35 x x x)]¹

1. Omitted by Act 35 of 1986 w.e.f. 17.6.1986

(36) "Registrar of Co-operative Societies" includes any officer subordinate to the Registrar of Co-operative Societies in ¹[Karnataka]¹ authorised by him;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

¹[(36-A) "Registration" means registration made under this Act.

(36-B) "Revolving Fund" means the Revolving Fund established under section 64B for the purpose of implementation of Floor Price Scheme.]¹

1. Sub-sections (36A) and (36B) inserted by Act 23 of 2007 w.e.f. 16.8.2007

¹[(37) 'Retail Sale' means a sale of such quantity of notified agricultural produce as the market committee may by bye-laws determine subject to the prescribed maximum limit on which the market fee has already been levied and collected in the concerned market area, to a consumer for domestic consumption and not for subsequent sale or processing,"

(37A) 'Retail Trader' means a person who is engaged in retail sale of any notified agricultural produce on which market fee has already been levied and collected in the concerned market area and holds in stock at a time not exceeding such quantity of notified agricultural produce as the State Government may by notification specify from time to time.]¹

1. Substituted by Act 22 of 2004 w.e.f. 17.5.2004.

(37B) "rural shandy" means a place where retail sale of notified agricultural produce takes place, and where no market functionary operates in accordance with the provisions of this Act, the rules, the bye-laws and standing orders of the Market Committee;]¹

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

(38) "rules" means rules made under this Act;

¹[(38A) "Schedule " means the Schedule to this Act;]¹

1. Inserted by Act 17 of 1980 w.e.f. 30.6.1979

¹[(38B) "Scheduled Castes and Scheduled Tribes" means the Scheduled Castes and Scheduled Tribes specified in respect of Karnataka in the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 for the time being in force."]¹

1. Inserted by Act 13 of 2002 w.e.f. 11.4.2002

¹[(39) "Secretary" means the Secretary of the Market Committee and includes, Additional Secretary or Assistant Secretary of the market committee and any other

officer who is authorised by the Director of Agricultural Marketing to exercise the powers and perform the functions of the Secretary;]¹

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

(40) "seller" means a person who sells or agrees to sell goods;

(41) "solvent" means a person who is not an insolvent;

(42) "standing order" means a standing order made under section 151;

(43) "stockiest" means a person other than licensed commission agent who stocks the goods belonging to other persons, and includes a warehouseman;

(44) "sub-committee" means a sub-committee of a market committee;

(45) "sub-market" means a specified area declared ¹[or deemed to be declared]¹ to be a sub-market under ²[this Act]²;

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

(46) "sub-market yard" means a specified place declared ¹[or deemed to be declared]¹ to be a sub-market yard under ²[this Act]²;

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

¹[(46A) "Spot Exchange" means an exchange for trading of notified agricultural produce through electronic media licenced under section 131D.]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.8.2004

¹[(47) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

(48) "trader" means a person who buys notified agricultural produce either for himself or as an agent of one or more persons for the purpose of selling, processing, manufacturing or for any other purpose, except for the purpose of domestic consumption;

(49) "vehicle" includes a boat or other vessel or a conveyance of any kind;

(50) "warehouse" means any building, structure or other protected enclosure which is or may be used for the purpose of storing agricultural produce being goods on behalf of the depositors but does not include cloak rooms attached to hotels, railways stations, the premises of other public carriers and like;

(51) "weightment" includes counting or measurement;

(52) "yard" includes the market yard, the market sub-yard and the sub-market yard.

CHAPTER II

ESTABLISHMENT OF MARKETS

3. Notification of intention of regulating the marketing of specified agricultural produce in specified area.- (1) The State Government may, by notification, declare its intention of regulating the marketing of such agricultural produce, in such area, as may be specified in the notification. The notification may also be published in Kannada in a newspaper circulating in such area.

(2) The notification shall state that any objections or suggestions which may be received by the State Government within such period as shall be specified in the notification, not being less than thirty days, will be considered by the State Government.

