

THE BALOCHISTAN EXCISE REGULATION, 1915

(Bal Regulation I of 1915)

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THE SCHEDULE

THE 'BALOCHISTAN EXCISE REGULATION, 1915

(Baln Reg. I of 1915)

[6" January, 1915]

A Regulation to consolidate and amend the Excise Law
in force in ?* * * * * Balochistan.

Preamble. WHEREAS it is expedient to consolidate the law in >*
* Balochistan, relating to the import, export, transport,
manufacture, sale and possession of intoxicating liquor and of
intoxicating drugs;

It is hereby enacted as follows:-

CHAPTER I

1 Spelling of the word "Baluchistan", wherever it appears in this Regulation, is corrected by insertion of letter "o" instead of "u".
Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

The words "Ajmer — Merwara, Coorg, and British " omitted by the W.P. A.O., 1964, s. 2 (1), Sch, Part V.
The words "the Provinces of Ajmer-Merwara, Coorg. and Brttish" omitted, ibid.

PRELIMINARY

Short title, extent 1. (1) This Regulation may be called the Excise and Regulation, 1915.

. eae (2) It extends to Balochistan. |

(3) It shall come into force on such date' as the

3[Provincial Government] may, by notification, direct.

Definitions. 2. In this Regulation, unless there is anything repugnant in

the subject or

(1)

(2)

(3)

(4)

(5)

(6)

(7)

*[(8)

ao FB WO NY

Subs. ibid for the original sub-section (2), Sch. Part V.

context,—

"beer" includes ale, stout, porter and all other fermented liquors usually made from malt;

"to bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and "bottling" includes re-bottling:

"Excise Commissioner" means the officer appointed by the *[Provincial Government) under section 7, clause (a);

"denatured" means rendered unfit for human consumption in such manner as the '[Provincial Government] may, by notification, prescribe;

"excisable article' means any liquor or

intoxicating drug as defined by or under this Regulation;

"Excise-officer" means a Collector or any officer or other person appointed or invested with powers under section 7;

"excise-revenue" means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a court of law) or confiscation imposed or ordered under the provisions of this Regulation, or of any other law for the time being in force relating to liquor or intoxicating drugs;

"export" means to take out of the province;

Came into force on the 1st April, 1915, see Gazette of India, 191, Pt.II. p.604.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

This clause was substituted by the Dangerous Drugs Act, 1930

(II of 1930).

ao F&F OW NY BF

*(10) "import" means to bring into the province;

*[(11) "intoxicating drug" means—

(12)

(13)

(i) the leaves, small stalks and flowering or fruiting-tops of the Indian hemp plant

(*Canabis sativa L.*), including all forms known as blang, sdhi, or ganja;

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

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

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

“liquor” means intoxicating liquor, and includes spirits of wine, spirit, wine, tari, beer, all liquid consisting of or containing alcohol, and any substance which the [Provincial Government] may, by notification declare to be liquor for the purposes of this Regulation;

“manufacture” includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also redistillation and every process for the

The provisos to clauses (8) and (10) were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937. Clause (9) was omitted by the Dangerous Drugs Act, 1930 (II of 1930).

Subs. for the words “Chief Commissioner” by the Government of India (Adaptation of Indian Laws) Order, 1937.

Central Acts, Vol. VIII, p.408.
i.e. Act II of 1930.

Power to declare

what shall be
deemed to be
"country
liquor" and
"foreign
liquor"
respectively.

Definition of retail

and wholesale
sale.

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Subs. for t

Subs. for t
The words

rectification, flavouring, blending or coloring or
liquor;

(14) "notification" means notification in the '[official
Gazette];

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

(16) expressions referring to "sale" include any
transfer otherwise than by way of gift;

(17) "spirit" means any liquor containing alcohol
obtained by distillation whether it is denatured or
not:

(18) "tari" means fermented or unfermented juice
drawn from any kind of palm tree; and

*[(19) "Transport" means to move from one place to
another within Balochistan.]

3. [Provision supplemental to the definition of
"intoxicating drug"] Repealed by s. 40 and Sch. II of Act II of
1930.

4. The +[Provincial Government], '*' may by

notification, declare what, for the purposes of this Regulation or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor", respectively.

5. (1) The [Provincial Government] may, by notification, declare, with respect either to the whole '[of Balochistan] or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Regulation, be the limit of a retail sale.

(2) The sale of any excisable article in any quantity excess of the quantity declared in respect thereof under sub-

he words "Local Official Gazette" by the A.O., 1937.

Subs. for clause (19) as amended by the A.O., 1937, by the W.P. A.O., 1964, s. 2(1), Sch. Part V. The original clause was subs. by the Dangerous Drugs Act, 1930 (II of 1930).

he words "Chief Commissioner" by the A.O., 1937.

"with the previous sanction of the Governor General in Council" omitted by the Devolution Act, 1920 (XXXVIII of 1920). The proviso omitted by the W.P. A.O., 1964, s. 2(1), Sch. Part V.

