

**THE MIZORAM LIQUOR
(PROHIBITION) BILL, 2019**

**EXCISE & NARCOTICS DEPARTMENT
GOVERNMENT OF MIZORAM**

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(PROHIBITION) BILL, 2019**

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**THE MIZORAM LIQUOR
(PROHIBITION) BILL, 2019**

A BILL

to provide for prohibition of import, export, transport, manufacture, possession, sale and consumption of liquor in the state of Mizoram and for matters connected therewith.

Be it enacted by the Legislative Assembly of Mizoram in the Seventieth Year of the Republic of India as follows:–

**CHAPTER – I
*PRELIMINARY***

1. Short title, extent and commencement.

(1) This Act may be called the Mizoram Liquor (Prohibition) Act, 2019.

(2) It shall extend to the whole of the state of Mizoram, except the three Autonomous District Councils namely, Chakma Autonomous District Council, Lai Autonomous District Council and Mara Autonomous District Council constituted under the Sixth Schedule to the Constitution of India.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint on this behalf.

2. Definitions.

In this Act, unless the context otherwise requires, –

(a) “*Act*” means the Mizoram Liquor (Prohibition) Act, 2019;

(b) “*advertisement*” includes any digital, printed, cyclostyled, typewritten, hand-written or painted matter or a design or pictorial representation or digital display and also the distribution or display of such matter, design or representation on any medium, digital, wall, building or hoarding in a public place or public display or an announcement by means of producing or transmitting light or sound, whether by cinematographic exhibition, neon signs, digital or otherwise;

(c) “*Armed Forces*” for the purpose of this Act means person under the control of the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957, and includes persons belonging to Indian Coast Guard and Paramilitary forces like Assam Rifles and Special Frontier Force. It also includes personnel of Central Armed Police Forces such as Central Reserve Police Force (CRPF), Border Security Force (BSF), Indo-Tibetan Border Police (ITBP), Central Industrial Security Force (CISF) and Sashastra Seema Bal, also known as Special Service Bureau (SSB), and it further includes personnel of Border Roads Organisation (BRO) including officers from the Border Roads Engineering Service (BRES) and personnel from the General Reserve Engineer Force (GREF);

(d) “*buy*” with all its grammatical variations, means any receipt for price paid in cash or in kind, and includes any receipt by gift, loan or otherwise;

(e) “*Collector*” means a Collector of excise appointed under this Act;

(f) “*commercial quantity*” means any quantity of liquor greater than an intermediate quantity specified by the state Government by notification in the Official Gazette;

(g) “*Commissioner*” means the Commissioner of Excise & Narcotics appointed by the Government;

(h) “*company*” means a body corporate and includes a firm, a licenced vendor or other association of individual;

(i) “*duty*” or “*countervailing duty*” means the duty of Excise or countervailing duty, as the case may be, mentioned in Entry 51 of List II of the Seventh Schedule of the Constitution of India;

(1) “*excisable article*” means –

(i) any liquor for human consumption and spirituous preparations, not being a medicinal preparation or a toilet preparation under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (Central Act 16 of 1955) or

(ii) any liquor or substance;

(j) “*excise duty*” means revenue collected from any duty, fee, tax, penalty, payment (other than a fine imposed by a court of law) or confiscation imposed, offence compounded, made or ordered under any provision of this Act, or under any other law for the time being in force relating to any excisable article such as any spirit, liquor or alcohol;

(k) “*excise report*” means a report forwarded by Excise & Narcotics officers to a Magistrate under the provision of this Act;

(l) “*Excise & Narcotics Station*” means any Excise & Narcotics Station established by the Government; it shall include any local area specified by the Government on this behalf;

(m) “*export*” means to take or transport out of the state of Mizoram;

(n) “*Ex-servicemen*” means any person defined as “an ex-servicemen” by the Government of India, Ministry of Personnel, Public Grievances and Pensions and also Ministry of Defence, Department of Ex-servicemen Welfare. It may include any person defined as ex-servicemen by the Government of Mizoram;