4. Declaration of market area and of regulation of marketing of specified agricultural produce therein.- After the expiry of the period specified in the notification issued under section 3, and after considering such objections and suggestions as may be received before such expiry, the State Government may, by another notification, declare the area specified in the notification issued under section 3 or any portion thereof to be a market area and that the marketing of all or any of the kinds of agricultural produce specified in the notification issued under section 3 shall be regulated under this Act in such market area. A notification under this section may also be published in Kannada in a newspaper circulating in such area.

¹[Provided that a market area shall not be less than a taluk and more than a district:

Provided further that if on the date of commencement of the Karnataka Agricultural Produce Marketing (Regulation) and Certain Other Laws (Amendment) Act, 1991, any market area is more than a district or less than a taluk such market area shall be altered or market committees of such market area shall be amalgamated so that the market area shall not be more than a district or less than a taluk and the provisions of sections 5, 142 and 144 shall, mutatis mutandis apply for such alteration of limits and amalgamation.]¹

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

5. Alteration of market area and of items of regulated agricultural produce.- Subject to the procedure specified in sections 3 and 4, the State Government may, at any time by notification, exclude from any market area, any area or include therein an additional area, or may declare that the regulation of the marketing of any agricultural produce in any market area shall cease, or that the marketing of any agricultural produce (hitherto not regulated) shall be regulated in such market area.

6. Markets, market yards, market sub-yards, sub-markets and sub-market yards.- (1) (a) For every market area,-

- (i) there shall be a market, and
- (ii) there may be one or more sub-markets;

(b) For every market,-

- (i) there shall be a market yard, and
- (ii) there may be one or more market sub-yards;

(c) For every sub-market there shall be ¹[one or more sub-market yards.]¹

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

¹[(1A) in any market area, there may be one or more private market yard or farmer - consumer market yard managed by a person who is a private market licensee or farmer - consumer market licensee other than the market committee.]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.8.2007

(2) (a) The ¹[Director of Agricultural Marketing]¹ shall, as soon as possible after the issue of a notification under section 4, by a notification, declare any specified area in the market area to be a market. He may also by the same notification or by any subsequent notification declare any other specified area in the market area to be a sub-market.

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

(b) The ¹[Director of Agricultural Marketing]¹ shall by a notification under clause (a) also declare a specified place ²[x x x]² in the market to be a market yard for the regulated marketing of the notified agricultural produce specified in the notification. He may also by the same notification or by any subsequent notification or notifications declare ³[any other specified place or places]³, as the case may be, ²[x x x]², in the market to be a market sub-yard or sub-yards for the regulated marketing of the notified agricultural produce specified in the notification.

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

2. Omitted by Act 19 of 1969 w.e.f. 1.5.1968

3. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

(c) Where by a notification under clause (a) any specified area is declared to be a sub-market, the ¹[Director of Agricultural Marketing]¹ shall by the same notification declare a specified place ²[x x x]² in the sub-market to be a sub-market yard for the regulated marketing of the notified agricultural produce specified in the notification:

¹[(d) The Director of agricultural marketing may, by notification, declare a place, licenced under section 72C, in the market area to be a private market yard or farmer - consumer market yard as the case may be, as may be specified in the notification, for marketing of notified agricultural produce.]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.8.2007

Provided that the limits of the market or the sub-market, as the case may be, shall not include any area beyond the limits of the area of the city, town or village within which the market yard or the sub-market yard, as the case may be, is situated:

³[Provided further that if in respect of any market area, the ¹[Director of Agricultural Marketing]¹ is of the opinion that a suitable place for the location of the market yard or sub-market yard cannot be easily secured within the limits of the area of a city, town or village, proposed to be declared as a market or sub-market, he may declare an area including one or more villages, beyond the limits of a city, town or village to be a market or sub-market and declare a place in any such village to be a market yard or sub-market yard for such market or sub-market.]³