Subs. for t

he word "Province" by the W.P. A.O., 1964, s. 2(1), Sch. Part V.

Saving of
enactments

Establishment and
powers thereof.

1 ie. Act VIII of 1978.

2

3

4

5 Subs. *ibid*, for the word "his".

section (1) shall be deemed to be a sale by whole sale.

6. Nothing contained in this Regulation shall affect the provisions of the Sea Customs Act, 1878,¹ or the *Indian Tariff Act, 1894, (except section 6 thereof), or the *Cantonments Act, 1910, or any rule or order made thereunder.

CHAPTER II

ESTABLISHMENT AND CONTROL

7. The *[Provincial Government] may, by notification, for the whole or for any specified part of the province,—

(a)

(b)

(d)

(e)

(f)

appoint an officer who, subject to such control (if any) as the *[Provincial Government] may direct, shall superintend the administration of the Excise Department and the collection of the excise-revenue;

appoint any person other than the Collector to exercise all or any of the powers and to perform, all or any of the duties conferred and imposed on a Collector by or under this Regulation, either concurrently with, or in subordination to, or in exclusion of, the Collector, subject to such control as the *[Provincial Government] may

direct;

appoint officer of the Excise Department of such classes and with such designations, powers and duties as the *[Provincial Government] may think fit;

order that all or any of the powers and duties assigned by or under this Regulation to any officer appointed under clause (c) shall be exercised and performed by any Government officer or any other person;

delegate to the Excise Commissioner all or any of *[its] powers under this Regulation;

withdraw from any officer or person all or any of

i.e. Act VIII of 1894. See now the Tariff Act, 1934 (XXXII of 1934), Central Acts, Vol. IX, p. 77.
ie. Act XV of 1910. See now the Cantonments Act, 1924 (II of 1924), Central Acts, Vol. VIII, p. 1.
Subs. for the words "Chief Commissioner" by the A.O., 1937.

Power to prohibit
import, export
or transport.

Restriction on
import, export
or transport.

Requirement of
pass for
import, export
or transport.

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1920).

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(g)

'Tits] powers under this Regulation; and

authorize the delegation by the Excise
Commissioner or the Collector to any person or
class of persons specified in — such
notification of any powers — conferred or duties
imposed upon him by or under this Regulation,
or exercised or discharged by him in respect of
the excise-revenue under any other law for the
time being in force.

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

8. The ?[Provincial Government] may, by notification,—

(a)

(b)

3[* * *] prohibit, throughout *[Balochistan) or in
any = specified area thereof, the import — or
export of any excisable article;

prohibit the transport of any excisable article.

9. No excisable article shall be imported, exported or
transported, except,—

(a) after payment of any duty of customs or excise to which it may be liable, or execution of a bond for such payment; or

(b) on compliance with such conditions as the [Provincial Government] may impose.

10. No excisable article exceeding such quantity as the

[Provincial Government] may prescribe by notification either

generally or for any specified area, shall be imported, exported

or transported, except under a pass issued, or deemed to be issued, under the provisions of this Regulation:

Provided that in the case of duty-paid foreign liquor such passes shall be dispensed with, unless the [Provincial Government] shall, by notification, otherwise direct with

Subs. for the words "his" by the A.O., 1937.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

The words "with the previous sanction of the Governor General to Council" were omitted by the Devolution Act, 1920 (XXXVIII)

The words "the Province" subs. by the W.P. A.O., 1964, s. 2 (1), Sch. Part V(A)(4).

The Proviso omitted by W.P. A.O., 1964, s. 2(1), Sch. Part V.

Subs. for the words "Governor General in Council" by the A.O., 1937.

Subs. for the words "Governor General in Council" by the A.O., 1937.

Passes for import,
export or
transport.

Passes issued by
other
authorities may
be deemed,
passes granted
under this
Regulation.

Licence required
for
manufacture of
excisable
articles.

respect to any local area.

11. (1) Except when otherwise directed by the Excise Commissioner, passes for the import, export or transport of excisable articles may be granted by the Collector.

(2) Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only.

12. The Excise Commissioner may, by general or special order, direct, subject to such conditions (if any) as he may impose, that a pass granted by any authority in '[Pakistan] shall be deemed to be a pass for any purpose under this Regulation.

CHAPTER IV MANUFACTURE, POSSESSION AND SALE

13. (a) No excisable article shall be manufactured or collected;

(b) no hemp ?[* * *] plant shall be cultivated;

(c) no tari-producing tree shall be tapped and no tari shall be drawn from any tree;

(d) no liquor shall be bottled for sale;

(e) no distillery or brewery shall be constructed or worked; and

(j) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the

purpose of manufacturing any excisable article other than opium, except under the authority and subject to the terms and conditions of a license granted in that behalf:

Provided that the *[Provincial Government] may, by notification, declare that the provisions of this section shall not apply, in any area specified in this behalf, to the tapping of opium-producing trees, or the drawing of opium under such conditions as "[it] may prescribe.

