

For internal use of Indian Audit & Accounts Department

**STATE RECEIPT AUDIT MANUAL
ON
STATE EXCISE DUTIES**

(Second Edition)

**ISSUED BY :
THE ACCOUNTANT GENERAL(WORKS, FOREST & RECEIPT AUDIT), KERALA,
THURUVANANTHAPURAM**

PREFACE

The manual is meant to provide general directions and detailed instructions regarding the audit checks to be exercised by the field parties auditing the offices of Excise Department. The instructions in this manual are only supplementary to those contained in the codes and manuals issued by the Comptroller and Auditor General of India and other Authorities.

The provisions of this manual shall not be quoted as authority in any correspondence outside this office.

SRA(HQ)Section dealing with Excise Revenue Receipts Audit is responsible for keeping the manual up to date by issue of correction slips.

Thiruvananthapuram
7.6.2010

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CHAPTER I

CONSTITUTIONAL PROVISIONS RELATING TO THE CONTROL, TAXATION OF LIQUORS ETC. ADMINISTERED BY THE EXCISE DEPARTMENT

1.1. Under the constitution no tax can be levied except under authority of law made by Parliament or State Legislature. Matters in respect of which Parliament and State Legislature is competent to make laws are given in Lists I and II of the 7th Schedule to the Constitution known as Union List and State List respectively.

1.2. Liquors - The Legislature of the State has power to make laws with respect to the following-

1. intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.
2. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:-
 - a. alcoholic liquors for human consumption;
 - b. opium, Indian hemp and other narcotic drugs and narcotics but not including medicinal and toilet preparations containing alcohol or any substance aforementioned.
3. Taxes on luxuries
4. Fees in respect of any matters in this list but not including fees taken in any court.
 1. (Items 8.51, 62 and 66 in the list II of the Seventh schedule to the Constitution of India)

The statutory basis of administration of transactions relating to 'Liquor' in this State including the levy of duties, taxes and fees referred to above is "the Abkari Act I of 1077 (ME)" as amended from time to time.

1.3. Medicinal and toilet preparations

i) Parliament has exclusive power to make laws on duties of excise on medicinal and toilet preparations containing alcohol, opium, etc., under the Union list as per Entry 84 of the List I of 7th schedule which reads as follows:-

“Duties of excise on tobacco and other goods manufactured in India except-

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol or any substance included in sub paragraph (b) of this entry”

(ii) Under Article 268 of the Constitution these duties are levied by the Government of India, but are collected by the State. The proceeds of such duties shall be assigned wholly to the State and shall not form part of the Consolidated Fund of India. The statutory basis for the levy and collection of these duties is “Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (Central Act) and the rules made thereunder by the Government of India”.

CHAPTER II

ABKARI ACT I OF 1077 - SALIENT PROVISIONS GOVERNING THE ADMINISTRATION OF TRANSACTIONS OF LIQUOR

2.1. The salient provisions in the Abkari Act I of 1077, which governs the administration of the transactions relating to liquor in the State are briefly mentioned below:-

(i) **Import and Export of liquor** - The import and export of liquor shall be made only under permit obtained from competent authority and only after the payment of the duties, taxes, fees, etc., which are due to Government under this Act (**Sections 6 & 7**).

(ii) **Transport of liquor** - Transport of liquor exceeding such quantities as may be prescribed by notifications of Government can be made only under permit issued by competent authority (**Sections 10 & 11**).

(iii) **Operations for which a licence is required** - Manufacture of liquor, tapping of trees, drawing of toddy from trees, construction or working of distillery, brewery, and winery or other manufactory in which liquor is manufactured and bottling of liquor for sale, should be undertaken only under licence issued by competent authority (**Section 12**).

(iv) **Possession of liquor** - Possession of liquor, in excess of such quantities as may be prescribed by the Government by notification, by any person other than a licensed manufacturer or vendor or warehouseman of liquor or intoxicating drug, without a licence is prohibited. However, when licences are issued for the possession of liquor exceeding the prescribed quantity for bonafide private consumption or use, no fee is charged for issuing such licences (**Section 13**).

(v) **Sale of liquor** - No sale of liquor can be conducted except under licence issued by competent authority (**Section 15**).

(vi) **Grant of privilege on rental** - Section 18 A provides for the grant of exclusive or other privilege (i) of manufacturing or supplying by wholesale or (ii) of selling by retail or (iii) of manufacturing or supplying by wholesale and selling by retail, to any person on payment of an amount as rental in consideration of the grant of such privilege. The amount of such rental may be settled by

auction, negotiation or by any other method as may be determined by Government from time to time. This rental may be collected to the exclusion of or in addition to the duty or tax leviable under Section 17 and 18 of the Act.

(vii) Duty on liquor - Section 17 of the Act provide for the levy of such duty of excise or luxury tax or both if the Government so direct on all liquor and intoxicating drugs:-

1. Permitted to be (a) imported
(b) exported and
(c) transported
2. Manufactured; and
3. issued from a manufactory or warehouse; and
4. sold in any part of the State.

(viii) Mode of levy of Excise/countervailing duty and Luxury Tax

Such duty of excise or countervailing duty may be levied and collected:

- (A)** (1) (a) in the case of spirit or beer, either on the quantity produced in or passed out of a distillery, brewery, winery or other manufactory licensed or established under Section 12 or Section 14, as the case may be, 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 or on the value of liquor, as the case may be, as the Government may prescribe;
- (b) in the case of intoxicating drugs, on the quantity produced or manufactured under a licence granted under Section 12 or issued from a warehouse licensed or established under Section 12 or 14;
- (c) in the case of toddy or spirits manufactured from toddy, in the form of a tax on each tree from which toddy is drawn, to be paid in such installments and for such period as the Government may direct; or
- (d) in the case of import of spirits, beer or intoxicating drugs, in such manner as may be prescribed.

2. The duty of excise or countervailing duty under sub section (1) of Section 18 shall be levied and collected at such rates as may be fixed by the Government from time to time by notification in the gazette.

(B) (1) Such Luxury Tax on liquor or intoxicating drugs shall be levied-

(i) In the case of any liquor, in the form of a fee for licence for the sale of the liquor and in the form of a gallonage fee or vending fee or in any one of such forms and

(ii) In the case of an intoxicating drug , in the form of a fee for licence for the sale of the intoxicating drug

(2) Such Luxury Tax shall be levied at such rates as may be fixed by Government from time to time, by notification in the gazette
(Section 18).

Provided that the excise duty or countervailing duty shall be payable by manufacturer or importer of the liquor or intoxicating drugs as the case may be:

Provided further that such duty or countervailing duty may be paid by any subsequent dealer on behalf of the manufacturer or importer, as the case may be
(Section 18).

(ix) Recovery of dues - All dues under the Act are recoverable as though they were arrears of land revenue **(Section 28).**

(x) Penalties - Part IX of the Act deals with penalties for offences under the Act and departmental compounding of offences in certain circumstances

(xi) Establishment and control - Section 4 provides for the appointment of a Commissioner of Excise to have control of the administration of the Excise Department and of the collection of the Abkari revenue and for the appointment of other personnel to perform the various acts and duties mentioned in the Act.

(xii) Power to make rules - Section 29 empowers government to make rules for the purpose of carrying out the provisions of the Act.

3.2. Some of the important rules framed under the Abkari Act are given below:-

(1) The Kerala Distillery and Warehouse Rules 1968

- (2) The Kerala Rectified Spirit Rules 1972
- (3) The Kerala Foreign Liquor (Compounding Blending and Bottling) Rules 1975
- (4) Foreign Liquor Rules
- (5) Foreign Liquor (Storage in Bond) Rules 1961
- (6) The Tree Tax Rules
- (7) The Kerala Abkari Shops Disposal Rules 2002
- (8) The Abkari Shops Departmental Management Rules 1972
- (9) The Kerala Spirituous Preparations (Control) Rules 1969
- (10) The Kerala Winery Rules 1970
- (11) The Brewery Rules 1967.
- (12) The Kerala Foreign Liquor (Registration of Brand) Rules 1995

CHAPTER III

DEPARTMENTAL SET UP

The Commissioner of Excise appointed by Government exercises general control over the administration of the Excise Department and the collection of Excise Revenue in the State. He is assisted by Additional Commissioners of Excise. Below them there are the Joint Commissioners of Excise in charge of a group of Divisions called Zone. For the purpose of effective administration the State is divided into Divisions (each division being a revenue district) each under the control of a Deputy Commissioner of Excise. Next below the Deputy Commissioner of Excise, there are Assistant Commissioners of Excise and Circle Inspectors of Excise. Each Circle is further sub divided into Ranges under the charge of an Excise Inspector who is assisted by Preventive Officers and Guards.

The principal duties of the Excise Department are the protection, augmentation and collection of excise revenue and suppression of malpractices.

The Commissioner of Excise has to submit to Government every year sufficiently in advance, proposals for the Abkari policy to be followed in the next year with special reference to the changes to be made in the rates of duty, tree tax, gallonage fee, number and location of shops, the conditions under which the right of vend is to be sold in auction or disposed of otherwise. He is also empowered to sanction or recall of licences under all the Acts administered by the department. In the case of Distilleries, Compounding and Blending Units and Breweries the grant of licences shall be subject to prior approval of Government

It is the duty of the Joint Commissioner of Excise to ensure proper discipline in the Zone, to inspect Division offices, to review and over check the inspection of Ranges by the Deputy Commissioners of Excise and in general to assist the Commissioner in the exercise of the general control over the Excise Department.

The Deputy Commissioner of Excise, who is in charge of a division, is responsible for the success in auctions, assessments, levy and collection of revenues in his Divisions, and suppression of malpractices. He is competent to conduct the resale of shops. He shall inspect the Range Offices under him once in every six months and the pharmaceuticals, distilleries and warehouses once in a

quarter. He shall issue all licences and permits under all the Acts administered by the Department after obtaining the sanction of the Commissioner or Joint Commissioner of Excise as the case may be, wherever necessary. He should also ensure that the conditions of the licence and provisions of the Act and rules are adhered to by the licensees and that the accounts are properly maintained by them.

The Circle Inspectors are responsible for the assessment, levy and collection of excise revenues, detection, investigation and prosecution of cases and prevention of malpractices in the area under his jurisdiction. He shall inspect all the licences issued in the area under his jurisdiction to see that the licensees fully abide by the conditions under which the licences are issued.

Excise Inspectors in charge of the ranges are mainly responsible for the detection of cases and suppression of malpractices in their respective jurisdiction. He should also ensure that all the trees for tapping are got marked.

The Excise Inspector of every Range is assisted by a team of Preventive Officers and Guards for the due discharge of the duties and powers entrusted to him.

Excise Inspectors and their staff are also posted in charge of the Distilleries, Breweries, Warehouses of FL 9 Licencee (Kerala State Beverages Corporation) and Pharmaceuticals. They are responsible for ensuring that the duty, gallonage fee and other dues to Government are properly collected and credited to Government account and that there is no leakage of revenues or surreptitious removal of liquors or preparations and that there is no manipulation of account of wastages.

CHAPTER IV
VARIOUS TYPES OF EXCISE REVENUE OF THE STATE

4.1. The various types of Excise Revenue credited under the Major Head “0039 State Excise” are as follows:-

- 1. *Rentals payable in consideration for the grant of privilege***
 - i. of manufacturing or supplying by wholesale or
 - ii. of selling by retail, or
 - iii. of manufacturing or supplying by wholesale and selling by retail, any liquor or intoxicating drug (**Section 18 A of the Abkari Act**)
- 2. *Duty of Excise* (Sections 17 and 18 of the Abkari Act)**
- 3. *Luxury Tax* in the form of licence fees or gallonage fee (**Sections 17 & 18 of the Abkari Act**)**
- 4. *Fines imposed* for violation of licence conditions (**Section 67 of the Abkari Act**)**
- 5. *Recovery* towards cost of establishment employed in Distilleries, Compounding and Blending Units, Pharmaceuticals, Breweries, warehouses of FL (Licencee (KSBC) etc. (**Section 14 of the Abkari Act**)**

These are dealt with in detail in succeeding paragraphs.

4.2. Duty on liquor - Section 17 of the Abkari Act I of 1077 enables Government to levy duty of excise or luxury tax or both on all liquor and intoxicating drugs (i) imported, or (ii) exported, or (iii) transported, or (iv) manufactured under a licence granted under Section 12 or (v) manufactured at or issued from any distillery, compounding and blending units, brewery, winery or other manufactory licensed or established under Section 12 or Section 14 or (vi) sold in any part of the State.

The duty of excise referred to above shall include countervailing duty on such goods manufactured or produced elsewhere in India and brought into the State (**Section 17 of Kerala Abkari Act**).

Mode of levy - Section 18 (1) of the Act enables Government for the levy of the duty of excise in the following forms:-

(a) Spirits or beer

(i) either on the quantity produced in or passed out of a distillery, brewery winery or other manufactory or warehouse licensed or established under Section 12 or Section 14 of the Act or

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

(b) Toddy - The duty can be levied on toddy or spirits obtained from toddy in the form of a tax on each tree from which toddy is drawn, to be paid in the manner prescribed by Government (**Section 18 (2)**).

(c) Intoxicating drugs - The duty can be levied on the quantity produced or manufactured or issued from a warehouse licensed or established under Section 14; and

(d) For import or export in such manner as the Government may direct.

(iii) Rates of Duty

Rates of Duty prevalent now

The duty under Sections 17 and 18 of Abkari Act will be levied on the following kinds of liquors manufactured in the area where the Abkari Act is in force or manufactured elsewhere in India or imported into Kerala by land, air or under bond by sea or air at the rates mentioned against each kind of liquor.

The duty on spirit contained in such liquors manufactured elsewhere in India or imported into the area where Abkari Act is in force, by sea or otherwise than under bond shall be equal to the duty to which such spirits imported into the said area by sea or air are liable under the Tariff Act or any other Law for the time being in force relating to the duties of customs on goods imported into the area.

Kind of liquor	Rate of duty
<p>I. Indian made Foreign Spirits and Beer except those consumed by Defence Services.</p> <p>(1). When exported by distilleries/ Breweries to other State and not reimported into this State, in case where the following terms and conditions are satisfied, namely:-</p> <p>(i). The export is under bond to cover the duty at the rate of Rs 20 (Rupees Twenty Only) per proof litre in case of Indian made Foreign Liquor and Rs.2 (Rupees two only) per bulk litre in the case of Beer or at the rate prevailing in the importing State if the Export is on Duty prepaid permits from the importing States.</p> <p>(ii) No Objection certificate or import certificate from the Excise Authorities of the importing State is produced by the Distillery/Brewery.</p> <p>(iii) Duty paid to the Kerala Government before Export</p> <p>(iv)The verification certificate from the Excise Authorities of the importing State is produced before the Excise Officer of the Distillery/Brewery within 42 days of dispatch or within such further time as the Excise Commissioner may allow for sufficient cause.</p> <p>(v) Duty at the rate of Rs 20 (Rupees Twenty Only) per proof litre in the case of Indian made Foreign Liquor and Rs 2 (Rupees Two only) per litre in the case of Beer is paid in all quantities unaccounted for, and</p> <p>(vi) Export through air, rail, road or ship</p>	<p>Rs 5 (Rupees five only) per proof litre in the case of Indian Made Foreign Liquor and Re 1 (Rupee One only) per bulk litre in the case of beer.</p>
<p>(2) In other cases</p>	<p>Rs 20 (Rupees Twenty only) per proof litre in the case of Indian Made Foreign Liquor and Rs 2 (Rupees Two only) per bulk litre in respect of Beer.</p>

Kind of liquor	Rate of duty
II. Indian Made Rectified Spirit and absolute alcohol (except rectified Spirit and absolute alcohol required for purpose of Central/State Government in which case no duty shall be levied)	Rs 15.50 (Rupees Fifteen and paise fifty only) per proof litre.
III. Indian Made Wine, medicated wine and similar preparations but not including preparations on which duty is leviable under the Medicinal and Toilet Preparations (Excise Duties) Act 1955.	Rs 12 (Rupees Twelve only) per proof litre.
IV. Indian Made Foreign Spirits consumed by defence service personnel and Ex-servicemen supplied through canteen stores department (or through other sources in production of a certificate from canteen stores department of non availability of spirits for supply provided the Ex-servicemen produce non transferable canteen permits issued to them and also the discharge certificates, at the time of making the purchases.	Rs 7 (Rupees Seven only) per proof litre.
V. Indian made Foreign Spirits consumed by Naval Personnel on Board of their Ships, supplied through Canteen Stores Department.	Nil
VI. Indian Made Beer	Rs 2 (Rupees two only) per bulk litre
VII. Arrack 25 degree U.P	Not in force
VIII. Mass Wine	Rs 3 (Rupees three only) per bulk litre
IX. Spirituous culinary aerated water and other flavouring essences, extracts, perfumes and other colouring but not including preparations on which duty leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. The above rates were modified as follows with effect from 1-4-96 vide to GO /P/776/96/TD dt. 30.3.96 (SRO 330/96)	Rs 18 (Rupees Eighteen Only) per proof litre.

The import and export fees, the Excise Duty and luxury tax under Sections 6, 7, 17 and 18 of Abkari Act shall be levied on the following kinds of liquors manufactured in the State and exported outside the State under bond in force or manufactured elsewhere in India and imported into the State by land, air or sea under bond, at the rates mentioned against each kind of liquor.

The excise duty, import fee or luxury tax on liquor manufactured elsewhere in India and imported into the State by land, air or sea otherwise than under bond shall be equal to the duty to which such liquor manufactured in the State are liable under the Act such as import fee, excise duty or luxury tax namely:-

Kind of liquor	Rate of Excise duty	Rate of Luxury tax	Rate of Import fee	Rate of Export fee
<p>I Indian Made Foreign Liquor including Beer except those consumed by Defence Services.</p> <p>(1). When exported by distilleries / Foreign Liquor (Compounding, Blending and Bottling) Units/ Breweries to other State and not reimported into this State, in case where the following terms and conditions are satisfied, namely:-</p> <p>(i). The export is under bond to cover the duty at the rate of an amount equal to 200 per cent of the value of Indian made Foreign Liquor and gallonage fee at the rate of Rs.3 per bulk litre in the case of beer.</p> <p>(ii) No objection certificate or import certificate from the Excise Authorities of the importing State is produced by the Distilleries/ Foreign Liquor (Compounding, Blending and Bottling) Units/Breweries.</p> <p>(iii) Excise duty, Luxury tax and Export fee paid to the Kerala Government before Export</p> <p>(iv) The verification certificate from the Excise Authorities of the importing State is produced before the Excise Officers in charge of the Distilleries/ Foreign Liquor (Compounding, Blending and Bottling) Units/ Breweries within 42 days of dispatch or within such further time as the Excise Commissioner may allow for sufficient cause</p> <p>(v) Duty at the rate of an amount equal to 200 per cent of the value of Indian Made Foreign Liquor and gallonage fee at the rate of Rs.3 per bulk litre in the case of Beer is paid on all quantities unaccounted for; and</p> <p>(vi) Export through air, rail, road or ship</p>				<p>Rs 5 (Rupees five only) per proof litre in the case of Indian Made Foreign Liquor and Rs.2 (Rupees Two only) per bulk litre in the case of Beer</p>
<p>2. In the case of</p> <p>(a) Indian Made Foreign Liquor other than beer imported (bond or under bond)</p>			<p>Rs 5 per Proof litre</p>	

Kind of liquor	Rate of Excise duty	Rate of Luxury tax	Rate of Import fee	Rate of Export fee
(b) Beer imported (bond or under bond)			Rs.2 per bulk litre	
(c) Wine imported (duty paid or under Bond) <i>GO(MS)34/07/TD dated 1.3.2007</i>			Rs.2 per bulk litre	
3. In other cases:- Indian Made Foreign Liquor (Excluding beer and wine) of a value (per case)ranging from 1. Rs 235 and above but below Rs 250	14.5% of the value of a case of liquor per proof litre subject to the minimum of Rs 34.50.			
2. Rs 250 and above but below Rs 300	15.5% of the value of a case of liquor per proof litre subject to the minimum of Rs 40			
3. Rs 300 and above but below Rs 400	16% of the value of a case of liquor per proof litre subject to the minimum of Rs 53.			
4.Rs 400 above but below Rs 500	16% of the value of a case of liquor per proof litre subject to the minimum of Rs 66			
5.Rs 500 and above but below Rs 1,000	16% of the value of a case of liquor per proof litre subject to the minimum of Rs 80.			
6.Rs 1,000 and above	16% of the value of a case of liquor per proof litre subject to the minimum of Rs 165.			
(b)Beer (c)Wine	Rs 3 per Bulk litre			
IV. Medicated wine and similar preparations but not including preparations on which duty is leviable	Rs.12 (Rupees twelve only)			

Kind of liquor	Rate of Excise duty	Rate of Luxury tax	Rate of Import fee	Rate of Export fee
under the Medicinal and Toilet Preparations (Excise Duties) Act.1955	per proof litre.			
Explanation:- Where any liquor is chargeable with duty at a rate depending on the value of the liquor, such value shall be the value at which the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, purchases such liquor from the suppliers and in case any such liquor is not purchased by the KSBC(M&M), such value shall be the value fixed by the Commissioner.				