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

2. Omitted by Act 19 of 1969 w.e.f. 1.5.1968

3. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

¹[(2A) In respect of any market area declared under any of the enactments repealed by sub-section (1) of section 154, the ²[Director of Agricultural Marketing]² may, as soon as possible after the commencement of this Act, and subject to the provisos to sub-section (2), declare by notification, any specified area in such market area to be a market, any other specified area in the market area to be a sub-market, a specified place in the market to be a market yard, any other place or places to be market sub-yard or market sub-yards, and a specified place in the sub-market to be a sub-market yard.]¹

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

(3) Subject to the procedure prescribed in sections 3 and 4 , the ²[Director of Agricultural Marketing]² may at any time by a notification ¹[alter any market or sub-market or any market yard, market sub-yard or sub-market yard or]¹ exclude any area from any market or sub-market or any place from any market yard, market sub-yard or sub-market yard, or include therein, subject to the ³[provisos]³ to sub-section (2), an additional area or place, as the case may be, or may direct that the regulated marketing of any notified agricultural produce in any market yard, or market sub-yard,

or sub-market yard shall cease or that any notified agricultural produce shall be included in the regulation of marketing in any such yard or sub-yard.

¹[Explanation.- In this section, the expression "place" shall include any structure, enclosure, open place, locality or street, whether vested in the market committee of the market area or not.]¹

1. Inserted by Act 19 of 1969 w.e.f. 1.5.1968
2. Substituted by Act 35 of 1986 w.e.f. 17.6.1986
3. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

¹[(4) For the removal of doubts it is hereby declared that after the alteration of a market area or of the items of regulated agricultural produce, if any, under section 5, it shall not be necessary for the ²[Director of Agricultural Marketing]² to make any declaration under this section unless he is of the opinion that it is necessary to declare any area other than the existing market, sub-market, market yard, market sub-yard, or sub-market yard as market, sub-market, market-yard, market sub- yard or sub-market yard, as the case may be.]¹

1. Inserted by Act 4 of 1982 w.e.f. 1.5.1968
2. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

7. Establishment of markets.-As soon as may be after the issue of the notification under sub-section (2) of section 6 and the making of the first bye-laws under section 149, the ¹[Director of Agricultural Marketing]¹ shall, after satisfying himself that the market committee has made arrangements for regulating the marketing of notified agricultural produce in the market area by a notification, declare a date not less than thirty days from the date of issue of the notification as the date on which the market and the sub-markets, if any, shall be established. For all purposes of this Act, the market and the sub-markets, if any, shall be deemed to have been established for the market area with effect from the date so notified:

²[Provided that in the case of a market or sub-market notified under sub-section (2A) of section 6, the market or sub-market shall be deemed to be established on the date of the notification of the ¹[Director of Agricultural Marketing]¹.]²

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986
2. Inserted by Act 19 of 1969 w.e.f. 1.5.1968

8. Control of marketing of agricultural produce.- (1) After ¹[the market is established]¹ , -

(a) no local authority shall, notwithstanding anything contained in any law for the time being in force establish, authorise or continue or allow to be established,

authorised or continued any place in the market area for the marketing of any notified agricultural produce:

Provided that a local authority may establish or continue any place for retail sale of any notified agricultural produce ²[other than cattle, sheep and goats]² subject to the condition that no market functionary shall operate in such place except in accordance with the provisions of this Act, and the rules and the bye laws and standing orders of the market committee;

1. Substituted by Act 19 of 1969 w.e.f. 17.6.1986

2. Inserted by Act 17 of 1980 w.e.f. 30.6.1979

(b) no person shall, without, or otherwise than in conformity with the terms and conditions of, a licence granted by the market committee in this behalf,-

- (i) use any place in the market area for the marketing of the notified agricultural produce, or
- (ii) operate in the market area or in any market therein as a trader, commission agent, broker, processor, weighman, warehouseman, or in any other capacity in relation to the marketing of the notified agricultural produce:

Provided that nothing contained in clause (b) shall apply,-

- (i) to the sale of such agricultural produce if the producer of such produce is himself its seller, or
- 1[(ii) to the purchase of such produce if the purchaser is a person who purchases such produce for his domestic consumption;]¹:-

1. Substituted by Act 43 of 1976 w.e.f. 1.6.1976

¹[(2)No place except the market yard, market sub-yard, ²[sub-market yard, private market yard or farmer - consumer market yard]² as the case may be, shall be used for purchase or sale of notified agricultural produce.

