



KERALA

Judicial Services Exam

CIVIL JUDGE

High Court of Kerala

Paper - 2

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KERALA JUDICIAL SERVICES

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Abkari Act

Abkari Act, 1 of 1077

(Kerala Act No. 1 of 1077)

The Act was passed by His Highness the [Maharaja] of Cochin on the 5th day of August 1902, corresponding to the 31st day of Karkadagom 1077 and extended to the whole of Kerala as per Act 10 of 1967 which received the assent of the President on 29th July, 1967.

I. - Preliminary And Definitions

1. **Short title.** - This Act may be cited as "the [Abkari Act] 1 of 1077.

Extent. - It extends to the whole of the [State of Kerala].

2. **Repeal of Enactments.** - From the date on which this Act comes into force the enactment mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said Schedule .

Provided that all [Licences and privileges] granted under any of the said enactments in force on the date on which this Act comes into force shall continue in force for the periods for which the same have been respectively granted, subject to the provisions of the enactments under which such [Licences and privileges] were granted:

Provided further that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced or any claim which has arisen or any penalty which has been incurred, before this Act comes into force.

3. **Interpretation.** - In this Act, unless there be something repugnant in the subject or context :-

(1) **Abkari Revenue:-** "Abkari Revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation, imposed or order under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.

(2) **Abkari officer:-** "Abkari Officer" means the [Commissioner of Excise] or any officer or other person lawfully appointed or invested with powers under Sections 4 or 5.

[(2A) **Blending:-** "Blending" means the mixing of two different spirits of the same or different strength;

- (2B) **Bonded Warehouse**:- "Bonded Warehouse" means a warehouse where liquor is stored in bond.]
- (3) **Commissioner** :- ["Commissioner"] means the officer appointed by the [Government] under section 4, clause (a).
- [(4) "Collector" means the Collector of a district and includes any other officer appointed by the Government to exercise the powers and perform the duties of a Collector under this Act];
- [(5) **Compounding**:- "Compounding" means the preparation of foreign liquor by the addition of flavouring or colouring matter or both to imported or Indian made spirits.]
- (6) **Abkari Inspector**:- "Abkari Inspector" means an officer appointed under section 4, clause (d).
- [(6A) "Arrack" means any potable liquor other than Toddy, Beer, Spirits of Wine, Wine, Indian made spirit, foreign liquor and any medicinal preparation containing alcohol manufactured according to a formula prescribed in a pharma-copoeia approved by the Government of India or the Government of Kerala, or manufactured according to a formula approved by the Government of Kerala in respect of patent and proprietary preparations or approved as a bonafide medicinal preparation by the Expert Committee appointed under Section 68A of the Act;]
- (7) **Imprisonment**:- "Imprisonment" means imprisonment of either description as defined in the [Indian Penal Code.]
- (8) **Toddy**:- "Toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree.
- (9) **Spirits**:- "Spirits" means any liquor containing alcohol and obtained by distillation.
- (10) **Liquor**:- "Liquor" includes spirits of wine, [arrack], spirits, wine, toddy, beer and all liquid consisting of or containing alcohol.
- (11) **Beer**:- "Beer" includes ale, stout, porter and all other fermented liquors usually made from malt.
- (12) **Country liquor**:- "Country Liquor" means toddy or arrack;
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(13) Foreign Liquor:- "Foreign Liquor" includes all liquor other than country liquor.

Provided that in any case in which doubt may arise the Government may declare by notification what, for the purposes of this Act, shall be deemed to be "country liquor" and what "foreign liquor".

[(13A) "Foreign Made Foreign Liquor" means any liquor produced, manufactured or blended, compounded and bottled abroad and imported into India by land, air or sea;

(13B) "Indian Made Foreign Liquor" means any foreign liquor other than Foreign Made Foreign Liquor;"]

[(14) intoxicating drug means any intoxicating substance other than a Narcotic drug or a psychotropic substance regulated by the Narcotic Drugs and Psychotropic Substance Act, 1985 (Central Act, 61 of 1985), which the Government may by notification declare to be an intoxication drug.]

(15) Sale or Selling:- "Sale or selling" includes any transfer [including] gift.

[(16) "Import" means to bring into the State.

(17) "Export" means to take out of the State.]

[(17A) "Transit" means to move 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.

Explanation. - In this clause, "State" means a State other than the State of Kerala and includes a Union Territory].