The Prevalent rate of licence Fee

Sl. No.	NAME OF LICENCE	LICENCE FEE/ RENTAL	LICENCE ISSUING AUTHORITY
1.	Toddy Shop Licence	As fixed from time to time annually	Deputy Commissioner of Excise of the Division where shops are situated
2.	FL1 Licence	-do-	-do-
3.	FL3 Licence	Rs 22 lakh per year	Commissioner of Excise
4.	FL4 (Club licence)To Seamen and Marine Officers	Rs 50,000 per year	-do-
5.	FL4.A Club licence	Rs 6 lakh per year	-do-
6.	FL5 (for sale of medicated wine)	Rs 500 per year	-do-
7.	FL6 Special licence	Rs 15,000 per day	-do-
8.	FL 7 licence for possession of rectified Spirit for industrial use	Vending fee as fixed by Govt.	-do-
9.	FL8 (for sale of foreign liquor through Canteens/ messes attached to Military Units)	Rs 500 per year	Deputy Commissioner of Excise of the Division
10.	FL9 of KSBC	Rs 25 lakh per year	Commissioner of Excise
11.	FL10 (for authorized distributors of products of Distillery, Brewery, Winery and compounding blending and bottling units)	As may be fixed by Government from time to time	-do-
12.	FL11 Beer, Wine Parlour	Rs 4 lakh per year	-do-
13.	Beer retail sale outlets	Rs 3 lakh per year	-do-
14.	Pub beer Parlour licence	Rs 5,000 per year	-do-
15.	Distillery licence in Form.I	Rs 2 lakh per year	-do-
16.	Compounding licence for Distilleries in Form.II	Rs 2 lakh per year	-do-
17.	Bottling licence to a Distillery in Form.III	Rs 2 lakh per year	-do-
18.	Label approval fee for Distilleries	Rs 10,000 per	-do-

Sl. No.	NAME OF LICENCE	LICENCE FEE/ RENTAL	LICENCE ISSUING AUTHORITY
		label	
19.	Warehouse licence in Form.IV for a Distillery	Rs 50,000 per year	-do-
19A	Licence for import of ENA for a distillery	Rs 10,000 per year	-do-
20.	Brewery licence	Rs 2 lakh per year	-do-
21.	Bottling licence in Brewery in Form.B1(A)	Rs 1 lakh per year	-do-
22.	Label approval for Brewery	Rs 10,000 per label	-do-
23.	Compounding and blending licence in Form 1 for compounding and Blending units	Rs 2 lakh per year	-do-
24.	Bottling licence in Form.2 for compounding and blending units	Rs 2 lakh per year	-do-
25.	Spirit possession licence in Form.4 for compounding and blending units	Rs 1 lakh per year	-do-
26.	Label approval fee for compounding and blending units	Rs 10,000 per label	-do-
27.	RS.I licence for possession of Rectified Spirit by person or institutions other than distilleries	Rs 100 per year (if the annual quantity does not exceed 10 litre) Rs 2,000 per year in all other cases	Deputy Commissioner of Excise after obtaining the orders of Commissioner of Excise
28.	Bonded Spirit store licence in Form.RS.III	Rs 1,000 per year	Commissioner of Excise
29.	SP.VI for wholesale of spirituous preparations	Rs 500 per year	Assistant Excise Commissioner after obtaining approval from Excise Commissioner
30.	SP.VII for retail sale of allopathic medicinal preparations	Rs 300 per year	-do-
31.	SP.VII for retail sale of Homeopathic preparations and preparations under indigenous system	Rs 150 per year	-do-
32.	Brand Registration fee to the manufacturers of foreign Liquor	Rs 50,000 per brand	Commissioner of Excise

4.3. Compounding fines - Dealt with in Chapter XV relating to Offences and Penalties.

4.4. Recovery of cost of establishment for supervision - Section 14 of the Abkari Act enables the Commissioner of Excise with the previous approval of the Government (i) to prescribe the mode of supervision that may be necessary in a

distillery, brewery, winery or other manufactory where liquor is manufactured under a licence granted under the Act or warehouse wherein liquor is deposited and kept without payment of duty under a licence granted under the Act, or in any other manufactory where preparations containing liquor or intoxicating drugs are manufactured to ensure the proper collection of duties, taxes and other dues payable under this Act or the proper utilization of liquor or intoxicating drugs and (ii) to prescribe the size and nature of the establishment necessary for such supervision and the cost of the establishment and other incidental charges in connection with such supervision to be realized from the licensees. Accordingly, excise staffs have been posted by the Commissioner with the approval of Government in Distilleries, Compounding and Blending Units, Breweries, FL Warehouses and Pharmaceuticals.

Distillery - The Distillery shall pay the cost of the establishment employed in the Distillery including allowances, leave salary and pension contribution at such rates as may be prescribed by the Government from time to time.

(Rule 14 of the Kerala Distillery and Warehouse Rules 1968 Part I)

Brewery - The establishment charges of the excise staff appointed to supervise the Brewery is to be borne by the brewer. Such charges at such rates fixed by the Commissioner from time to time should be paid into the Government Treasury in the first week of each month in advance. In the case of default, the Deputy Commissioner of Excise is competent to adjust the dues from the security furnished by the Brewer. The Brewer should also pay contingent charges for running the office of the Officer in charge, including furniture, stores, stationery printed form and registers prescribed under the Brewery Rules. Quarters for the surveying officer and to the subordinate staff have to be provided by the Brewer or taken on rent at a higher rate **(Rule 21 A of Brewery Rules 1967 Part I)**.

Bottlers licensed premises - Every licensee shall pay the cost of the establishment including the allowances, leave salary and pension contribution for every month in advance. If the licensee fails to remit the cost on the first day of every month interest @ 18 per cent per annum shall be charged and from the 20th of the month penal interest at 2.5 per cent per annum shall also be charged **(Rule**

6(3) of the Kerala Foreign Liquor Compounding, Blending and Bottling Rules, 1975).

Holders of RS III licence under Rule 16 of the Kerala Rectified Spirit Rules, 1972 (Bonded spirit store licence) - The cost of establishment shall be payable by the licensee in advance on the first day of every month as per countersigned chalan to be obtained from the Excise Officer in charge of the licensed premise. The rate at which the cost of establishment is to be paid by the licensee will be fixed by the Commissioner from time to time. The cost of establishment means the average cost of pay and leave salary contribution. If the licensee fails to remit the cost on the first day of every month interest @18 *per cent per annum* shall be charged and from the 20th day penal interest @ 2.5 *per cent per annum* shall also be charged. If the services of the Officer in charge or other staff are utilized for supervision on any holiday or for any time in excess of the normal prescribed working hours on any working day, the licensee is required to pay the Government the overtime fees payable as per the rule followed for payment of such allowances to officers in charge of distilleries (**Rule 16(4) and explanation there under to the Kerala Rectified Spirit Rules, 1972**).

Receipts under M&TP (ED) Act 1955 - Dealt with in Chapter XIII.

CHAPTER V

LIQUOR, ALCOHOLIC STRENGTH OF LIQUORS, PROOF STRENGTH

5.1. Liquor – Liquor referred to in the Act means alcoholic liquors. It includes fermented liquors such as toddy, beer, wines, etc., and spirits i.e., liquors obtained by distillation such as brandy, whisky, etc. (**Section 3 (9) & (10)**).

The term alcohol referred to in the Act means Ethyl alcohol (Ethanol) of the Formula C₂H₅OH.

5.2 Liquor comes under the following categories as already stated:-

(i) **Fermented liquors** - e.g. Toddy, Beer, Wine, etc.

(ii) **Distilled liquors or Spirits** - e.g. arrack, cocobrandy, spirit, brandy, whisky etc.

The liquor is further classified into “Country liquor” and “Foreign liquor” for the purpose of levy of duty under the Act.

Country liquor- Toddy and arrack.

Foreign liquor- Includes all liquor other than country liquor.

5.3. Possession and transfer of liquor – No person, not being a licenced manufacturer or vendor of liquor, shall have in his possession or shall transport any liquor specified in the table below exceeding the quantity shown against it, except under a permit or licence, as the case may be, issued by competent authority under the said Act.

Sl. No.	Kind of liquor	Quantity
1.	Toddy	2.5 litres
2.	Indian Made Foreign Liquor	3 litres
3.	Beer	7.8 litres
4.	Wine	7.8 litres
5.	Foreign Made Foreign Liquor	4.5 litres
6.	Coco brandy	1.5 litres

Provided further that the Ex-Servicemen/Defence personnel may possess their quota of liquor, subject to production of their identity cards and the bills regarding the issue of the liquor or necessary certificates to that effect from the canteen officer who issued the liquor, for verification (**GO (P) No 22/99/TD dt**

05.02.1999 issued in SRO No 127/99 and SRO No. 963/2002, with effect from 30.11.2002 and GO(P)127/03/TD dated 2.8.2003 issued in SRO725/2003).

5.4. Alcoholic strength of liquors

(i) The strength of alcoholic liquors is generally determined by using hydrometers. The hydrometer indicates the specific gravity of the liquor. The specific gravity is the index of the alcoholic content in the liquor. The specific gravity of water is 1.00 and that of absolute alcohol at 15.6 °C (60 °F) is 0.794. Thus any mixture of alcohol and water (in alcoholic liquor) will have a specific gravity between 0.794 and 1.000.

(ii) For the levy of excise duty on liquors and in commercial transaction the strength of a given liquor (spirit) is not indicated by its specific gravity instead its strength is indicated with reference to the “standard strength” termed as “proof”.

(iii) Proof Spirit means a mixture of ethanol (C₂H₅OH) and water which shall, at a temperature of 10.6⁰ C (or 51⁰F) weigh exactly twelve-thirteenth part of an equal volume of distilled water at the same temperature. It has a density of 0.91976 at 15.6⁰C (or 60⁰ F) and contain 49.28 *per cent* by weight of alcohol or 57.10 *per cent* of alcohol by volume at 15.6⁰ C (or 60⁰ F).

(iv) Absolutely pure alcohol is 75 *per cent* over proof (175⁰ proof or 75⁰ OP) and contains 175 *per cent* of proof spirit. That is to say, one litre of absolute alcohol is equivalent to 1.75 litres of proof spirit. Water which does not contain any alcohol is described as 100 *per cent* under proof (100⁰UP) or 0⁰ proof.

5.5 Proof strength vis a vis Alcohol content by volume - As already stated one litre of absolute alcohol when suitably diluted with water can be converted into 1.75 litres of proof spirit. In other words, one litre of alcohol is equivalent to 1.75 litres of proof spirit. Conversely, one proof litre of spirit will be equivalent to 4/7(0.571 or 100/175) litre of absolute alcohol. Using this relation, we may be able to determine the alcoholic content in a given liquor in terms of volume. Thus, (i) (10 litres of 70⁰ proof spirit (30⁰UP) contain $70/100 \times 4/7 \times 10 = 4$ litres of alcohol or 40% by volume of alcohol and (ii) 10 litres of 140⁰ proof (40⁰ OP) spirit shall contain $140/100 \times 4/7 \times 10 = 8$ litres of alcohol or 80 *per cent* by volume of alcohol.

The alcoholic strength of various liquors manufactured in the State and imported from outside the State is given below:-

Type of liquor	Alcoholic content	
	%proof	% volume
Indian Beer	8.75	5
Brandy, Whisky, Rum , etc.	75.00	42.86
Gin	65	37.14
Fortified wines	35 to 38.5	20.00 to 22.00

5.6 Determination of volume for purpose of levy of duty

(i) Duty is levied at a rate fixed for every proof litre of liquor, in some cases as stated earlier in the Manual. For levy of duty on a given liquor its proof strength and volume in bulk litres should be known.

(ii) The proof strength of a liquor is determined as follows :

Using a thermometer and a standard hydrometer the temperature of the liquor and the indication in the hydrometer are read. Using this data, the strength of the liquor in terms of 'proof' can directly be obtained from the readymade tables. There are also suitably calibrated hydrometers to read the strength of liquors in terms of 'proof' direct, standardized at a specific temperature say 85⁰ F.

(iii) Knowing the proof strength as above and the volume in bulk of the given liquor, we may be able to determine the volume in terms of proof litre of the said liquor. If the strength of the liquor is x⁰ proof and volume v litres, then the said liquor shall contain X/100 x V litres of proof spirit. Eg. (a) 80 litres of 70⁰ proof spirit (30⁰ UP) shall contain or be equivalent to 70/100 x 80 litres of proof ie. 56 litres of proof spirit. (b) 70 litres of 160⁰ proof spirit (60⁰ OP) would be equivalent to 160/100 x 70 litres of proof spirit i.e., 112 litres of proof spirit.

CHAPTER VI

TODDY

6.1. Introductory

Toddy has been defined in Section 2(8) of the Act as ‘fermented or unfermented juice drawn from a coconut, palmyrah date or any other kind of palm tree’. Thus sweet toddy or neera also comes within the definition of the word ‘toddy’. The juice is extracted from the tree by the process of tapping which means ‘preparing or manipulating the spathe or other part of any toddy producing tree with the object of extracting toddy therefrom’ **Section 3 (22)**. The trees commonly tapped in Kerala for the purpose of drawing toddy are the coconut, palmyrah and sago (choondapana) palms. Fermentation of toddy takes place by the action of wild yeasts and alcohol is self generated. At the peak point of fermentation the average alcoholic strength of fermented toddy is roughly as follows:

Coconut 8.1% by volume

Palmyrah 5.2% ”

Sago 5.9% ”

6.2. Important provisions in the Act relating to toddy

(i) The term ‘liquor’ includes toddy, by definition in Section 3 (10) unless otherwise mentioned.

(ii) Licence is required for tapping a toddy producing tree and drawing toddy from any tree (**Section 12 (1)**).

(iii) A person having the right of drawing toddy from a tree may sell the same without licence to a person licenced for manufacture or sale of toddy under the Act (**Proviso to Section 15**). This enables a licensed tapper to sell toddy to a licensed shopkeeper.

(iv) The Government have prescribed under Sections 10 and 13 of the Act that toddy exceeding 2.5 litres shall not be transported or possessed except under a permit or licence, as the case may be, issued by the competent authority.

(v) Under Section 17 read with Section 18, duty of excise is leviable in the case of toddy in the form of tax on each tree from which toddy is drawn to be paid in such manner and for such period as the Government may direct. The maximum rate of tax leviable is Rs 50 per tree per half year or part thereof (**Section 18(3)(2)**). The tree tax rules framed by Government specify the rates, manner of payment etc. of tree tax.

(vi) Section 18A enables Government to grant to any person the exclusive or other privilege of manufacture, supply or sale, by wholesale or retail, of any liquor (which includes toddy) on payment to Government an amount as rental. This rental can be settled by Government by auction, negotiation or any other method and is collectable in addition to the duty or tax under Sections 17 and 18. It is under this provision, that the right of vend in retail of toddy is disposed of annually in accordance with detailed rules framed by Government viz. “The Abkari Shops Disposal Rules 2002”.

6.3. Revenue from toddy- The two main items of revenue from toddy are:

- (a) Rental payable by person to whom the right of sale of toddy in retail is sold; and
- (b) Tree tax payable on trees licensed; marked and tapped for purpose of producing toddy.

The important provisions relating to the disposal of toddy shops, collection of kist and tree tax contained in the Kerala Abkari Shops Disposal Rules, 2002, Tree tax Rules and the other relevant rules are given in the following paragraphs.

Disposal of toddy shops (The Abkari Shops Disposal Rules 2002)

The privilege of vending toddy for any period in any of the independent toddy shops as may be decided by the Government from time to time, within the Range or Taluk shall be put to public sale, shop by shop or in lot by the District Collector or by the Joint Commissioner of Excise or by any other Officers authorized by the Government in that behalf, to individuals at the specified place and date, for a fixed annual rental as licence fee as may be decided by the Government (**Rule 3 (1)**).

Government may extend the period of privilege sold by notification in the gazette and also that if the Government is satisfied that any shop put to public sale cannot fetch purchaser for the annual rental fixed for that shop, may reduce the annual rental in successive slabs of 10 *per cent* to 50 *per cent*.

(Proviso to Rule 3 (1))

Government may dispose of the privilege of vending toddy in any other manner as they deem fit if they consider that there is no proper applicant for any shop(s) or if any grantee fails to comply with the stipulated conditions.

General conditions for sale of toddy shops.

1. No individual is eligible for the privilege of any shop if he
 - (i) is charged with an offence relating to illicit liquor or prosecution proceedings are pending against him before a Court of Law;
 - (ii) is convicted under any Abkari offence or any other criminal offence and sentenced to imprisonment for more than three years after 1st April 1992;
 - (iii) is a defaulter of Abkari arrears, Sales Tax arrears or any other arrears due to Kerala Toddy Workers Welfare Fund or the Kerala Abkari Workers Welfare Fund, unless he produces from the Circle Inspector of Excise, Commercial Tax Officer or the Authority of the said Welfare Fund Boards or any other officer authorized in this behalf as the case may, a certificate to the effect that no dues are outstanding against him or that he has remitted before the date of sale of shop 50 *per cent* of the arrears pending against him as on the date of sale notification;
 - (iv) is liable to pay contribution to the Toddy Workers Welfare Fund and/or the Kerala Abkari Welfare Fund, unless he produces a certificate from the Fund Inspector concerned to the effect that he has remitted before the date of sale of shop, the arrears payable up to 31st day of December of the preceding year.
2. The intending purchaser himself shall be present in the sale room and the entry is restricted to those presenting an identity card in Form I and entrance fee receipt for Rs 200 (non refundable).
3. When the sale commences, the Officer announces the annual rental fixed for the shop and the individuals desirous of purchasing the privilege for vending shall thereon submit an application in Form II together with a Bank draft in favour of the Deputy Commissioner of Excise concerned for the annual rental fixed for the shop and also a Bank guarantee or Bank draft for the wages and other benefits to the workers of the shop payable for one month as fixed by the Toddy Workers

Welfare Fund Board. The following documents shall also accompany the applications

- (i) Entrance fee receipt;
- (ii) Identity card;
- (iii) A certificate as specified in 1 (iii) above;
- (iv) Certificate to the effect that the applicant has no liability towards the Kerala Abkari Welfare Fund and Toddy Workers Welfare Fund as on 31st December of the preceding year, obtained from the Welfare Fund Inspector concerned.

4. After verifying such applications and attached documents the eligible application(s) shall be selected and others shall be rejected stating the reasons publicly. If there is only one eligible applicant, the Officer conducting the sale may provisionally declare him the grantee of privilege and if there are more than one eligible applicants one shall be selected by lot in open. Immediately thereafter the sale list shall be prepared and signed by the Officer conducting the sale and by the individual declared by him to be the grantee of privilege. The Bank guarantee furnished shall be retained by the Deputy Commissioner of Excise and renewed from time to time until the wages and other benefits due to workers are paid by the grantee. Bank draft accepted in lieu of Bank guarantee shall be deposited in Treasury Savings Account pledged in the name of Assistant Excise Commissioner and shall not be released until the wages and other benefits to the workers have been paid in full. If the grantee withdraws from the offer or if he fails to sign the sale list the DD furnished alongwith the application shall be forfeited to the Government and shop resold.

The grantee so selected shall immediately deposit the whole amount of annual rental fixed for the shop along with Welfare Fund contributions of workers for three months in advance. Failure to do so shall entail forfeiture of the bank draft furnished and the shop shall be resold. The bank draft furnished alongwith the application can be utilized for depositing the rental.

5. No sale made by the Officer conducting the sale shall be deemed final unless confirmed by the Commissioner of Excise. Every confirmation or rejection with reasons for rejection shall be communicated to the purchaser in writing as soon as possible.

6. After confirmation the purchaser shall execute an agreement in Form III and shall take out necessary licence and then install the shop. If the purchaser fails to do so within a reasonable time as fixed by the Deputy Commissioner of Excise, the rental paid shall be forfeited to the Government and the shop shall be resold or otherwise disposed of.

7. If it is found at any stage that any purchaser of privilege had suppressed facts in his application as to his eligibility or produced fake documents, the licence issued to him, if any, will be cancelled and the amount paid towards annual rental shall be forfeited to the Government and the shop will be resold or otherwise disposed of.

8. In the case of death of privilege purchaser after confirmation of the sale, the legal heirs, if satisfying the conditions of eligibility specified in these rules may apply within one month from the date of death of the privilege purchaser for the privilege, producing necessary legal evidence in support of their claim and the Commissioner of Excise, if satisfied as to their eligibility may restore the licence and transfer the privilege to the legal heir(s). Pending such transfer the shop shall be run on Departmental Management or shall be closed down. If the legal heirs fail to comply with the above requirements within one month from the date of death of the purchaser the shop shall be resold or otherwise disposed of and the annual rental paid shall be forfeited to Government and the legal heirs have no claim over it. The purchaser of privilege of any shop shall be liable for any breach of the conditions. In the event of purchaser's death after issue of the licence, his legal heirs shall be responsible for any money that may become due towards the shop to the extent of the assets inherited by them from the deceased purchaser.

9. The Commissioner of Excise may cancel any licence issued under these Rules at any time on valid grounds. Any resale or disposal otherwise ordered shall always be at the risk and cost of the original purchaser and the original purchaser shall not have any claim to any gain accruing from such disposal. Further the original purchaser shall have no claim for refund of any amount he had paid to Government or that had been forfeited from him.

