

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

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**KHYBER PAKHTUNKHWA PROHIBITION
RULES, 1949
[25TH OCTOBER, 1949]**

No. 8951-Exc.—In exercise of the powers conferred by section 53 of the Khyber Pakhtunkhwa Prohibition Act (XI of 1938) the, Governor, Khyber Pakhtunkhwa, is pleased to make the following rules for carrying into effect the provisions of the Act.

1. Short title and definitions.—(1) These rules may be called the Khyber Pakhtunkhwa Prohibition Rules, 1949.

(2). In these unless the context otherwise requires.

(i) the "Act" means the Khyber Pakhtunkhwa Prohibition Act, 1938.

(ii) "Form" means a form appended to these rules.

(iii) "Government" means the Khyber Pakhtunkhwa Government.

(iv) An "authorised person" means a person of non-Asiatic domicile or a non-Muslim and also such persons as are declared by a competent medical authority to be designated by the Director, Excise to be liquor addicts and requiring alcoholic drinks on medical grounds.

2. General conditions applicable to liquor licensees.—Duty of licensees.—Every licensee is bound to observe the general rules applicable to his licence and the special conditions entered in his licence.

3. Transfer of licenses.—No licence is transferable but the Collector may permit a licensee to add any person as a partner in his business or to transfer his licence to any person. Such transfers or additions will be subject to Director Excise confirmation.

4. Specification of premises. A licensee shall not carry on any business connected with his licence, except in premises specified in his licence.

5. Sales under different licences must be on different premises except with the special permission of the Collector.

6. Premises to be licensed shall ordinarily be premises owned or leased by the licensee. Where, however, local conditions render it necessary, sites for liquor shops may be leased or bought for Government under the special orders of Government in each case.

7. Where premises have been specially provided by Government for any shop, the licensee shall be bound to carry on his business in those premises, and to pay to Government in addition to his licence fee, such rent for the premises as may be fixed by the Collector.

8. The Director Excise may require a licensee at any time to maintain separate premises for his liquor business, wherein no business except in liquor may be transacted.

9. Payment of licence fee.-When a licence has been sold on a fixed fee, the fee shall be payable in advance.

10. Signboard.-Every licensee shall maintain above the main outer door of the premises in which he carries on his business a signboard exhibiting in conspicuous painted letters his name and the class of licence held by him. The information shall be in Urdu and in English. The licence must be exhibited in a conspicuous place in the licensed premises.

11. Authorisation of agents.—No licensee for the retail vend of liquor shall allow any person to conduct sales in his behalf unless the name of such person has previously been submitted to the Collector for approval and endorsed by him on the licence. This rule does not apply to (i) the licensee of a hotel, restaurant, bar, railway refreshment room or dining car ; or (ii) a chemist or druggist holding a licence or permit under the Prohibition Act.

12. Employees.—Every licensee shall furnish to the Collector on demand a list of the persons employed, or proposed to be employed, in his licensed business and he may not employ any person whose employment the Collector has in his discretion, forbidden. In particular, no licensee may employ any person suffering from an infectious or contagious disease to sell liquor or serve in any capacity in his licensed premises.

Licensees for consumption on the premises are prohibited from employing any child under sixteen years of age, and also any woman without the previous permission in writing of the Collector.

13. Closure of premises out of hours.—Except at the time when the premises are licensed to be open, no person is allowed therein, except employees or members of the licensee's family.

Explanation.—This rule does not imply entire closure of a club, hotel, restaurant, a dining car before and after licence hours, but closure only of the bar therein and of premises directly connected with liquor, business.

14. Hours.—No licensee may open his shop before sunrise. No licensee for the vend of foreign liquor by retail in an urban area may keep his shop open after 7 p.m. between the 16th of October and 15th of April or after 9 p.m. between the 16th of April and 15th of October. Any extension of these hours requires the sanction of the Director Excise.

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Unless otherwise permitted by the Director Excise and endorsed on the licence, the working hours of the bar licences will be SUNRISE TO 12 MID-NIGHT.

No licensee other than the licensees mentioned in this rule, may keep his shop open after the closing time, if any, prescribed in his license without the special permission of the Director Excise.

15. Every shop must be kept open during the hours for which it is licensed.

16. Rights of customers.—Subject to the provisions of these rules, every licensee is bound in respect of any article which he is licensed to sell to meet the demand of every customer entitled to be served who tenders payment for what is required by him, and the licensee must maintain a sufficient stock of all articles in which he is licensed to deal to meet the probable demand.

17. Bribery.—No licensee shall give to any customer any free dole of liquor nor shall he give any customer any per-quisite or dasturi on the price of liquor sold.

18. Liquor to be sold.—No licensee shall sell liquor of any character or brand forbidden by the Director Excise nor shall he sell any other kind of liquor than that permitted by his licence. No licence shall sell, or keep on his licensed premises, any chloral hydrate, unless he is a chemist or druggist.

19. Standard measures.—No sale of liquor by measure, whether whole- sale or retail, shall be made by any other than standard measures stamped or approved by the Collector. The standard measure shall be the imperial gallon of 277, 274 cubic inches, or fractions thereof and the licensee shall keep measures representing 1/8th, 1/12th, 1/18th and 1/96th of a gallon.

Note.—Arrangement will be made for the supply of standard measures through the Collector on payment.

20. Entertainments.—No licensee shall permit any professional entertainment or dancing or the playing of musical instruments or singing by professionals to be carried on in his premises in such a way as to attract the general attention of his customers, provided that the Collector may grant a general or special permit for such performances for any place licensed under the Prohibition Act.