Subs. for the word "India" by the W.P. A.O., 1964, s. 2(1), Sch. Part V.
The words "or coca" omitted by the Dangerous Drugs Act, 1930 (II of 1930).
Subs. for the words "Chief Commissioner" by the A.O., 1937.

Subs. *ibid*, for the word "he".

Establishment of
licensing of
distilleries and
ware-houses.

Payment of duty on
removal from
distillery,
brewery or
place of
storage.

Possession of
excisable
articles
generally.

14. The Excise Commissioner may—

(a) establish a distillery in which spirit may be manufactured under a license granted under section 13 on such conditions as the '[Provincial Government] may impose;

(b) discontinue any such distillery;

the
'[Provincial Government] may impose, the
construction and working of a distillery or

(c) license on such conditions as

brewery;

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

(e) discontinue any such warehouse.

15. Without the sanction of the '[Provincial Government] no excisable article shall be removed from any distillery, brewery, warehouse or other place of storage established or licensed under this Regulation unless the duty (if any) imposed under section 24 has been paid or a bond has been executed for the payment thereof.

16. (1) The "[Provincial Government] may, by notification, prescribe a limit of quantity for the possession of any excisable article:

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

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

conditions of—

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

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

(3) Sub-section (2) shall not apply to any foreign liquor-

1 Subs. for the words "Chief Commissioner" by the A.O., 1937.

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Licence required
for sale of
excisable
articles.

Power to grant

(a) which is in the possession of any common carrier or warehouseman as such, or

(b) — which is lawfully procured by and in the possession of any person for his bonafide private consumption and not for sale.

(4) Notwithstanding anything contained in this Regulation, or in any other law for the time being in force, the Provincial Government may, by notification, prohibit or restrict the possession or consumption of any excisable article, either throughout the area in which this Regulation is in force or in any specified part thereof in respect of any individual or a class or body or individuals or the public generally, subject to such conditions as it may prescribe.]

17. (1) No excisable article shall be sold except under the authority and subject to the terms and conditions of a license granted in that behalf:

Provided that—

(a) a person having the right to the tari drawn from any tree may sell such tari without a license to a person licensed to manufacture or sell qari under this Regulation;

(b) nothing in this section shall apply to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease

(2) On such conditions as the Excise Commissioner may determine, a license for sale under the Excise law for the time being in force other parts of *[Pakistan] may be deemed to be a license granted in that behalf under this Regulation.

18. (1) The *[Provincial Government] may lease to any lease of right to person, on such conditions and for such period as [it] may

manufacture

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Subs. by W.P. Ord. XIII of 1968.

Subs. for the words "British India" by the W.P. A.O., 1964, s. 2(1), Sch. Part V.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

Subs. *ibid*, for the word "he".

etc.

Lessee's permission
to draw tari.

Manufacture and
sale of liquor
in Military
cantonments.

Duties of licensees
with regard to
measurement
and testing.

Prohibition of

1

think fit, the right—

(a) of manufacturing or of supplying by
whole sale, or of both, or

(b) of selling by whole sale or by retail or

(c) of manufacturing or of supplying by
wholesale, or of both, and of selling by
retail,

any country liquor or intoxicating drug within any specified
area.

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

19. Where a right of manufacturing tari has been leased
under section 18, the '[Provincial Government]' may declare
that the written permission of the lessee to draw tari shall have
the same force and effect as a license from the Collector for the
purpose.

20. Within the limits of any military Cantonment, and
within such distance from those limits as the '[Provincial
Government]' in any case may prescribe, no licence for the retail
sale of liquor shall be granted, except with the knowledge and
consent of the Commanding Officer.

21. Every person who manufactures or sells any excisable article under a license granted under this Regulation shall be bound—

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

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

22. (1) No person who is licensed to sell any excisable

Subs. for the words "Chief Commissioner" by the A.O., 1937.

employment of article for consumption on his premises shall, during the hours children and of in which such premises are kept open for business, employ or women. permit to be employed either with or without remuneration, any child under such age as the [Provincial Government] may by rule prescribe in this behalf, in any part of such premises in which such excisable article is consumed by the public.

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

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

Closing of shops 23. = (1) The District Magistrate, by notice in writing to for the sake of the licensee, may require that any shops in which any excisable public peace. article is sold shall be closed at such time or for such period as

he may think necessary for the preservation of the public peace.

(2) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a Magistrate of any class, or any police-officer above the rank of constable who is present, may require such shop to be kept closed for such period as he may think necessary:

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

CHAPTER V DUTIES AND FEES

Duty on excisable 24. (1) The "[Provincial Government] may, by articles. notification, impose a duty, at such rate or rates as 7[it] thinks fit, either generally or for any specified area, on any excisable article—

(a) imported; or

(b) exported; or

* Subs. for the words "Chief Commissioner" by the A.O., 1937.

2 Subs. ibid, for the word "he".

Ways of levying

such duty.