(o) “*Government*” means the state Government of Mizoram;

(p) “*import*” means to bring into the state of Mizoram;

(q) “*intermediate quantity*” means any quantity of liquor which falls between small quantity and commercial quantity as specified by the state Government by notification in the official gazette;

(r) “*liquor*” means any liquor used as a beverage, and which, when so used in sufficient quantities, ordinarily or commonly produces entire or partial intoxication; any liquor intended for use as a beverage or capable of being so used, which contains alcohol, either obtained by brewing, fermentation or by the additional process of distillation, in such proportion that it will produce intoxication when consumed in such quantities as may practically be drunk. It includes any liquid containing or consisting of alcohol and any other substance which the Government may, by notification declared to be Liquor for the purpose of this Act;

(s) “*intoxication*” means a state of mind and behaviour which a person is incapable of knowing the nature of his action or judging the consequences thereof and to lose control of their faculties due to consumption of any excisable articles;

(t) “*manufacture*” includes any process by which liquor is produced or prepared, redistillation and any process for the rectification, flavouring, blending, colouring or bottling of liquor;

(u) “*notification*” means Government notification published in the Official Gazette;

(v) “*nuisance*” includes any act, which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing, or which is or may be dangerous to life or property;

(w) “*Officer-in-Charge*” means the officer in-charge of an Excise Station or an officer appointed for the purpose of supervising the operation in a bonded warehouse;

(x) “*permit*” means any permit issued by the competent authority under this Act;

(y) “*premises*” means a house or a building, together with its land and outbuildings. It also includes the land and buildings owned by someone, especially by a company or organization;

(z) “*public place*” means any place intended for use by the public or accessible to the public;

(aa) “*Prohibition Council*” means such body of officials and non-officials as may be constituted by the Government by notification to be published in the Official Gazette;

(ab) “*registered medical practitioner*” means a person registered under the Indian Medical Council Act, 1956;

(ac) “*small quantity*” means any quantity of liquor specified as small quantity by the state Government by notification in the official gazette;

(ad) “*transport*” means to move liquor from one place to another within Mizoram.

CHAPTER – II
ESTABLISHMENT AND CONTROL

3. Commissioner as a Prohibition Commissioner.

(1) The Commissioner of Excise & Narcotics appointed by the Government of Mizoram may also be called the Commissioner of Prohibition or Prohibition Commissioner, who subject to the control of the state Government, shall exercise such powers and shall perform such duties and such functions as are conferred upon by or under the provisions of this Act and shall superintend and have the control over all matters connected with the administration of this Act.

(2) Notwithstanding anything contained in sub-section (1), on and from the date of commencement of this Act, all officers and staff appointed under the Excise & Narcotics Department, Government of Mizoram, shall be deemed to be the officers and staff appointed for the purpose of giving effect to this Act, and in particular the Commissioner of Excise & Narcotics, Joint Commissioner of Excise & Narcotics, Deputy Commissioner of Excise & Narcotics, Assistant Commissioner of Excise & Narcotics, Inspector of Excise & Narcotics and Sub-Inspector of Excise & Narcotics and Assistant Sub-Inspector of Excise & Narcotics shall also stand designated respectively as Commissioner of Prohibition, Joint Commissioner of Prohibition, Deputy Commissioner of Prohibition, Assistant Commissioner of Prohibition, Inspector of Prohibition, Sub-Inspector of Prohibition and Assistant Sub-Inspector of Prohibition for the purposes of this Act, rules or orders made thereunder.

(3) The state Government may, by notification appoint any other Excise & Narcotics officer other than the Collector to exercise in any district or jurisdiction, or place all or any of the powers and to perform all or any of the duties and functions

as are conferred and imposed by or under this Act on a Collector subject to such control as the state Government may from time to time direct.