21. Compensation.—No compensation shall be due to any licensee on account of the opening of a new shop or the issue of any special license during the currency of his licence.

22. Effect of enhanced duty.—No compensation shall be due on account of any change during the currency of a licence in the conditions thereof in the rate at which

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customs or excise duty is charged on liquor, or in any other matter connected with the excise administration and dealt with under powers conferred by the Prohibition Act.

23. Cancellation for disorder lines.—The licence of any licensee may be cancelled if drunkenness or disorder amounting to a public nuisance occurs in the vicinity of his shop in consequence of the sale of spirit thereat.

24. Return of licence on revocation.—On the revocation, cancellation or determination of any licence, the licensee or his representative shall cease to carry on his business under it and shall return his licence to the Collector.

25. Incapacity of licensee.—In the event of a licensee dying or becoming insolvent or otherwise incapable of carrying on his business under the conditions of his licence, the licence shall forthwith determine. The Collector may continue the licence to the representative of the licensee or other person for the remainder of the period on the same conditions.

26. Surplus stock on expiry of licence.—If any person, who has held a licence under these rules, shall have in his possession, on the expiry or determination from any other cause of his licence, any excisable article which he is unable forthwith to dispose of, under the provisions of these rules, to any person licensed or authorised to purchase it, he shall at once surrender the same to the Collector. The Collector shall make these articles over, in any quantity not exceeding that which the transferee is to sell within two months, to the incoming licensee or, otherwise, to any licensee within the district who is licensed to sell articles of the kind surrendered:

Provided that if any such article, or any part thereof, be declared by the Civil Surgeon or other duly qualified officer to be unfit for use the Collector shall cause the same to be destroyed.

27. A licensee to whom any article is made over under the preceding clause shall be bound to pay such price for the same as the Collector in his discretion may fix.

28. The Collector shall tender the price so paid to the outgoing licensee by whom the article was surrendered and such licensee shall not be entitled to any price, payment or compensation whatsoever in respect of any article so made over, other than the sum so tendered.

29. Any transaction of the nature of gift or loan between the licensee and an excise officer is prohibited.

30. Every licensee shall maintain the registers prescribed for the class of business carried on by him, and shall make all prescribed returns punctually. True accounts of transactions shall be maintained from day to day in ink. The licensee shall enter all figures in English numerals and other particulars in English or Urdu characters, unless

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the Collector, by special order noted on the licence, permit the use of other numerals or characters, and the licensee shall allow the inspection of his registers, stock and premises when duly requested by an Excise Officer.

31. Inspection Book.—An inspection note-book, with the pages numbers consecutively, shall be maintained in every liquor shop, and shall be handed over to the Excise Inspector of the district or any officer authorised by him to receive it on a receipt being given therefor. Any punishment or warning incurred by the licensee without forfeiture or "cancellation of his license shall be recorded in this book.

32. A copy of these general conditions shall be pasted in every inspection note-book.

33. The Khyber Pakhtunkhwa Excise Fiscal Orders.—The following shall, for the purposes of the Khyber Pakhtunkhwa Prohibition Act, 1938, be deemed to be "foreign liquor" :—

- (a) all liquor imported by sea into Pakistan (other than rectified spirit, denatured spirit and perfumed spirit) on which custom duty is leviable under the Indian Tariff Act, 1894 (VIII of 1894);
- (b) all liquor manufactured in "Pakistan (other than rectified spirit, denatured spirit and perfumed spirit) on which duty at a rate higher than that levied on country spirit is leviable ; and
- (c) all beer manufactured in Pakistan or abroad.

34. The following shall be the rates of duty leviable in respect of spirit imported from any licensed distilleries in the West Punjab and the parts of Pakistan into the Khyber Pakhtunkhwa per imperial gallon of the strength of London proof to be increased or reduced in proportion as the strength of spirit exceeds or falls short of London proof:—

34.1.

		Rs.	A.	P.	
(a) Plain country Spirit	....	15	0	0	London Proof Gallon
(b) Country spiced spirit	....	18	2	0	-do-
(c) Country special spirit	....	23	7	0	-do-
(d) country spirit plain issued to troops.	....	30	5	0	-do-
(e) country special spiced spirit issued to troops.	....	35	15	0	Per gallon
(f) Rectified spirit	....	24	6	0	London Proof Gallon
(g) Indian made foreign liquor	....	40	0	0	-do-
(h) Beer:-					
In barrels or other containers containing 27 ozs. Each	0	12	0	Per London Proof Gallon

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In bottles containing less than 27 ozs but not less than 20 ozs. Each	0	2	0	Per bottle
In bottles containing less than 13½ ozs but not less than 10 ozs. Each	....	0	1	0	Per bottle
In bottles containing less than 6¾ ozs but not less than 5 ozs. Each	....	0	0	6	Per bottle
In other containers per imperial gallon.	....	1	0	0	

Provided that the duty on beer on import into the Khyber Pakhtunkhwa shall be calculated on the quantity imported less an allowance of:—

10 per cent in case of imports from licensed breweries for transit wastage :

Provided further that duty on rectified spirit issued to approved homoeopathic chemists or practitioners shall be levied at the rate of Rs. 5 per' London Proof Gallon.

34.2. The rates of duty leviable on wines, fermented liquors and rectified and other spirits imported into the Khyber Pakhtunkhwa from Kashmir shall be at the rates of import duty leviable on similar brands under the Pakistan Tariff Act for the time being in force in Pakistan.