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Subs.

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Subs.

or t

II of 1878.

(c) transported; or

(d) manufactured, cultivated or collected under any license granted under section 13; or

(e) manufactured in any distillery established, or any distillery or brewery licensed, under this Regulation.

(2) Duty may be imposed under sub-section (1) at different rates according to the places to which any excisable article is to be removed, or according to the strength and quality of such article.

(3) Notwithstanding anything contained in sub-section (1)—

(i) duty shall not be imposed thereunder on any article which has been imported into [Pakistan] and was liable, on such importation to duty under the 7Sea

Customs Act, 1878 or the 3[Indian Tariff Act, 1894).

(ii) | duty imposed thereunder on denatured spirit or beer manufactured in '[Pakistan] shall, unless the 4[Provincial Government] with the previous sanction of the *[Central Government] otherwise directs, be equal to the duty to which denatured spirit or beer as the case may be, when imported into '[Pakistan] by sea, is liable under the *Indian Tariff Act, 1894, or any other law for the time being in force relating to the duties of customs on goods imported into °[Pakistan].

25. Subject to such rules regulating the time place and manner as the '[Provincial Government] may prescribe, such duty shall be levied rateably on the quantity of excisable article imported, exported, transported, collected or manufactured in or

he words "British India" by the W.P. A.O., 1964, s. 2(1). Sch. Part V.

II of 1894. See now the Tariff Act, 1934 (XXXII of 1934).

he words "Chief Commissioner" by the A.O., 1937.

for the words "Governor General in Council". Now "Federal".

he words "British India" by the W.P. A.O., 1964, s. 2(1). Sch. Part V.

he words "Chief Commissioner" by the A.O., 1937.

Payment for grant
to leases.

Form and
conditions of
licenses, etc.

issued from a distillery, brewery or warehouse:

Provided that—

(1) duty may be levied—
(a) on spirit or beer manufactured in any

(b)

distillery established or any distillery or
brewery licensed under this Regulation—

(i) in accordance with such scale of
equivalents calculated on _ the
quantity of materials used, or by
the degree of attenuation of the
wash or wort, as the case may be,
as the *[Provincial Government)
may prescribe, or

(ii) by a rate charged directly on the
materials used:

on tari by a tax on each tree from which
the tari is drawn;

(2) | where payment is made upon the issue of an
excisable article for sale from a warehouse, it
shall be at the rate of duty in force on the date of
issue of such article from the warehouse.

26. Instead of or in addition to any duty leviable under this
Chapter, the *[Provincial Government] may accept payment of a
sum in consideration of the grant of any lease under section 18.

CHAPTER VI

LICENSES, PERMITS AND PASSES

27. Every license, permit or pass granted under this
Regulation—
(a) shall be granted—
(i) on payment of such fees (if any),
(i1) for such period,
(iii) | subject to such restrictions and on such

conditions, and

(b) shall be in such form and contain such

1 Subs. for the words "Chief Commissioner" by the A.O., 1937.

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particulars, as the '[Provincial Government) may
direct either generally or in any particular

Prohibition for
Muslims.

Power to take
security from
licensees.

Technical defects,
irregularities
and omissions.

Power to cancel or
suspend
license, etc.

Added by Baln. Ordinance X of 1984.

Central Acts, Vol. VIII, p. 379.

instance.

'127.A No license, permit or pass under this Regulation shall be issued to a Muslim.]

28.

may require the license to give such security for the observance of the terms of his license, or to make such deposit in lieu of security, as such authority may think fit.

29. (1) No license granted under this Regulation shall be deemed to be invalid by reason merely of any technical defect,

Any authority granting a license under this Regulation

irregularity or omission in the license or in any proceedings taken prior to the grant thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.
30. (1) Subject to such restrictions as the '[Provincial

Government] may prescribe, the authority granting any license, permit or pass under this Regulation may cancel or suspend it—

(a) if any duty or fee payable by the holder

thereof be not duly paid; or

(b) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of

the terms or conditions thereof; or

(c) if the holder thereof, or any of his servants or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Regulation or any other law for the time being in force relating to excise-revenue;

or

(d) if the holder thereof is convicted of any cognizable and non-bailable offence, or of any offence *[under the +*Dangerous Drugs Act, 1930 or] under the “[Indian Merchandise Marks Act, 1889, or) under

any section which has been introduced

Inserted by the Dangerous Drugs Act, 1930 (Act II of 1930).

Act IV of 1889, now the Merchandise Marks Act, 1889, Central Acts, Vol. II, p. 257.

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Power to withdraw

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into the '[Indian Penal Code by section 3 of that Act, or] of any offence punishable under clause (8) of section 167 of the *[Sea Customs Act, 1878, or]

(e) where a license, permit or pass has been granted on the application of the holder of any lease granted under section 18, on the requisition in writing of such lessee; or

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

(2) Where a license, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c), or clause (d) of sub-section (1), the authority aforesaid may cancel any other license, permit or pass granted to such person under this Regulation or under any other law for the time being in force relating to excise-revenue, or under the *Opium Act, 1878.