(18) Transport :- "Transport" means to move from one place to another within the State.

[(18A) x x x]

(19) Manufacture:- "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, [prepared [compounded] or blended] and also redistillation and every process for the rectification of liquor.

[(19A) **Bottle:-** "Bottle" means to transfer liquor from a cask or other vessel to bottle, jar, flask or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes rebottling].

- (20) **Rectification** :- "Rectification" includes every process whereby spirits are purified or are coloured or flavoured by making any material therewith.
- (21) **Place** :- "Place" includes also a house, building, shop [tent, booth, raft, vehicle and vessel].
- [(21A) **Police Station**:- "Police Station" includes any place which the Government may, by notification, declare to be Police Station for the purposes of this Act].
- (22) **Tap** :- "Tap" means to prepare or manipulate the spathe or other part of any toddy-producing tree with the object of extracting toddy therefrom. The attaching of pots is not necessary to constitute the act.
- [(23) **Rental**:- "Rental" means the rental payable under Section 18A in consideration of the grant of an exclusive or other privilege of manufacturing supplying or selling any liquor or intoxicating drugs.]
- [(24) **State**:- "State" means the State of Kerala].
- [(25) **Warehouse** :- "Warehouse" means that part of a distillery, brewery, winery or other manufactory where liquor intended for issue is kept and includes a warehouse established under a special licence taken out under the Act or Rules;]

II. - Establishment and Control

4. [The Government may, by notification in the Gazette.] - (a) The Government may appoint an officer to control the administration of the Abkari Department:-
Appoint an officer, who shall be styled the [Commissioner of Excise] and who shall, subject to the general control of the Government have [Control] of the administration of the Abkari Department and of the collection of the Abkari Revenue or of both;
- (b) May appoint any person other than the Commissioner to perform all or any of his duties :- Appoint any person other than the [Commissioner of Excise] to exercise all or any of the powers and to perform all or any of the duties of the [Commissioner of Excise], subject to the control of the Government.
- (c) May withdraw Abkari powers from commissioner or other officer appointed under clause (a) or clause (b):-Withdraw from the [Commissioner] or other
-

officer appointed under clause (a) or clause (b) any or all of his powers in respect of the Abkari Revenue;

- (d) May appoint officer to take action under Sections 40 to 53:- Appoint officers to perform the acts and duties mentioned in Sections 40 to 53 inclusive of this Act;
- (e) And subordinate officers:- Appoint subordinate officers of such classes and with such designations, powers and duties under this Act as the Government may think fit.
- (f) May appoint any [Officer of Government] or persons to act as above :- Order that all or any of the powers and duties assigned to any officer under clauses (d) and (e) of this section shall be exercised and performed by any [Officer of Government] or any person.

[(g) Delegate to any Abkari Officer all or any of [their powers] under this Act;]

5. The Government may, from time to time, make rules. - (1) Prescribing the powers and duties under this Act to be exercised and performed by Abkari Officers of the several classes; and

(2) Regulating the delegation by the Government or by the Commissioner of Excise of any powers conferred by this Act or exercised in respect of Abkari Revenue under any law for the time being in force]

[5A. Power of the Government to authorise officers to admit persons arrested to bail. - The Government may, by notification, and subject to such conditions as may be prescribed in such notification empower all or any of the officers or classes of officers or persons mentioned in section 34, either by name, or in virtue of their office, throughout the State or in any local area, to admit a person arrested under the section to bail to appear, when summoned or otherwise directed, before an Abkari Officer having jurisdiction to enquire into the offence for which such person has been arrested, and may cancel or vary such notification].

III. - Import, Export and Transport

[6. Import of liquor or intoxicating drug. - (1) No liquor or intoxicating drug shall be imported unless the permission of the Government or any officer authorised by the Government in this behalf is obtained for the importation of such liquor

or intoxicating drug and unless the duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor or intoxicating drug, have been paid [or a bond for such payment on its importation has been executed.]

[Provided that notwithstanding anything contained in this Act, no import fee shall be levied on rectified spirit or Extra Neutral Alcohol including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption.]

(2) A permission granted by the Government or such officer under subsection (1) shall be subject to such conditions and restrictions as may be specified by the Government by notification in the Gazette.]