34.3. The following shall be the rates of Excise duty on medicinal and other preparations containing rectified spirit on issue from the premises of approved manufactures ;—

		Rs.	A.	P.	
(a) Medicinal preparations	....	5	0	0	Per L.P.Gallon of their spirit contents.
(b) Non-medicinal essences	....	21	14	0	
(c) Non- medicinal essences and medicinal preparations which might be used for other than medicinal purposes(vide schedule attached)	....	21	14	0	
(d) Toilet preparations and perfumery	....	21	14	0	

Provided that any other medicinal preparations may by notification be declared to be non-medicinal for the purposes of levying duty at the enhanced rate of Rs. 21-14-0 per London Proof of spirit contents, vide item (c).

34.4. Import, export or transport duty on Bhang shall be at the rate of Rs. 2-8-0 per quarter maund or less of Bhang imported into exported out of or transported within the Khyber Pakhtunkhwa : Provided that—

(a) When the same consignment of Bhang is either: —

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- (i) imported and exported ;
 - (ii) imported and transported :
 - (iii) transported and exported ;
 - (iv) transported and re transported in the course of the same business, transaction duty shall be levied once only in respect of the whole of such transaction.
- (b) No transport duty shall be levied on Bhang transported from one to another place situated within the limits of the same district.
- (c) Duty shall be calculated on gross weight of each parcel or package or Bhang, imported, exported or transported.

35. Exemptions from fiscal and other provisions.—The undermentioned intoxicants are exempted from the operation of the Khyber Pakhtunkhwa Prohibition Act:—

- (i) Medicated wines containing less than 20 per cent, of proof spirit are exempted from the provisions of the Act relating to sale and possession.
- (ii) Medicinal preparations containing rectified spirit manufactured in Pakistan or in any State acceded to Pakistan and required for use in Government and Charitable Hospitals and Dispensaries approved for the purpose by the Khyber Pakhtunkhwa Government are exempt from payment of duty provided that such preparations are directly issued from bonded warehouses of approved manufacturers" to any such hospital or dispensary in quantities not exceeding its requirements for 12 months on indents signed by the Civil Surgeon of the District or for Veterinary Hospitals and Dispensaries only by an Assistant Director of Veterinary Services and provided further that such preparations are only dispensed for bona fide patients of the Hospital or Dispensary concerned.
- (iii) All intoxicants are exempted from the provisions of the Khyber Pakhtunkhwa Prohibition Act, relating to duty leviable thereon in the Khyber Pakhtunkhwa, when exported under export-in-bond passes out of the Khyber Pakhtunkhwa to any State in Pakistan ¹[or any country outside Pakistan
- (iv) Kashmir liquors are exempted from the provisions of Khyber Pakhtunkhwa Prohibition Act, relating to duty leviable thereon, when transported through the Khyber Pakhtunkhwa to any other Province in Pakistan under transport-in-bound passes;
- (v) Country spirit and Pakistan made foreign spirit exported from licensed distilleries in the West Punjab to a Pakistan State under export-in-bound passes are exempt from payment of duty;
- (vi) Rectified spirit imported from licensed distilleries in the West Punjab into the Khyber Pakhtunkhwa or States in Pakistan under export-in- bond passes, for the use of hospitals and dispensaries is exempt from payment of duty.
- (vii) Rectified spirit imported or transported-in-bond from licensed distilleries to the premises of approved manufacturers under import in bond or transport-in-bond

¹ Added by Notification No.S.O. Ex.2-4/6 (ii) Gazette date 9-3-1962

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- passes is exempt from the payment of duty.
- (viii) Rectified spirit issued from Punjab distilleries to Government or Mission Hospitals and dispensaries in the Khyber Pakhtunkhwa on certificates issued by the Inspector-General of Civil Hospitals, Khyber Pakhtunkhwa, ²[Director or Veterinary Services, Khyber Pakhtunkhwa Province Director-General Medical Services] and A.D. Ms. of a district as the case may be is exempt from payment Of duty.
 - (ix) Rectified spirit issued under the authority of the Director Excise from West Punjab distilleries for teaching and research purposes to educational institutions in the Khyber Pakhtunkhwa, is exempt from payment of duty.
 - (x) Fusel oil is exempt from payment of duty on import from the Punjab distillers into the Khyber Pakhtunkhwa, provided the contents of ethyle alcohol do not exceed 15 per cent proof spirit.
 - (xi) In the following districts of Khyber Pakhtunkhwa hemp plant gross spontaneously and the licensees of these districts may collect in their own districts the wild produce in reasonable quantities for personal consumption only:-
 - Hazara ;
 - Mardan;
 - Peshawar; and
 - Kohat.
 - (xii) ³[Methylated spirit issued under the authority of the commissioners of Divisions from the distilleries in the Peshawar and Dera Ismail Khan Divisions to Government Hospitals dispensaries and Medical Store Depots or Ordinance Depots for the purposes of Government Hospitals and dispensaries and defence is exempt from payment of permit fee]

36. The authority by the restrictions under, and the conditions on which passes and permits may be granted for the import, export and transport of liquor whose import, export and transport is authorised.— Provided that collections, storage and transport of hemp for export shall be subject to such Rules as may be prescribed by the Director Excise from time to time in that behalf.

36.1. All passes granted to cover the import, export or transport of liquor shall be subject to the condition that bulk shall not be broken in transit and copies of the passes shall be sent to the Prohibition Officer of the district of destination:

- (a) Passes granted to cover the import of spirit shall be subject to the condition that no consignment shall be brought into use until it has been examined by the Prohibition Officer of the district of destination, to whom intimation of the arrival of the consignment shall be given.
- (b) Passes granted to cover the transport of spirit from one district to another shall be subject to the condition that no consignment shall be brought into

² Added by Notification No.E & T /4/15-57 dated 16-12-57 (Gazette 20-12-57).