4. Functions of the Collector.

The administration of prohibition within a district and provisions of this Act and the rules made thereunder shall ordinarily be under the charge of the Assistant Commissioner of Excise & Narcotics in-charge of a District, or any Excise & Narcotics officer empowered on this behalf as Collector shall be responsible for carrying out the provisions of this Act within the limit of his jurisdiction.

CHAPTER – III
PROHIBITION, OFFENCES AND PENALTIES

5. Prohibition of manufacture, possession, transport and consumption of liquor.

No person, without licence or permit issued under the provisions of this Act or Rules made thereunder, shall –

- (1)(a) import, export, transport liquor;
 - (b) possess, sell or buy liquor;
 - (c) manufacture liquor;
 - (d) possess or use or keep for use any material, utensil, implements, apparatus, chemical or compounds whatsoever for manufacture of liquor; and
 - (e) construct any brewery, distillery, winery, bottling plant or warehouse, or as such place;
- (2) consume liquor.

6. Punishment for contravention of Section 5.

(1) Whoever contravenes the provisions of sub-section (1) of Section 5 of this Act shall, on conviction, be punished with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees;

(2) Whoever in contravention of sub-section (2) of Section 5 of this Act, consumes liquor shall, on conviction, be punished with imprisonment for a term which

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

Provided that the trying magistrate may, after convicting the accused and in lieu of imprisonment and fine, pass order by which the convict is released and is compelled to do community service or work for not more than five working days or 30 hours under the supervision of the Excise & Narcotics or Police personnel as per the terms and conditions as may be passed by the trial court in the order.

(3) Whoever, in any street or thoroughfare or public place behaves in a disorderly manner under the influence of liquor, makes or causes nuisance, or drives a vehicle after consuming liquor shall, on conviction, be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten thousand rupees, or with both.

Provided that the trying magistrate may, after convicting the accused and in lieu of imprisonment and fine, pass order by which the convict is released and is compelled to do community service or work for not less than two working days or twelve hours under the supervision of the Excise & Narcotics or Police personnel as per the terms and conditions as may be passed by the trial court in the order.

(4) In prosecution for an offence under sub-section (3) of this Section, it shall be presumed, until the contrary is proved, that the person accused of the said offence consumed liquor for the purpose of being intoxicated and not for medicinal purpose.

(5) Any registered medical practitioner shall be competent to examine and prove that a person has consumed liquor or is in a state of intoxication.

(6) Alcohol Breathalyzer may also be used for proof of liquor consumption. The result of such alcohol breathalyzer test shall be valid and admissible evidence in the court of law.

7. Punishment for possession in small, intermediate or commercial quantity of any liquor.

Whoever, in contravention of any provision of this Act, or any rule or order made or condition of permit issued thereunder, possess in a quantity specified in the notification shall be punishable,—

(1) Where the contravention involves small quantity, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

(2) Where the contravention involves intermediate quantity, with imprisonment for a term which may extend to three years with fine which may extend to ten thousand rupees;

(3) Where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than one year but which may extend to five years with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

8. Prohibition of publication of advertisement of liquor.

No person shall publish or cause to be published any advertisement which solicits the use of or offers for sale any liquor or any preparation fit for use as liquor in any newspaper or magazine published in the state of Mizoram or in any other form or manner as specified in clause (b) of Section 2 of this Act.

9. Punishment for publication of advertisement of liquor.

Whoever contravenes the provisions of Section 8 of this Act shall be liable to be punished with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

10. Prescription of liquor by a registered medical practitioner.

(1) No person other than a registered medical practitioner shall issue any

prescription for any liquor.

(2) Every prescription shall be in writing. It shall also be legible and clear. Unclear and ineligible prescription certificate may result in denial of liquor permit.

11. Punishment for issuing false prescription.

If a registered medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the sole purpose of consuming liquor in contravention of the provisions of this Act or rules made thereunder or any permit granted under this Act shall be liable to be punished with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

12. Regulations of consumption of liquor by certain permit holders.

(1) No holder of a permit under any of the provisions of this Act shall drink liquor in public place or institution to which the public may have access or in contravention of any conditions of such permit.