10. The purchaser shall not be permitted to transfer or encumber any of his assets to the detriment of any amount due towards the shop including the wages and other contributions due for the employees of the shop and such transactions shall be deemed void to the extent of the sum so falls due.

11. “Disposal otherwise of shops” includes closure or departmental management. The departmental management fee collected from a shop while it is under departmental management shall be liable to forfeiture.

(Rule 5 of Kerala Abkari Shops Disposal Rules 2002)

12. The licensee shall not sell or otherwise transfer the privilege granted or licence issued to him. No licensee shall lease out or sub-let whole or any portion of the privilege or licence granted to him **(Rule 7 (23))**.

13. In all matters relating to Tree tax, the licensee shall be bound by the Tree Tax Rules. Further, the licensee may tap any number of trees at any time of the contract period according to his requirements, provided the tree tax thereon is remitted in advance **(Rule 9 (4))**.

14. If any licensee is convicted of any offence under any law for the time being in force during the currency of the contract period or before a licence is actually issued to him, the Commissioner of Excise may cancel his privilege and refuse the issue of licence. If after the issue of licence to a grantee, should it transpire that previous to such issue he was convicted under any law or was disqualified to hold a shop under Rule 5 (3) such conviction or disqualification shall render him liable to forfeiture of the licence and also the forfeiture of his deposit/annual rental. When a licence is forfeited under this sub rule, the privilege shall be re-sold or otherwise disposed of at the risk of the licensee **(Rule 7 (33))**.

15. Infraction of any of the rules or the conditions of the licence either by the licensee or by any person in his employment shall entail on the licensee the forfeiture of deposit/annual rental and cancellation of licence **(Rule 7 (31))**.

16. Interest on all money due shall be payable @ 18per cent per annum or such other rate of interest as may be fixed by the Government from time to time **(Rule 7 (30))**.

Government framed rules in relaxation of the above general conditions for granting the privilege of vending toddy shops for the financial years 2002-03 to 2005-06 (**Rule 5A to 5E**).

Departmental management of toddy shops (The Abkari Shops Departmental Management Rules, 1972)

A shop may be placed under departmental management

(i) If the shop could not be disposed of in auction or by negotiation or otherwise before the commencement of the lease period; or

(ii) when a grantee fails to sign the sale list, or to take out the licence or to execute the required agreement; or

(iii) when the licensee dies during the currency of a licence; or

(iv) when the licence is cancelled for any reason.

The Excise Inspector of the Range subject to the approval of the Deputy Commissioner of Excise shall be responsible to appoint an agent to run an abkari shop under departmental management and the Agent shall be bound by all the provisions contained in the Kerala Abkari Shops Disposal Rules, 2002.

The departmental management fee shall not be lower than the daily average of the rental last fetched or the daily average of the upset price fixed for the shop, as the case may be (Rule 8(1)). Where owing to any reason it is not possible to collect the departmental management fee at the rate mentioned above the Deputy Commissioner of Excise may, for reasons to be recorded, reduce the rate to a maximum of 25 *per cent* of the said amount and the reasons shall be reported to the Commissioner of Excise. The Commissioner of Excise may reduce the rate of departmental management fee to a maximum of 50 *per cent* of the rental or the upset price as the case may be. Any further reduction of the departmental management fee shall be made only with the prior approval of Government (Rule 8(4)). The Agent shall be allowed to run the shop only after fixing the rate and its collection in advance. The advance shall be for not less than seven days and for not more than fifteen days at a time (**Rule 10**).

When a shop is proposed to be placed under departmental management, notices shall be issued to the tappers attached to the shop prohibiting further tapping and if the shop is placed under departmental management at the

beginning of a contract period and before the contractor is permitted to take up the shop, the tappers attached to the shop for the preceding half year and who wish to continue tapping for the shop may apply for tree tapping licence after paying the fee for the half year which the tappers shall be entitled to collect from the departmental management agent **(Rules 6 and 9)**.

The departmental management fee collected shall be liable to forfeiture.

Tree Tax Rules

No tree shall be tapped, nor shall toddy be drawn from any toddy producing tree except under a licence granted under these rules (Section 12 (1) of the Act and Rule 2). A person who wishes to apply for the grant of tree tapping licences shall be permitted to apply for licence for any number of trees according to their requirements after remitting tree tax (Rule 12). When trees 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 (Section 19 of the Act). If circumstances so warrant that trees situated outside the district shall be tapped and toddy drawn therefrom transported to the shops, the Deputy Commissioner of Excise of the district where the trees are situated may issue necessary licence and transport permit as per rules subject to realisation of such tree tax and fee in force **(Rule 11 A)**.

Rate of tree tax per half year

Coconut Rs 30

Choondapana Rs 50

For Palmyrah, rate of tree tax per year is Rs 15

[GO (P) 25/94/TD dt 03.03.1994 w.e.f 01.04.1994]

The tree tapping licences shall be of three kinds:

- licences issued on the application of shop keepers who have purchased the privilege of manufacturing and selling toddy directly from Government;
- licences issued on the application of bakers for the tapping of trees required for the supply of toddy for use in the manufacture of bread and not for sale; and

- licences issued on application to the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited for tapping of trees required for toddy parlours and neera parlours run by them in each district headquarters.(Not in practice) **(Rule 3)**

For the purpose of the issue of licences and levy of tree tax in the case of coconut and sago trees, each financial year shall be divided into two halves, namely from the first April to the last day of September and from first October to the last day of March. A separate licence shall be issued to each half year and such licence shall be valid only during the half year for which it is issued irrespective of the date of issue of licence. In the case of palmyrah trees the licence shall be issued for a whole financial year and such licence shall be valid only for the financial year in which it is issued irrespective of the date of issue of the licence. **(Rule 4).**

On receipt of the licence from the Deputy Commissioner of Excise, the Excise Inspector of the Range shall, within 24 hours, issue a notice to the applicant to point out the trees intended to be marked. Should the applicant fail to do so after a reasonable time, the fees paid by him shall be liable to be forfeited at the discretion of the Commissioner of Excise **(Rule 23).**

Minimum number of trees earmarked for tapping toddy for each shop will be as follows:

Coconut trees	50
Palmyrah	100
Choondapana	25

(Abkari Policy for the year 2007-08 GO(MS)No 34/07/TD dt 01.03.2007)

The Range Inspectors must maintain a register of tree marking operations containing full details regarding the village, survey No., description of the path, direction of trees, situation of trees, etc and the required particulars should be neatly entered up the same day. **(Kerala Excise Manual Chapter X)**

Tree tax accounts

The accounts will be maintained in a ledger form and will contain shopwise details of (1) The number of trees marked in the Range for shops of the Range (2) Trees marked in other Ranges of the same Division for shops of the Range (3) Trees marked in Ranges of other Divisions for shops of the Range (4)

Trees marked in the Range for shops of other Ranges in the Division and (5)
Trees marked in the Range for shops of other Divisions.

A village wise register of trees marked should also be maintained in each Range showing the number of trees marked for different shops. This should be done immediately on issue of the licences by the Deputy Commissioner of Excise.

An Abstract Register of tree tapping licences issued should be maintained in the Deputy Commissioner's Office shopwise and must be posted up to date each month. After the monthly totals of all the shops in the several ranges are obtained, an abstract of the total number of trees licenced in each of the ranges together with the tree tax demanded thereon, etc will be prepared and extracts therefrom will be sent to the Joint Commissioner of Excise with the Deputy Commissioner's diary. Details of inter-divisional tapping should also be given separately in the extract sent to the Joint Commissioner and intimated to the concerned Deputy Commissioners of Excise. **(Kerala Excise Manual Chapter X).**

Road Tests

Road tests are a must and should be made for each shop once at least every month by the Inspector. The entire receipts daily for a toddy shop should be measured either at the shop or enroute and if the quantity does not bear any proportion to the trees actually licensed, it should be followed by a check of the topes. The Deputy Commissioner of Excise must also do this occasionally. **(Kerala Excise Manual Chapter X).**

Persons applying for the issue of licence under these rules will be responsible to the Government for all sums payable as tree tax on account of the tree licenced to be tapped. No person to whom a tree tapping licence has been issued under these rules shall claim exemption from the payment of the full amount of the tree tax due for the licence period on the ground that he has not had the full benefit of the licence throughout the licence period. **(Rule 42)**

All remittances of money into the treasury on account of tree tax shall be made on chalans issued by the Excise Inspector in charge of the Range or other officer authorized by the Commissioner of Excise in that behalf.

The minimum number of trees to be included in an application for the grant of licence for the drawing of toddy for bread making purposes shall be five.

Manufacture of Jaggery Rules

No licence to tap for sweet toddy shall be issued to any toddy shopkeeper or to any tapper employed by such shopkeeper **(Rule 8)**.

No sweet toddy drawn under these rules shall be conveyed to a shop for the sale of fermented toddy, or sold to any person licensed to tap or sell fermented toddy, except for his own immediate personal consumption, nor shall the licensee manufacture spirit from the sweet toddy drawn by him **(Rule 11)**.

Licences under these rules will include the privilege of manufacture and sale of sweet toddy. They shall on application be issued to bona fide jaggery tappers on payment of a fee at the rate of 50 paise per tree per half year subject to a ceiling of Rs 10 in a half year in respect of the trees tapped by him **(Rule 2)**. For the purpose of issuing licence under these rules, each financial year shall be divided into two halves i.e. from the 1st April to the 30th September and from the 1st October to 31st March. A separate licence shall be issued for each half year and such licence shall be valid only during the half year for which it is issued irrespective of the date of issue of the licence.

Issue of licences for drawing sweet toddy (neera) Rules

The licence under these rules, on application, shall be given for the privileges of manufacture and sale of Sweet Toddy (neera) to bonafide jaggery tappers and to the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited free of charge **(Rule 1)**.

No licence to tap for sweet toddy shall be issued to any toddy shopkeeper or to any tapper employed by such shop keeper **(Rule 8)**.

Sweet toddy must be at once manufactured into jaggery or sold or used as beverage and no such toddy shall be kept by the tapper until the day following that on which it is drawn **(Rule 10)**.

No sweet toddy drawn under these rules shall be conveyed to a shop for the sale of fermented toddy or sold to any person licensed to tap or sell fermented toddy, except for his own immediate personal consumption nor shall the licensee manufacture spirit from the sweet toddy drawn by him **(Rule 5)**.

CHAPTER VII

FOREIGN LIQUOR

7.1 Foreign liquor includes all liquor other than country liquor (toddy and arrack) and includes all wines, spirits, beer, cider, fenny and other fermented liquors and plain rectified spirits including absolute alcohol intended to be used for the manufacture of liquors meant for human consumption.

7.2 Duty on Liquor: Section 17 empowers levy of duty of excise or countervailing duty and/or luxury tax on liquors permitted to be imported and manufactured under any licence granted. **Section 18** lays down the manner of levy and collection of such duty/tax. Accordingly duty may be collected in the case of spirit or beer, either on the quantity produced in or passed out of a distillery, brewery, winery or other manufactory 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 or on the value of liquor, as the case may be, as the Government may prescribe. The excise duty or countervailing duty shall be payable by manufacturer or importer of the liquor. The Section also envisages collection of difference of such duty / tax between two licence periods in respect of all stocks of foreign liquor held by licensees at the close of the former licence period.

7.3 Grant of exclusive or other privilege of manufacture etc., on payment of rentals: Government is empowered to grant to any person or persons, on such conditions and for such period as they may deem fit, the exclusive or other privilege (i) of manufacturing or supplying by wholesale; or (ii) of selling by retail; or (iii) of manufacturing or supplying by wholesale and selling by retail, any liquor or intoxicating drugs within any local area on his or their payment to the Government of an amount as rental on consideration of the grant of such privilege. The amount of rental may be settled by auction, negotiation or by any other method as may be determined by the Government, from time to time, and may be collected to the exclusion of, or in addition, to the duty or tax leviable under Sections 17 and 18.

7.4 No quantity of IMFL shall be issued from any distillery, warehouse, brewery or winery in the State except under a permit to be issued by the Excise Officer in charge.

In case the permit which remains unexecuted or became time barred while on transit/transport, the same may be revalidated on the following grounds:-

- (i) The request for revalidation shall be submitted to the Commissioner of Excise within a month from the date of expiry of the permit through the permit issuing authority.
- (ii) A revalidation fee of Rs 10,000 (Rupees ten thousand only) shall be remitted in favour of the Commissioner of Excise through the Deputy Commissioner, Kerala State Beverages Corporation; and
- (iii) The reasons for the non execution of permit shall be to the satisfaction of the Commissioner of Excise.

If the conditions are not complied with, the import fee, excise duty and all other fees already paid in respect of the issued permit shall be forfeited to Government (**Rule 12 and 12 (A) of the FL Rules**).

7.5 Import : No liquor shall be imported without payment of duties, taxes, fees and such other sums as are due to the government under the Act are paid or a bond for such payment on its importation has been executed and a permit is obtained from the Government or from the competent authority (**Section 6 of the Act**). No permit shall be issued for removal from the customs area except to the holder of licences in Forms FL-1 or FL-9 and unless the bill of entry or the clearance certificate issued by the customs authorities and the certificate showing the alcohol contents either issued by the distillery or by Customs Laboratory concerned is produced before the Deputy Commissioner of Excise (**Rule 9 FL Rules**).

7.6 Export: No liquor shall be exported unless the duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor have been paid or a bond for such payment on its exportation or re-exportation has been executed and a permit has been obtained from the Government or from the competent authority (**Section 7 of the Abkari Act**). A copy of such permit issued by the Deputy Commissioner of the Division from which the liquor is consigned shall be sent by him to the Excise Inspector in charge of the Range from which the

export is permitted. No such permits shall be granted unless the exporter produces the written permission of the Excise Authorities of the country or State of import permitting such import (**Rule 10 of Foreign Liquor Rules**).

The excise duty on Indian Made Foreign Liquor exported outside the country shall be refunded by the Commissioner of Excise. The claims for such refund shall be made to the Commissioner of Excise within one month from the date of issue of the certificate of the Customs Officer who examined the goods at the port of export (**Rule 10A of the FL Rules**).

7.7 Transport of liquor

No foreign liquor in excess of the quantity notified by the Government shall be transported from one place to another within the State unless the same is covered by a transport permit issued by the Excise Inspector in charge of the Range of origin. A copy of such permit shall be forwarded by the Excise Inspector concerned to the Excise Inspector in charge of the Range to which the consignment is destined. The Excise Inspector at the destination shall verify the consignment on arrival and see that the quantity is duly credited in the accounts in case the transport is by a licensee (**Rule 11 of FL Rules**).

7.8 Permit for transit of liquor

No liquor shall be allowed to be moved from one place in a State to another place in that State or to any other State through the territory of the State of Kerala except under a permit issued by the Deputy Commissioner of Excise of the Division through whose jurisdiction it is proposed to be moved. When the liquor has to be moved through more than one Excise Division, the permit shall be issued by the Joint Commissioner of Excise and when liquor has to be moved through more than one Excise Zone by the Commissioner of Excise and that when the liquor has to be moved through the State of Kerala to Mahe, the permit shall be issued by the Commissioner of Excise. The person allowed to transit liquor under these rules shall produce the consignment to be transited with the original transit permit at the entry check post. The Excise Officer in charge of the check post shall verify the consignment and the permit and shall depute two Excise Guards to escort the consignment to the exit check post of the State. The Officer in charge of the exit check post shall make necessary entries in the permit and on

the passports produced by the Excise Guards and the Excise Guards shall produce the passports before the officer who issued them. The Officer in charge of check post shall report to the permit issuing authority the fact that the consignment has duly passed out of Kerala State. If any irregularity is noticed during verification, the Officer in charge of the check post shall at once seize the vehicle and consignment and produce before the Deputy Commissioner of Excise in charge of the division for taking further action. The same procedure applies to the liquor transported to Mahe from any other State through the State of Kerala (**Rule 3, 3A & 3 B of Kerala Liquor Transit Rules 1975**).

The permit issuing authority shall collect from the applicant a fee of Rs 2,500 (Rupees two thousand five hundred only) for each permit in form TP. The fee for each permit issued for the transit of liquor through the State of Kerala to Mahe is Rs 25,000 (Rupees twenty five thousand only) (**Rule 5, Kerala Liquor Transit Rules**)

Violation of any of the conditions by the permit holder or the owner of the vehicle or any person in their employment shall entail the cancellation of the permit or imposition of a fine of Rs 25,000 (Rupees twenty five thousand only) or confiscation of the liquor and the vehicle or with all the above punishments (**Rule 11, Kerala Liquor Transit Rules**).

Foreign liquor licences and sale of shops

7.9 FL - I Licence: The privilege under this licence is intended to vend foreign liquor in sealed bottles to the public. The licence is granted exclusively to the Kerala State Beverages (Manufacturing and Marketing) Corporation Ltd. (KSBC Ltd.), Kerala State Cooperative Consumer Federation (KSCC Ltd.). The licensee has to procure his supplies only from FL-9 licensees in the State. The licensee is prohibited from selling foreign liquor to other licensees (**Rule 13 (1) of Foreign Liquor Rules**)

7.10 Disposal of FL-I Shops: The privilege of vending shall be given only to the KSBC Ltd. and KSCCF Ltd. for a fixed annual rental as fixed by the Commissioner of Excise with the approval of the Government (Rs 63,00,000 (Rupees Sixty three lakh only w.e.f 01.04.2007 till then Rs 51.27 lakh). The FL-I shops are allotted to each by the Government on the basis of the capacity and

availability of shop space with them. The KSBC Ltd. or KSCCF Ltd., as the case may be, which intend to avail the privilege of vending foreign liquor in such shop(s) as notified under Rule 4(4) or Rule 4(5) of Kerala Abkari Shops Disposal Rules 2002, shall apply to the Deputy Commissioner of the Division or any other officer authorized by the Commissioner in that behalf for consideration of the grant of privilege. At the time of application the applicant shall produce proof of remittance of 50 *per cent* of the annual rental as security deposit made at any treasury under Treasury Savings Account and such Account shall be pledged in favour of the aforementioned officer and the Officer, thereupon, on satisfaction of the facts contained in the application and the documents, may accord sanction granting the privilege and such sanction shall become final only on confirmation by the Commissioner of Excise. Thereafter, a responsible officer of the KSBC Ltd. / KSCCF Ltd. shall sign the sale list and shall execute an agreement in form IV and then take out necessary licence and install the shops (**Rule 6(1) to 6(4) of Abkari Shops Disposal Rules 2002**).

7.11 The grantee shall not be permitted to transfer or encumber any of its assets to the detriment of the amount that may become due under the grant/licence including the deposit due from him and such transactions if any noticed shall be void to the extent of the sum due as above (**Rule 6(5)**).

7.12 If the grantee withdraw from the offer or fail to sign the sale list or execute the agreement or take out the necessary licence or in the event of dissolution or non functioning of the KSBC Ltd./KSCCF Ltd., the security deposit shall be forfeited to the Government and the shop re-sold or otherwise disposed of at the risk and cost of the grantee and they shall not have any claim to any gain received by Government accruing from such disposal. The loss remaining after set off against the security deposit with interest @18 *per cent per annum* or such other rate as fixed by the Government from time to time shall be recovered from the defaulter in the same manner as if it were arrears of land revenue. Even if the forfeited deposit is greater than the loss on account of subsequent disposal the whole of such deposit shall be credited to the Government. Disposal otherwise include closure or departmental management and the departmental management fee collected from the shop is liable to forfeiture (**Rule 6(6), 6(7) and 6(9)**).

7.13 The subsequent grantee is liable to remit the entire sum due in cash or bank draft at the time of signing the agreement if the privilege is granted after the 10th day of October (**Rule 6(8)**).

7.14 The security deposit shall be deducted from the total rental of the shop and the balance shall be paid in eight equal monthly installments beginning from 1st July of the year, payable on or before 10th day of each month. In the case of default, interest @ 18 *per cent per annum* or at the rate as may be fixed by the Government from time to time shall be charged from the 11th. In calculating interest, 15 days and more shall be taken as one month and periods of less than one month shall be ignored. The amount remitted by a defaulter towards arrears shall be adjusted towards interest due and the balance shall be adjusted towards principal amount. (**Rules 6(11) and 7(26)**).

7.15 No licensee shall sell or otherwise transfer or lease out or sub-let whole or any portion of the privilege or licence granted to him. [**Rule 7(23)**].

7.16 Whenever the licensee fails to pay the kist, fee, duty, etc., due for any month together with interest due thereon, on or before 25th day of the month, the Commissioner of Excise may cancel the licence and order resale or disposal otherwise at the risk and cost of the licensee. The Commissioner of Excise may before issuing orders for the resale, restore the licence if the defaulter pays the amount with interest thereon (**Rule 7 (29)**).

7.17 Violation of any of the rules of the conditions of licence either by the licensee or by any employee shall lead to the forfeiture of deposit/annual rental and cancellation of licence (**Rule 7 (31)**).

7.18 With the sanction of the Government, the Commissioner of Excise may upon giving 15 days' notice, revoke any licence, in which case the licensee shall have no claim of refund of any amount [**Rule 7 (34)**].