(3) The holder shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

(4) Where a license, permit or pass is cancelled or suspended under clause (a), clause (b), clause (c), or clause (d) of sub-section (1),—

(a) the fee payable for the balance of the period for which such license would have been current but for such cancellation or suspension, may be recovered from the ex- licensee as excise-revenue;

(b) the Collector may take the grant under management or resell it, but any profit realized by such management or resale which is not in excess of the amount recovered for such period shall be paid to the ex-licensee.

31. (1) Whenever the authority which granted any

license under this Regulation considers that such license should

Act XLV of 1860, now the Pakistan Penal Code, Central Acts, Vol. I, p. 125.

Central Acts, Vol. II, p. 273. Act VII of 1878.

Central Acts, Vol. II, p. 259. Act I of 1878.

Surrender of
license.

Penalty for illegal
import etc.

be withdrawn for any cause other than those specified in section 30, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the license either—

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

(b) forthwith without notice.

(2) If any license be withdrawn under clause (b) of sub-section (1), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

(3) When a license is withdrawn under sub-section

(1) any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount (if any) due to Government.

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

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

(2) Sub-section (1) shall not apply in the case of any license granted under section 18.

Explanation—The words "holder of a license" as used in this section include a person whose tender or bid for a license has been accepted although he may not actually have received the license.

CHAPTER VII OFFENCES AND PENALTIES

33. | Whoever, in contravention of this Regulation, or of any rule, notification or order made, issued or given thereunder, or of any license, permit or pass granted under this Regulation—

(a) imports, exports, transports, manufactures,

Penalty for
rendering
denatured spirit
fit for human
consumption.

Penalty for illegal
possession.

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collects '[, possesses or consumes] any excisable
article; or

(b) save in the cases provided for in section 37, sells
any excisable article; or

(c) cultivates any hemp *** plant; or

(d) taps or draws tari from any tari producing tree;
or

(e) constructs or works any distillery or brewery; or

(f) uses, keeps or has in his possession any
materials, still, utensil, implement or apparatus
whatsoever for the purpose of manufacturing any
excisable article other than tari; or

(g) removes any excisable article from any distillery,
brewery or warehouse licensed, established or
continued under this Regulation; or

(h) bottles any liquor:

shall be punishable with imprisonment for a term which may
extend to six months, or with fine which may extend to one
thousand rupees, or with both;

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34. | Whoever—

(a) renders fit for human consumption any, spirit

which has been denatured; or

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

shall be punishable with imprisonment for a term which may
extend to three months, or with fine which may extend to one

thousand rupees, or with both.

35. | Whoever, without lawful authority, has in his possession any quantity of any excisable article knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment

Subs. for "or possesses" by W.P. Ord. XIII of 1968.

Words "or coca" omitted by the Dangerous Drugs Act, 1930 (II of 1930).

3 Omitted by the Dangerous Drugs Act, 1930 (II of 1930).

Penalty for offences
not otherwise
provided for.

Penalty for certain
unlawful acts
of licensed
vendors.

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for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

36. | Whoever does any acting contravention of any of the provisions of this Regulation, or of any rule, notification or order made, issued or given thereunder and not otherwise provided for in this Regulation, shall be punishable with fine which may extend to two hundred rupees.

37. (1) _ A licensed vendor or any person in his employ and acting on his behalf who—

(a)

sells any excisable article to a person who is drunk; or

(b) sells or gives any excisable article to any child apparently under such age as the 'Provincial Government) may by rule

prescribe in this behalf; or

(c) in contravention of section 22 employs or permits to be employed on any part of his licensed premises referred to in that

section any child or woman; or

(d) permits drunkenness, disorderly conduct or gaming on the premises of such

vendor; or

(e) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes, to resort to or assemble on the premises of such vendor whether for the purposes of crime or

prostitution or not;

shall be punishable with fine which may extend to five hundred rupees.

(2) Where any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

Penalty for
misconduct.

Penalty for
consumption in
chemist's shop
etc.

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

Attempts to commit
offences.

38. A holder of license, permit or pass granted under this Regulation, or any person in the employ of such holder and action on his behalf, who intentionally—

(a) fails to produce such license, permit or pass on the demand of any Excise-officer or of any other officer duly empowered to make such demand;

or

(b)

save in a case provided for by section 33, contravenes any rule made under section 62, or

(c) does any act in breach of any of the conditions of the license, permit or pass not otherwise

provided for in this Regulation;

shall be punishable in case (a) with fine which may extend to two hundred rupees, and in case (b) or case (c) with fine which may extend to five hundred rupees.

39. (1)
dispensary who allows any excisable article which has not been bonafide medicated for medicinal purposes to be consumed on

A chemist, druggist, apothecary or keeper of a

his business premises by any person not employed in his business, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2) Any person not employed as aforesaid who consumes any such excisable article on such premises shall be punishable with fine which may extend to two hundred rupees.