[7. Export of liquor or intoxicating drug. - (1) No liquor or intoxicating drug shall be exported unless its export is permitted by the Government or any officer authorised by the Government in this behalf and unless:-

(a) The duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor or intoxicating drug, have been paid; or

(b) A bond for such payment on its exportation or re-exportation has been executed.

(2) A permission granted by the Government or such officer under subsection (1) shall be subject to such conditions and restrictions as may be specified by the Government by notification in the Gazette.]

8. Prohibition of manufacture, import, export, transport, transit, possession, storage, sales, etc., of arrack. - [(1) No person shall manufacture, import, export [without permit transit] possess, store, distribute, bottle or sell arrack in any form.]

[(2) If any person contravenes any provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to ten years and with fine which shall not be less than one lakh.]

9. Prohibition of the transport of liquor. - The Government may, from time to time, by notification, prohibit the transport of liquor or of intoxicating drugs or of any kind of liquor or intoxicating drugs, from any local area into any other local area.

10. Transporting of liquor or intoxicating drug. - No liquor or intoxicating drug, exceeding such quantity as the Government may, from time to time, prescribe by notification in the Gazette either generally for the whole State or for any local area, shall be transported except under a permit issued under the provisions of the next following section.

11. Permits for transport. - Permits for the transport of liquor or intoxicating drug may be issued by the 76[Commissioner] or by any person duly empowered in that behalf.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs, or special for specified occasions and particular consignments only.

Every permit shall specify:-

- (a) The name of the person authorised to transport liquor or intoxicating drugs;
- (b) The period for which the permit is to be in force;
- (c) The quantity and description of liquor or intoxicating drugs for which it is granted;
- (d) Any other particulars which the Government may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

IV. - Manufacture, Possession and Sale

12. Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act. - [(1)] No liquor or intoxicating drug shall be manufactured.

No toddy producing tree shall be tapped;

No toddy shall be drawn from any tree;

[No distillery, brewery, winery or other manufactory in which liquor is manufactured shall be constructed or worked;]

[No liquor shall be bottled for sale; and]

No person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquory other than toddy or any intoxicating drug;

except under the authority and subject to the terms and conditions of a licence granted by the [Commissioner] in that behalf, or under the provisions of Section 21; Provided that the Government may, by notification, direct that in any local area it shall not be necessary to take out a licence for the manufacture of liquor for Bona-fide home consumption.

[Licences granted under this section shall extend to and cover servants and other persons employed by the licencees and acting on their behalf]

[12A. Manufacture of preparations containing liquor or intoxicating drug. - No preparation to which liquor or intoxicating drug is added during the process of its manufacture or in which alcohol is self generated during such process shall be manufactured in excess of the quantity specified by the Commissioner:

Provided that in specifying the quantity of a medicinal preparation, the Commissioner shall have due regard to the total requirement of that preparation for consumption or use in the State.]

[12B. Utilisation of liquor or intoxicating drug in the manufacture, and limit of possession, of certain preparations. - (1) No person shall utilise liquor or intoxicating drug in the manufacture of any preparation in excess of the quantity specified by the Commissioner and except under and in accordance with the terms and conditions of a licence granted by the Commissioner in that behalf:

Provided that where such preparation is a medicinal preparation, the Commissioner shall, in specifying the quantity of liquor or intoxicating drug, have due regard to the total requirement of such medicinal preparation for consumption or use in the State.

(2) No person shall possess any preparation containing liquor or intoxicating drug, other than a medicinal preparation for the bona-fide treatment, mitigation or prevention of disease in human beings or animals, in excess of the quantity specified by the Commissioner.]

[12C. Prohibition of counterfeiting, selling, buying, receiving, possessing, etc of any forged or counterfeit label or security sticker.] - (1) No person shall counterfeit or knowingly perform any part of the process of counterfeiting, any label or security sticker which is used for the sale of liquor.

- (2) No person shall sell or buy or receive from any other person or otherwise traffic in, or use any forged or counterfeit label or security sticker which is used for the sale of liquor knowing or having reason to believe that the same is forged or counterfeit.
- (3) No person shall have in his possession any forged or counterfeit label or security sticker knowing or having reason to believe that the same is forged or counterfeit and intending to use the same as genuine for the sale of liquor.
- (4) No person shall make or buy or sell or dispose of any machinery instrument, printing press, computer, printer or scanner or any similar material for the purpose of being used or knowing or having reason to believe that it is intended to be used for forging or counterfeiting any label or security sticker for the sale of liquor.