1. Sub-sections (2) and (3) substituted by Act 29 of 1987 w.e.f. 10.8.1987

2. Substituted by Act 23 of 2007 w.e.f. 16.8.2007

(3) Nothing in sub-section (2) shall apply to,-

- (a) the purchase or sale of notified agricultural produce by,-
 - (i) a Taluk Agricultural Produce Co-operative Marketing Society;
 - (ii) a Primary Agricultural Co-operative Credit Society; and
 - (iii) any other co-operative society permitted by the state Government;

(b) the sale of notified agricultural produce by a retail trader.]¹

¹[(c) a sale by a Contract farming producer to a contract forming sponsor under Contract farming agreement;

(d) a direct purchase of notified agricultural produce by a licensee under section 72A from the agriculturist.]¹

1. Inserted by Act 23 of 2007 w.e.f. 16.8.2007

CHAPTER III

CONSTITUTION OF MARKET COMMITTEE

9. Establishment of Market Committee and its incorporation.- (1) Save as provided in Chapter IX, for every market area, there shall be a market committee having jurisdiction over the entire market area.

(2) Every market committee established under this Act shall be a body corporate by such name as the State Government may by notification specify. It shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall, subject to such restrictions as are imposed by or under this Act, be competent to contract and to acquire, hold, lease, sell or otherwise transfer any property and to do all other things necessary for the purpose for which it is established:

Provided that no immoveable property shall be acquired or transferred without the permission of the ¹[Director of Agricultural Marketing]¹:

²[Provided further that the ¹[Director of Agricultural Marketing]¹ may, for reasons to be recorded in writing, revoke such permission before the completion of the acquisition or the execution of the deed of transfer as the case may be.]²

³[Provided also that Market Committee may, with the prior approval of the Director of Agricultural Marketing and after obtaining valuation certificate from the Deputy Commissioner, enter into agreement with the owner of any land or building and purchase such land or building.]³

⁴[(3) Notwithstanding anything contained in any law for the time being in force every market committee shall for all purposes be deemed to be a local authority.]⁴

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

2. Inserted by Act 4 of 1982 w.e.f. 1.5.1968

3. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

4. Substituted by Act 17 of 1980 w.e.f. 30.6.1979

***10. Constitution of the first market committee.-** (1) Notwithstanding anything contained in section 11, ¹[the first market committee constituted for a market area

declared after the commencement of this Act under section 4]¹ shall consist of the following members nominated by notification by the State Government:-

- (i) ²[eleven agriculturists of whom one shall be a woman and ⁴[one person]³ belonging to the Scheduled Castes, one person belonging to the Scheduled Tribes]², one person falling under category 'A' and one person falling under category 'B']⁴ residing in the market area, not disqualified under sub-clause (a) of clause (1) or clause (2) of section 16;

1. Substituted by Act 19 of 1969 w.e.f. 1.5.1968

2. Substituted by Act 17 of 1980 w.e.f. 30.6.1979

3. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

4. Substituted by Act 13 of 2002 w.e.f. 11.4.2002

- (ii) ¹[one trader]¹ ²[other than a retail trader]² residing in the market area not disqualified under clause (2) of section 16:

1. Substituted by Act 17 of 1980 w.e.f. 30.6.1979

2. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(iii) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

- ¹[(iv) one shall be a member of the committee of management of a Co-operative Marketing Society carrying on business in notified agricultural produce within the market area, who is not disqualified under section 16;]¹

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

- ¹[(v) one shall be a member of the committee of management of an Agricultural Co-operative Processing Society carrying on business in notified agricultural produce within the market area, who is not disqualified under section 16;]¹

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(vi), (vii) x x x]¹

1. Omitted by Act 17 of 1980 w.e.f. 3.11.1979

- ¹[(viii) one shall be an officer not below the rank of the Secretary of the concerned market committee, nominated by the Director of Agricultural Marketing, who shall have no right to vote under section 44;]¹

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(ix) x x x]¹

Provided that if suitable persons of the categories specified in any category of ²[clauses (ii), (iv) and (v)]² are not available, the committee shall

consist only of persons of the available categories nominated by the State Government:

Provided further that when suitable persons of the categories not nominated earlier become available subsequently, they may be nominated as members and such members shall hold office so long as the members first nominated hold the office of members.