7.19 When the period of licence expires or when the licence is cancelled and notice of such cancellation is given to the licensee, the licensee shall within 30 days of such date sell the full stock of foreign liquor in his possession to any vendor who holds a valid licence to sell such liquor. If the licensee fails to do so within the prescribed period the Circle Inspector of Excise of the range concerned shall take such foreign liquor in custody and keep the same in his office. The

licensee shall be allowed a further period of 30 days for selling the same in one transaction to another licensed vendor of foreign liquor and if he fails to do so the officer in charge of the Division shall sell the same by public auction and deliver the licensee the proceeds thereof after deducting the expenses connected with the sale.

FL 2 LICENCE - *Not in force w.e.f 04.04.2004.*

FL-3 LICENCE

7.20 The licence may be issued by the Commissioner of Excise under orders of the Government in the interest of promotion of tourism in the State to hotels of three stars and higher classification, and to Heritage, Heritage Grand and Heritage Classic hotels having approval of the Ministry of Tourism, Government of India on payment of an annual rental of Rs 22,00,000 (Rupees Twenty two lakh only). Such licensees having not less than three star standard are permitted to purchase confiscated Foreign Made Foreign Liquor (FMFL) direct from the Customs if they pay an additional annual rental of Rs 20,000 (Rupees Twenty thousand only) and make an application to the Commissioner of Excise for the purpose. The licensee may serve liquor along with meals by the side of swimming pools and in lawns and in roof gardens if he obtains a special permit from the Commissioner of Excise on payment of an additional annual rental of Rs 50,000 (Rupees Fifty thousand only) and that for serving liquor at restaurants to persons other than the residents the licensee shall pay an additional annual fee of Rs 10,000 (Rupees Ten thousand only).

The licences of any bar hotel that remain defunct for more than six months either during the period of validity of the licence or after its expiry shall not be renewed (**Rule 13 (3), 13 (3 A) and 13(3 B) of Foreign Liquor Rules**).

All the 418 FL-3 bar hotels which are not having 2 star status will be regularized (**GO (Ms) No 34/07/TD dt 01.03.2007**).

FL-4 CLUB LICENCE

7.21 The licence is issued by the Commissioner of Excise to clubs which cater solely to the requirements of Seamen and Marine Officers and which are working under the auspices and guidance of the Director General of Shipping on payment

of annual rental or Rs 50,000 (Rupees Fifty thousand only) [**Rule 13 (4) of FL Rules**].

FL-4 A CLUB LICENCE

7.22 The licence is issued to the clubs on payment of an annual rental of Rs 6,00,000 (Rupees Six lakh only w.e.f 01.04.2007 till then Rs 5,00,000) provided they satisfy the following conditions:

- (i) It should have completed 10 years of existence;
- (ii) It should be a registered society;
- (iii) There should be not less than 100 permanent members;
- (iv) The land and buildings should be in the name of the society;
- (v) There should be at least five rooms that can be let out on rent;
- (vi) There should be facilities for at least two outdoor games
- (vii) There should be indoor facilities for shuttle cock and at least two tables for playing table tennis/billiards;
- (viii) There should be catering facilities;
- (ix) Food or liquor should be served to guests only when they are accompanied by the members;
- (x) It should have affiliation with at least five clubs inside or outside the State.

FL-5 LICENCE

7.23 Issued for the sale of medicated wines containing 20 *per cent* and upwards but not more than 42 *per cent* of proof spirit on payment of annual fee of Rs 500 (Rupees Five hundred only) (**Rule 13 (5)**).

FL-6 SPECIAL LICENCE

7.24 These will be granted by the Commissioner of Excise under the orders of the Government when the circumstances are such as not to allow the issue of licence of any of the above descriptions on such terms and conditions and for such periods as the government may determine on each occasion. The fee for the licence is fixed as Rs 15,000 per day (Rupees Fifteen thousand only) (**Rule 13 (6)**).

FL-7 LICENCE – *Not in force w.e.f 12.3.1974*

FL -8 LICENCE

7.25 Issued by the Deputy Commissioner of Excise on payment of an annual fee of Rs 500 (Rupees Five hundred only) for possession, distribution or sale of Foreign Liquor in canteens or messes attached to Military Units (**Rule 13 (8)**). The licensee shall obtain his supply of IMFL and Beer brewed in India from any branch of the Canteen Stores Department of India or such other sources as may be specially permitted by the Commissioner of Excise.

No liquor shall be imported into the State except under a permit issued by the Deputy Commissioner of Excise of the Division to which the consignment is destined. Such permit shall be granted only on proof of payment of the prescribed excise duty. No concession in the rate of duty shall be allowed except in respect of supplies through BW 1(A) licensee issued under the FL(Storage in Bond) Rules 1961. Liquor purchased from any licensee or from BW 1(A) licensee shall be transported to the licenced premises only under cover of a transport permit issued by the Excise Officer in charge of the Bonded Warehouse/Distillery/Brewery from which the consignment is released. Application for the purchase of liquor shall be forwarded to the Officer in charge of the above institution through the Excise Inspector in charge of the Range to which the consignment is destined (**Licence conditions**).

FL-9 LICENCE

7.26 The licence shall be issued by the Commissioner of Excise only to the KSBC Ltd on payment of an annual rental of Rs 25,00,000 (Rupees Twenty five lakh only). They supply foreign liquor in wholesale to FL-1 , FL-3, FL-4, FL-4A, FL-11 and FL-12 Licensees. (Though not specified in the rules FL-6 licensee also obtain their supply from FL-9 Licensee as no other source is specified for their supply).

The licensee procure duty paid IMFL from distilleries, breweries, Compounding, Blending and Bottling units and FL-10 licensees operating in the State. They may also purchase confiscated FMFL from the Central Customs subject to the condition that it may be sold only to FL-3 licensee having not less than two star standard.

All the transactions in the licensed premises shall be under the supervision of Excise Staff posted in such premises (**Rules 13(9) and (9 A)**).

A gallonage fee at such rate as may be prescribed by the Government from time to time shall also be paid by the FL-9 licensee on the liquor sold by them. The gallonage fee is leviable on the FMFL also sold by them.

FL-10 LICENCE

7.27 The licence is issued by the Commissioner of Excise on payment of such fees as may be fixed by the Government from time to time to the authorized distributor of a distillery /brewery/ winery/compounding, blending and bottling unit for the supply of foreign liquor in wholesale, only to FL-9 Licensees in the State and this restriction shall not apply for export of foreign liquor outside the State. For a distillery /winery/ brewery, compounding, blending and bottling unit operating in the State, only one distributor shall be recognised for issue of the licence and only one FL 10 licence shall be granted to the authorized distributor.

FL-11 BEER/WINE PARLOUR LICENCE

7.28 The licence is issued by the Commissioner of Excise under the orders of the Government at an annual rent of Rs 4,00,000 (Rupees Four lakh only w.e.f 01.04.2007 till then Rs 3,00,000) to the hotels, motels, resorts and catering establishments owned or run by KTDC Ltd. and hotels having eligibility for FL-3 licence and also to Resort hotels and classified restaurants in tourist centres approved by Government in Taxes Department.

The licensee may obtain a special permit from the Commissioner of Excise at an additional annual rental of Rs 50,000 (Rupees Fifty thousand only) for serving Beer/Wine alongwith meals by the side of swimming pools, lawns and in roof gardens. The licensee shall procure their supply only from an FL- 9 Licensee (**Rule 13(11) of FL Rules**).

The tourist centres notified by the Government as per SRO No. 1071/2003 are given in the table below:-

Name of Tourist Centre	Geographical Boundaries		
Kovalam	Base Line	The main road starts at:	Thiruvallam Bridge/Parasurama Swamy Temple

Name of Tourist Centre	Geographical Boundaries		
		Ends at:	Chowara Marappalam Junction
		In between points	Parasurama Swamy Temple Junction - Kollamthara Jn – Vellar Jn Azhakulam Junction – Pulloorkonam Jn Vizhinjam Jn- Mukkola Jn. Mulloor Jn- Chowara Jn – Marappalam
		Limits:	Western side of the base line : All the area up to sea level Eastern side of the base line: Area up to 100 metres from road mark
Varkala	Base line	The main road Starts at	Thazhe Vettoor Junction (Varkala village)
		Ends at	Kappil Bridge
		In between points	Chumaduthangi Jn. - Varkala Maithanam Jn. -Punnamoodu Jn- Odayammukku Jn-Vettakkada Jn- Kappil Bridge (Thazhevettoor – Varkala -Paravoor Road)
		Limits:	Western side of the Base Line: All the areas up to sea level Eastern side of the base line: Area up to 100 metres from road mark.
Munnar			Munnar Panchayat
Thekkady			Kumily Panchayat
Kumarakom			Kumarakom Panchayat
Bekkal			Area coming within the Bekal Tourist Project implemented through the Department of Tourism
Peerumedu			Peerumedu Panchayat
International Airports of Thiruvananthapuram, Kochi and Kozhikode			Within the Air Port area premises

As per the abkari policy for the year 2007-08 (GO(Ms)No 34/07/TD 01.03.2007) Heritage hotels classified by the Ministry of Tourism, Government of India will be eligible for FL-11 licences. Single and two star hotels functioning at tourist centres approved by Taxes Department will also be eligible for the licence. In addition to the existing eight tourist centres mentioned above, Cherai in

Ernakulam and Athirappilly in Thrissur will be included in the list of tourist centres for issuing FL 11 licences .

FL-12 BEER RETAIL SALE OUTLET LICENCE

The licence is issued by the Commissioner of Excise only to the CONSUMERFED for retail sale of beer in bottles at an annual rental of Rs 3,00,000 (Rupees Three lakh only). The licensee shall procure beer only from an FL-9 licensee in the State (**Rule 13 (12)**).

FL-13 PUB BEER PARLOUR LICENCE

The licence is issued by the Commissioner of Excise exclusively to KSBC Ltd. and KTDC Ltd. for running Pub Beer parlour in selected centres on payment of an annual rental of Rs 5,000 (Rupees Five thousand only) .

The licence shall also be issued to joint sector hotels involving KTDC Ltd. at an annual rental of Rs 50,000(Rupees Fifty thousand only). The licensees may procure Pub Beer directly from the Breweries.

Note: Pub Beer is draught beer (before pasteurization) kept in dispenser at 0⁰C to 4⁰C and shall be used within 48 hours of manufacture (**Rule 13 (13)**).

Some important general conditions

1. No licence shall be issued if the applicant has been convicted of any cognizable offence or any offence under the Abkari Act, the Prohibition Act, Narcotic Drugs & Psychotropic Substance Act. The Spirituous Preparations (Inter State Trading and Commerce) Control Act or Medicinal and Toilet Preparations Act.
2. No defaulter of abkari arrears shall be permitted to renew the licence unless he produces a certificate from the Excise Department to the effect that he has cleared 50 *per cent* of the abkari arrears pending at the time of renewal of the licence.
3. Two or more of the above kinds of licences may be granted to the same person and for the same locality provided that no licence under these rules shall be issued to the holder of a licence under the Kerala Rectified Spirit Rules, 1972.

4. Where there is a difference of duty of excise or luxury tax between two licence periods, such difference shall be collected in respect of all stocks held by the licensee, by the Circle Inspector of Excise or the Excise Officer in charge of the licenced premises as the case may be. Under no circumstances the licensee shall be allowed to sell the liquor without payment of difference of tax.

5. The licence obtained shall not be sold, transferred or sub rented without previous sanction of the Commissioner of Excise. Reconstitution of partnership by addition or deletion of members or reconstitution of Directors in a Company resulting in change of ownership which owns/manages or operates any licence issued under this rule shall be deemed to be transfer of licence. Reconstitution of partnership/Directors of a company may be allowed on payment of Rs 50,000 [(Rupees Fifty thousand only) – w.e.f 01.04.07 till then Rs 10,000] (**Rule 19 Foreign Liquor Rules**).

6. Change of name of licensee may be allowed only on payment of Rs 10,000 (Rupees Ten thousand only) and such change shall be allowed only if the transferee is eligible otherwise for obtaining a licence under these rules.

7. The Commissioner of Excise may permit or order transfer of any shop [w.e.f 01.04.2007, only if the proposed hotel is provided with star classification and above, issued by Department of Tourism, Government of India. GO (Ms) No 34/07/TD dt 01.03.2007] from one locality to another within the town or taluk as the case may be, as the shop is situated in a town or outside a town or to order any shop to be closed in the interest of public peace or morality or on ground of expediency. Fee for such transfer of licence has been increased from Rs 10,000 (Rupees Ten thousand only) to Rs 2,00,000 (Rupees Two lakh only) w.e.f 01.04.2007.

8. Violation of the rules or conditions of licence either by a licensee or by an employee shall entail on the licensee or his agent or both :

- (i) a fine of Rs 10,000 (Rupees Ten thousand only) or
- (ii) cancellation of the licence, or
- (iii) both.

If the holder of such licence or permit sells or stores for sale, liquor in any premises other than the licenced premises, in such case the penalty shall not be less than Rs 50,000 (Rupees Fifty thousand only).

9. When the period of a licence expires and it is not renewed for the next financial year or when a licence is cancelled and a notice to that effect is given to the licensee the licensee shall within 30 days of such date sell the whole stock of foreign liquor in his possession to any licenced vendor. If the licensee fails to do so within the specified period, the Excise Inspector of the Range under whose jurisdiction the shop falls shall take into his custody the liquor and keep the same in his office for a further period of 30 days and the licensee shall be allowed to sell the same in one transaction to another licenced vendor. If the licensee fails to do so the Officer in charge of the division shall sell the liquor in public auction and deliver the proceeds after deducting the expense in connection with the sale to the licensee.

CHAPTER VIII

BLENDING AND BOTTLING UNITS

Following are the bottling and blending units in Kerala as at present.

- South Travancore Distilleries & Allied Products, Thiruvananthapuram.
- Seven Seas Distilleries Ltd. , Thrissur.
- Elite Distillery & Beverages Co., Thrissur.
- United Spirits, Kanjikode
- Kerala Alcoholic Products Ltd, Palakkad.
- Amrut Distilleries Ltd., Palakkad.
- Empee Distilleries Ltd., Palakkad.
- K.S. Distillery, Kannur.

The Blending and Bottling Units are governed by the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975. The Rules shall not apply to Compounding, Blending or Bottling operations in a distillery or bottling operations in a brewery or a winery. Nothing in Foreign Liquor Rules, or the Foreign Liquor (Storage in Bond) Rules 1961 or the Kerala Rectified Spirit Rules, 1972 shall apply to import, transport, possession, sale or export of spirits by the holder of a licence under these rules (**Rule 1**).

Compounding means the preparation of Foreign liquor by the addition of flavouring or colouring matter or both to imported or Indian made spirit, but no flavouring or colouring matter that has not been approved by the Commissioner for use shall be added to the spirit. Flavouring or colouring matter shall be added in such proportion as may be fixed by the Commissioner of Excise. Blending means mixing two different spirits of the same or different strength (**Rule 2 and 9**).

All transactions pertaining to the receipt, transfer, storage, compounding, blending or bottling at the licenced premises or issue of spirit therefrom shall be under the supervision of the Excise Department and the licensee shall pay the cost of establishment including the allowances, leave salary and pension contribution in advance at the rate fixed by the Commissioner of Excise from time to time, on the first day of every month. If the licensee fails to remit the cost of establishment

on the 1st day of every month, interest @ 18 *per cent per annum* shall be charged and from the 20th day of the month penal interest at 2.5 *per cent per annum* shall also be charged. If he fails to remit the amount by the 1st day of the succeeding month, the staff shall be withdrawn after due notice. The licensee shall be liable to pay the arrears of differential cost of establishment if the rates of pay and allowances are revised by the Government retrospectively **(Rules 6(1) and 6(3))**.

The Commissioner of Excise, on receipt of application alongwith necessary details, may, if he is satisfied after making necessary enquiries, grant a compounding and blending licence in Form 1 on payment of a fee of Rs 2,00,000 (Rupees Two lakh only) [w.e.f 01.04.2007, till then Rs 1,00,000] and a bottling licence in Form 2 on payment of a fee of Rs 2,00,000 (Rupees two lakh only) [w.e.f 01.04.2007, till then Rs 50,000]. The Commissioner of Excise may, on application made to him alongwith the licence fee, renew a licence for a period of one year at a time **(Rule 3 and 4)**. Every licensee shall also take out a licence in form 4 for the possession of spirits on which duty has not been paid, on payment of a fee of Rs 1,00,000 (Rupees One lakh only) [w.e.f 01.04.2007, till then Rs 50,000] **(Rule 8)**.

The blending unit shall have one room each for spirit store, laboratory to conduct compounding and blending operations, bottling Warehouse, storage of finished products and for distillery officer **(Rule 5)**.

A licensee may, under bond, without payment of duty, import spirit/rectified spirit or obtain spirit/rectified spirit from distilleries in the State **(Rule 7 (1 & 2))**.

All consignments of spirits obtained by a licensee shall be verified by volume and strength jointly by the officer in charge and the licensee and the net quantity received will be taken into account and verification report sent to the officer in charge of the distillery and the Deputy Commissioner of Excise in order that duty may be collected on the excess wastage, if any. Immediately after or within one day of the verification, the spirits should be transferred to the vats. **(Rule 7 (3))**. The actual stock found on verification shall be entered in the storage register of spirits which shows the opening stock, receipts, issue and balance.

Wastage allowance in the case of spirits allowed to be imported and in the case of spirits obtained from distilleries in the State, shall be regulated by the provisions of Kerala Distillery and Warehouse Rules, 1968. The licensee shall pay duty at the tariff rate for excess wastage where such losses could not be accounted for the satisfaction of the Deputy Commissioner of Excise (**Rule 7(5)**).

Note: An allowance made for the loss in transit by leakage or evaporation or other unavoidable causes of spirits imported or transported under bond in wooden casks or receptacles shall be at the rate of 1 *per cent* for a journey of every 400 k.m or part thereof subject to a maximum of 4 *per cent* for the whole journey. If the spirits are imported, exported or transported in metallic receptacles, tanker lorries or plastic polythene container, the allowance made for the loss in transit by leakage and evaporation or other unavoidable causes shall be at the rate of 0.1 *per cent* for a journey of every 400 k.m or part thereof subject to a maximum of 0.5 *per cent* for the whole journey (**Rule 55 of Kerala Distillery & Warehouse Rules 1968**).

As the strength of spirit is obscured in the process of compounding, only the original strength of spirit shall be taken into account for charging duty (**Rule 9 (4)**). If sugar, salt or other matter soluble in spirit and heavier than water is added to the spirit it prevent the true strength being ascertained (**Rule 73 (4) Of Kerala Distillery & Warehouse Rules**). When it is known or suspected that some matter which will prevent the ascertainment of true strength by means of hydrometers is present in the spirit, the number of degree to be added to the apparent strength on account of obscuration shall be certified by the Chemical Examiner on analysis of a sample submitted to him. Duty shall be calculated on the quantity and strength of such spirit after addition of the number of degrees of proof certified as necessary to be added to the apparent strength as ascertained by hydrometer (**Rule 9 (6)**).

Compounded or blended spirits shall be kept in separate vats and removed to the bottling warehouse and a record of compounding operations shall be kept in Form 6 (**Rules 9 (8) and 9 (10)**).

No wastage shall be allowed in compounding or filtering. But an allowance of not more than 0.5 *per cent* shall be allowed for loss in blending and an allowance of not more than 0.5 *per cent* shall be allowed for loss in bottling. Wastage shall be calculated on the quantity and not on any loss of strength that

may occur. Any deficiency in excess of 0.5 *per cent* shall be charged with duty at the rate applicable to IMFL (**Rules 9 (12) and 10(5)**).

Note: Wastage is allowed for blending or bottling or storage, as the case may be, but there is no rule for such allowance for wastage in respect of reducing operations - Seven Seas Distillery (P) Ltd Vs. State of Kerala - 2002 (2) KLT 683.

The labels to be used on the bottles shall be approved by the Commissioner. A fee of Rs 10,000 (Rupees ten thousand only) shall be levied for approval of each kind of label (**Rule 10 (7)**).

Liquors shall be issued from the finished products store only in bottles, and

- (i) under bond for export or transport to the bonded warehouse licensed under the Foreign Liquor (Storage in Bond) Rules 1961 or
- (ii) on payment of duty and other taxes, for consumption within the State to licensees authorized to purchase the same (ie. FL-9 Licensee or FL-10 Licensee).
- (iii) on strength of duty paid permits for export to other States (**Rule 11**).

No liquor processed in a batch shall be issued until a sample thereof has been analyzed and certificate of its fitness for human consumption has been issued by the Chemical Examiner. Provided that no such certificate shall be necessary if the licensee has obtained a certificate from the Indian Standards Institution. In the case of spirits released for consumption within the State, the strength of gin shall be not lower than 35⁰ UP and the strength of other spirits shall not be lower than 25⁰ UP (**Rule 11 (3) and (2)**).

Various accounts like Register of transactions in the spirit store (form 3), Requisition for issue of spirits from the spirit store (Form 5), Record of compounding operation (Form 6), Record of blending operation (Form 7), Record of bottling operation (Form 8) and Stock register of liquors in the store of finished products, will give a clear picture of the transactions in the blending unit.

General Conditions applicable to licensees : Every licence granted under these rules shall be for a period not exceeding one year, but in no case shall such period extend beyond the 31st March of the year following the year in which the licence is granted.