(2) No holder of a permit granted under this Act shall allow the use or consumption of any part of the liquor held by him to any other person not so authorized to use or consume liquor under this Act.

(3) No holder of a permit granted under this Act shall make nuisance under the influence of liquor or after consuming liquor.

(4) No holder of a permit granted under this Act shall drive any motor vehicle after consuming liquor.

(5) No holder of a permit under any of the provisions of this Act shall purchase or obtain liquor from illegal source.

13. Punishment for contravening the provisions of Section 12.

(1) Whoever contravenes the provisions of Section 12 of this Act shall be

liable to be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(2) The permit of a person convicted or penalised under the provision of Section 12 of this Act shall be liable to be cancelled.

14. Punishment for allowing premises to be used for the commission of an offence.

Whoever being the owner or occupier or having the use of any house, room enclosure, space, vessel, compound, place or vehicle, knowingly permits it to be used for the commission, by any other person, of an offence punishable under this Act or the Rules made thereunder shall be liable to be punished with imprisonment for a term which may extend to three years with fine which may extend to ten thousand rupees.

Provided that in prosecution for an offence under this section, it shall be presumed, until the contrary is proved that the owner or occupier have knowingly permit it to be used for the commission of the offence.

15. Punishment for maliciously giving false information and fraud.

(1) Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Any person who willfully misrepresent or acting in fraudulent manner shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

16. Punishment for offence for which no punishment is provided.

Whoever contravenes any provision of this Act or any rule or order made, or any condition of any licence, permit or authorisation issued thereunder for which no

punishment is separately provided in this Act, 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.

17. No suspension, remission or commutation in any sentence awarded under this Act.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act No 2 of 1974), or any other law for the time being in force, no sentence awarded under this Act shall be suspended or remitted or commuted.

18. Bar of application of Section 360 of the Code of Criminal Procedure, 1973 and of the Probation of Offenders Act, 1958.

Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (Act No 2 of 1974) or in the Probation of Offenders Act, 1958 (Act No 20 of 1958), shall apply to a person convicted of an offence under this Act, unless such person is sick or infirm or old aged.

19. Presumption of culpable mental state.

(1) In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the Court shall presume the existence of such mental state but it shall be the responsibility of the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation:- In this section, '*culpable mental state*' includes intention, motive, knowledge of a fact and belief in or reason to believe, a fact.

(2) For the purpose of this section, a fact is said to be proved only when the Court believes it to exist beyond a reasonable doubt and not merely when its existence is established by preponderance or probability.

20. Presumption to the commission of an offence.

(1) In trial under any of the provisions of this Act, it shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence punishable under this Act in respect of liquor, or any other material, or any chemical or non-chemical, whatsoever for the manufacture of liquor for the possession of which he is unable to account satisfactorily.

(2) Where an offence is said to have been committed at a place or inside any premises where any liquor or intoxicant is found, consumed, sold, manufactured, stored or distributed, it shall be presumed that the owner or occupier of such premises knowingly permits the commission of such offence to which he failed to account satisfactorily.

21. Enhanced punishment after previous conviction.

If any person, after having been previously convicted of an offence punishable under any of the provisions of this Act subsequently commits and is convicted of an offence punishable under this Act, he shall be liable to be awarded punishment to twice the punishment which was imposed on him on the first conviction under this Act and so on for the subsequent convictions.

22. Attempt to commit offence under this Act.

Whoever attempts to commit any offence punishable under this Act shall be liable to the punishment provided for such offence.

23. Abetments.

Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed, in consequence of such abetment, be punished with the punishment provided for the offence.