40. (1) Where excisable article has been manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such manufacture or sale was, or that such any

possession is on his account, the article shall, for the purposes of this Regulation, be deemed to have been manufactured or sold by or to be in the possession of such other persons.

(2) person who manufactures, sells or has possession of an excisable article on account of another person from liability to any punishment under this Regulation for the unlawful manufacture, sale or possession of such article.

Nothing in sub-section (1) shall absolve any

41. | Whoever attempts to commit any offence punishable under this Regulation shall be liable to the punishment provided

Presumption as to
commission of
offences in
certain cases.

Criminal liability of
licensee for
acts of
servants.

Enhanced
punishment
after previous
conviction.

Liability of certain
things to

for such offence.

42. In prosecutions under section 33, section 34 and section 35 it shall be presumed, until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of—

(a) any excisable article, or

(b) any still, utensil, implement or apparatus
whatsoever for the manufacture of any excisable
article other than tari, or

(c) any materials which have undergone any process
towards the manufacture of an excisable article,
or from which an excisable article has been
manufactured,

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

43. | Where any offence under section 33, section 34, section 35, section 37 or section 38 is committed by any person in the employ and acting on behalf of the holder of a license, permit or pass, granted under this Regulation, such holder shall also be punishable as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

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

44. If any person, after having been previously convicted of
an offence punishable under section 33, section 34, section 35,

or section 39, or under the corresponding provisions in any enactment repealed by this Regulation, subsequently commits and is convicted of an offence punishable under any of those sections he shall be liable to twice the punishment which might be imposed on a first conviction under this Regulation:

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the 'Code of Criminal Procedure, 1898, from being so tried.

45. | Whenever an offence has been committed which is punishable under this Regulation, the following things shall be

1 Central Acts, Vol. IV, p. 9. Act V of 1908.

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confiscation.

Order of
confiscation.

liable to confiscation, namely:-

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

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

(3) any receptacle, package or covering in which anything liable to confiscation under clause (1) or (2) is found, and the other contents, if any, of such receptacle, package or covering and any animal, cart, vessel, raft or other conveyance used in carrying the same:

Provided that if anything specified in clause (3) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed.

46. (1) Where in any case tried by him the Magistrate decides that anything is liable to confiscation under section 45, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit.

(2) When an offence under this Regulation has been committed, but the offender is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto, and the evidence (if any) which he may produce in support of his claim:

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale would be for the benefit of its owner, the Collector may at any time direct it to be sold, and the provisions of this subsection shall, as nearly as may be practicable, apply to the net

proceeds of such sale.

Power to compound 47. (1) The Collector may—

offences.

Penalty on excise-officer making vexatious search, seizure, detention or arrest.

Penalty for Excise-officer refusing to do duty.

(a) accept from any person whose license, permit or pass is liable to be cancelled or suspended under clauses (a) and (b) of sub-section (1) of section 30, or who is reasonably suspected of having committed an offence under section 36, section 37, or section 38, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension, or by way of composition for such offence, as the case may be; and

(b) in any case in which any property has been seized as liable to confiscation under this Regulation may, at any time before an order of confiscation has been passed by a Magistrate, release the same on payment of the value thereof as estimated by the Collector.

(2) On the payment of such sum of money or such value, or both, as the case may be, to the Collector, the accused person, if in custody, shall be discharged, the property seized (if any) shall be released, and no further proceedings shall be taken against such person or property.

48. Any Excise-officer who vexatiously and unnecessarily—

(a) enters or searches or causes to be entered or

searched any place under colour of exercising any power conferred by this Regulation, or

(b) seizes the movable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Regulation, or

(c) searches or arrests any person, shall be

punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

49. Any Excise officer, who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from the duties of his office, unless expressly allowed to do so in writing by the Collector, or unless he shall have given to his superior

Land holders and
others to give
information.

Power to enter and
inspect places
of manufacture
and sale.

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officer two month's notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction before a Magistrate, be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII DETECTION, INVESTIGATION AND TRAIL OF OFFENCES

50. | Whenever any excisable article is manufactured or collected, or any hemp [* * *] plant is cultivated, on any land in contravention of this Regulation—

(a) all owners and occupiers of such land and their agents; and

(b) all village-headmen, village-accountants, village-watchmen, village police-officers, and all officers employed in the collection of revenue or rent of land on the part of Government or the Court of Wards in the villages in which such land is situate;

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

51. | The Excise Commissioner, or a Collector or any Excise-officer not below such rank as the *[Provincial Government] may by notification prescribe, or any police-officer duly empowered in that behalf, may—

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

(b) enter and inspect, at any time within the hours during which sale is permitted and at any other time during which the same may be open, any place in which any excisable article is kept for

sale by any person holding a license under this Regulation; and

(c) examine accounts and registers, and examine, test, measure or weigh any materials, stills,

The words "or coca" omitted by the Dangerous Drugs Act, 1930 (II of 1930).