The licensee shall not sell, lease out, sub rent or otherwise transfer the privilege granted to him under the licence without the previous sanction of the Commissioner of Excise.

Every licensee shall furnish a security of Rs 5,000 for the due observance of these rules and the condition of his licence.

Every licensee shall pay to the Government duty at the tariff rate on all spirits which are found deficient at quarterly stock taking and which could not be accounted for to the satisfaction of the Commissioner of Excise. An allowance of not more than 0.5 *per cent* shall however be allowed as wastage in store.

All sums payable to Government may be recovered from the security furnished or may be recovered under the RR Act. Any sum adjusted from security shall be replaced by the licensee within 15 days from the date of notice from the Commissioner of Excise informing the licensee of such adjustment from the security.

A licensee whose licence is suspended or cancelled or who fails to renew their license after expiry of its period, shall not dispose of the stock held by him except on the orders of the Commissioner of Excise.

CHAPTER IX DISTILLERY

The Kerala Distillery & Warehouse Rules 1968

The Kerala Distillery & Warehouse Rules has two parts, Part I deals with establishment of the distillery & warehouses and Part II deals with the functioning of the distilleries & warehouses.

Following is the list of functioning and non functioning distilleries in the State:

DISTILLERIES

- Travancore Sugars and Chemicals, Thiruvalla, Pathanamthitta.
- Mc Dowell and Co. Limited, Alappuzha(Varanad,Cherthala)**
- Indo Scottish Brand Distillery, Kochi.
- Devikulam Distillery, Kochi.
- Kaycee Distillery, Thrissur.
- Polson Distillery, Thrissur.
- S.D.F. Industries Ltd., Thrissur.
- Co-operative Sugars Ltd. , Palakkad.
- United Distillery, Kozhikode.
- Cassanova Distillery, Kottayam.

DEFUNCT

- Mannam Sugar Mills, Pandalam, Pathanamthitta.
- Thottakkattu Distillery, Aluva.
- Normandy Breweries & Distillery, Kasargode

** At present distillation is done only at Mc Dowell Distillery, Cherthala.

The Commissioner of Excise, on receipt of application which satisfies the necessary conditions, after obtaining the approval of the Government may grant a distillery licence in Form I on payment of a fee of Rs 2,00,000 (Rupees Two lakh only) [w.e.f 01.04.2007, till that date Rs 1,00,000] for manufacturing spirit. The licensee shall not manufacture, blend or bottle spirit under this licence. The Commissioner of Excise may renew the licence for periods of one year at a time or for such shorter period but on no account the licence shall extend beyond 31st March. The application for renewal shall be accompanied by a treasury receipt for the payment of the licence fee (**Rule 4**).

A Distiller who wishes to compound spirits made in his distillery i.e., to colour or flavour or colour and flavour plain spirits so as to make them resemble gin, rum, brandy or whisky shall apply to the Commissioner of Excise alongwith an application fee of Rs 2,00,000 (Rupees Two lakh only) [w.e.f 01.04.2007 , till

then Rs 1,00,000]. The Commissioner of Excise unless he sees reason to the contrary, shall grant licence in Form II and such licence shall be in force only during the continuance of the distillery licence and no longer (**Rule 11**). The licensee shall have to get the licence renewed on payment of such fee (i.e., Rs 2,00,000) with the commencement of each financial year.

A special 'Bottling Licence' in Form III, for the bottling of IMFL in any distillery or bonded warehouse may be granted by the Commissioner of Excise on payment of Rs 2,00,000 (Rupees Two lakh only)[w.e.f 01.04.2007, till then Rs 1,00,000] (**Rule 11 (d) and (e)**). The licensee shall pay in advance to Government a sum of Rs 2,00,000 (Rupees Two lakh only) [w.e.f 01.04.2007, till then Rs 1,00,000] *per annum* or for part thereof, as licence fee and he shall have to get the licence renewed on payment of such fee (i.e. Rs 2,00,000) with the commencement of each financial year. The bottlery shall be under the double lock and key, one with the Excise Inspector in charge and the other with the licensee or his agent.

The labels to be issued on the bottles shall be approved by the Commissioner of Excise. A fee of Rs 10,000 (Rupees Ten thousand only) shall be paid for approval of each kind of label (**Rule 11 (e)**).

On payment of a fee of Rs 50,000 (Rupees Fifty thousand only) the Commissioner of Excise shall grant a warehouse licence in Form IV which shall be valid for a period not exceeding one year but in no case the licence shall be valid beyond 31st March of the financial year in which the licence is issued. The Commissioner of Excise or an Officer authorized by him may, on application, renew the warehouse licence for a period not exceeding one year and not beyond 31st March of the financial year (**Rule 16**). No spirits shall be received into any warehouse unless accompanied by a permit from the officer in charge of the distillery or of the warehouse from which they have been transferred or by a Special permit by the Commissioner of Excise authorising their receipt into the warehouse. All spirits received into warehouse shall be gauged and proved on arrival and the warehouse keeper shall thereupon become responsible for the quantity and strength of the same (**Rule 22**).

The Commissioner of Excise or an Officer authorized by him, on payment of a fee of Rs 10,000 (Rupees Ten thousand only) or at such rates as may be prescribed from time to time, may issue a licence for import of Extra Neutral

Alcohol (ENA) under bond without prior payment of excise duty or gallonage fee, for import or to obtain ENA (neutral spirit for alcoholic drinks) having Indian Standard Specifications, grape spirit and malt spirit fit for human consumption. The licence shall be in Form IV A and shall be valid for a period not exceeding one year or such shorter period but not beyond 31st March of the financial year in which the licence is issued. A warehouse licence may on application, be renewed by the Commissioner of Excise or an Officer authorized by him for a period of one year at a time or for such shorter period as the Commissioner of Excise may direct, but no licence shall extend beyond 31st March of the financial year. The fee for the renewal of the licence is Rs 500 (Rupees Five hundred only). A security deposit of Rs 50,000 (Rupees Fifty thousand only) shall be furnished for the grant of a licence in Form IV A **(Rule 47 A)**.

The privilege extends only for possession and use of imported/transported ENA, grape spirit, malt spirit for the manufacture of potable liquor under bond in the presence of an Excise Officer not below the rank of an Excise Inspector. The licensee shall pay in advance in the first week of each month, the average cost of the staff appointed for the purpose of excise supervision. If the licensee fails to do so, interest at the rate of 18 *per cent per annum* shall be charged and from the 20th day of the month penal interest @ 2.5 *per cent per annum* shall also be charged.

The ENA / grape spirit / malt spirit required by the licensee shall be purchased from any licensed distillery in the State or imported from outside the State under a permit obtained from Deputy Commissioner of Excise of the Division in which the distillery is located.

The licensee shall maintain day to day accounts in ink in proper forms and registers prescribed under the rules. He shall preserve the invoices, cash memoranda, permits and other documents relating to consignments received and dealt with by him for a period of three years after the lapse of the year to which they relate.

The licensee shall pay excise duty at tariff rate on the proof spirit contents for excess wastage and deficiency laid down under this Rules. All sums payable to Government may be adjusted from the security furnished by the licensee or recovered under the Kerala Revenue Recovery Act 1968. The licensee shall repay within 15 days any sum so adjusted from the security **(Conditions for grant of licence)**.

All consignments of ENA grape spirit / malt spirit obtained by a licensee shall be verified by volume and strength jointly by the officer in charge of the distillery and the licensee or his agent. The net quantity received shall be taken into account and verification report sent to the Officer in charge of the distillery and the Deputy Commissioner of Excise in order that the duty may be collected on the excess wastage, if any. But the collection of duty of excess transit wastage from the import of spirit shall be exempted when the exporting state collects such duty, provided that the spirits shall be transported under proper escort to check against any pilferage on the way.

An allowance at the rate of 0.1 *per cent* for a journey of every 400 km or part thereof subject to a maximum of 0.5 *per cent* for the whole journey and also to the actual wastage, whichever is less may be permitted as wastage in transit. The licensee shall pay excise duty at the tariff rate for the excess wastage of spirit. **(Rule 47 A).**

The distiller shall pay the establishment employed in the distillery including allowance, leave salary and pensionary contribution at such rates as may be prescribed by the Government from time to time. If the pay and /or allowance of the staff of the establishment employed in the distillery is revised with retrospective effect distiller shall be liable to pay to Government, the amount of arrears of cost caused by such retrospective revision. In case a distiller ceases to distill or to issue spirits for a period exceeding one month, the Commissioner of Excise may withdraw the establishment stationed at the distillery, and may prohibit all further distillation in, and issue of spirits from, such distillery until the distiller has given him not less than 15 days' notice in writing of the date on which he proposes to recommence distillation or the issue of spirits, as the case may be **(Rules 14 and 12).**

An account shall be taken of the distiller's and warehouse keeper's stock at such intervals, not exceeding three months, and in such manner as the Commissioner of Excise may direct and the distillers and warehouse keepers shall pay to the Government, duty at the rate prescribed for rectified spirit on all spirits which are not forthcoming and which could not be accounted for, to the satisfaction of the Commissioner of Excise, in excess of an allowance of one per cent which shall be made for wastage. Wastage for the purpose of collection of duty on the excess as aforesaid shall be calculated at the end of every quarter

ending the last day of June, September, December and March of every year. If the licence is to expire earlier than the last day of the quarter the wastage shall be calculated at the end of such period (**Rule 34**).

On the expiry of his licence, unless a fresh licence has been granted to him, or if his licence is cancelled or suspended, every distiller or warehouse keeper shall be bound forthwith to pay the duty on, and to make arrangement for disposal to licensees approved by the Commissioner of Excise of all spirits remaining within the distillery or warehouse; and if he fails to do so within ten days of the receipt of written notice from the Commissioner of Excise, the cost of any establishment which it may be necessary to employ at the distillery or warehouse may be recovered from the defaulter. In the event of arrangements not being made within 3 months, the spirits shall be liable to be confiscated (**Rule 39**).

Minimum strength prescribed by the Government for issue of spirits coloured, flavoured, or coloured and flavoured to resemble Brandy, whisky, rum or gin shall not be weaker than 25⁰UP in the case of brandy, whisky, rum and of 35⁰UP in the case of gin (**Rule 44**).

Spirits may be issued from distilleries and warehouses under bond (a) for export to any other State in India or to any place out of India or to any other licensee subject to such restrictions and to payment of such amounts as may be prescribed by the Government from time to time (b) for transport to another distillery or warehouse licensed under these rules or to the warehouse licensed under Foreign Liquor Storage in Bond Rules 1975 (**Rule 47**) on payment of duty or gallonage fee or other taxes, for consumption within the State to licensees i.e. FL-9 and FL 10 (**Rule 47 (2)**).

Rectified or denatured spirits may be issued from distilleries, free of duty but on payment of gallonage fee or taxes as may be prescribed by the Government, to persons licensed to possess rectified or denatured spirits as the case may be (**Rule 47(4) read with 52(2)**).

No spirit shall be removed from any distillery or warehouse save under permit issued by the Distillery or Warehouse Officer. If the distiller or warehouse keeper has executed a bond in the form prescribed by the Government, the distillery or warehouse may issue permits for the removal of spirits up to the quantity covered by the bond. In all other cases he shall issue a permit only on proof of that duty, taxes or other amounts has been paid on the quantity of spirits

to be removed at such rate as may, from time to time, be prescribed by the Government under Section 17 of the Abkari Act (**Rule 49**).

An allowance made for the loss in transit by leakage or evaporation or other unavoidable causes of spirits imported or transported under bond in wooden casks or receptacles shall be @ 1 *per cent* for a journey of every 400 km or part thereof subject to a maximum of 4 *per cent* for the whole journey. If the spirits are imported/ exported/ transported in metallic receptacles, tanker lorries or plastic/polythene container, the allowance made for loss in transit by leakage and evaporation or other unavoidable causes shall be @ 0.1 *per cent* for a journey of every 400 km or part thereof subject to a maximum of 0.5 *per cent* for the whole journey (**Rule 55**).

THE KERALA DISTILLERY AND WAREHOUSE RULES, 1968 Part-II

All distilleries and warehouses will be under the control of the Commissioner of Excise. The Joint Commissioner of Excise also may exercise all the powers of the commissioner subject to the control of the Commissioner. The distilleries and warehouses will submit all matters dealing with their duties to the Commissioner of Excise through the Deputy Commissioner of Excise and Joint Commissioner of Excise (**Rule 2(1)**).

Officer in charge of distilleries and warehouses are not empowered to enquire into cases. All cases detected by them and their subordinates, as well as those occurring within the precincts of distilleries and warehouses should be reported to the Deputy Commissioner of Excise in charge of the Division in which they occur (**Rule 2 (3)**).

The Deputy Commissioner of Excise will be responsible for the proper working of distilleries and warehouses. He will inspect them as often as necessary, but not less than once every half year, and will submit the notes of his inspection to the Commissioner of Excise. He should ensure that all amounts due are properly collected and that there is no excess wastage in manufacture or storage or transit or evasion of duty or malpractices of any kind whatever and in particular verify all the entries in all the registers and receipts and personally test check the distillation and fermentation efficiency, the gauges of the vats, recoveries, etc. (**Rule 3**).

Abkari locks and tickets supplied by the Commissioners' office shall be used in the distilleries and warehouses and no locks other than those supplied from the Office of the Commissioner of Excise may be used without the special orders of the Commissioner of Excise in each case. Abkari locks are affixed to any pipe, cock, receptacle, door, etc., and the abkari tickets are affixed on these locks and when the locks are removed the officer should carefully examine to ascertain if it has been in any way tampered with. If it is in the condition in which it was inserted the officer at once remove the ticket, enter on it the date, hour and minute of removal with his initials, carefully smooth it out and give it on to the blank space left for the purpose at the edge of its counterfoil (**Rules 27, 28 and 29**).

All lock and ticket books should be accounted for in the store register. All locks and their keys should also be entered in the G.35 (a) register. The register of abkari locks shall be maintained in the distillery warehouse office and in the Office of the Commissioner of Excise. On the fly leaf of this register a complete list of the fastening which are secured with abkari locks shall be entered (**Rule 32 (2)**).

In the weekly diaries of the officer in charge of distilleries and warehouses, the numbers of abkari tickets put on and taken off in connection with all operations must be entered and the used tickets shall be forwarded to the Deputy Commissioner of Excise alongwith the diary (**Rule 33**).

When a distiller, warehouse keeper or any other person with the consent of the distiller or warehouse keeper desires to remove spirits from a distillery or warehouse under bond he must execute bond in Form 5 or in Form 6, as the case may be, and the officer in charge will issue the spirits as if duty has been paid, after the entry of the particulars thereof in the prescribed register (**Rule 58**).

An allowance made for the loss in transit by leakage or evaporation or other unavoidable causes of spirits transported or exported under bond in wooden casks or receptacles shall be @ 1 *per cent* for a journey of every 400 km or part thereof subject to a maximum of 4 *per cent* for the whole journey. If the spirits are consigned in metallic receptacles, tanker lorries, plastic/polythene containers the allowance for loss in transit by leakage or evaporation or other unavoidable causes shall be @ 0.1 *per cent* for a journey of every 400 km or part thereof subject to a maximum of 0.5 *per cent* for the whole journey. If the actual loss in

transit is less than the loss as computed above, the allowance shall be made only for the actual loss. In the case of spirits removed to places within the State, the wastage allowance shall be calculated on the quantity consigned in each case, cask or receptacle **(Rule 60 and 62)**.

Distillers and warehouse keepers will be allowed to bottle unexcised spirits both for issue within the State and for export to other States in India or out of India under the following circumstances.

- Bottling shall be carried on in a separate warehouse previously approved for the purpose by the Commissioner of Excise.
- If the spirits to be bottled are previously compounded the amount of duty to be levied shall be calculated on the quantity of plain spirits used in producing them.
- The distillery or warehouse officer or any other officer specially authorized for the purpose shall be present during the whole operation of bottling.
- An allowance for actual wastage not exceeding 1 *per cent* as may be fixed by the Commissioner of Excise will be made for loss arising in the operation of bottling. If the spirits bottled are compounded spirits, the wastage will only be calculated on the quantity, not on any loss of strength which may occur.
- Any deficiency in excess of the prescribed allowance to cover the loss arising in the operation of bottling will be charged with duty at the rate applicable to Indian Made Foreign Spirits.
- Pending removal on payment of duty or under bond, bottled spirits and spirits awaiting bottling shall be kept in the bottling warehouse.
- All spirits bottled under these rules shall be treated as Indian made foreign spirit for the purpose of calculation of duty.

(Rules 63 and 64)

The duty on consignments issued under bond shall be written off on proof of the delivery of the consignment at its destination within the time mentioned in the permit. In the absence of such proof the distiller or warehouse keeper shall pay or cause to be paid on demand, into Government treasury duty at the tariff rate for

all or any portion of the spirits, which shall not have been so accounted for, less the prescribed allowance for wastage in transit (**Rules 65 and 66**).

As the strength of the spirit is obscured in the process of compounding, i.e the apparent strength by the hydrometer will be found to be less after, than before the addition of the colouring or flavouring matters used in the compounding process, the original strength only of the spirits should be entered in the strength columns of Form D 8 and duty should be charged accordingly. This applies only to cases of simple compounding. Compounding by redistillation is not likely to obscure the strength of spirits. When it is known or suspected that saccharine or other matter of such a nature as to prevent the true strength being ascertained by means of the hydrometer, is present in spirit, the number of degrees to be added to the apparent strength on account of obscuration shall be certified by the Chemical Examiner to the Government on analysis of a sample of the spirit submitted to him and duty shall be calculated on the quantity and strength of such spirit after the addition of the number of degrees of proof certified as necessary to be added to the apparent strength as ascertained by the hydrometer (**Rule 73**).

Note: The difference caused by the caramel in solution, between the true strength of spirit and that, indicated by the hydrometer is termed obscuration. The percentage of obscuration can be easily ascertained by taking the hydrometer strength before and after the addition of caramel or any other soluble substance likely to cause same.

All compounded spirits shall be treated as Indian made foreign spirits for the purpose of the calculation of duty. In all other respects e.g as regards wastage, spirits compounded by redistillation will not be distinguished from any other spirits in the warehouse (**Rule 74**).

All gauges and proofs should be made by the officer and the distillers, etc. conjointly as they arise. All calculations must be worked out independently by the Officer and the distiller or warehouse keeper and invariably checked and compared before they are entered in the registers (**Rule 82(1)**).

Fortification : When weak liquor is brought under cover of proper permit from a depot or shop to a distillery or warehouse for fortification the consignment should be verified without delay. The quantity of strong liquor required to bring the weak liquor to issue strength should alone be entered in the accounts. Prepayment of duty at tariff rate and cost price on strong spirit used in fortifying weak liquor is

compulsory. Fortification of weak liquor cannot be permitted in advance of the recovery of the amount due (**Rule 77**).

Denatured spirit: Denatured spirit are spirits which have been rendered effectually and permanently unfit for human consumption by the admixture of prescribed additives. Denatured spirits imported from other states or locally made are free from excise duty, but be subject to levy of gallonage fee (**Rule 75**).

Maintenance of accounts

A large number of forms have been prescribed for maintenance of accounts in the distillery which give full picture of each and every transaction in the distillery, blending unit, bottlery and warehouse. Some of the important ones are detailed below:

Statement of wash made (Form D3(b))

To ensure the correct maintenance of this register, distillers must dissolve the saccharine materials used by them when they set up the wash and declare the kind and quantity of materials used, the actual saccharometric gravity, corrected for temperature before fermentation commenced and the total quantity of wash made. The distilleries adopting continuous fermentation system, shall note the numerical whole number obtained by computing the initial gravity from the weight of molasses used and the volume of wash made, using the following formula:

$$\text{Initial gravity} = \frac{(S-1) \times W + S \times V}{S \times V}$$

Where S is the specific gravity of molasses
W is the weight of molasses used
V is the volume of wash made

Example: Where 3,000 Ltrs of wash is made with 1,000 Kg of molasses of specific gravity 1.43 the initial gravity will be calculated as follows:-

$$\begin{aligned} \text{Initial gravity} &= \frac{(1.43-1) \times 1000 + 1.43 \times 3000}{1.43 \times 3000} \\ &= 1.100 \\ &= 1100 \text{ in terms of numerical whole numbers} \end{aligned}$$

This computed value should be cross checked every day as follows:-

From the known total weight of molasses used and the volume of wash made therefrom, find the weight of molasses required for making 1 litre of wash,

by dividing the weight of molasses with the volume of wash made. This may be called the molasses factor and let this be W gram. Weigh out W gram of molasses, dissolve it in water and make up 1 litre. Mix well and read the initial gravity with a saccharometer. If there is a difference in initial gravity obtained by the computation method and the above method, the higher value should be taken as the initial gravity.

Initial gravities must be taken night or day after the wash is run into the wash backs and not from the wash in the mixing tanks.

Note : The declared gravity of the wash in the mixing tanks should occasionally be tested and the results recorded in the diary (**Rule 92 (1 to 3)**).

When weak spirits are distilled together with the wash, the proof quantity sent to the still must be deducted from the total proof quantity, outturned before calculating the percentage of attenuation of the wash distilled. The bulk, strength and proof quantity of the weak liquor to be deducted when such liquor was sent for redistillation should be entered in the remarks column of the statement. Redistillation is to be supervised by the officer in charge. Actual wastage in redistillation may be allowed up to a maximum 5 per cent. (**Rule 92 (5,6 & 7)**).