Explanation. - For the purpose of this section the expression "counterfeit" shall have the same meaning as in section 28 of the Indian Penal Code, 1860 (Central Act 45 of 1860).]

13. Possession of liquor or intoxicating drugs in excess of the quantity prescribed by the Government prohibited. - No person not being a licensed manufacturer or vendor of liquor or intoxicating drugs shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as the Government may from time to time, prescribe by notification, either generally [or specially with regard to persons, places or time] in respect of any specified description or kind of liquor or intoxicating drug, unless under a licence granted by the [Commissioner] in that behalf :

Provided that-

- (1) **No fee to be charged for license for possession for private consumption.** - No fee shall be charged for any such license granted for the possession of such liquor or intoxicating drugs for bona-fide private consumption or use.
 - (2) **Proviso as regards foreign liquor.** - Nothing in this section extends to any foreign liquor [other than denatured spirit] in the possession of any warehouse man as such .
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- [13A. Power to prohibit possession of liquor or drugs.** - The Government may, by notification, prohibit the possession by any person or class of persons either throughout the whole State or in any local area, of any liquor or intoxicating drug either absolutely or subject to such conditions as [the Government may prescribe.]]
- [14. Establishment and control of distilleries breweries, warehouses, etc.** - The Commissioner may, with the previous approval of the Government.
- (a) establish public distilleries, breweries or wineries, or authorise the establishment of private distilleries, breweries, wineries or other manufactories in which liquor may be manufactured under a licence granted under this Act;
 - (b) establish public warehouses or authorise the establishment of private warehouses wherein liquor may be deposited and kept [with or] without payment of duty under a licence granted under this Act;
 - (c) Discontinue any public or private distillery, brewery, winery or other manufactory or warehouse so established;
 - (d) prescribe the mode of supervision that may be necessary in a distillery, brewery, winery or other manufactory or warehouse so established, 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 utilisation of liquor or intoxicating drugs;
 - (e) 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 realised from the licensees; and
 - (f) prescribe the allowance for wastage of alcohol that may occur in-
 - (i) The process of manufacture of alcohol;
 - (ii) The process of manufacture of any preparation containing alcohol; and
 - (iii) The storage, transport and use of non-duty paid alcohol].
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Table Showing Rules Regarding Supervision

No	Subject	Rules
1.	Size of Supervisory establishment in a Distillery	Rule 13 of D&W.Rules 1968.
2.	Payment of Cost of Establishment to Supervisory Staff in a distillery	Rule 14(1) of D&W.Rules 1968
3.	Size of Establishment in the warehouse in a Distillery	Rule 21 of D&W.Rules 1968
4.	Supervision in the Warehouse in a distillery	Rule 18 of D&W.Rules 1968
5.	Posting of supervisory officers in the distillery and Warehouses	Rule 24 of D&W.Rules 1968
6.	Supervisory control in Distilleries and Warehouses.	Rule 29 of Part-I and rule 2 of Part-II of D&W.Rules 1968
7.	Claim of Overtime Fees by Supervisory officers in a distillery.	Rule 128 of Part-II of D&W.Rules 1968
8.	Supervisory control in Breweries.	Rule 4 of main rules and rule 1 of additional rules to Brewery rules 1967
9.	Payment of Cost of Establishment to Supervisory Staff in a Brewery.	Rule 21 a of brewery rules 1967.
10.	Claim of Overtime fees by Supervisory officers in a Brewery.	Rule 31 A of Additional Rules to Brewery Rules.
11.	Posting of Supervisory officers and payment of their Cost of Establishment in FL-9 shops.	Rule 13(9a) of Foreign Liquor Rules 1953.
12.	Supervision and Payment of Cost of Establishment of supervisory staff in a FL (C,B7B) Unit.	Rule 6 of foreign Liquor (Compounding, Blending & Bottling) Rules 1975.

13.	Entitlement for Overtime fees by supervisory staff in FL(C,B7B) Unit.	Rule 6 A of foreign Liquor (Compounding, Blending & Bottling) Rules 1975
14.	Posting of supervisory officers, and payment of their Cost of Establishment, in respect of Foreign Liquor Bonded Warehouses and KSBC Head Office.	Rule 9 of foreign Liquor (Storage in Bond) rules 1961.
15.	Supervision and Payment of Cost of Establishment and Overtime fees of supervisory staff in a Bonded Spirit Store.	Rule 16 of Rectified Spirit Rules 1972.
16.	Supervision and control in a Winery.	Rule 17 of Winery rules 1970.
17.	Payment of cost of Establishment to supervisory staff in a Winery.-	Rule 38 of Winery rules 1970.