2 Subs. for the words "Chief Commissioner" by the A.O., 1937.

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utensils, implements, apparatus or excisable article found in such place.

Power to arrest 52. (1) Any officer of the Excise, Police, or Land without Revenue Department, subject to such restrictions as the warrant, to [Provincial Government] may prescribe, and any other person Seize article duly empowered, may— liable to , confiscation (a) arrest without warrant any person found and to make. committing an offence punishable under

section 33, section 34 or section 35; and

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

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

(2) When any person is accused or reasonably suspected of committing an offence under this Regulation, other than an offence under section 33, section 34 or section 35, and on demand of any such officer as aforesaid refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer in order that his name and residence may be ascertained.

Power of 53. If a Magistrate, upon information and after such inquiry

Magistrate to (if any) as he thinks necessary, has reason to believe that an offence under section 33, section 34 or section 35 has been, is being, or is likely to be committed, he may issue a warrant—

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

(b) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to

Power of search,
without
warrant.

Powers of Excise-
officers in
matters of
Investigation.

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be engaged in the commission of any such
offence.

54. | Whenever any Excise-officer not below such rank as the
'Provincial Government] may by notification prescribe, has
reason to believe that an offence under section 33, section 34 or
section 35, has been, is being, or is likely to be committed, and
that a search-warrant cannot be obtained without affording the
offender an opportunity, of escape or of concealing evidence of
the offence, he may, after recording the grounds of his belief—

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

(b) detain and search and, if he thinks proper, arrest
any person found in such place whom he has
reason to believe to be guilty of such offence as
aforesaid.

55. (1) Any Excise-officer not below such rank and within
such specified area as the '[Provincial Government] may, by
notification, prescribe, may as regards offences under section
33, section 34 and section 35, exercise the powers conferred on
an officer in charge of a police-station by the provisions of the
Code of Criminal Procedure, 1898;

Provided that any such powers shall be subject to such
restrictions and modifications (if any) as the '[Provincial
Government) may by rule prescribe.

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

(3) Any such officer specially empowered in that

behalf by the '[Provincial Government] may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any offence against this Regulation, which he has investigated or which may have been reported to him.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

i.e. Act V of 1898.

Report by
Investigation
Officer.

Report by Excise-
Officer.

Arrests, searches,
etc. how to be
made.

Security for
appearance in
case of arrest
without
warrant.

1
2

56. — If on an investigation by an Excise-officer empowered under section 55, sub-section (1), it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he proceeds under section 55, sub-section (3), shall submit a report [which shall for the purposes of section 190 of the 'Code of Criminal Procedure, 1898, be deemed to be a police report] to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports.

57. | Where any Excise-officer below the rank of Collector makes any arrest, seizure or search under this Regulation, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall unless bail be accepted under section 59, take or sent the person arrested, or the thing seized, with all convenient despatch, to a Magistrate for trial or adjudication.

58. Save as in this Regulation otherwise expressly provided, the provisions of the *Code of Criminal Procedure, 1898, relating to arrests, detentions in custody, searches, summonses, warrants of arrest, search-warrants, the production of persons arrested and the disposal of things seized, shall apply as far as may be, to all action taken in these respects under this Regulation.

59. (1) The ?[Provincial Government] may empower any Excise-officer to release persons on bail.

(2) When a person is arrested under this Regulation

otherwise than on warrant by a person or officer who has not authority to release arrested persons on bail, he shall be produced before or forwarded to—

- (a) the nearest Excise-officer who has authority to release arrested persons on bail, or
- (b) the nearest officer in charge of a police-station, whoever is nearer.

(3) Whenever any person arrested under this Regulation, otherwise than on a warrant is prepared to give bail, and is arrested by or produced in accordance with sub-section

Central Acts, Vol. IV, p. 9. Act V of 1898.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

Cognizance of
offences.

Limitation of

Prosecutions.

Power to make
rules.

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(2) before an officer who has authority to release arrested persons on bail, he shall be released upon bail, or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of sections 499 to 502, 513, 514 and 515 of the 'Code of Criminal Procedure, 1898, shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

60. No Magistrate of the third class, unless he is specially empowered by the District Magistrate in this behalf, shall take cognizance of, or try, any offence under this Regulation.

61. (1) No Magistrate shall take cognizance of an offence punishable—

(a) under section 36, section 37 or section 38, except on the complaint or report of the Collector or of an Excise-officer authorized by him in this behalf; or

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

(2) Except with the special sanction of the [Provincial Government], no Magistrate shall take cognizance of any offence punishable under this Regulation, or any rule or order thereunder, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

CHAPTER IX MISCELLANEOUS

62. (1) The *[Provincial Government] may make rules* for the purpose of carrying out the provisions of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing provisions, the 1 ¹![Provincial Government) may make rules—

Central Acts, Vol. IV, p. 9. Act V of 1898.