Statement of wash made and spirit obtained (Form D 3 (b))

The account contains details of raw materials used, saccharometer readings of wash, spirits obtained through distillation and the volume of proof spirit obtained per quintal of molasses/sugar.

Before initial gravity is taken Officers should ensure the thorough mixing of molasses or the complete solution of sugar in the wash, otherwise the whole of the results will be vitiated.

Whenever the out turn of spirits is consistently low, and there is no apparent cause why it should be so, officers should take samples of the spent wash as it leaves the still and forward them to the Deputy Commissioner of Excise to arrange for their examination. **As per Kerala Excise Manual a yield of about 475 litres of fair spirit per metric tonne of molasses may be taken as average out turn, though under good conditions it may go up to 511.4 litres. But according to the Central Board for Molasses the average out turn is 373.5 litres/tonne.** Government have amended the Kerala Distillery and Warehouse Rules, 1968 as per GO(P)No.154/09/TD dated 24.8.2009 issued as SRO

NO.710/2009 fixing a minimum yield of rectified spirit/ENA from 18 categories of molasses based on percentage of reducing sugar in molasses. A copy of the statement showing the wash actually sent to still during each month is to be sent to the Deputy Commissioner of Excise before the 10th of the succeeding month alongwith the distiller's declaration of wash [in form D 3(a)].

The attenuation of the wash is the number of degrees on the saccharometer by which the highest or initial gravity and the final or lowest one differ. Thus in the case of a wash with initial gravity of 60^o and final one of 20^o the attenuation would be 40^o and the calculation would be as follows:-

Multiply the proof litres of spirit out turned by 100 ; divide the product by the number of litres of wash made by the figures thus obtained divide the degrees of attenuation ; the quotient will be the result required i.e the degree of attenuation for each litre of proof spirit, per 100 litres of wash.

Example : 1,200 litres of wash initial gravity 60^o final gravity 20^o proof spirit out turned 96 litres

$$\text{Thus } 96 \times 100/1200 = 8 \quad (60-20)/8 = 40/8 = 5.$$

In other words the out turn of proof spirit is 8 litres per 100 litres of wash and as the production of this percentage is accompanied by a loss of gravity of 40^o the wash has attenuated 5 for each litre of spirit obtained.

Where the working is satisfactory and the wash thoroughly exhausted of its spirit, the results should invariably be between 4 and 5, never above the latter figure. In other words, the out turn should never be below the minimum yield. Any great variation from this standard should be explained in Column 21.

Officers in charge should ensure the thorough mixing of the raw materials in wash before taking the initial gravity. The highest gravity, as declared by the distiller, or found by the officer in charge is to be taken as the basis of account.

In order to ascertain the yield from a single distillation, the number of litres of wash distilled should first be multiplied by the degrees of attenuation, the product should then be divided by 400 to give the maximum yield and by 500 to give the minimum yield. Thus in the example given above, if the out turn had not been known

- (a) the maximum yield should be 120 proof litre
- (b) the minimum yield should be 96 proof litre

(Rule 93)

Register of Manufacturing operations (Form D 7)

This register will be posted by the officer from time to time during the day, when the stills are started, when he removes spirits to the warehouse and when he issues spirits for distillation. **(Rule 96)**

Register of warehouse operations (Form D 8)

This form will be maintained in distilleries and warehouses. The spirits stored in the store room and those stored in and issued from each vat in the warehouse will be separately entered in Form D 8. **(Rule 97)**

Register of Blending and Reducing operation (Form D 8 (a))

This register is to be maintained by the Officer in charge for recording particulars of blending and reducing operations.

Blending means the mixing of spirits with other spirits and reducing means the mixing of spirits with water.

When spirits are blended and then reduced the operation must in no case, be considered as one. In blending operation the officer must see that the spirits are thoroughly mixed, and after sufficient time has elapsed gauge and prove them, any wastage being entered in the column provided for. In reducing operation after addition of the necessary volume of water the whole must be thoroughly mixed, allowed to rest and then gauged and proved, any wastage then arising being shown in the proper columns. When spirits are blended or reduced to the authorized issue strengths wastage of not more than 0.5 *per cent* in the proof litres of spirit taken part in the operation shall be allowed. **(Rule 98)**

Note Wastage is allowed for blending or bottling or storage as the case may be but there is no rule for such allowance for wastage in respect of reducing operations - Seven Seas Distillery (P) Ltd Vs. State of Kerala - 2002 (2) KLT 683.

Monthly compilation register of manufacture, etc. of spirits (Form D 10)

This form will be posted up in the Office of the Deputy Commissioner of Excise on receipt of Form D 9(a) from the distillery or warehouse. On receipt of the fourth weeks figures, a monthly total of the transaction therein must be struck **(Rule 101)**.

Quarterly stock taking : The Officer in charge of a distillery or warehouse will take stock of all spirits on the last day of March, June, September and December in each year . He will then carefully check with the help of the D6

(a) the wastages in column 38 of the D 8 and report the result in Form D 8 (a) and D (11) to the Deputy Commissioner of Excise who on his next visit to the distillery or warehouse will check the stock taking statements with the D 8. In carrying out his duty the Deputy Commissioner of Excise must require full explanation of all shrinkages not reasonably accounted for by wastage in the blending of spirits of different strengths in reductions or by waste in issue. The officer will enter the results of stock taking in words in his own handwriting and under his signature separately in the pages then in use, in Forms D 8 and D 9, immediately after the last entry and will carry forward the bulk, strength and proof figures arrived at by him to fresh pages in the D8 register (**Rule 102**).

Stock taking statement (Form D 11) The result of stock taking should be submitted by the Deputy Commissioner of Excise to the Commissioner of Excise in Form D 11 accompanied by form D 8(a) both duly checked and verified with the D 8 register within 10 days of the close of each quarter. The Commissioner of Excise will review the result and pass such orders as may be found necessary (**Rule 103**). In the case of wastage discovered at the quarterly stock taking, the allowance under Rule 34 of part I is 1 *per cent* and should be calculated on the actual balance in hand on the date of the last stock taking plus the quantity since manufactured and received, excluding issues for rectification and filtration. Any wastage that may be found to result in reducing or blending operations should be shown separately in column 20 of the D 11 statement and the percentage calculated only on the net wastage. A further wastage of 0.75 *per cent* will be allowed on all spirits issued for the rectification. Any wastage in excess of this allowance will be treated as ordinary wastage. Wastage of 3 *per cent* will be allowed on all spirits issued for filtration in a separate filtering plants. Any wastage in excess of this allowance will be treated as ordinary wastage (**Rule 105**).

Register of quarterly stock taking in proof litres (Form D 11(a))

This register shall be maintained in all distilleries and warehouses, in the Office of the Deputy Commissioner of Excise and in the Office of the Commissioner of Excise (**Rule 104**).

Stock taking by superior officers.

When stock is taken by superior officers, the total book balance at the time of stock taking, the quantity actually found and the wastage ascertained

should be reported in the notes of inspection. Any serious discrepancy between the quantity shown in any vat and that actually found should be enquired into and the explanation of the officer responsible should be obtained and submitted with the report (**Rule 106**).

Issue of permits for transport of spirits

In all cases distillers and warehouse keepers must apply in Form D 14 to the officer in charge for the issue of permits for the transport of spirits. On receipt of a requisition for a permit, the officer in charge will first verify the calculations of the amount of duty contained therein, comparing the figures with the letter of advice received from the Treasury Officer or with his bond register or his register of advances, as the case may be, and with the receipt granted by the Treasury Officer which the depot or shop keeper should see is correct in every detail before presentation. Having ascertained that all documents are in regular order, he will then gauge and prove and issue the spirits in accordance with the rules and will grant permits in the prescribed form (**Rules 110 and 111**).

Note : If the letter of advice from the Treasury Officer have failed to reach the officer in charge, the production of the Treasury Officer's receipt will be sufficient warrant to him for the issue of permit, provided he sees no reason to doubt the genuineness of the receipt.

Permit for the transport of spirits from distilleries and warehouses (Form D 15)

This form should be filled up and issued in all cases of removal of spirits from distilleries and warehouses. It has to be verified at its destination and the advice of the permit has to be sent by the examining officer to the officer who issued the permits. If the permit is issued for the removal of spirits under bond duty free, the fact should be noted in red ink on the top of the permit. In the case of spirits compounded and issued as Indian made foreign spirits the quantity of strong liquor (bulk, strength and proof) used in compounding and the quantities of water and essences added should be specified in the counterfoil of the permit. The name of the foreign liquor so compounded and issued should be written on the permit. The number of application presented for the issue of the permit should be noted on the top of the permit issued. The letters of advice are sent independently to verifying officers to assist in detecting any tampering with the consignment during transit. Issues of spirit from distilleries and warehouses have to be verified

on arrival at their destinations in all cases and advises thereof must be sent to the examining officer at the time of issue of the permit.

In all permits, the period of currency should be noted. The currency of a permit determines the time within which the consignment, the transport of which it covers, must reach its destination. In fixing the period, officers must be guided by any instructions that they may receive from the Commissioner of Excise. If they receive none, they must fix the period on the best information they can obtain as to the length of time likely to be occupied in the transit of the liquor. Generally speaking, one day for every 112 km by rail, 48 km by motor bus or lorry or every 24 km by any other conveyance will be a reasonable allowance, in addition to one day for delivery in the case of consignments sent by rail. In the case of issues to shop keepers or depot keepers in the town in which the distillery or warehouse is situated one or two hours will generally be enough to allow. In all permits issued to shop keepers the hours between which each permit is current should be clearly specified. In the case of liquor received with a time expired permit, the verifying officer before verifying the consignment should record the explanation of the licensee for the delay in transit and if the explanation is unsatisfactory the consignee should be dealt with under the Abkari Act the officer empowered to enquire into the case (**Rule 112**).

Register of permits issued

Officer in charge will maintain a register of the issue of permits in Form D 17 and an extract of it will be forwarded to the Deputy Commissioner of Excise every evening accompanied by the vouchers i.e by the distiller's or warehouse keeper's applications for permits and by the treasury receipts if any, for the amount of duty. Registers in Forms D 18 and D 19 must be maintained in the Deputy Commissioner's office. The entries should be posted up daily from Form D 17 (a) and be systematically checked by a clerk with the letters of advice and with the certificates given at the depots. Any discrepancies noticed must at once be brought to the notice of the Deputy Commissioner of Excise so that enquiry may be made. To ensure correct maintenance of the register the Deputy Commissioner of Excise should at least once a month conduct a test check (**Rules 113 and 115**).

Registers of issues of foreign, denatured etc. spirits (Form D 19)

This register also will be posted up daily from register D 17 and an extract there from Form D 19(a) showing the total transactions will be forwarded quarterly to the Deputy Commissioner of Excise with Form D 18(a). As these extracts will be the only available means of checking discrepancies in the treasury accounts, great care should be taken in their preparation (**Rule 116**).

CHAPTER X

THE KERALA RECTIFIED SPIRIT RULES 1972

Rectified spirit means plain un denatured alcohol of a strength not less than 50⁰ OP and includes absolute alcohol.

No person or institution other than a licensed or Government owned distillery shall possess rectified spirit in excess of the quantity prescribed by the Government except under and in accordance with the terms and conditions of a licence issued under these rules.

Provided that it shall not be necessary for the officer of the State/Central Government to obtain licences for possession and use of rectified spirit for Government purposes and that it shall not be necessary for any university or institution engaged in research and recognized by the Education or Science and Technology Department of the Government to obtain licences for possession of rectified spirit for the purpose of such research (**Rule 3**).

Import: No rectified spirit shall be imported except under a permit issued by the Assistant Excise Commissioner of the Excise Division to which it is to be imported (**Rule 4**).

Export: No rectified spirit shall be exported unless the exporter produces the written permission of the Excise authorities of the State of import permitting such import or an export authorization issued by the Government of India in the case of export out of India. Such exports shall be free of duty and gallonage fee (**Rule 5**).

Transport : No rectified spirit in excess of the quantity prescribed shall be transported except under a permit issued by the Excise Inspector in charge of a distillery or a bonded warehouse or of the Excise Inspector of the range of origin. Copy of every permit issued shall be forwarded to the Excise Inspector in charge of the Range to which the consignment is destined and in the case of

consignments issued to bonded spirit store in independent charge of an Excise Inspector, to such Excise Inspector in charge (**Rule 6**).

Rectified spirit shall, except for the manufacture of medicinal and toilet preparations containing alcohol, under Medicinal and Toilet Preparations (Excise Duties) Rules, 1957 or to the distilleries in the State licensed under the Kerala Distillery and Warehouse Rules 1968 or for the purpose of compounding, blending and bottling under the Kerala Foreign Liquor (Compounding, Blending, Bottling) Rules, 1975, not be released from a distillery for use or consumption in the State unless the duty thereon at the rates fixed by the Government from time to time has been paid (**Rule 8**). Provided further that subject to the above rectified spirit intended to be used for purpose, other than for manufacture of potable liquor meant for human consumption, shall be allowed to be released without payment of such duty (**Proviso to Rule 8**).

All spirits purchased from a distillery in the State or imported from outside, under bond without prior payment of duty, shall forthwith be taken to the bonded spirit store licensed for the purpose and produced before the Excise Inspector for verification or the Excise Inspector informed of the arrival of the consignment and requested to verify it and the Excise Inspector in charge shall verify the consignment and enter the result of verification in the register concerned (**Rules 9 and 10**).

The Excise Inspector in charge of the bonded spirit store shall verify whether the wastage of spirit in transit is within the limits prescribed in the Kerala Distillery and Warehouse Rules 1968, and if such wastage is found to be in excess of such limits, duty at the rate applicable to rectified spirit shall be levied on the quantity of spirit wasted in excess of such limits (**Rule 11**). An allowance made for the loss in transit by leakage or evaporation or other unavoidable causes of spirits imported or transported under bond in wooden casks or receptacles shall be @ 1 *per cent* for a journey of every 400 km or part thereof subject to a maximum of 4 *per cent* for the whole journey. If the spirits are imported, exported, or transported in metallic receptacles, tanker lorries or plastic/polythene container, the allowance made for loss in transit by leakage and evaporation or other unavoidable causes shall be @ 0.1 *per cent* for a journey of every 400 km or part

thereof subject to a maximum of 0.5 *per cent* for the whole journey (**Rule 55 of Kerala Distillery & Ware house Rules Part I**).

Excise Inspector in charge of the distillery issuing the consignment shall insist on getting the verification report in respect of each consignment. (**Rule 12**)

The assessment of duty under the Medicinal and Toilet Preparations (Excise Duties) Act 1955 being applicable only to the quantity of spirit existing in the finished product, all spirit wasted during the course of manufacture of any medicinal or toilet preparation shall be assessable to duty under the Abkari Act. (**Rule 13 (2)**)

Until the Government prescribe the rates of allowances for wastage the actual wastage noticed in the manufacture subject to a maximum of 10 *per cent* of the alcohol used for each batch of manufacture shall be allowed as wastage in the case of preparations in which solid raw materials are used for manufacture. No allowance shall be made in the case of preparations in which liquid ingredients alone are used (**Rule 13 (3)**).

Gallorage fee : Gallorage fee shall be collected on rectified spirit issued from a distillery at the rate in force at the time of such issue except for issue :

- (a) for use in manufacture of medicinal and toilet preparations under proper licence
- (b) for export
- (c) to the licenced distilleries in the State
- (d) to the licenced blending units
- (e) for purposes, other than for the manufacture of potable liquor meant for human consumption.

If rectified spirit is imported, the gallorage fee due thereon shall be remitted in a treasury and the treasury receipt produced before the Assistant Excise Commissioner with the application for permit but no gallorage fee shall be collected for spirit issued to the State/Central Government institutions or to Universities and institutions engaged in research and recognized by the Education or Science and Technology Department of the Government (**Rule 14**).

Licence for possession, use and sale other than by distilleries

Any person or institution desirous of possessing and using for a bona fide medicinal, scientific, industrial or such other purpose, or desirous of possessing and selling duty paid rectified spirit shall take out a licence in Form RS 1 on payment of an annual fee of Rs 100 (Rupees Hundred only) if the annual quantity does not exceed 10 litres and Rs 2,000 (Rupees Two thousand only) in all other cases **(Rule 15)**.

Bonded spirit store licence

No person or institution other than a licenced distillery shall possess rectified spirit on which duty has not been paid except under a licence in Form RS III issued by the Commissioner of Excise on payment of a fee of Rs 1,000 (Rupees One thousand only) *per annum*. Every person or institution taking out such a licence shall furnish a security of Rs 5,000 (Rupees Five thousand only) for the due observance of the conditions of the licence and the provisions of these rules. All transactions in the spirit store shall be conducted only in the presence of an Excise Officer not below the rank of an Excise Inspector who shall be assisted by at least two Excise Guards. The cost of the establishment at the rate fixed by the Commissioner of Excise from time to time shall be remitted on the first day of the month failure to do so will entail levy of interest @ 18 *per cent per annum*. Penal interest @ 2.5 *per cent per annum* shall also be charged from the 20th of the month.

Note : For the purpose of this rule cost of establishment means average cost of pay and leave salary contribution

In the case where only the services of a part time officer are utilized by the licensee the licensee shall pay the cost of supervision at such rates as may be specified by the Government from time to time **(Rule 16)**.

General conditions applicable to licensees

- Every licence granted or renewed shall have reference only to the premises described in the licence and the quantity of spirit to be possessed and shall be for a period not exceeding one year and in no case such period extend beyond 31st March following the date of commencement of the licence.
- Every licence shall be deemed to have been granted or renewed personally to the licensee and no licence shall be sold or transferred.

- Where a licensee sells or transfers his business to another person, the purchaser or the transferee shall obtain a fresh licence under these rules but it shall be granted free of fee for the residue of the period covered by the licence. No such licence shall, however, be granted if the purchaser does not satisfy all the conditions prescribed.
- Any licence granted under these rules may be revoked or suspended by the Commissioner of Excise, if the licensee or any person in his employ is found to have committed a breach of the conditions thereof or of any of the provisions of the Act or of these rules.
- Where a licence is suspended or revoked under these rules the holder of the licence shall not be entitled to claim from the Government any compensation or refund of licence fee for such cancellation or suspension.
- If the licensee surrenders his licence at any time either before the commencement of the licence or during the currency of the licence, he shall forfeit any claim for refund of such licence fee in full or in proportion to the period yet to be availed of.
- No licence shall be granted if the applicant has been convicted of any cognizable or non bailable offence or any offence under the Abkari Act, Prohibition Act, the Opium Act, the Dangerous Drugs Act, or the Medicinal and Toilet Preparations (Excise Duties) Act.
- Where a licence is cancelled or suspended or is not renewed after its expiry, the licence holder shall not sell, use or otherwise dispose of any of the stocks held by him under the licence and shall abide by the orders of the Commissioner of Excise regarding the disposal of those stocks.

(Rules 18, 19 and 24)

No rectified spirit shall be released from the bonded store room except for the manufacture of medicinal and toilet preparations in a bonded manufactory licensed under the Medicinal and Toilet Preparations (Excise Duties), Rules 1956 and all the transactions in the spirit store shall be in the presence of the Excise Inspector (**Rule 20**).

The benefit of exemption from duty to the manufacturer of medicinal or toilet preparations, is extended only on his producing the certificate of the

Chemical Examiner showing the alcohol content in each batch , at the cost of the manufacturer **(Rule 21)**.

In cases where the manufacturer of a medicinal or toilet preparation has purchased rectified spirit after paying duty under the Medicinal and Toilet preparations (Excise Duties) Act and is eligible for refund of duty, the Officer shall on receipt of the assay report of the Chemical Examiner in respect of each batch of preparation find out the total alcoholic content of the batch of preparation in terms of proof litres and also the amount of duty assessable on it under the Medicinal and Toilet Preparations (Excise Duties) Act. He shall then work out the duty of excise chargeable on an equal quantity of alcohol under the Abkari Act. If the amount collected under the Abkari Act is more, such excess collection shall be refunded to the manufacturer in cash or by adjustment. The Deputy Commissioner of Excise of the division shall be competent to order such refunds **(Rule 22)**.

CHAPTER XI

BREWERY

Establishment and functioning of the breweries are regulated by the Breweries Rules 1967. The Rules have two parts. Part I deals with the establishment and functions of the brewery and part II deals with process of brewing and accounting in the brewery.

Breweries

- United Breweries, Cherthala.
- Premier Breweries, Palakkad.
- Empee Brewery, Palakkad.
- Malabar Breweries, Thrissur.

Brewery Rules 1967, Part-I

The Commissioner of Excise may issue licence to the applicant approved by the Government, in Form B I and it shall be valid only for such periods as may be specified therein. But no such licence shall be issued for a period longer than one year unless a fee at the rate of Rs 2,00,000 (Rupees Two lakh only) [w.e.f 01.04.2007, till then Rs, 1,00,000] for each year or part of a year comprised in such period has been paid (**Rule 3**).

The conditions for grant of licence stipulate that each 240 litre of beer manufactured by the licensee shall be brewed with at least 80 litres of malt (which may include all forms of unmalted grain on condition that at least 50 *per cent* of the combined grain shall be malt) and one kilogram of hops.