³ Inserted vide Notification No.1782-67/267 dated 30th May 1967.

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use until the fourth day from the date of the pass unless it has been previously examined by the Prohibition Officer.

36.2. It shall be in the discretion of the Collector or any other Excise Officer to refuse to grant any pass, permit or authority, which he is authorised under these Rules to grant.

36.3. Any person importing, exporting or transporting liquor, rectified spirit or denatured spirit must obtain a permit from the officer authorised to grant such permits in the district of destination and a pass from the officer authorised to grant such passes in the district of issue:

Provided that a pass sanctioned by the Director Excise for the removal of spirit from a licensed distillery issued in accordance with the rules shall be deemed to be a pass for the purpose of these Rules:

Provided further that one pass shall transport of spirit or rectified spirit or district.

36.4. Any person importing, exporting or transporting foreign liquor must obtain a pass from the officer authorised to grant such passes in the district of issue:

Provided that a pass sanctioned by the Director Excise for the removal of Pakistan made foreign spirit from a licensed distillery or of beer from a licensed brewery issued in accordance with the Rules shall be deemed to be a pass for purpose of this Rule.

36.5. Whenever any liquor is transported from one licensee to another passes in the prescribed Form P. XXI, should be issued and the entries of such consignment in the registers of the consignee should be checked by the Excise Staff with passes. The consignee shall not receive any liquor which is not covered by a pass:

Provided that the pass for the transport of foreign liquor and of beer within the Khyber Pakhtunkhwa, from vend premises may be given by the vendor.

37. Classes of licences.—The following licences may be granted. Form.—

P. XI. —Licences for the possession of bottled foreign liquor by nonproprietary clubs/messes for supply to members and European non-members.

P. XII.—Wholesale and retail vend of foreign liquor to the trade only.

P. XIII.—Wholesale and retail vend of Foreign liquor to the trade and to authorised persons.

P. XIV.—Retail vend of foreign liquor in a hotel to authorized persons.

P. XV.—Retail sale of Foreign liquor in a military canteen to authorised persons.

P. XVI.—Retail vend of Foreign liquor in a railway dining car.

P. XVII.—Purchase and storage of denatured spirit in privileged quantities.

Special—P. XVIII.—Extension of hours during which sale is permitted.

P. XIX.—Retail vend of Foreign liquor at a bar, theatre etc., or any special occasion when temporary arrangements for the sale of liquor are required.

38. Fees and procedure for assessment, etc.—So far as foreign Liquor is concerned, the distinction between wholesale and retail has no real importance for the purpose in view, in granting licences in Forms P.XII and P. XIII.

39. Foreign liquor wholesale and retail.—The important distinction is between the sales to the trade and sales to the public. Sales to the trade are generally wholesale, but they may occasionally also be retail, i.e below 12 quarters for purposes of convenience. Sales to the public may be either wholesale or retail and very frequently are the former, particularly in the case of wine and beer. Accordingly, licences for sale of foreign liquor are issued in the following forms, namely :—

39.1. P. XII for sale to the trade only of foreign liquor (wholesale or retail) as regards quantities, and

39.2. P. XIII for "Off" sale to the public of foreign liquor of superior quality (wholesale or retail) as regards quantities. The same firm may hold both licenses if this appears desirable to the Excise Authorities.

40. Sale to Trade. —(i) An application for a licence in Form P. XII must contain a description of the liquor which is proposed to be sold and state where the business is to be conducted. The Collector, if he recommends the grant of the licence will forward the application direct to the Director Excise for sanction. A licence once sanctioned by the Excise Commissioner may be renewed or the renewal may be refused, by the Collector.

41. Sale to public.—An application for a licence in Form XIII, may be granted by the Collector, with the previous approval of the Director Excise, to any shop of proved respectability in a Civil Station or cantonment, or any other place where there is a demand for superior foreign liquor by authorised persons. A licence in this form may not authorise consumption on the premises. Once sanctioned by the Director Excise a licence in this form may "be renewed by the Collector at the same fee, but if it is proposed to enhance the fee, a case for enhancement should be made out and the Director Excise's previous sanction obtained. The Collector may refuse to renew the licence.

42. Fees for licences for sale of foreign liquor.—In determining fees for the aforesaid licences the following points should be borne in mind. When liquor is sold to the trade, its disposal is not final, and it will pay again its share of incidence of the vend fees before it reaches the consumer. If, therefore, any considerable licence fee be imposed upon licenses for sale to the trade, the liquor will be taxed with vend fees twice over, and an unfair advantage given to those retailers who import direct from abroad. An advantage already exists in the case of clubs, and large private consumers, who import direct from abroad and thus escape the incidence of vend fees altogether. Taking these facts into consideration the fee for licence for sale to the trade only should generally, be a law or merely nominal one, not exceeding Rs. 100 regardless of the amount of sales. As regards the fee for a licence for sale to the public, it should be calculated upon a

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scale which will ensure the maintenance of the aggregate taxation of foreign liquor. And all round rate of Rs. 4-8-0 per gallon for spirits and wines and Re. 0-1-0 per gallon for bear and Rs 3-8-0 per gallon on Pakistan made foreign liquor would be suitable and according to this scale, licence fee may be calculated on the recorded sale, figures. In making these calculations the sale to clubs should be treated as sales to public and the brewer's agents who sell to the public should be charged fee for licences for sale to the public, while sales to the regimental canteens should be regarded as sales to the trade. In fixing fees, however, it is to be remembered that there is no satisfactory method of ascertaining sale and that a premium may be placed upon the falsification of registers, if they are the sole basis of calculation of fees. Apart from this, it may be unfair to make too sudden a rise in the licence fee paid by a particular firm, and it would be preferable to maintain the same fee from year to year subject to variation only when the volume of business undergoes a market change rather than to make frequent alteration. The recorded volume of sales is, therefore, only a general guide, to be taken into account along with other matters in determining what fee is appropriate. But in deciding upon the appropriate fee no attempt should be made to estimate the profits of a firm. The licence fee does not necessarily diminish profits, it is in most cases doubtlessly added on to the selling price and only affects profits in so far as it tends to diminish consumption by increasing price. Apart from this consideration, the estimation of profits and the taxing of them is a matter for the Income-Tax Assessors, not for the Excise Officer.