24. Punishment for assault or obstruction, or disobedience.

Notwithstanding anything contained in the Indian Penal Code, 1860 (Act No. 45 of 1860), any person who assaults or threatens or obstructs or disobeys any

Excise & Narcotics or Police personnel in the discharge of his official duty shall be punishable with imprisonment for a term which may extend to three years with fine which may extend to ten thousand rupees.

Further, any person who appears to be acquainted with the facts and circumstances of the case shall, if so required by any Excise & Narcotics or police officer making an investigation under this Act appear before such officer. If such a person failed to appear before such officer, he may be treated as disobedient and liable to be prosecuted under this section.

CHAPTER – IV
PREVENTION, DETECTION AND INVESTIGATION

25. Power of entry search, seizure and arrest.

(1) Any Excise & Narcotics or Police Officer not below the rank of Assistant Sub-Inspector who has reason to believe, from personal knowledge or from information received from any person that any liquor, material, utensil, implement or apparatus in respect of which an offence punishable under this Act or the rules made thereunder is kept or concealed in any house, building, shop, tent, vessel, raft, vehicle, land or place may at any time between sunrise and sunset –

(a) enter into any such house, building, shop, tent, vessel, raft, vehicle, land or place and conduct search; and in case of resistance, break open any door and remove any other obstacle to such entry;

(b) seized such liquor, material, utensil, implement, or apparatus, and any document or apparatus, or other articles which may furnish evidence of the commission of the offence;

(c) detain, search and arrest any person whom he has reason to believe to have committed an offence against this Act relating to liquor, material, utensil, implement or apparatus;

(d) may employ breathalyzer or as such device for proof of alcohol consumption. If any person resist the use of such device, it shall be presumed that he has consumed liquor and charged accordingly. Any test result or report of such device shall be admissible as evidence in the court.

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facilitate the escape of an offender, he may after recording the grounds of his belief, enter and search such house, building, shop, tent, vessel, raft, vehicle, land or place at any time between sunset and sunrise.

(2) When an officer received any information he shall, within 48 hours, send a copy thereof to his immediate official superior.

26. Power of seizure and arrest in public places.

Any Officer of Excise & Narcotics and Police Departments referred to in sub-section (1) of Section 25 of this Act may, without warrant –

(1) seize, in any public place or in transit, any liquor, material, utensil, implement or apparatus in respect of which he has reasons to believe that an offence punishable under this Act or the rules made thereunder, has been committed, and along with it, any document or other article which may furnish evidence of the commission of the offence, and

(2) detain, search and arrest any person whom he has reason to believe to have committed an offence under this Act.

27. Power to issue warrant of arrest and search.

Any magistrate of the first class may issue warrant of arrest of any person whom he has reason to believe to have committed an offence punishable under this Act or the rules made thereunder or for the search, whether by day or by night, of any house, building, shop, tent, vessel, raft, vehicle, land or place in which he has reason to believe that any liquor, material, utensil, implement or apparatus, in respect of which an offence punishable under this Act has been committed, is kept or concealed.

28. Power of investigation and prosecution.

(1) Any officers of the rank of Assistant Sub-Inspector and above in the

department of Excise & Narcotics and Police shall have the powers of an Officer-in-Charge of Police Station for the purposes of investigation and prosecution of offences under this Act.

(2) Save as otherwise as expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the investigation and trial of offences against this Act and the rules made thereunder.

29. Officers of Government, Members of Village Council, Local Council and Village Defence Party are bound to give information.

Every Officer of the Government, every member of a Village Council, a Local Council and a Village Defence Party shall be bound to give immediate information to the nearest Excise & Narcotics or Police Station of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to his knowledge.

30. Arrest by private person and procedure on such arrest.

Any private person or persons or group of individual or members of Non-Governmental Organisations may arrest or cause to be arrested any person who in his/their presence commits a non-bailable and cognizable offence under this Act, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to the Excise & Narcotics or Police Officer, or, in the absence of the Excise & Narcotics or Police Officer, take such person or cause him to be taken in custody to the nearest Excise & Narcotics Station or Police Station.

