

EXTRAORDINARY ee REGISTERED NO. S—2771

The Baluchistan Gazette
a PUBLISHED BY AUTHORITY

Np. 24 QUETTA, TUESDAY; MARCH 28, 1978.

_— _ GOVERNMENT OF BALUCHISTAN.
' LAW DEPARTMENT. WA

NOTIFICATION.

Dated Quetta, the 28th March, 1978.

hn

No. Legis: 4-37/Law/77. The following Ordinance made
by 'the Governor. of Baluchistan on. the 15th March, 1978 is hereby
published for general information: —

BALUCHISTAN ORDINANCE NO. XI OF 1978.
THE BALUCHISTAN PROHIBITION ORDINANCE, 1978,

AN
\
nek ORDINANCE

; to prohibit the manufacture, sale and consumptidh of
intoxicating liquors.

Printed by th= Manager Government Printing & Stationery Department Baluchistan Quetta.
Price Re ' ; G.P. (Q) 551-450-4-78.

www.ezqanoon.com

Preamble. WHEREAS the Prohibition Act, 1977 was enacted by the Parliament: during the period when the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan was .in force;

AND WHEREAS in consequence of revocation of the Proclamation of Emergency on 15th September, 1977, it is expedient to re-enact the provisions of the said Act as a Provincial Law, on the expiry of six months from the said date;

AND WHEREAS the Governor is satisfied

that circumstances exist which render it necessary to...

take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. | of 1977) and in exercise of all powers enabling him in that behalf, the Governor of Baluchistan is .pleased to make and promulgate the following Ordinance:— « 3

‘CHAPTER-I PRELIMINARY.

‘Short title, 1. (1) This Ordinance may be called the Balu-

extent and - chistan Prohibition. Ordinance, 1978.
commencement. :

: (2) It extends to the whole of the Province
of Baluchistan.

(3) It shall come into force at once.

Definitions. 2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) ‘Bottle’ means to transfer intoxicat- ,
ing liquor from a cask or other vessot

to a bottle, jar, flask, pot or similar receptacle for the purpose of sale,
whether any process of manufacture
be employed or not, and includes re-
bottling;

(b) "Buy" or "buying" includes any receipt by way of gift or otherwise;

(c) "Collector includes. any~ person appointed under this Ordinance. to exercise or perform all or any of the powers or functions:of a Collector. under this Ordinance:

(d) "Government" means. the Government of Baluchistan;

* (e) "Intoxicating liquor" includes toddy, spirits of wine, bear and all liquids consisting of or containing alcohol normally used for purposes of intoxication;

(f) "Manufacture" includes every process, \ whether natural or artificial, by which : any intoxicating liquor is _ produced, prepared or blended, and also re-distillation and every process for the rectification of intoxicating liquors;

(g) "Place" includes a house, shed, enclosure, building, shop, tent and vessel;

(h) "Police Station" includes any place which the Government may, by notification in the official Gazette, declare to be a Police Station for the purposes of this Ordinance;

(i) "Prohibition Officer" means the Collector or any officer appointed or invested with powers under section 16:

(ij). "Public place" means a 'street, road, thoroughfare, park, garden or other place to which the public have

n free access;

i

Ak). "Rectification" includes every process whereby intoxicating liquors are purified, coloured or flavoured by mixing any material therewith;

(1) "Sale" or "selling". includes any transfer by way of gift or otherwise; and

(m

a

4

“Transport means to move from one place to another.

www.ezqanoon.com

CHAPTER—II
PROHIBITION AND PENALTIES.

Prohibition of 3. (1) Whoever—

- manufacture,

etc. of (a) Imports, exports, transports, manu-
intoxicating factures or processes _ intoxicating -
liquor. liquor; .or

(b) Bottles any intoxicating liquor for pur-
poses of sale; or

(c) Sells intoxicating liquor; or

(d) Allows any of the acts aforesaid upon
premises in his immediate possession,
shall be punishable with imprisonment
for a term which may extend to two
years, or with fine which may extend
to ten thousand rupees, or with both.

(2) Nothing in sub-section (1) shall be
deemed to apply to. the import of intoxicating
liquor by a diplomatic agent for consumption
by any such agent.