No. licence in Form XIII shall be issued to licensees or to any one connected with licensees holding licences in Forms P. XIV, P. XV, P. XVI, P. XVII, P. XVIII and P. XIX without the special permission of Director Excise Applications for such permission for the ensuing year should reach the Director Excise's Office by February 1st.

The procedure for renewal shall be the same as that prescribed in rule 42 for licences under Form P. XII.

43. A licence for the retail vend of liquor in a hotel for "one" consumption may be granted by the Collector in Form P. XIV. This licence may be granted for 3, 6, 9 or 12 months at proportionate fees.

44. A license for the retail vend of Beer and Stout only in a Military Canteen may be granted in Form P. XV with the approval of the Divisional Commander. The fee shall be levied generally in accordance with the principle laid down in rule 42. When the Military unit is moved to another district, the Collector of the new district shall countersign the original licence without demanding further payment.

45. A licence for the retail vend of foreign liquor in a railway dining car may be granted by the Director Excise only in Form P. XVI. The fee shall be charged at the rate of Rs. 10-8-0 per gallon on wine and spirit and Re. 0-9-0 per gallon on beer (on actual sales).

46. Form P. XVII.-The Collector may grant a licence in Form P. XVII permitting any chemist, varnish-maker or other person, who in his business uses large quantities

denatured spirit, to purchase and passes any quantity of denatured spirit up to five hundred gallons. The possession of more than five hundred gallons requires the sanction of the Director Excise.

47. Form PXVIII-Extensions.--In urban areas the Collector may grant to licensee a special licence in Form XVIII to keep his shop open for not more than two hours after the time fixed by his licence for closing this special licence shall be given for important festivals only at such fee as the Collector may prescribed.

48. Fairs and special occasions-No Form. -The Collector may grant a licence for a special occasion in a form to be prescribed by him, at such fee as he considers suitable. In granting such a licence on the occasion of a fair the Collector shall observe the following instructions. No special liquor licence shall be granted for any fair, where such a licence has hitherto not been granted or where, having in the past been granted, it has now been discontinued. If a new fair is inaugurated, the Collector shall not grant a special liquor licence without the consent of the Director Excise.

In the case of fairs for which special liquor licences have hitherto been granted, the Collector may continue to grant such licences. He should, however, take cognizance of any bona fide movement favoring prohibition and he may without further sanction decline to grant a special liquor licence if, on testing local opinion, he is thoroughly satisfied that the discontinuance of such a licensed would be a measure approved by the unquestioned voice of local opinion and that such local opinion is free from any suspicion of connivance at illicit distinction.

49. Form P. XIX.-The Collector may grant a special licence in Form P.XIX for the retail vend of foreign liquor at a bar at any place of recreation, or on any special occasion when temporary arrangements for the sale of foreign liquor are required. The Collector shall fix the licence fee.

50. Sale of licence fees.- As provided in rule 38-49 of these Rules, the scale of licence fees will be :-

P.XII.- Licences for the sale of Foreign liquor to trade only Rs. 100 per annum

P.XIII.—Licences for the sale of foreign Liquor for “off” consumption to authorised persons. Spirits and wanes Rs. 3-8-0 per gallon. Beer one anna per gallon. Foreign liquor made in Pakistan Rs. 4-8-0 per gallon.

P.XI, P.XIV, P.XVII, P.XVIII, and P.XIX.- -- Licenses for sale of foreign liquor for “one” consumption in hotels, railway Spirit Rs. 10-8-0 gallon; Wine Rs. 10-8-0 a gallon; Beer Re. 0-9-0 a gallon Foreign Liquor made in Pakistan, Rs. 10

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dining cars, at a bar, theater, etc.	per gallon.
P.XIV.—Military Canteens	Beer Rs.1-6-0 a gallon
P.I.—Sale of Denatured spirit	Rs.1[50] per annum.
P.VI.—Sale of Rectified spirit	Rs.1[50] per annum.

The above orders will apply to the settled district in the Khyber Pakhtunkhwa.

51. The maximum quantities of Excisable articles which may be sold at a time by retail shall be as follows.—

51.1. Foreign spirit or wine or fermented liquor.

- | | |
|---------------------------------|---|
| (a) To Europeans | Two imperial gallons or 12 reputed quart bottles. |
| (b) To other authorised persons | One reputed quart bottle plus one pint bottle of Brandy for medicinal purposes. |

Note.—Sales to Europeans through their servants on chits will imply sales to Europeans.

51.2 Beer.....To authorized persons.....Two gallons.

51.3 Country Spirit To non-muslim embodied personnel of armed force only one reputed quart bottle.

51.4 Rectified Spirit One reputed pint or 2/3rd of one imperial pint.

51.5 Denatured Spirit One imperial gallon.

52. Restrictions on the transport of country liquor.—No country liquor shall be transported in any quantity from one District to another of the Khyber Pakhtunkhwa, except under a permit to be issued by the Collector of the District of destination or except when it is done on behalf of the Crown by any person duly authorised under the Act. Also import into and export from the said Province will be similarly prohibited. A charge of Re. 1 per proof gallon will be made on each permit so issued No such import permits will be issued in the Khyber Pakhtunkhwa, except to 1[Members of the Scheduled Castes and to] a Military Formation containing non-Muslims, located in the Khyber Pakhtunkhwa, for the use of its non-Muslim personnel only.