31. Punishment for vexatious search, seizure or arrest.

Any officer or person exercising powers under this Act, who,

(1) maliciously enters or searched or causes to be entered or search any house, building, shop, tent, vessel, raft, vehicle, land or place or similar dwelling place or,

(2) vexatiously and unnecessarily seizes the property of any person in the pretence of seizing or searching for anything liable to

confiscation under this Act or,

(3) vexatiously, unnecessarily detained, searches or arrests any person or,

(4) in any other way maliciously exceeds or abuses his lawful powers;

on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

32. Landlords and other to give information.

Every person who owns or occupies any land or building, or who is a landlord of an estate and the agent of such owner, occupier or landlord of the land, building or estate, as the case may be, in which there has been any unlawful manufacture of any liquor or any owner of a vessels or vehicle in which liquor is manufactured or carried shall in the absence of reasonable excuse, be bound to give notice of the same to the Excise & Narcotics or Police officer immediately after the same have come to his knowledge. Failure to do so may attract prosecution of the landlord himself.

33. Report of arrest and seizure.

Any officer making an arrest or seizure under this Act shall, within twenty-four hours of such seizure and arrest make a full report of all the particulars of such arrest or seizure to his immediate official superior, and produce the arrested person before a magistrate. The time taken for the journey from the place of seizure or arrest to the Court shall not, however, be counted.

34. Appointment of departmental officer as expert.

The state Government may appoint an officer or a class of officers in the Excise & Narcotics Department and Police Department who has undergone training for this purpose duly certified by Forensic Science Laboratory, Mizoram as expert

for the purpose of analysis or examination of liquor under this Act.

35. Excise & Narcotics and Police custody of articles seized.

(1) Officer-in-Charge of Excise & Narcotics or Police Station shall take charge of and keep in safe custody all articles seized under this Act and brought or delivered to them as the case may be.

(2) All samples so taken shall be sealed with the seal of the Officer-in-charge of the Excise & Narcotics or the Police Station as the case may be.

(3) Any Excise & Narcotics Station shall deem to be a Police Station as mentioned in clause (s) of Section 2 of Criminal Procedure Code, 1973 for the purpose of investigation and prosecution of offences under this Act.

CHAPTER – V
PROSECUTION AND TRIAL OF OFFENCES

36. Magistrate to try offences under this Act.

Any Magistrate having the power of the Judicial Magistrate of the first class shall try any offence punishable under this Act.

37. Cognizance of offence.

No Court shall take cognizance of an offence under this Act unless a report in this regard is made by an officer mentioned under Section 25 of this Act.

38. Offences to be cognizable and non-bailable.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act No 2 of 1974) –

- (1) every offence punishable under this Act shall be cognizable;
- (2) no person accused of an offence punishable for a term of imprisonment for three years or more under this Act shall be released on bail or on his own bond unless –
 - (i) the Prosecutor has been given an opportunity to oppose the application for such release, and
 - (ii) where the Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

39. Liability to confiscation.

Whenever an offence punishable under this Act has been committed, the following things shall be liable to confiscation, namely –

(1) the liquor, still, utensils, implement, apparatus or materials in respect of or by means of which such offence has been committed;

(2) any newspaper, news-sheet, book, leaflet, booklet, magazine or any other single or periodical publication containing any advertisement of liquor or of any preparation fit for use as liquor published in the state of Mizoram;

(3) the receptacles, packages, and coverings in which anything liable to confiscation under sub-section (1) and (2) of this Section is found and the other contents, if any, of such receptacles and packages and;

(4) the animals carts, vessels, rafts, vehicles or other conveyances used in carrying anything referred to in the foregoing clauses.