15. Sale of liquor or intoxicating drug without licence prohibited, Power to exempt toddy. - No liquor or intoxicating drug shall be sold without a licence from the [Commissioner], provided that a person having the right to the toddy drawn from any tree may sell the same without a licence to person licensed to manufacture or sell toddy under this Act

Provided [also] that the Government may [by notification] declare that any or all of the provisions of this Act, shall not apply in any local area to trees tapped, or to toddy drawn [under such conditions as the Government may prescribe.]

[Nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station, or after his decease]

[15A. Consumption or use of liquor by persons under the age of [23 years] prohibited. - No person under the age of [23 years] shall consume or use any liquor.]

[15B. Sale of liquor to person under [23 years] of age prohibited. - No person licensed to sell liquor and no person in the employ of such licensed person or acting with the express or implied permission of such licensed person on his

behalf shall sell or deliver any liquor to any person under the age of [twenty three years]]

[15C. Consumption of liquor in public places. - No person shall consume liquor in any public place unless consumption of liquor in any such place is permitted under a licence granted by the Commissioner.

Explanation 1. - For the purpose of this section, "public place" means any street, Court, Police Station [or other public office or any club] or any place of public amusement or resort or on board any passenger boat or vessel or any [public passenger or goods vehicle], or a dining or refreshment room in a restaurant, hotel, rest-house, travellers' bungalow or tourists' bungalow where different individuals or groups of persons consume food, but shall not include any private residential room.]

[Explanation 2. - For the purpose of Explanation 7, "public passenger or goods vehicle" means a vehicle used for carrying passengers or goods for hire or reward', with or without a contract, express or implied, for the use of the vehicle as a whole at or for a fixed or agreed rate or sum and includes a private vehicle in any public place.]

[16. x x x x]

[V. - Duties, Taxes and Rentals]

[17. Duty on liquor or intoxicating drugs. - A duty of excise or countervailing duty and/ or luxury tax shall be levied, in such manner as may be prescribed, on liquors or intoxicating drugs,-

- (a) Permitted to be imported under section 6, or
- (b) Manufactured under any licence granted under section 12; or
- (c) Manufactured at any distillery, brewery, winery or other manufactory established under section 14.

Provided that no duty or gallonage fee or vend fee or other taxes shall be levied under this Act on rectified spirit including absolute alcohol, which is not intended to be used for the manufacture of potable liquor meant for human consumption.

Explanation. - No liquor or intoxicating drug shall be permitted to 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 or intoxicating drug have

been paid or a bond for such payment on its exportation or re-exportation has been executed.]

18. [How duty or countervailing duty may be imposed.] - [(1)] [Such duty of excise or countervailing duty may be levied and collected:]

[(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 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 section 14;]

[(c) x x x x]

[(d) x x x x]

(e) 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 instalments and for such period as the Government may direct; or

[(f) 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) shall be levied and collected at such rates as may be fixed by the Government, from time to time, by notification in the Gazette, not exceeding the rates specified below:-

	Duty of excise	Maximum Rates
(i)	[Duty of excise on liquors (Indian made)]	Rs. 200 per proof litre or an amount equal to 200 per cent of the value of the liquor whichever is higher

[(ia)]	Duty of excise when levied in the form of special fees on Foreign Made Foreign Liquor.	Rs.100 per proof litre]
(ii)	Duty of excise on intoxicating drugs	Rs.1.50 per gram
(iii)	Duty of excise in form of tax on trees tapped for toddy	Rs. 50 per tree per half-year or part thereof.

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.

Explanation. - where any liquor is chargeable with duty of excise countervailing 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 supplier and in case any such liquor is not purchased by the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited such value shall be the value fixed by the Commissioner.

- (3) The luxury tax on liquor or intoxicating drugs shall be levied and collected,-
- (i) in the cases 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.]
- (4) The luxury tax under sub-section (3) shall be levied at such rates as may be fixed by the Government, from time to time, by notification in the gazette, not exceeding the rates specified below:-