52.2. Import of Foreign liquor.—[Imported or Pakistan made including Beer] in quantity exceeding one quart bottle from any firm or other source from outside the Province for use of Messes, Clubs, or for private consumption as prohibited except under a permit issued by the Collector of the District of destination or except when an act is done on behalf of the Crown by any person authorised under the said Act. Rs. 2-8-0 per gallon of Spirit or Wine will be charged as permit fee on permits so issued.

52.3. No permit fee will be charged for the import of beer.

52.4. The consignments of country liquor and foreign liquor consigned to and intended for consumption in the Agencies of Khyber, Kurram, Malakand, North Waziristan and South Waziristan shall be exempt from the operation of these orders.

53. Prohibition as to import, transport and possession of excisable articles,—Save as otherwise provided the import, transport and possession of:—

53.1. country liquor except bottled liquor for religious purposes ;

53.2. foreign liquor except medicated wine and one pint brandy ; and

53.3. bhang except on a permit to be issued by the Excise Inspector up to a limit of ten tolas, shall be prohibited within the limits of the Khyber Pakhtunkhwa with effect from the date of introduction of Prohibition in this Province.

54. Possession of liquor.—Whether or not the quantity is within the limits no person shall have any country or foreign liquor in his possession except on the condition that it shall not be taken into or kept upon the premises used as a restaurant, unless such premises have been licensed for the consumption of liquor thereon under the Prohibition Act or Rules made thereunder. For the purpose of this order a "Restaurant" means any place to which the public are admitted for the consumption of food or drink, a consideration.

54. No person travelling or occupying a seat in any vehicle or conveyance shall have any country spirit in his possession within a radius of ten miles of the Municipal or Cantonment Boundaries of Peshawar except under a pass or permit granted under the said Act or the Rules made thereunder.

This order shall have effect whether the quantity of liquor in the possession of person is or is not in excess of the quantity declared by the Provincial Government to be the limit of retail sale (viz., one reputed quart bottle).

55. Powers and appointment of officers Confiscation.—The Collector can order the confiscation of articles liable to confiscation.

55.1.—The Excise Commissioner, Khyber Pakhtunkhwa shall exercise all the powers of a Director under the Act throughout the Province and shall exercise supervisory control over the administration of the provisions of the Act.

55.2.—The Provincial Excise and Taxation Officer shall have all the powers of a Collector under the Act throughout the Province. The Deputy Director shall have such powers within their respective jurisdiction concurrently with the Provincial Excise and Taxation Officer until such time as the Provincial Government by a

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Notification in the Gazette specify which powers shall be exercisable by the Deputy Director exclusively.

55.3.—The Assistant Excise and Taxation Officers shall be District Excise Officers within their respective circles.

55.4.—The District Inspector of Excise, shall be Prohibition Officers-in-charge of their respective Districts and shall have all the powers of a Prohibition Officer under the Act. Provided that where no post of District Excise Inspector exists the duties of the Prohibition Officer shall be discharged by a Sub-Inspector of Excise specially designed as Prohibition Offices.

55.5.—Sub-Inspectors of Excise shall be deemed Prohibition Officers for the purposes of sections 26 to 32 and 34 to 50 of the Act in the Province.

55.6.—Excise ¹[clerks] Detectives ¹[and Peons] shall be Prohibition Officers for the purposes of section 31 of the Prohibition Act.

56. Disposal of confiscated articles.—When orders are received from a competent authority for the confiscation of anything seized or detained under the Act, it shall with all convenient dispatch, be sold to authorised persons or destroyed by the person-in-charge thereof, as the officer adjudging the confiscation may direct.

56.1.—No sale of any perishable article ordered to be confiscated shall be postponed on account of the preferring of an appeal against the order of confiscation. The sale of any animal or other thing ordered to be confiscated shall not be postponed or such account unless the owner thereof or his agent shall deposit with the officer ordering the confiscation such sum as such officer may consider sufficient for the maintenance and keeping in the safe custody of such animal or for the safe custody of such thing, as the case may be, pending the result of such appeal. If the order for confiscation is reversed on such appeal the owner shall be entitled to receive back the whole of the sum so deposited less charges on account of the feeding and maintenance of the animal.

56.2.—If any order that any article be confiscated is reversed on appeal such article, if it has not been sold before such reversal comes to the knowledge of the officer-in-charge thereof, or if it has been sold, the sale proceeds thereof, shall be dealt with under rules 4 to 7 inclusive.

56.3.—Things ordered to be released or the proceeds thereof, if they have been sold, shall at once be given up or paid, as the case may be, by the person-in-charge thereof to the owner or his agent.

56.4.—Should no one appear to receive a thing ordered to be released or the

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proceeds of the sale thereof, the person-in-charge thereof shall do his best to give notice to the owner of the order of release, and shall also cause a notice of such order to be affixed in the village or town where the seizure of the thing, was effected, in the Office of the Tehsildar of the Tehsil and in a Police Station nearest to such village or town.

56.5.—If within two calendar months from the date of the notice no person entitled to receive a thing ordered to be released, claims the same or pays all charges incurred on its keeping and safe custody after the date on which the order for its release was notified as herein before directed, it shall be sold ; the amount of all charges so incurred shall be credited to provincial revenues, and the net proceeds shall be placed in deposit. The same- course shall be followed with reference to the proceeds of a thing ordered to be released which has been sold before the receipt of the order of release.