Provided that no animal, cart, vessels, rafts, vehicles or other conveyances as specified in sub-section (4) of this Section shall be liable to confiscation in case the owner thereof is able to prove that he has not been implicated in the commission of the offence:

Provided further that in exceptional circumstances and for reasons to be recorded in writing, the Court may order the owner of such animal, cart, vessel, rafts vehicle or other conveyance to pay a fine as it deems fit in lieu of confiscation of such animal, cart, vessels, rafts, vehicles or other conveyance or as the case may be.

Explanation: For the purposes of this section “owner” includes, in relation to any animal, Cart, vessel, rafts or other conveyance,–

(i) which is in the possession of a minor, the guardian of such minor,

(ii) which is the subject of hire purchase agreement, the person in possession thereof under the agreement.

40. Confiscation by court in trial cases.

When in any case tried by a Court, the Court decides that anything is liable to confiscation under Section 39 of this Act, it shall order such thing to be confiscated and placed at the disposal of the Commissioner.

41. Confiscation by Commissioner, Collector and other Excise Officers when no prosecution is launched.

When an offence under this Act has been committed and the offender is not known or cannot be found when anything liable to confiscation under this Act is found or seized, the Commissioner or the Collector or any other Excise Officer duly authorized by the commissioner in this behalf may make an inquiry and if, after such inquiry, he is satisfied that an offence has been committed, may order such thing found to be confiscated:

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing the person if any, who claim any right thereto and evidence, if any, which he produces in support of his claim.

42. Power of court to release certain offenders on probation.

(1) When any person is found guilty of an offence under Section 5(2) of this Act and if the court by which he is found guilty is of the opinion with regard to age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for detoxification or de-addiction from a hospital or an institution maintained or recognised by Government and on his entering into a bond in the form prescribed by the Government, with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding

the result of his medical treatment and, in the meantime, to abstain from the commission of an offence under Section 5(2) of this Act.

(2) If it appears to the court, having regard to the report regarding the result of the medical treatment furnished under sub-section (1) of this Section, that it is expedient so to do, the court may direct the release of the offender after due admonition on his entering into a bond in the form prescribed by the Government, with or without sureties, for abstaining from the commission of an offence under Section 5(2) of this Act during such period not exceeding three years as the court may deem fit to specify or on his failure so to abstain, to appear before the court and receive sentence when called upon during period.

43. Power to compound offences.

(1) The Commissioner, or any Excise & Narcotics Officer not below the rank of Inspector authorized by the Commissioner, by general or special order in this behalf,—

- (a) may impose a fine to any person who committed an offence punishable under Section 5(2), Section 6(3) and Section 7(1) of this Act, an amount not exceeding five thousand rupees in lieu of prosecution in the court of law;
- (b) may, in any case in which any property has been seized as being liable to confiscation under this Act, confiscate or release the same by imposing a fine of such amount estimated by the competent authority as deem fit.

(2) When the payments referred to in sub-section (1) have been duly made, the accused person, if in custody, shall be discharged, and the property seized, if any, shall be released or disposed of in a proper manner.

44. Bar to legal proceeding.

(1) No suit or other legal proceedings shall lie against any Excise & Narcotics or Police personnel in respect of anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused by anything which is done in good faith or intended to be done in pursuance of this Act or the rule made thereunder.

45. Limitation of suit and prosecutions.

(1) No Magistrate shall take cognizance of any offence charged against any Excise and Narcotics or Police personnel for the commission of an offence in course of the performance of duty under this Act unless the prosecution is instituted within one month of the commission of the act complained of.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, when any Excise & Narcotics or Police personnel is accused of any offence to have committed by him while acting or purporting to act in the discharge of his official duty under this Act, no Court shall take cognizance of such offence, except with the previous sanction of the Government under Section 197 of the Code of Criminal Procedure, 1973 and section 19 of the Prevention of the Corruption Act, 1988, as the case may be.

CHAPTER – VI
MISCELLANEOUS

46. Constitution of State Prohibition Council.

(1) The Government may, by notification in the Official Gazette, constitute for the specified areas of Mizoram and such period as it may deem fit, a State Prohibition Council consisting of officials and non-officials as may be prescribed by the Government and may also dissolve or reconstitute any such Council.