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

2. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(1A) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

(2) The State Government shall by notification nominate the Chairman and the Vice-Chairman from among the members nominated under clause (i) of sub-section (1).

(3) The notifications under sub-sections (1) and (2) shall be issued as soon as possible after the issue of a notification under sub-section (2) of section 6 declaring any specified area as the market.

(4) (a) Save as otherwise provided in this Act, ¹[but subject to the pleasure of the State Government]¹ the members of the first market committee shall hold office for a period of two years from the date of notification under sub-section (1):

Provided that the State Government may by notification extend the term of office of the members by such period or periods not exceeding ²[two years]² in the aggregate.

1. Inserted by Act 17 of 1980 w.e.f. 30.6.1979

2. Substituted by Act 8 of 2001 w.e.f. 24.1.2001

¹[(b) A person who is nominated as a member under ²[clause (iv) or (v)]² of sub-section (1) shall hold office so long only as he continues to be the member of the ²[Co-operative Marketing Society or Agricultural Co-operative Processing Society]².]¹

1. Substituted by Act 17 of 1980 w.e.f. 3.11.1979

2. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

(c) In the event of a vacancy occurring on account of death, resignation or otherwise, the vacancy shall be filled by nomination by the State Government and the person nominated shall hold office so long only as the member in

whose place he is nominated would have held it, if the vacancy had not occurred.

This Section and Section 11, 63(2) and 75 were amended , new section 77A was inserted and section 78 was substituted by Act 16 of 1998 but the said amendments are not yet brought into force. The text of the amendment etc., made is at the end of the Act.

***11. Constitution of second and subsequent market committees.**- (1) Save as provided in section 10, every market committee shall consist of the following members, namely:-

¹[(i) eleven members shall be persons elected by the agriculturists in the market area of whom one shall be a woman, one shall be a person belonging to the Scheduled Castes, one shall be a person belonging to Scheduled Tribes and two persons belonging to the Backward Classes out of which one shall be from persons falling under Category 'A' and one shall be from persons falling under category 'B':

Provided that if no person belonging to the Scheduled Caste is available, the seat reserved for that category shall also be filled by a person belonging to the Scheduled Tribes and vice versa:

Provided further that if no persons falling under category 'A' is available, the seat reserved for that category shall also be filled by a person falling under category 'B' and vice versa.]¹

1. Substituted by Act 13 of 2002 w.e.f. 11.4.2002

^{*}[(ii) one member shall be a person elected by the traders other than retail traders, in the market area;]¹

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(iii) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(iv) one member shall be a representative of Co-operative Marketing Societies carrying on business in notified agricultural produce within the market area, who is not disqualified under section 16, elected by the committee of management of such societies;]¹

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(v) one member shall be a representative of Agricultural Co-operative Processing Societies carrying on business in notified agricultural produce, within the market area, who is not disqualified under section 16, elected by the committee of management of such societies;]¹

1. Clause (v) with provisos was omitted by Act 17 of 1980 w.e.f. 3.11.1979 and Clause (v) inserted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(vi), (vii) x x x]¹

1. Omitted by Act 17 of 1980 w.e.f. 3.11.1979

¹[(viii) one shall be an officer not below the rank of the Secretary of the concerned Market Committee nominated by the Director of Agricultural Marketing, who shall have no right to vote under section 41 or section 44.]¹

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(ix) three members shall be persons nominated by the State Government who shall have right to vote in all the meetings of the market committee and shall hold office at the pleasure of the State Government:]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991 and inserted by Act 17 of 1998 w.e.f. 31.3.1998

Provided that if persons of the categories specified in any category of ¹[clauses (ii), (iv) and (v)]² are not available, the committee shall consist only of persons of the categories available:

Provided further that when persons of those categories become available, they may be elected as members and such members shall hold office so long only as the members first elected hold the office of members.