56.6.—If no person shall appear to receive the sum so placed in deposit, during a further period of two calendar months, it shall be credited to provincial revenues.

56.7.—The sale proceeds of all confiscated articles shall be paid into the nearest Government Treasury without delay.

57. Powers of Officers to stop conveyances.—The person-in-charge of any vessel, vehicle or animal shall cause it to stop and to remain stationary so long as may reasonably be necessary when required to do so by any Prohibition Officer, any Officer, of the Police or Land Revenue Department, or any other person duly authorised in that behalf, for the purpose of enabling such officer or person to make any arrest, seizure or search under section 31 of the Act.

58. Appeals and Revision—Appeal to the Collector.—An appeal shall lie to the Collector from any order of any officer of the Revenue Department subordinate to him, discharging functions under the Act, under any rule or order made under the Act or under the conditions of a licence issued under the Act. An appeal shall also lie to the Collector from an order of any Officer of any other department, who has been expressly made subject to the control of the Collector in respect of any function discharged by that officer under the Act or who is discharging any function under the Act delegated to him by the Collector.

58.1.—Appeal to the Director Excise.—An appeal shall lie to the Director Excise from any original order passed by the Collector and a second appeal from any order passed by the Collector on appeal.

58.2.—Appeal to the Provincial Government.—An appeal shall lie to the Provincial Government from any order passed by, the Director Excise whether on appeal or otherwise :

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Provided that where it is specially provided by rule that the decision of the Director shall be final or where a second appeal has been disposed of by the Commissioner no further appeal shall lie.

58.3.—Limitation.—Save as otherwise provided in any other rule made under the Act, every memorandum of appeal shall be presented:—

- (i) in the case of an appeal to the Collector, within one month from the date of receipt of the order appealed against, and
- (ii) in the case of an appeal, to the Director or to the Provincial Government, within two months from the date of receipt of the order appealed against.

Explanation.—In computing the period of-limitation the time requisite for obtaining copies of the necessary documents shall be excluded.

58.4.—Revision.—The authorities in whom appellate powers are vested by these rules may also exercise those powers by way of revision, whenever they consider it necessary to do so.

59. Authorisation of officers to admit persons arrested to bail.—The Prohibition Officers, Police Officers of and above the rank of the Sub-inspector and Officers of the Land Revenue Department of and above the rank of Naib-Tahsildar, are empowered to admit persons arrested under section 31 of the Prohibition Act to bail to appear, when summoned or otherwise directed; before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the offences for which such persons have been arrested.

59.1.—The form of bond to be used for this purpose is appended to these rules.

60.1.—Rules for the grant, of diet money and compensation in certain cases.—For the purpose Of these rules persons shall be classified as belonging either to " special class" or to any one of the three classes specified in rule 60 (2). The Police or Prohibition Officer or the Magistrate by whom they have been summoned as witnesses or released or acquitted shall fix the class of each person so summoned, released or acquitted with due regard to his or her status in life:

Provided that no person shall be declared to come under the "special class" and permitted to draw the rates admissible for that class except for special reasons to be recorded by the Police or Prohibition Officer or Magistrate concerned.

60.2.—Non-official persons summoned as witnesses by any Police or Prohibition Officer, persons brought before any such officer on suspicion of having committed offences under the Khyber Pakhtunkhwa Prohibition Act, 1938 and released by him under subsection (3) of section 37 the said Act on the ground that they have been improperly arrested persons charged with such offences before Magistrate and acquitted be paid travelling allowance and compensation for loss of time for following rates by the Police or Prohibition Officer or Magistrate before whom they appear as

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witnesses or by whom they are released or acquitted as the case may be :—

Class of witness	Travelling Allowance by rail	Travelling Allowance by road	Travelling Allowance by river or canal	Diet money
Special class	I Class fare	As. 4 per mile	Actual expenses of passage	Rs. 3 per diem in addition to Travelling Allowance.
First class	II Class fare	As. 3 per mile	-do-	Re. 1-1-0 per diem in addition to Travelling Allowance
Second class	Inter Class fare	As. 2 per mile	-do-	Re. 1 per diem in addition to Travelling Allowance
Third class	Third Class fare	One anna per mile.	-do-	As. 0-8-0 per diem in addition to Travelling

60.3.—The distance for which mileage or actual motor bus fare and the number of days for which compensation should be allowed shall be determined by the Police or Prohibition Officer or Magistrate making payment in each case.

60.4.—Travelling expenses and compensation shall be paid by the Police or Prohibition Officer or the-. Magistrate as the case may be on the same day as that on which the inquiry is held. All bills for such payments shall after payment be scrutinized by the authority to whom the said Police or Prohibition Officer or Magistrate making the payment is subordinate.

61.1.—The Khyber Pakhtunkhwa Denatured Spirit Rules 1938.— These Rules shall be called the Khyber Pakhtunkhwa Denatured Spirit Rules 1938.

61.2.—In these rules "denatured spirit" means spirit effectually and permanently rendered unfit for human consumption.

61.3.— Possession, Import and Transport.—(i) Any person or institute may without a licence possess, import into or transport within any area to which the Prohibition Act applies, denatured spirit up to maximum of one imperial gallon for any purpose other than for use.

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(ii) No person or institution may possess, import into or transport within the Province denatured spirit in excess for one imperial gallon, except under and in accordance with the terms and conditions of a licence issued by the Collector in Form P. 1 appended to these rules :

Provided that it shall not be necessary for officers of the Government to obtain licences for possession and use of denatured or methylated spirit in any quantity for Government purposes.