(2) The compositions, powers and functions of the Council and the committee and their relation etc. shall be such as may be prescribed.

47. Composition of the State Prohibition Council.

(1) The state Government, may by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the State Prohibition Council to look into the success or otherwise of the implementation of this Act.

(2) The State Prohibition Council shall consists of the following members –

(a) Minister of Excise and Narcotics, who shall be the Chairman of the State Prohibition Council;

(b) Such number of other officials or non-officials members representing such interests as may be prescribed by the state Government.

(3) The State Prohibition Council shall meet as and when necessary. However, at least one meeting shall be held every year;

(4) The State Prohibition Council shall meet at such time and place as the chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the state Government.

48. District Prohibition Co-ordination Committee.

The Government may, by notification, constitute a District Prohibition Co-ordination Committee comprising of officials and non-officials members for the successful implementation of this Act.

49. Appeals.

(1) All orders passed by any Prohibition Officer other than the Commissioner under this Act, shall be appealable to the Commissioner at any time within thirty days from the date of the order complained of.

(2) All orders passed by the Commissioner shall be appealable to the Government at any time within thirty days from the date of the order complained of.

(3) Subject to the foregoing provisions, the rules which the Government may make in this behalf shall apply to appeals under this section.

50. Revision.

The state Government may call for and examine the record of any proceeding before any Prohibition Officer including that relating to the grant or a refusal of a permit under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed and as to the regularity of any such proceeding and may when calling for such record, direct that the order be not given effect to pending the examination of the record. On examining record, it may either annul, reverse, modify or confirm such order, or pass such other order as it may deem fit.

51. Power to remove difficulties.

If any difficulty or doubt arises in giving effect to the provisions of this Act, the Government may by order published in the Official Gazette, make such

provisions, not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for the removal of the difficulty or doubt, and the order of the Government in such cases shall be final.

Provided that the no such power shall be exercised after the expiry of a period of three years from the commencement of the Act.

52. Establishments and delegation of powers.

(1) The administration of the provisions of this Act and the rules made thereunder shall generally be under the charge of the Commissioner.

(2) The administration of the provisions of this Act and the rules made thereunder and the collection of the excise revenue within a District shall ordinarily be under the charge of the Assistant Commissioner of Excise & Narcotics, or any officer empowered on this behalf.

53. Power to makes rules.

(1) The Government may, by notification, make rules or orders or instructions for the purpose of carrying out the provisions of this Act,

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules or orders or instructions may provide –

- (a) for regulating the powers and duties of the Commissioner and any other officers subordinate to him;
- (b) for regulating the delegations of powers by the Commissioner or by any other Excise & Narcotics and Prohibition Officer;
- (c) for prescribing the conditions for issuing permit or licence;
- (d) for prescribing the composition, powers and functions of the State Prohibition Council;

- (e) for prescribing the procedure for disposal of confiscated articles;
- (f) for the destruction or for the disposal of liquor in any other manner, of any liquor unfit for human consumption; and for regulating the disposal or destruction of articles or things confiscated or seized under this Act.
- (g) any other matters as may, or require to be prescribed.

(3) Every Rules made under this Act shall be laid before the Mizoram Legislative Assembly.

54. Repeal and savings.

(1) On and from the commencement of this Act, the Mizoram Liquor (Prohibition & Control) Act, 2014 (Act No. 8 of 2014) and the Rules made thereunder shall stand repealed.

Provided however that pending cases under the repealed Acts or Rules shall continue to be tried and disposed of under the repealed Acts or Rules as if the repealed Acts or Rules have not been repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Mizoram Liquor (Prohibition & Control) Act, 2014 (Act No. 8 of 2014) and the Rules made or Notifications issued thereunder shall, in so far as they are consistent with the provisions of this Act, be deemed to have been done or taken under the relevant provisions of this Act.

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