On default of payment of duty payable by the licensee on the beer brewed in the brewery interest will be charged @12 *per cent per annum* and such interest and arrears may be recovered under the provisions of the Revenue Recovery Act as if the same were arrears of land revenue.

Violation of any of the Rules or conditions of the licence either by the licensee or by the employee will lead to imposition of fine not exceeding Rs 5,000 (Rupees Five thousand only) (**Licence conditions**).

Bottling of beer

Bottling of beer shall be made only in the room or place set apart for that purpose.

A bottling licence in Form B 1 (A) shall be issued to the licensee on payment of a licence fee of Rs 1,00,000 (Rupees One lakh only) [w.e.f 01.04.2007, till then Rs 50,000](**Rule 30**).

After the bottles are filled with liquor, they shall immediately be corked and sealed or fitted with pilfer proof caps and affixed with a label approved by the Commissioner of Excise. A fee of Rs 10,000 (Rupees Ten thousand only) shall be paid for approval of each kind of label (**Rule 30 A**).

Securities Every brewer shall execute an agreement binding him for himself, his heirs, legal representatives and assigns to observe the conditions of the licence and hypothecating the brewery buildings, machinery, apparatus together with the stock of beer etc., as security for the payment of all sums which may become due to Government by way of duty, rents, penalties, fines or other payments due under the provisions of his licence. In case of refusal to execute agreement as aforesaid within ten days of the date on which the approval of an application for licence shall have been communicated, such approval may be withdrawn and the fee already paid may be forfeited (**Rule 13**).

Control: The surveying Officer will inspect all the operations in the brewery. Surveying Officer means an officer of the Excise Department duly appointed to control the brewery. The brewer shall bear the establishment charges of the Excise Staff appointed to supervise the Brewery, at such rates fixed by the Commissioner of Excise from time to time and shall be paid in the first week of each month in advance. If the brewer defaults payment, it shall be competent for the Deputy Commissioner of Excise to adjust an equal amount from the security furnished by the brewer. He shall also pay contingent charges for running the office of the Officer in charge including furniture, stores, stationery and printed forms and registers prescribed under these rules (**Rules 4 and 21 A**).

When the pay and/or allowances of the staff is revised with retrospective effect, the brewer shall be liable to pay to Government, the whole amount or arrears of differential cost caused by such retrospective revision.

Surveys: The Officer surveying the brewery shall make a complete survey of the whole of the brewery plant on every day on which he visits the brewery, showing in the proper column in a survey book the condition of each vessel and the dip and gravity of each vessel containing fermenting wort, unless such wort shall be fining, when except in case of suspicion of fraudulent addition of saccharine matter or of addition or removal of wort, the surface need not be broken. A copy of each survey will be made in a similar book and will be left at the brewery for the information of the brewer (**Rule 14**).

Each licenced brewer shall keep in some part of the brewery which has been approved by the Deputy Commissioner of Excise, a brewing book in such form as the Government may prescribe (Form B 4) (**Rule 10**).

Stock book : Each brewer shall keep a stock account in the prescribed form in which he shall daily enter the net quantity of beer brewed by him, the quantity, if any, returned and brought into stock and the total quantity issued. Each issue from the brewery shall be accompanied by a permit. The stock book will be checked at least once in a week by the Surveying Officer, the quantities of beer brewed entered in it being compared with the entries in his survey book and the quantities of returned beer being compared with the statement of verification by the officer and the issues, with the counterfoils of permits issued and with the letters of advice, from the Deputy Commissioner of Excise, if any (**Rule 15**).

Samples: Samples of wort in any stage of fermentation or of stored beer may be taken for analysis without payment, by the Surveying Officer or any other officer authorized to inspect breweries. Samples of the wort during fermentation shall be taken by the Surveying Officer at least once in each quarter in accordance with the instructions the Commissioner of Excise may issue and shall be forwarded to the Deputy Commissioner's Office to be sent to the laboratory for analysis (**Rule 17**).

Stock taking The stock of beer in every brewery shall be taken at least twice in each year by the Deputy Commissioner of Excise. At other time stock shall be taken by the Surveying Officer or other officer below the rank of the Deputy Commissioner of Excise, if there is any suspicion of fraudulent practice. On all occasions, the result shall be immediately reported to the Commissioner of Excise and in the latter case, with the reasons for taking stock. The explanation of the

brewer for any excess or deficiency exceeding one per cent found in stock should be obtained before the report is submitted. The Commissioner of Excise shall pass orders whether any, and, if so how much duty shall be claimed in regard to such excess or deficiency (**Rule 18**).

The charging of duty and gallonage fee : The Surveying Officer shall at the end of each quarter submit the brew and survey books so far as it was checked by the Deputy Commissioner of Excise during his inspection of the brewery to the Assistant Excise Commissioner with an account showing the duty thereon calculated at such rates as may be prescribed by the Government from time to time. On receiving this account the Deputy Commissioner of Excise shall after careful scrutiny, pass orders as to the amounts of duty to be paid (**Rule 19**).

Collection of duty: The brewer shall remit the duty demanded, into a treasury within 10 days of the receipt of the advice as to the amounts due. In calculating the limit of ten days, the date of service of duty, demand notice and the date of payment of duty shall be excluded. Interest @ 12 *per cent per annum* shall be charged on all amounts not paid within the prescribed time. Gallonage fee on beer at such rates as may be fixed by the Government from time to time shall be levied on the quantity of beer sold for consumption by any foreign liquor licensee. Brewers shall not sell beer other than to any foreign Liquor licensee authorized to sell it (**Rule 20**).

Refund of duty: If a brewer objects to the amount of duty demanded from him, he may move the Deputy Commissioner of Excise to revise the charge. But no revision shall be undertaken unless all sums demanded have been paid. In the event of the original charge being found incorrect, any excess levied from him shall be refunded to the brewer or given credit to future demands by adjustment and if the amount claimed from him is found to be less than that actually due, he shall be required to pay the difference at once into a Government treasury.

Duty paid on beer exported to places outside the State shall be refunded to the brewer or adjusted to his credit on his producing proof of export (**Rule 21**) .

THE BREWERY RULES, 1967 PART-II

Control of breweries: All breweries will be under the control of the Deputy Commissioner of Excise within whose jurisdiction they are situated. Surveying

Officers shall submit reports relating to their duties to the Deputy Commissioner of Excise periodically. It shall be the duty of the Surveying Officer to see that the entries made by the brewer in the brewer book are correct, that no materials other than those entered are used and that no wort is removed from the brewery until an account of it has been taken either by himself or by a superior officer (**Rules 1 and 3**).

Officers shall occasionally check the declared out turn of bottled beer against the capacity of the cask or casks from which it was bottled and also where beer is pasteurized (**Rule 22**).

Issue of Beer : Bottled beer and pub beer in bulk shall be issued from the brewery. Ordinarily beer shall be issued from the brewery within the State only to FL 9 licensee (now exclusively held by KSBC) provided that the Commissioner of Excise may, at his discretion allow the brewer to issue beer to other persons also. Pub Beer in bulk shall be issued only to FL 13 Licensee. There is no objection to export beer to places outside the State, but the brewer shall see that the rules in force at the place of import are complied by the importer. An export permit should be obtained from the Deputy Commissioner of Excise before beer is issued for export to outside the State (**Rule 25**).

Inspection and stock taking : Every brewery shall be inspected and stock of beer taken by the Deputy Commissioner of Excise at least twice a year and the notes of inspection submitted to the Commissioner of Excise for perusal and orders. When the wastage found on stock taking is in excess or falls short by more than one *per cent* of the five *per cent* allowed under the Rules, the Deputy Commissioner of Excise (or the stock taking officer) shall obtain the explanation of the brewer in writing before closing his stock taking and submit it with his remarks alongwith his notes of inspection to the Commissioner of Excise. On receipt of orders from the Commissioner reviewing his notes of inspection the Assistant Excise Commissioner, unless specially directed to the contrary in those orders, shall order the adjustment in the respective stock book of the wastages found by him (**Rule 27**).

Transfer of beer : Transfer of beer from one brewery to another even if both belong to the same brewer, without the special permission of the Commissioner of Excise is prohibited (**Rule 28**).

Forms of accounts

The most important accounts in a brewery is the Brewery Survey Book which contains all the operations in the brewery. Stock book of bottled beer containing all receipt, issue and balance, Counterfoils of permit, Monthly statement of issues and Beer duty voucher are other important accounts.

CHAPTER XII

THE FOREIGN LIQUOR (REGISTRATION OF BRAND) RULES 1995

The rules shall be applicable to licensees under the Kerala Distillery and Warehouse Rules 1968, The Brewery Rules 1967, The Kerala Winery Rules 1970, The Foreign Liquor (Storage in Bond) Rules, 1961, The Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules 1975 and Foreign Liquor Rules 1953.

Any manufacturer of foreign liquor in the State or, any manufacturer of foreign liquor elsewhere in India who supplies foreign liquor to the Beverages Corporation, shall register the brand of foreign liquor manufactured by him or manufactured and supplied to the Beverages Corporation, as the case may be.

The application for registration shall be made to the Commissioner of Excise through the Deputy Commissioner of Excise after remitting a fee of Rs 50,000 (Rupees Fifty thousand only) by challan.

The permit issuing authorities shall issue transport / import / export permit only for those brands of Foreign Liquor already registered with the Commissioner of Excise.

The validity of registration shall expire on the 31st day of the March of the relevant financial year.

If the registration is made in the course of a financial year the full fee for the whole year shall be collected (**Rule 3**).

Licensees to purchase registered brand only: The holder of licence in Form BW 1, BW 1 (A) under the Foreign Liquor (Storage in Bond) Rules 1961, and in Form FL 9 under the Foreign Liquor Rules shall purchase, import, store or supply only those brands of Foreign Liquor which have been registered with the Commissioner of Excise on payment of the fee under rule 3 on each brand of foreign liquor (**Rule 4**).

Violation of any of these rules by the licensee or any person in his employment shall entail the cancellation of the certificate of registration and imposition of a fine of Rs 2,000 (Rupees Two thousand only) or with both (**Rule 5**).

CHAPTER XIII

THE KERALA SPIRITUOUS PREPARATIONS (CONTROL) RULES 1969

The Medicinal and Toilet Preparations (Excise Duties) Act 1955 and the Medicinal and Toilet Preparations (Excise) Rules 1956 govern the levy and collection of duties on Excise on medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drug or narcotic. The Kerala Spirituous Preparations (Control) Rules 1969 deals with Manufacture, possession, import, export and transport of medicinal, toilet or other spirituous preparations.

PHARMACEUTICALS

- M/S Pharmaceuticals And Chemicals, Travancore Ltd., Thiruvananthapuram.
- M/S Murugan Pharma, Punalur.
- Southern Union Pharmaceuticals, Thrissur.
- M/S Modern Pharmaceuticals, Tirur, Malappuram.
- Kerala State Homeopathic Co-Operative Pharmacy, Alappuzha.
- Dr. Prakasham Homoeo Pharmaceuticals, Kozhikode

Spirituos preparations means (i) any medicinal or toilet preparation containing alcohol, whether self generated or otherwise, or any intoxicating drug; or (ii) any mixture or compound of wine with medicinal substances, whether the wine is fortified with spirit or not; or (iii) any other substances containing alcohol or intoxicating drug whether self generated or otherwise notified under Rule 5 to be a spirituous preparation.

Note: Asavas and Arishtas or other preparations containing alcohol which is only self generated shall be deemed as spurious preparations if the alcohol content of any such preparation exceeds 12 *per cent* by volume, unless otherwise declared by the Expert Committee.

Medicinal preparations includes all drugs containing alcohol or any intoxicating drug, which are a remedy or prescription prepared for internal or external use of human beings or animals and all substances intended to be used for, or in the treatment, mitigation or prevention of disease in human beings or animals under any of the different systems of medicine, viz. allopathic, homeopathic, ayurvedic or any other Indian system of medicine.

Toilet preparations means any preparation containing alcohol or any intoxicating drug which is intended for use in the toilet of human body or in perfuming apparel of any description or any substance intended to cleanse, improve or alter his complexion, skin, hair or teeth and includes deodorants and perfumes.

Any new preparation other than those manufactured (1) according to a formula prescribed in a pharmacopoeia approved by the Government of India or the Government of Kerala, or (2) according to a formula approved by the Government of Kerala in respect of patent and proprietary medicinal preparation; or (3) approved as a bona fide medicinal preparation by the Expert Committee shall be considered as a spurious preparation unless and until it is declared to the contrary by the Commissioner of Excise (**Rule 5 (2)**).

No person shall manufacture any spirituous preparation except under a licence under the Medicinal and Toilet Preparations (Excise Duties) Rules 1956 and in no greater quantity than permitted by the Commissioner of Excise. All preparations manufactured without licence and spurious preparations are liable to confiscation (**Rule 6**).

Import : No spirituous preparation shall be imported into the State except under cover of an import permit in Form SP I granted by the Deputy Commissioner of Excise having jurisdiction over the place of import. Before granting such permit the Deputy Commissioner of Excise shall take into consideration whether the preparations are required for purposes of bona fide trade and commerce or for meeting the bona fide requirements of the State and whether the applicant has been convicted of any offence under the Abkari Act, Dangerous Drugs Act 1930, Opium Act or Medicinal & Toilet Preparations Act or for any cognizable offence. Spirituous medicinal preparations containing less than two per cent proof spirit shall be allowed to be imported under cover of a No Objection Certificate in Form SP- I A granted by the Commissioner of Excise for a period not exceeding one year at a time (**Rule 7**).

Export: No spirituous preparation shall be exported out of the State except under cover of an Export Permit in Form SP III granted by the Deputy Commissioner of Excise having jurisdiction over the place from which the export is made. Such permit is granted only on production of import permit or a no objection certificate from the Excise authorities of the State to which the export is to be made (**Rule 8**).

Possession: No person shall possess any spirituous preparation without a permit and in excess of the quantity entered in the permit provided that –

(a) medical practitioners as specified below for their professional use and for issue to their patients for bona fide treatment, but not for sale on other physician's prescriptions.

Sl No	Class of Medical Practitioners	Volume of preparations allowed to be possessed at any one time
1	Registered Medical Practitioners (in case of allopathic preparations)	1,500 ml of each preparation
2	Registered Homoeopathic medical practitioner	375 ml of each homoeopathic preparation
3	Registered Medical Practitioner in the indigenous system of medicines	(a) five litres of each of any Asava or Arishta (b) Preparations containing intoxicating drug not exceeding 40 grams of drug content (c) 1,500 ml of any ayurvedic preparations containing added alcohol.

(b) Any person may, for his personal consumption, for bona fide treatment, possess on a prescription, issued by a registered medical practitioner any preparation not exceeding the quantity specified in the prescription.

(c) Any person, without a licence or prescription, may possess for his personal consumption, for bona fide treatment

- (1) any preparations manufactured under the Ayurvedic, Unani or Sidha system of medicine not exceeding three litres of each provided the total quantity of all such preparations does not exceed four and a half litres;
- (2) any allopathic preparation in the nature of a tonic not exceeding four and a half litres; and
- (3) tincture iodine or tincture benzoine or such other tinctures as may be notified by the Commissioner of Excise/ mixtures issued by hospitals or dispensaries on proper prescriptions in quantities not exceeding 375 ml .

(d) any person may possess toilet preparations not exceeding two litres for his personal use ; and

(e) any person holding a licence in Form L 3 under the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, may possess any ayurvedic or unani preparation manufactured by him to the extent necessary for dispensing to his patients at the premises mentioned in the said licence (**Rule 10**).

Transport : The movement of all spirituous preparation in excess of the quantity noted above shall be covered by a transport permit in Form SP V issued by the licensee from whom the preparation is transported. One copy of the permit shall be carried with the consignment, another copy shall be sent to the Excise Inspector of the range from where the transport is made, a third copy shall be sent to the Excise Inspector of the range to which the preparation is transported and the fourth copy shall be kept by the licensee as counterfoil.

The movement of medicinal preparation issued by hospitals and dispensaries on the strength of prescriptions issued by a medical practitioners, shall, if it exceeds 375 ml be accompanied by such prescription or other proof and the bill of sale (**Rule 9**).

Wholesale licence is issued in Form SP VI on payment of a fee of Rs 500 for a year or part thereof and retail licence is issued in Form SP VII on payment of a fee of Rs 300 for a year or part thereof in case of a licence for sale of allopathic medicinal preparations and Rs 150 in other cases (**Rule 11**).

No licence shall be necessary for possession, use or dispensing in hospitals or dispensaries of any preparations by the followings persons viz.

(i) Medical Officers, Health Inspectors, Health Assistants, Public Health Nurses, Health visitors, Midwives etc

(a) attached to hospitals or dispensaries of the State Government or of the Central Government ; or

(b) attached to Local Fund or Municipal Hospitals or dispensaries or attached to dispensaries subsidized by local authorities or the Government ; or

(c) private hospitals or dispensaries specifically approved by the Commissioner of Excise.

(ii) Officers of the Veterinary Department, viz. Special Officers, Veterinary Surgeons, Veterinary Inspectors, Veterinary Stockmen and Compounders and officers in charge of the Central Veterinary Stores (**Rule 12**).

Penalty for contravention of the rules or any conditions of the licence

Violation of any of these rules or conditions of a licence or permit issued under these rules either by a licensee or by any person in his employment shall entail on the licensee

- (a) a fine up to Rs 2,000 ; or
- (b) cancellation of the licence; or
- (c) both

It shall be competent for the Commissioner to impose any or all of the above penalties. The Deputy Commissioners of Excise are also competent to impose fine on the licensees up to Rs 100 at a time for infraction of any of the conditions of the licence either by the licensee or any person in his employment.

CHAPTER XIV
THE WINERY RULES 1970

Winery means the wine manufactory.

Wine means the product obtained on alcoholic fermentation of grape juice or pulp or juice of any other fruit natural or fortified, the alcoholic content of which does not exceed 42 *per cent* of proof spirit.

There is no winery in the State at present and therefore, the rules have only academic value.

Procedure relating to grant and renewal of licence, abkari lock, issue of liquor, maintenance of accounts, quarterly stock taking, allowance of wastage, supervision and control in Kerala Distillery & Warehouse Rules 1968 apply *mutatis mutandis* to the winery also.

Rectified spirit required for fortification of wine shall be obtained on an indent countersigned by the officer in charge from any distillery in the State. However, the licensee is not precluded from obtaining his requirements of rectified spirit from sources outside the State under sanction from the Deputy Commissioner of Excise (**Rule 12**).

The rectified spirit so received after verification shall be stored in spirit store and it shall be issued to the manufactory on the application of the licensee. All rectified spirit so issued shall be added without delay to the wine in the presence of the Officer in charge. A register of transaction in the spirit store shall be maintained in the prescribed form (**Rules 13, 14 and 15**).

Manufacture of wine: Wine may be manufactured from raisins (dried grapes) or fresh grapes or other fruits (with or without the addition of pure cane sugar) by process of fermentation as may be approved by the Commissioner of Excise. The Wine so manufactured may be fortified with rectified spirit or brandy. When wine is fortified, the quantity of rectified spirit used for fortification shall not exceed 10 *per cent* of the wine in bulk and the total quantity of alcohol content including self generated alcohol in the finished product shall not exceed 42 *per cent* proof spirit (**Rule 19**).

Issue to be made only on payment of duty : Wine shall be issued from the warehouse only on production of the treasury receipt evidencing payment of the prescribed duty alongwith a written requisition of the licensee (**Rule 27**).

CHAPTER XV

OFFENCES, PENALTIES AND DISPOSAL OF CONFISCATED ARTICLES

Section 55 to 63 of the Abkari Act enumerate various types of abkari offences and punishment imposed for such offences on conviction of offence. The offences include illegal

- import, export, transport, transit or possession of liquor or intoxicating drug;
- manufacture of liquor/intoxicating drug;
- tapping of toddy producing tree;
- construction of manufactory of liquor
- possession of materials, apparatus, etc. for manufacturing liquor other than toddy or any intoxicating drug.
- bottling of liquor for sale
- sale of liquor (**Section 55**)
- rendering denatured spirit fit for human consumption (**Section 55 B**)
- misconduct by licensee (**Section 56**)
- manufacture, stocking , consumption of medicinal preparations (**Section 56 A**)
- adulteration by licensed vendor or manufacturer (**Section 57 and 57 A**)
- possession of illicit liquor (Section 58)
- manufacture, import, export and sale of prohibited preparations (**Section 58 A and 58 B**) ; and
- abetment for committing any offence under the Act or for escape of persons arrested, etc. (**Section 61**)

Compounding of offences

Section 67 enjoins that the Commissioner of Excise may impose a fine of Rs 10,000 (Rupees Ten thousand only) each on any person or persons holding a licence or permit under the Act, for the offence under Section 56 (b) of the Act for variation of strength of foreign liquor beyond the prescribed limit as may be fixed from time to time.

(2) The Commissioner of Excise may impose a fine of Rs 25,000 (Rupees Twenty five thousand only) each on any person or persons holding a

licence or permit under the Act for the violation by way of reconstitution, alteration or modification without the permission of the Commissioner of Excise of any deed on the strength of which any licence is granted.