___ Explanation:—In this sub-section, “dip-
lomatic agent” has the same meaning as in the Dip-
teter)” and Consular Privileges Act, 1972 (IX of

Prohibition 4. Any Muslim citizen of Pakistan who con-
‘of consump- sumes intoxicating liquor shall be punishable with

tion of into- imprisonment for a term which may extend to six
xicating tiquor months, or with fine which may extend to five thou-
_ by Muslim sand. rupees, or with both.

citizens.

Section 3 not 5. Nothing contained in- section 3 shall apply
to apply to to any act done under, and in accordance with the
certain acts. provisions of this Ordinance or the terms of any

rule, notification, order or licence issued thereunder.

Punishment 6. (1) No officer shall detain or arrest any
for vexations person at a public place on suspicion that he has con-

arrest at a sumed intoxicating, liquor in violation of section 4 and
. public place. is under the influence thereof, unless he has given
to such person notice to accompany him to a medical

practitioner for examination whether he is in fact

www.ezqanoon.com

under such influence nor unless such person either refuses to so accompany him or, having been examined by the medical practitioner, is certified by him to be under such influence.

Whoever contravenes sub-section

(2)

= (1) shall be punishable with imprisonment for a term

Punishment
for vexatious
delay.

, Things liable

to confisca-
tion.

Confiscation
how ordered.

which may extend to six months, or with fine which may extend to five. hundred rupees, or with both.

Te Any officer or person exercising powers under this Ordinance who vexatiously and unnecessarily delays forwarding to a prohibition officer any person arrested or any article seized under this Ordinance shall be punishable with fine which may extend to one thousand rupees.

8. In any case in which an offence has been committed against this Ordinance, the intoxicating liquor, still, utensil: implement or apparatus in respect or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

Provided that an animal, vessel, cart or other vehicle shall not be liable to confiscation unless the owner or other person in charge thereof knew or had reason to believe that an offence has been so Committed in res-

-pector by means of such liquor, still, utensil, im-

plement or apparatus.

8, (1) In -any case involving anything liable to confiscation under this Ordinance, the court de-

ciding the case may order such confiscation despite the acquittal of the person charged with an offence.

(2) When an offence against this Ordinance has been committed but the offender is not known or cannot be found, or when anything liable to confiscation under this Ordinance and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector or other Prohibition Officer in charge of the District or any other officer authorised by the Government in this behalf, who may order such confiscation.

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

Cognizance 10. (1) Notwithstanding anything contained of offence, in the Code of Criminal Procedure, 1898 (Act V of etc. 1898), cognizance of an offence punishable under this Ordinance shali not be taken. except in accordance with the provisions of this section.

(2) The following offences shall be cognizable, namely:—

(a) an offence punishable under section 3; and ,

(b) an offence punishable under section 4, if committed at a public place.

(3) No Court shali take cognizance of an offence punishable under—

(a) section 6 or section 7, save on a complaint made. by the person in respect of whom the offence has been committed; and

(b) section 15, save on a complaint made by, or under the authority of a Prohibition Officer.

CHAPTER— III

LICENCE FOR MEDICINAL OR SIMILAR OTHER

PURPOSES. :

Licences for 11. The Government: or, subject to the control bonafide of the Government, the Collector, may issue licences. medicinal or to any person or in respect of any institution, whether other underthe management of Government or not, for purposes. the manufacture, export, import, transport, sale or

possession of any intoxicating liquor or article containing intoxicating liquor on the ground that such liquor or article is required by such person or in respect” of such institution for a bonafide medicinal, scientific, © industrial or similar other purpose, or for consumption by a person other than a person referred to in section 4.

Provided that no licence.shali be issued to a Muslim citizen of Pakistan for sale of any. intoxicating liquor or article containing intoxicating liquor.

Licences to 12. The Government, or any officer authorised
certain by it in this behalf, may issue a licence to an organiza-
organizations. tion established in Baluchistan and carrying on an air
transport or maritime shipping service to possess

Forms and
conditions of
Licences.

_7

intoxicating liquor for serving it to passengers travelling ;
by the aircraft or vessels or such organization, not
being a Muslim citizen of Pakistan.

13. Every licence issued under this Ordinance shall-

(a) be granted on payment of such fees,
if any, for such period and on such
condition; and

(b) be in such form and contain such parti-
culars, as the Government may direct,
either generally or in any particular

case.

Power to 14. (1) the Collector may cancel or suspend
cancel or sus- any licence—
pend licences. ;

(a) if any fee payable by the holder thereof

Penalty for

the breach of

be not duly paid; or

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

(c) if the holder thereof is convicted of any
offence against this Ordinance; or

(d) if the purpose for which the licence is
granted ceases to exist.