61.4. Retail-sale.—Licences may be issued by the Collector in his discretion in Form P. I appended to these rules and subject to the conditions mentioned therein, to any person for the retail sale of denatured or methylated spirit for any purpose other than for use as beverage. The licence fee shall be Rs. 30 per annum for each licence.

General.—The following general conditions shall apply to all licences issued under rule 61.4 namely :—

- (i) The licence must be hung up in a conspicuous place in the shop.
- (ii) No shop shall be kept open between the hours of 9 p. m. and 6. p.m.
- (iii) Denatured spirit kept for sale shall be of good quality and unadulterated.

Note.—The rendering or attempting to render such spirit fit for human consumption is punishable under section 5 of the Khyber Pakhtunkhwa Prohibition Act, 1938.

(iv) True accounts of transactions shall be maintained from day to day in rank in Form P. II appended to these rules by the holders of licences. The accounts shall be in printed books. Accounts, invoices and passes relating to import or transport shall be preserved for one year after the period covered by the licence one shall be produced when called for by a Prohibition Officer or a Police Officer not below the rank of Sub-Inspector.

(v) The licence shall not be transferable without the Collector's permission nor shall any agent be appointed for the vend of denatured spirit without the Collector's previous approval.

(vi) Any licence may be revoked by the Collector on giving the licensee fifteen days' notice of such revocation.

(vii) The premises for which the licence is granted shall be open to inspection by the Collector, or a Prohibition Officer. The Collector shall be furnished with such information regarding the quantity of spirit sold as may be required by him.

(viii) Every bottle, jar, drum or cask shall bear a label, printed in red and containing skull and cross bones, with a warning "not to be taken internally" in Urdu. The design and style of the lab shall be:—

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(ix) The licensee shall not import '[from a distillery outside the Province and transferred from a distillery within the Province] any consignment of denatured spirit without' first obtaining a "no objection" permit in Form P.III from the Collector of district of destination. This permit will be granted on payment of permit fee at the rate of Rs. 2[4.50] per gallon. The bulk shall not be broken in transit or the consignment brought in use unless it has been examined by the Prohibition Officer to whom intimation of the arrival of the consignment shall be given

(x) The licensee shall not sell to any one at a time more than six bottles (one bottle=26.6 oz.) of denatured spirit.

(xi) Licensees shall be bound by any additional rules that may be prescribed by the Provincial Government from time to time and the licence shall expire on 31st March of a year or earlier if ordered by the Collector otherwise.

(xii) The licensee shall submit to the Collector of the district or before the 5th day of each month a statement showing the opening balance, the quality received, the quantity sold and the balance on hand the preceding month.

62.1.-- The Khyber Pakhtunkhwa Rectified Spirit Rules, 1938.- These rules shall be called the Khyber Pakhtunkhwa Rectified Spirit Rules, 1938.

62.2.-- In these rules the expression "rectified spirit" includes "absolute alcohol."

62.3.-- Import.-No rectified spirit shall be imported into the Khyber Pakhtunkhwa from outside the Province except under a permit issued by the Collector (Form P.VI).

Export.-No rectified spirit shall be exported from the Khyber Pakhtunkhwa to a place outside the Province except under a permit issued by the Collector (Form P.-VII).

62.4-- The import and possession of perfumes and toilet preparations prepared with methy alcohol or denatured spirit within the Khyber Pakhtunkhwa is prohibited.

62.5.-- Possession.-The following persons and institutions may, without a licence possess at any one time rectified spirit up to the maximum quantity specified against each for the purpose specified in section 16 of the Prohibition Act:-

- (i) Any Government Local Board or Municipal Hospital-Three imperial gallons.
- (ii) Any chemist, medical practitioner or scientific body -Two reputed quarts.
- (iii) Any other person or institution -One reputed pint.

62.6.-- No person or institution may possess or transport rectified spirit in excess of

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the quantity which he or it is permitted to possess under rule 62.5, except under a permit granted by the Collector.

62.7.—The Collector may issue a licence for the sale or a permit for the import of rectified spirit for any of the purposes specified in section 18 of the Act in the forms appended to these rules and subject to the conditions mentioned therein (Forms P.1V and P. VI).

63. Authorities competent to issue and form of licences and permits.—The licences and permits for the purposes specified in columns (1) and (2) of the table below shall be granted in the Form prescribed in the corresponding entries in column (3) thereof and subject to the conditions specification such Form, by the authority specified in the corresponding entry in column (4) of the table: —

TABLE

Section of the Act	Description of licence or permit	Form number in the annexure	Authority
1	2	3	4
18, 19 and 21	Permit for import or transport	P.III, P.VI and P.VII	Collector except in cases where the Director excise is required to issue the permit by any rule or notification under the Act.
18	Licence for the sale of denatured and rectified spirit.	P.I and P.IV	Collector of the District.
18	Licence for the sale of brandy and medicated wines by chemists	P.VIII	Collector of the District.
19 (a)	Permit to consume and possess for personal consumption bhang.	P.IX	Prohibition Officer
19 (b)	Permit to possess and use bottled wine for a religious purpose.	P.X	Director Excise
19 (c)	Licence for the possession of bottled foreign liquor by non-proprietary messes and clubs for supply to authorised persons who are members.	P. XI	Collector

64. Revenue Department Notifications No. 6679-Exc, 6680-Exc, 6681-Exc, 6682-Exc., 6683-Exc, 6683-Exc, 6685-Exc, 6686-Exc, 6687-Exc, 6688-Exc, and 6689-Exc,

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dated 5th July, 1938 are hereby cancelled.