Sub. for the words "Chief Commissioner" by the A.O., 1937.

Subs. for the words "Chief Commissioner" by the A.O., 1937.

For the Balochistan Liquor and Intoxicating Drugs License Rules, 1947, see Gazette of Pakistan 1947, Part I-A, p. 129.

5 Subs. for the words "his" by the A.O., 1937.

(a)

(b)

(c)

(d)

(e)

(f)

prescribing the powers and duties of
Excise-officers;

regulating the delegation of any powers
by the Excise Commissioner or
Collectors under section 7, clause (g);

declaring in what cases or classes of
cases and to what authorities appeals
shall lie from orders, whether original or
appellate, passed under this Regulation,
or under any rule made thereunder, or by
what authorities such orders may be
revised and prescribing the time and
manner of presenting, and the procedure
for dealing with appeals;

regulating the import, export, transport,
manufacture, cultivation, collection,
possession, supply or storage of any
excisable article, and may, by such rule
among other matters—

(1) regulate the tapping of fari-
producing trees, the drawing of
tari from such trees, the making
of the same and the maintenance
of such marks,

(i1) declare the process by which
spirit shall be denatured and the
denaturation of spirit ascertained,
and

(iii) cause spirit to be denatured
through the agency or under the
supervision of *[its] own officers;

regulating the periods and localities for which, and the persons or classes of persons to whom, licenses for the wholesale or retail vend of any excisable article may be granted, and regulating the number of such licenses which may be granted in any local area;

prescribing the procedure to be followed

(g)

(h)

(1)

(Q)

(k)

and the matters to be ascertained before any license for such vend is granted for any locality;

regulating the time, place and manner of payment of any duty or fee;

prescribing the authority by which, the form in which, and the terms and conditions on and subject to which any license, permit or pass shall be granted, and may, by such rules, among other matters;

(1) fix the period for which any license, permit or pass shall continue in force;

(ii) prescribe the scale of fees or the manner of fixing the fees payable in respect of any privilege, license, permit or pass, or the storing of any excisable article;

(iii) prescribe the amount of security to be deposited by the holders of any license, permit or pass for the performance of the conditions of the same;

(iv) prescribe the accounts to be maintained and the returns to be submitted by license holders;

(v) prohibit or regulate the transfer of licenses; and

(vi) prescribe the ages under which it shall be unlawful to employ children and to sell or give to children excisable articles;

providing for the destruction or other disposal of any excisable article deemed to be unfit for use;

regulating the disposal of confiscated articles;

regulating the grant of expenses to

Publication of rules
and
notification.

Recovery of
Government
dues.

Government lien on
property of
defaulters.

witnesses and to persons charged with
offences under this regulation and
subsequently released or acquitted; and

(1) regulating the power of Excise-officers to
summon witnesses from a distance.

63. All rules made under this Regulation shall be published
in the [official Gazette], and on such publication shall have
effect as if enacted in this Regulation.

64. (1) The following moneys, namely—

(a)
(b)

all excise revenue,

any loss that may accrue when, in
consequence of default, a grant has been
taken under management by the Collector
or has been re-sold by him, and

(c) all amounts due to the Government by
any person on account of any contract
relating to the Excise-revenue, may be
recovered from the person primarily
liable to pay the same, or from his surety
(if any) by distress and sale of his
movable property, or by any other
process for the recovery of land revenue
due from landholders or from farmers of

land or their sureties.

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

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

1 Subs. for the words "Local Official Gazette" by the A.O., 1937.

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Recovery of dues
by lessee under
section 18.

Power of Provincial
Government to
exempt
excisable
articles from
the provisions
of the
Regulation.

Protection to
persons acting
under
Regulation.

Limitation of suits.

Subs
Subs
Subs
Subs

66. Any person to whom a lease has been granted in accordance with the provisions of section 18, may, in a case where sub-letting is not forbidden by the terms of his lease, proceed against any person holding under him for the recovery of any money due in respect of such sub-lease or holding as if it were an arrear of rent recoverable under the law for the time being in force with regard to landlord and tenant:

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

67. The *[Provincial Government] may, by notification either wholly or partially and subject to such conditions [it] may think fit to prescribe, exempt any excisable article from all or any of the provisions of this Regulation, either throughout 4[Baluchistan] or in any specified area.

or for any specified period or occasion, or as regards any specified class or persons.

68. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Regulation

69. No suit shall lie against the *[Provincial Government],

or against any Excise-officer in respect of anything done, or alleged to have been done, in pursuance of this Regulation unless the suit is instituted within six months from the date of the act complained of.

70. [Repeal of enactments] Rep. by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

THE SCHEDULE Rep. by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

. for the words "Chief Commissioner" by the A.O., 1937.

. *ibid*, for the word "he".

. for the words "the province" by the W.P. A.O., 1964, s. 2(1), Sch. Part V.

. *ibid*, for the word "Crown" which was previously subs. for the words "Secretary of State for India in Council" by the A.O., 1937.