(2) As and when any licence is cancelled
under sub-section (1), the holder thereof shall at once
declare to the Collector the stock of intoxicating liquor
of articles containing such liquor lying with him and
dispose of such stock to such authorised persons as
the Collector may specify.

15. In the event of any breach by the holder of
a licence or by his servants or by any one acting

conditions of with his express or implied permission on his behalf,

licences.

of any of the terms and conditions of the licence, such holder shall, in addition to the cancellation or suspension of the licence, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both, unless he proves that he exercised all due diligence to

- officers.

8

prevent such breach and any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence; also be liable to the same punishment.

CHAPTER—IV ESTABLISHMENT AND CONTROL.

Appointment of 16. The Government may, from time to time, by notification in the official Gazette,—

(a) appoint an officer to exercise all the powers of a Collector under this Ordinance in any area specifying in the notification and to have the control of the administration of the Provisions of this Ordinance in such area; |

(b) appoint officers with such designation, powers and duties as the Government may think fit to assist the Collector or other prohibition officers; and

(c) delegate to any prohibition Officer all or any of its powers under this Ordinance.

CHAPTER—V

POWERS, DUTIES AND PROCEDURE OF , OFFICERS ETC.

Issue of search 17. (1) If any Collector, Prohibition Officer
Warrants.

or Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under section 3 has been committed: he may issue a warrant for the search for. any intoxicating liquor, material, still, utensil, implement or apparatus in respect of which the alleged offence has been committed: seb ase

Provided that, before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the information on oath and the examination shall be reduced to writing in a summary manner and

be signed by the informant and also by the Collector, Prohibition Officer or Magistrate. :

(2) Any person who. has been entrusted with the execution of such a warrant may detain and search and, if he thinks proper, arrest any person found

in the place searched, if he has reason to believe such person to be guilty of an offence under section 3.

Power to use 18. If any officer empowered to make an entry force in case under section 17 cannot otherwise make such entry, of resistance it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry to any such place.

. Searches and 19. (1) All searches under the provisions of custody of _ this Ordinance shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898

(Act V of 1898).

4 or (2) Every person arrested shall, subject to the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), regarding bail, be detained in custody

at the nearest police station.

\

Powers of 20. In addition to the powers conferred on him' Prohibition by the foregoing provisions of the Ordinance, a Prohibition Officer shall have all the powers conferred on : the officer in charge of police station while conducting an investigation into a cognizable offence.

CHAPTER—VI MISCELLANEOUS.

Indemnity. 21. No suit, prosecution or other legal proceeding shall be against the Government, a Police Officer, a Prohibition Officer or any other officer in respect of anything which is in good faith done under this Ordinance or the rules made thereunder.

Ordinance to 22. This Ordinance. shall have effect notwithstanding anything contained in any other law for the time being in force.

Power to 23. (1) The Government. may, by notification make rules. in the official Gazette make rules for the Purpose — of carrying into effect the provisions of this Ordinance.

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

(a) for the issue of licences and the enforcement of the conditions thereof:

(b) prescribing the powers to be exercised
and the duties to be performed by

www.ezqanoon.com

(c)

(d)

(f)

(9)

(h)

Quetta, the

Dated 1 5th March, 1978.

www.ezqanoon.com

10

prohibition Officers. in furtherance —
of the objects of this Ordinance;

determining the local jurisdiction of
prohibition officers in regard to ing-
uiries and investigations;

authorising any officer to exercise any
power or perform any duty under this
Ordinance;

regulating the delegation by the ' Col-
lectors. or other Prohibition Officers of
any powers conferred on them by or
under this Ordinance; oy

declaring in what cases or classes. of
cases and to what authorities appeals
shall lie from orders, whether original or
appellate, passed under this ordinance
or under any rule made thereunder by
an authority other than a court, or by
what . authorities such orders may be
Jevised, and prescribing the time and
manner of presenting appeals, and
procedure for dealing therewith;

for the disposal of articles confiscated
and of the proceeds thereof; and

examination of person referred to. in
sub-section (1) of section 6.

Mr. Justice Mir Khuda Bakhsh Marri
Governor of Baluchistan.

Fakhruddin H. Shaikh:
Secretary, ..

Government of Baluchi #an,
Law Department.