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

¹[Proviso x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

¹[Explanation.- x x x]¹

1. Omitted by Act 17 of 1980 w.e.f. 3.11.1979

¹["(2) The seats reserved for members under clause (i) of sub-section (1) shall be allotted by rotation to different constituencies in the market area:

Provided that the principle of rotation for the purpose of reservation of seats for members under clause (i) of sub-section (1) shall commence from the first general election to be held after the commencement of the Karnataka Agricultural Produce Marketing (Regulation) (Amendment) Act, 2002.

(3) Nothing contained in this section shall be deemed to prevent the persons belonging to the Scheduled Castes or the Scheduled Tribes or Backward classes or women for whom seats are reserved in a Market Committee under clause (i) of sub-

section (1) from standing for election to the non-reserved seats in such Market Committee.

Explanation: For the purpose of this section, section 10 and section 14 categories 'A' and 'B' shall mean category 'A' and 'B' referred to in clause "(2B)" of section 2." ¹

1. Inserted by Act 13 of 2002 w.e.f. 11.4.2002

12. Provisions for elections.- Subject to the provisions of this Act, the members of a market committee shall be elected in the manner prescribed by rules. Such rules may provide also for the preparation and maintenance of the lists of voters, the qualifications and disqualifications of voters, the payment of deposits by candidates and their forfeiture and all matters relating to such elections.

13. Superintendence, direction and control of elections.- (1) Subject to the instructions of the ¹[Director of Agricultural Marketing]¹, the superintendence, direction and control of the preparation of the lists of voters for and the conduct of all elections to the market committee, shall be vested in the Deputy Commissioner:

²[Proviso x x x]²

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

2. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

(2) The State Government shall make available to the Deputy Commissioner such staff and funds as may be necessary for the discharge of the functions and responsibilities conferred on the Deputy Commissioner under this Act.

(3) All expenditure in connection with or incidental to the election of members to the market committees shall be met from the Consolidated Fund of the State.

¹[(4) Notwithstanding anything contained in any law for the time being in force, the State Government may issue instructions relating to all matters connected with elections to the market committees including directions for cancellation of the calender of events or postponement of the poll.]¹

1. Inserted by Act 4 of 1982 w.e.f. 4.11.1981

14. Constituencies for election of certain members.- (1) For the purpose of electing the members referred to in ¹[clauses (i) and (ii)]¹ of sub-section (1) of section 11, to a market committee, there shall be the following constituencies in every market area:-

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991.

(i) ¹[eleven]¹ agriculturists' constituencies electing representatives of agriculturists, each constituency being a single member constituency;

1. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

(ii) one traders' constituency for the entire market area for electing ¹[one representative]¹ of licensed traders; and

1. Substituted by Act 17 of 1980 w.e.f. 30.6.1979

¹[(iii) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

(2) For the purpose of clause (i) of sub-section (1), the Deputy Commissioner shall by notification determine the territorial extent of the ¹[²[eleven agriculturists' constituencies and shall reserve one for women, ³[one for persons belonging to the Scheduled Castes, one for persons belonging to the Scheduled Tribes, one for persons falling under category 'A' and one for persons falling under category 'B']³]²]¹. The number of voters in each such constituency shall as far as practicable be the same throughout the market area.