Confiscation of articles seized

In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement or apparatus in respect or by means of which an offence has been committed shall be liable to confiscation **(Section 65)**.

Where any liquor, intoxicating drug, material, still, utensil, implement or apparatus or any receptacle or package in which such things are found or any conveyance including any animal used in carrying the same is seized and detained under the provisions of this Act; the officer seizing the property shall produce the same before the authorized officer without any unreasonable delay, and where seizure was made by the authorized officer, such Authorised Officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property **(Section 67 B)**.

No order confiscating any property shall be made under Section 67 B unless the person from whom the same is seized is given, a notice in writing, an opportunity of making a representation and an opportunity of being heard.

No order of confiscating any conveyance shall be made under Section 67 B if the owner of the conveyance proves to the satisfaction of the authorized officer that it was used in carrying the contraband goods without his knowledge and connivance as also without the knowledge and connivance of his agent and person in charge of it **(Section 67 C)**.

Any property seized and detained is not liable to confiscation under this Act and shall, after the expiry of thirty days from the date of such order, be released to the person from whom it was seized.

Provided that where the Commissioner of Excise has called for under Section 67F the record of an order of the authorized officer, such property shall be released only subject to the orders of the Commissioner of Excise under that Section **(Section 67D)**.

Any person aggrieved by any order passed under Section 67B may, within thirty days from the date of communication to him of such order, appeal to an

officer not below the rank of Joint Commissioner of Excise authorized by the Government in this behalf. The order of the appellate authority shall, subject to the provisions of Section 67F, be final and shall not be called in question in any court (**Section 67E**).

The Commissioner of Excise may, before the expiry of thirty days from the date of an order passed under Section 67B or Section 67E , of his own motion, call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit:

Provided that the Commissioner of Excise shall not call for and examine the record of any order passed under Section 67B if an appeal against such order is pending before the appellate authority:

Provided further that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

An order of the Commissioner of Excise under this Section shall be final and shall not be called in question in any court.

CHAPTER XVI

AUDIT CHECKS

List of important abkari registers (other than general, cash and contingent registers) maintained in various abkari offices and questionnaire for inspection of the office

EXCISE RANGE OFFICE

1. Register of tree marking operations
2. Register of licences
3. Crime registers
 - a. Information register
 - b. Crime register
 - c. Thondy register
 - d. Process register (notice, summons, warrants, etc)
 - e. Conviction Register
 - f. Register of old offenders
 - g. Occurrence report
 - h. Bail and surety bond
 - i. Thondy receipt book.
 - j. Case diary
 - k. Charge sheets.

Audit checks

- Ø Village wise register of trees marked maintained.
- Ø Is there any delay in marking of trees?
- Ø The number of trees marked (a) in other ranges for the shops of the range (b) in the Range for the shops of other ranges and (c) in the range for the shops of the range.
- Ø Any substitution of trees
- Ø Road test conducted as per the directions contained in Kerala Excise Manual and results thereof.
- Ø Whether details of licences given for toddy shops, FL shops, sub shops are noted in the register.
- Ø Whether the crime register and thondy register are properly maintained by noting the details of the case, disposal thereof, etc.

- Ø Delay in disposal of the cases
- Ø Whether the thondy articles have been sent for chemical examination promptly and the delay, if any, in disposing of the cases
- Ø Delay in confiscation/return of seized articles
- Ø Whether acquittal report submitted for filing appeal/revision

EXCISE CIRCLE OFFICE

1. Register of licences for
 - a. Toddy shops
 - b. FL shops
 - c. Sub shops
 - d. Possession of toddy for manufacturing bread
 - e. Drawing sweet toddy
 - f. Other fixed fee licences under Abkari Act
2. Register of DCB of Abkari rentals
3. Register of DCB of tree tax
4. Register of gallonage fee on foreign liquor
5. Register of interest
6. Register of Old arrears
7. Register of licences and permits for drawing of fermented toddy
8. Register of FL Consumption
9. Register of tree marking operations
10. Register of TT applications
11. Village wise register of trees licenced in the range
12. Register of demand notice
13. Register of abkari defaulters
14. Register of fines, penalties and compounding fees imposed on abkari licencees
15. Register of DM of shops
16. Register of applications for substitution of trees
17. Register of permits for import, transport and export of liquors
18. Register of movements of consignments of Foreign Liquor
19. Security Register
20. Register of licences under M & TP Act
21. Crime registers

- a. Information register
- b. Crime register
- c. Thondy register
- d. Process register (notice, summons, warrants etc.)
- e. Conviction Register
- f. Register of old offenders
- g. Occurrence report
- h. Bail and surety bond
- i. Thondy receipt book.

Audit checks

- Ø Whether the prescribed minimum number of trees were earmarked for each shop?
- Ø Whether the tree tax collected in advance
- Ø Rate and amount of tree tax collected for each type of trees
- Ø Scrutiny of register of licence for toddy/FL shops and ensure that the fixed fee licences are renewed every year
- Ø Whether any shop was placed under departmental management. If so, the DM fee collected was not lower than the daily average of the upset price fixed for the shop and the fee so collected was forfeited to Government.
- Ø Scrutiny of DCB register and to see whether prompt action for the realisation of arrears
- Ø Scrutiny of cash book
- Ø Scrutiny of TR 5 receipt book
- Ø Refunds, if any
- Ø Whether reconciliation of remittances done monthly?
- Ø Interest register. The demand and delay, if any.
- Ø Whether the crime register and thondy register are properly maintained by noting the details of the case, disposal thereof, etc?
- Ø Delay in disposal of the cases
- Ø Whether the thondy articles have been sent for chemical examination promptly and the delay, if any, in disposing of the cases
- Ø Delay in confiscation/return of seized articles.
- Ø Whether acquittal report submitted for filing appeals/revision

EXCISE DIVISION OFFICE

- 1.** Register of licence for
 - a.** Toddy shops
 - b.** Sub shops
 - c.** Possession of toddy for manufacture of bread; and
 - d.** Other fixed fee licences under Abkari Act, Rules and Notifications.
- 2.** Register of DCB of
 - a.** Toddy shops
 - b.** FL shops
 - c.** Tree tax
 - d.** Gallonage fee on FL
 - e.** Interest on abkari arrears.
- 3.** Consolidated register of DCB of arrears of previous year, with details regarding action under RR Act, and progress of recovery.
- 4.** Register of permits for import and export and transport of FL and duty and gallonage fee, if any , collected
- 5.** Register of DM of shops
- 6.** Security Register
- 7.** Register of abkari arrears and arrears written off
- 8.** Register of fines, penalties and compounding fees imposed on Abkari licencees
- 9.** Register of licences issued for marking of trees for fermented toddy shop wise including details of inter range and inter divisional tapping.
- 10.** Village wise register of trees licensed.
- 11.** Register of permits issued for the import, transport and export of spirituous preparations, spirits and other drugs, etc.
- 12.** Register of licences under M & TP Act
- 13.** Register showing the disposal of thondy articles in Division Office.
- 14.** Register showing the disposal of thondy articles in subordinate offices.

Audit checks

Toddy

- Ø Licence files
- Ø Whether the rental fixed was as per the direction of the Government?
- Ø If there is any reduction in rental whether it was reduced at successive slab of 10 *per cent* and whether the rental was reduced below 50 *per cent* of the amount initially fixed?
- Ø Whether the purchaser fulfilled the eligibility conditions specified?
- Ø Whether the application was accompanied by Bank Draft in favour of the Deputy Commissioner of Excise for the annual rental and for the wages of the workers for one month?
- Ø Whether the bank guarantee furnished towards wages of workers for three months, renewed in time until the wages and other benefits paid to the workers?
- Ø Is there any case of failure to sign sale list? If so, was bank draft forfeited in such cases?
- Ø Cases of departmental management and whether the DM fee collected was forfeited to Government account?
- Ø Cases of resale of shops. Whether the loss, if any, on resale was recovered from the original purchaser?
- Ø Cases of transfer of privilege to legal heir(s) on the death of the licensee. Whether the conditions were fulfilled for such transfer? Whether the shop was run on departmental management during the intervening period and whether the fee so collected was forfeited to Government? Whether any reduction in rental was given on that account?
- Ø Whether any transfer, lease, sub let of privilege by the licensee?
- Ø Reason for any non cancellation of licence and forfeiture of annual rental in the case of violation of rules or licence conditions
- Ø Interest – non collection/amount collected/whether adjusted first?
- Ø Arrears – as all the dues are to be collected in advance there should be no arrears. Reason for arrears, if any.
- Ø Register of village wise trees marked for tapping
- Ø Inter district transportation of toddy and the permit fee collected
- Ø Any lapse in conducting road test?

Foreign Liquor

Ø Licence files

Ø **FL-I licence :**

- Annual rental fixed by the Government
- Whether sale list and agreement was signed in time and took licence before the commencement of new financial year. If not, how the shop was managed during the interim period?
- Whether any delay on the part of the department for sale/confirmation of the sale and the consequential loss, if any?
- Whether 50 *per cent* of the rental was remitted as security deposit and whether the balance was paid in eight equal monthly installments? Any delay in remitting the installments? Whether interest was levied on belated payment?
- In the case of revision of duty whether differential duty has been collected from the licensees on the stock held on the date of revision?
- Permit issued for transport of liquor from FL9 godown to the licenced premise and fee levied

Ø **FL-3 Licence**

- Annual rental fixed by the government
- Whether the licensee fulfills the eligibility conditions?
- Special permit(s), if any, obtained for serving liquor to non residents at restaurants, and in lawns and in roof gardens and the rental collected for the same.
- If permit obtained for purchase of FMFL direct from Customs whether the licensee is having three star standard and above?
- Whether licence for any bar hotel remain defunct for more than six months either during the period of validity of licence or after its expiry is renewed?
- Cases of shifting of hotels to new premises. Fee levied, whether fulfilled the stipulations that the bar hotel is provided with three star classification and above and is shifted to a premises within the town only or taluk only, as the case may be.

- In the case of revision of duty whether differential duty has been collected from the licensee on the stock held on the date of revision?
- Any transfer/sub rent of licence.
- Disposal of stock in the case of non renewal of licence.

Ø FL - 4 A Licence

- Annual rental fixed by the Government
- Whether they have fulfilled the eligibility conditions especially whether it is a registered society, have the minimum number of permanent members, land and buildings are in the name of the society, have the minimum number of rooms that can be let out on rent, have affiliation with minimum number of clubs as required in the rules, have facilities for outdoor and indoor games, etc.,
- Any transfer/sub rent of licence
- Disposal of stock in the case of non renewal of licence.

Ø FL – 6 Special licence

- Licence fee fixed
- Whether the licence fee was realized for each day. Earlier the fee was for each occasion. In the abkari policy for the year 2004-05 the licence fee was fixed for each day and not each occasion

Ø FL – 8 licence

- Transport permit. Whether permit issued after verifying proof of payment of duty
- Check for supply other than through BW I A (situated at Ernakulam) for which no concession in the rate of duty is allowed.
- In the case of revision of duty whether differential duty has been collected from the licensee on the stock held on the date of revision?

Ø FL -9 Licence

- Gallonage fee collected.
- Purchase of FMFL. Whether gallonage fee collected on FMFL also?

- In the case of revision of duty whether differential duty has been collected from the licensee on the stock held on the date of revision?
- Cost of establishment as fixed, not actual expenditure. Any retrospective revision of pay or allowance and recovery of the amount.

Ø FL 10 Licence - No FL 10 Licensee in the State

Ø FL 11 Licence

- Annual rental and additional annual rental for serving liquor by the side of swimming pool/lawns. Whether licensee supply liquor at roof garden and whether additional annual rental collected for that?
- Whether the licensee fulfills eligibility conditions for licence?
- Any transfer/sub rent of licence
- Disposal of stock in the case of non renewal of licence.

Ø FL 12 Licence

- Whether issued only to CONSUMERFED?
- Annual rental collected.
- Any transfer/sub rent of licence
- Disposal of stock in the case of non renewal of licence.

Ø FL 13 Licence - No FL 13 licensee in the State

Compounding & blending units

- Ø Granting / annual renewal of licence and fee paid.
- Ø Whether all the required licences obtained (in Form 1, 2 and 4) and the fee collected.
- Ø Cancellation/expiry of licence and disposal of stock.
- Ø Whether the brand is registered and the labels are approved by the Commissioner of Excise?
- Ø Volume of rectified spirit received at the Blending unit and the volume of blended spirit. Any shortage?
- Ø Wastage of rectified spirit in transport.
- Ø Quarterly stock taking and the result.
- Ø Amount of duty paid and countercheck the volume with transport/export permit issued

- Ø Whether the wastage allowed is within the limit?
- Ø Irregular allowance of wastage in reducing operation
- Ø Transport permit fee collected.

Distilleries

- Ø Grant / annual renewal of licences in various forms and the fee collected (Form I,II,III,IV,IVA)
- Ø Import of ENA and wastage allowed
- Ø Report of inspection of Distillery by the AEC
- Ø Payment of excise duty and the volume of liquor produced as per register of manufacture of spirits and cross verify with transport permits.
- Ø Verification of register of quarterly stock taking in proof litres
- Ø Required outturn as per the statement of wash made and shortage, if any`
- Ø Result of quarterly stock taking
- Ø Irregular allowance of wastage
- Ø Transport permit issued and fee collected
- Ø Scrutiny of register of issues of FL, Denatured spirit, etc with register of permits issued.

Brewery

- Ø Issue/renewal of licences in Form B I , B I(A)
- Ø Whether the brands have been registered and the labels approved?
- Ø Result of half yearly stock taking by the AEC
- Ø Amount of duty calculated on the volume produced as per brew and survey book
- Ø Collection of duty and delay , if any, and interest due
- Ø Verify the survey book and see whether average production achieved as per the norms
- Ø Verify refund of duty
- Ø Result of check of declared outturn against capacity of cask/casks
- Ø Whether export permits issued without collecting duty? Refund of duty is allowed only on production of proof of export
- Ø Wastage of beer
- Ø Issue of Beer to licensees other than FL 9 and collection of gallonage fee in those cases
- Ø Cost of establishment recovered

Rectified Spirit Rules / Pharmaceuticals

- Ø Licences issued/renewed in Form I& III
- Ø Transfer/non renewal of licence
- Ø Import/transport permits issued
- Ø Amount of duty collected
- Ø Receipt of rectified spirit in Bonded Spirit Store
- Ø Duty paid on medicinal and toilet preparations
- Ø Excess wastage allowed
- Ø Licences issued in Form SP I, IA, III, VI, VII
- Ø Transport permits in Form SP V

Other checks

- Ø Transit pass issued with report of exit checkpost and the fee collected
- Ø Crime cases
- Ø Register of fines and penalties
- Ø Register of compounding of offences
- Ø Whether any case other than those booked under Sn 56(b) has been compounded?
- Ø Whether compounding fine levied from each of the offender?
- Ø Whether any case was compounded as per the direction in Abkari Policy for the year 2007-08 which has no legislative backing?
- Ø Delay in disposal of thondy articles by the Division Office
- Ø Monitoring of disposal of thondy articles by Range/Circle Offices and laxity, if any
- Ø Reconciliation of remittances with treasury figures

DUTY PAID FL-9 GODOWNS

- Ø Since Excise Duty is paid by the Kerala State Beverages Corpn, Sasthamangalam ensure that all the items received in the FL 9 are duty paid only
- Ø Amount of duty collected
- Ø Gallonage fee collected.
- Ø Purchase of FMFL. Whether gallonage fee collected on FMFL also?
- Ø In the case of revision of duty whether differential duty has been collected from the licensee on the stock held on the date of revision?

- Ø Check whether Excise Verification Certificate (EVC) are available against each transport permit
- Ø Cost of establishment as fixed, not actual expenditure. Any retrospective revision of pay or allowances and recovery of the amount.

BW –I A LICENSEE

- Ø Amount of duty collected
- Ø Since the purchases are through CSD ensure that all the Brands dealt with are registered in Kerala
- Ø Transport permits and EVCs
- Ø Gallonage fee collected
- Ø In the case of revision of duty whether differential duty has been collected from the licensee on the stock held on the date of revision?
- Ø Cost of establishment recovered
- Ø Whether the cost of establishment was paid on the 1st day of the month? If not, the interest and penal interest levied.
- Ø Whether the payment due to any retrospective revision of pay or allowance was also recovered?

COMPOUNDING AND BLENDING UNITS

- Ø Granting / annual renewal of licence and fee paid.
- Ø Whether all the required licences obtained (in Form 1, 2 and 4) and the fee collected.
- Ø Verify the register of transactions in the spirit store, record of compounding operation (Form 6), Record of blending operation (Form 7), Record of bottling operation (Form 8) and stock register of finished products.
- Ø Result of quarterly stock taking.
- Ø Whether the brand is registered and the labels are approved by the Commissioner of Excise?
- Ø Volume of rectified spirit received at the Blending unit and the volume of blended spirit. Any shortage?
- Ø Any obscuration?
- Ø Wastage of rectified spirit in transport
- Ø Storage register of rectified spirit
- Ø Quarterly stock taking and the result

- Ø Amount of duty paid and countercheck the volume with transport/export permit issued
- Ø Whether the wastage allowed is within the limit?
- Ø Irregular allowance of wastage for compounding or filtering
- Ø Irregular allowance of wastage in reducing operation
- Ø Transport permit fee collected.
- Ø Cost of establishment recovered
- Ø Whether the cost of establishment was paid on the 1st day of the month? If not, the interest and penal interest levied.
- Ø Whether the payment due to any retrospective revision of pay or allowance was also recovered?

DISTILLERIES

- Ø Licences in various forms and the fee collected (Form I, II, III, IV, IVA)
- Ø Verify the use of abkari locks and tickets and their accounting
- Ø Import of ENA and wastage allowed
- Ø Report of inspection of Distillery by the AEC
- Ø Verification of register of quarterly stock taking in proof litres
- Ø The amount of duty paid and the volume for which duty was remitted and countercheck the volume with the permits issued for transport of the liquor
- Ø Register of the issue of permits (Form D 17)
- Ø Register of issue of Foreign, Denatured, etc. spirits (D 19).
- Ø Allowance of wastage at all stages.
- Ø Whether the brand is registered and the labels are approved by the Commissioner of Excise?
- Ø Verify the statement of wash made and spirit obtained [Form D 3 (b)] to ensure that the outturn is not below the average out turn prescribed.
- Ø Any obscuration?
- Ø Register of Blending and Reducing Operations [Form D 8 (a)] and the wastage allowed.
- Ø Whether any wastage was allowed in reducing operation?
- Ø Stock taking statement (Form D 11)
- Ø Inspection notes of Superior officers on their stock taking
- Ø Cost of establishment recovered

- Ø Whether the cost of establishment was paid on the 1st day of the month? If not, the interest and penal interest levied.
- Ø Whether the payment due to any retrospective revision of pay or allowance was also recovered?

BREWERIES

- Ø Licences in Form B I, B I(A) and fee paid. Whether any delay in renewal?
- Ø Whether the brands have been registered and the labels approved?
- Ø Result of half yearly stock taking by the AEC
- Ø Amount of duty calculated on the volume produced as per brew and survey book
- Ø Verify the survey book and see whether average production achieved as per the norms
- Ø Wastage of beer
- Ø Stock book of bottled beer with Counterfoils of permit, Monthly statement of issues and Beer duty voucher.
- Ø Verify refund of duty
- Ø Result of check of declared outturn against capacity of cask/casks
- Ø Whether export permits issued without collecting duty? Refund of duty is allowed only on production of proof of export
- Ø Issue of Beer to licensees other than FL 9 and collection of gallonage fee in those cases
- Ø Cost of establishment recovered
- Ø Whether the cost of establishment was paid on the 1st day of the month? If not, the interest and penal interest levied.
- Ø Whether the payment due to any retrospective revision of pay or allowance was also recovered?

PHARMACEUTICALS

- Ø Licences in Form I& III. Any delay in renewal
- Ø Transfer/non renewal of licence
- Ø Import/transport permits issued
- Ø Amount of duty collected
- Ø Receipt of rectified spirit in Bonded Spirit Store
- Ø Duty paid on medicinal and toilet preparations
- Ø Excess wastage allowed

- Ø Cost of establishment recovered
- Ø Whether the cost of establishment was paid on the 1st day of the month? If not, the interest and penal interest levied.
- Ø Whether the payment due to any retrospective revision of pay or allowance was also recovered?

EXCISE ZONAL OFFICES

- Ø Issue of transit passes for transit of liquor through more than one division
- Ø Periodical inspection of subordinate offices

COMMISSIONERATE OF EXCISE

- Ø Licence files
- Ø Any cancellation of licences
- Ø Fixation of upset price for sale of shops
- Ø Any delay in confirmation of sale and the consequential loss.
- Ø Issue of inter zonal transit passes
- Ø Issue of transit pass for transit of liquor to Mahe
- Ø Abkari cases. Appeals, *suo moto* revision, any inordinate delay.
- Ø Abkari arrears. Initiatives taken for recovery of very old arrears.
- Ø Compounding of cases.
- Ø Whether any case other than those booked under Sn 56(b) has been compounded?
- Ø Whether compounding fine levied from each of the offender?
- Ø Whether any case was compounded as per the direction in Abkari Policy for the year 2007-08 which has no legislative backing?