1. Substituted by Act 17 of 1980 w.e.f. 30.6.1979

2. Substituted by Act 16 of 1991 w.e.f. 1.8.1991

3. Substituted by Act 13 of 2002 w.e.f. 11.4.2002

15. Qualification for candidates for election.- Every person, unless disqualified under the provisions of this Act or any other law for the time being in force, shall be qualified to be elected as a member of the market committee,-

(i) by an agriculturists' constituency, if his name is in the list of voters of any of the agriculturists' constituencies of the market area;

¹[Provided that a persons shall not be qualified to be chosen from an agriculturists constituency reserved for the persons belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes or for woman unless such persons belongs to thoses castes, Tribes or classes or is a woman.]¹

1. Proviso inserted by Act 17 of 1980 w.e.f. 30.6.1979 and Substituted by Act 13 of 2002 w.e.f. 11.4.2002

(ii) by the traders' constituency, if his name is in the list of voters of the traders' constituency of the market area; and

¹[(iii) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

16. Disqualifications for membership.- Without prejudice to any other disqualifications provided in this Act,-

(1) A person shall be disqualified for being chosen as or for being, a member of a market committee,-

(a) as a representative of agriculturists, if he or a firm in which he is a partner, or a body corporate (other than a co-operative society) in which he is a director, or a joint family of which he is a member, does business as a trader, ¹[commission agent, broker, importer or exporter in any market area] ²[or was doing business as a trader, commission agent, broker, importer or exporter, till such date not later than five years immediately preceding the date of election]²;

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

2. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

(b) as a representative of traders, if he has ceased to be a licensed trader;

¹[(c) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991

(2) A person shall be disqualified for being chosen as or for being , a member of the market committee,-

(a) if he is less than twenty-one years of age; or

* (b) if he has been sentenced by a criminal court for imprisonment for an offence which involves moral turpitude and which is punishable with imprisonment for a term exceeding six months, such sentence not having been subsequently reversed or remitted; or

¹[(ba) if he has been convicted for an offence punishable under section ²[114, 117 and 118]² of this Act, such conviction not having been subsequently set aside; or]¹

1. Inserted by Act 17 of 1980 w.e.f. 30.6.1979

2. Substituted by Act 29 of 1987 w.e.f. 10.8.1987

(c) if an order is passed against him under section 108 of 1[the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)]¹, in proceedings instituted under section 110 of that Code, such order having not been subsequently reversed or quashed; or

1. Substituted by Act 17 of 1980 w.e.f. 3.11.1979

(d) if he is an undischarged insolvent; or

(e) if he is of unsound mind and stands so declared by a competent court; or

(f) if he is a servant of any market committee, local authority or co-operative society or holds a licence from the market committee as a weighman, measurer, ¹[surveyor or hamal]¹; or

1. Substituted by Act 35 of 1986 w.e.f. 17.6.1986

(g) if, save as hereinafter provided, he has directly or indirectly any share or interest in any work done by the order of the market committee, or any contract of employment with, or under, or by, or on behalf, of the market committee; or

(h) if he is employed as a legal practitioner on behalf of the market committee or accepts employment as a legal practitioner against the market committee; or

¹[(hh) if he is a defaulter for a period of seven days or more by failing to pay the sale proceeds or other amount due to the seller, from the date of sale]¹; or

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

(i) if he is a defaulter for a period of more than fifteen days by failing to pay any fee or other amount due to the market committee, from the date on which the bill in that regard is presented to him:

Provided that,-

(i) the disqualification in ¹[sub-clauses (b) and (ba)]¹ shall cease to operate after the expiry of five years from the date of such sentence ²[or such conviction, as the case may be]²;

1. Substituted by Act 17 of 1980 w.e.f. 3.11.1979.

2. Inserted by Act 17 of 1980 w.e.f. 3.11.1979

(ii) the disqualification in sub-clause (c) shall cease to operate after the expiry of the period during which a person is ordered to furnish security;

(iii) a person shall not be deemed to have incurred disqualification under clause (g) by reason of his,-

(a) having a share in any joint stock company or a share or interest in any association registered under the ¹[Karnataka]¹ Societies Registration Act, 1960, or in any co-operative society which shall contract with or be employed by or on behalf of the market committee; or

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(b) holding debenture or being otherwise concerned in any loan raised by or on behalf of the market committee;

¹[(3) x x x]¹

1. Omitted by Act 16 of 1991 w.e.f. 1.8.1991