



The Abkari (Amendment) Act, 1969

Act 16 of 1969

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Liquor, Licence, Contraband Liquor

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Act 16 of 1969

THE ABKARI (AMENDMENT) ACT, 1969[\[1\]](#)

An Act further to amend the Abkari Act, I of 1077.

Preamble . — whereas it is expedient further to amend the Abkari Act, 1 of 1077, for the purposes hereinafter appearing;

be it enacted in the Twentieth Year of the Republic of India as follows: —

1. Short title and commencement . —(1) This Act may be called the Abkari (Amendment) Act, 1969.

(2) It shall come into force at once,

2. *Amendment of section 18* ,—In the Abkari Act, I of 1077, in section 18, . —

(1) in sub-section (2), for clause (i), the following clause shall be, and shall be deemed to have been, substituted with effect from the 26th day of January, 1950, namely:—

" (i) in the case of any liquor, in the form of a fee for licence for the sale of the liquor and in the form of a gallonage fee or vending fee, or in any one of such forms; and";

(2) in sub-section (3),—

(a) under the heading "(1) Duty of excise :", in item (iii), for the figures "25", the figures "50" shall be substituted;

(b) under the heading "(2) Luxury tax :", in item (a),—

(i) in sub-item (i), for the figures "5,000", the figures "15,000" shall be and shall be deemed to have been, substituted with effect from the 1st day of April, 1968;

(ii) in sub-item (ii), for the figures "4,000", the figures "12,000" shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1968;

(iii) in sub-item (iv), for the figures "500", the figures "1,500" shall be and shall be deemed to have been, substituted with effect from the 1st day April, 1968.

Act 14 of 1973

THE ABKARI (AMENDMENT) ACT, 1973^[1]

An Act further to amend the Abkari Act, I of 1077.

Preamble.—WHEREAS it is expedient further to amend the Abkari Act, I of 1077, for the purpose hereinafter appearing;

Be it enacted in the Twenty-fourth Year of the Republic of India as follows;—

1. *Short title and commencement.*—(1) This Act may be called the Abkari (Amendment) Act, 1973.

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

2. *Insertion of new section 55A.*—In the Abkari Act, I of 1077, section 55A shall be re-lettered as section 55B and before that section, the following section shall be inserted, namely:—

"55A. *Magistrates of second class to have power to impose minimum penalties for certain first offences.*— Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), it shall be lawful for a Magistrate of the second class to pass the minimum sentence mentioned in paragraph (i) of the proviso to clause (1) of section 55, for a first offence referred to in that paragraph, in excess of his powers under section 32 of the said Code."

Act 10 of 1975

THE ABKARI (AMENDMENT) ACT, 1975^[1]

An Act further to amend the Abkari Act I of 1077

Preamble . —WHEREAS it is expedient further to amend the Abkari Act, I of 1077, for the purposes hereinafter appearing;

Be it enacted in the Twenty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement* . —(1) This Act may be called the Abkari (Amendment) Act, 1975.

(2) It shall come into force at once.

2. *Amendment of section 3*.—In the Abkari Act, I of 1077 (hereinafter referred to as the principal Act), in section 3, after clause (17), the following clause shall be inserted, namely:—

"(17A) "Transit" means to move from one place in a State to another place in that State through the territory of the State of Kerala.

Explanation . —In this clause, "State" means the State of Karnataka or the State of Tamil Nadu or the Union territory of Pondicherry."

3. *Amendment of section 29* .— In sub-section (2) of section 29 of the principal Act, in clause (j), for the words "possession or transport", the words "possession, transit or transport" shall be substituted.

4. *Amendment of section 55* .—In section 55 of the principal Act, in clause (a), for the words "transports or possesses", the words "transports, transits or possesses" shall be substituted.

THE ABKARI (SECOND AMENDMENT) ACT, 1975 [\[1\]](#)

(Act 24 of 1975)

An Act further to amend the Abkari Act 1 of 1077

Preamble .—WHEREAS it is expedient further to amend the Abkari Act 1 of 1077, for the purposes hereinafter appearing;

BE it enacted in the Twenty-sixth Year of the Republic of India as follows :—

1. **Short title and commencement** ,—(1) This Act may be called the Abkari (Second Amendment) Act, 1975.

(2) It shall come into force at once.

2. **Substitution of new section for section 34** .—For section 34 of the Abkari Act 1 of 1077 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

"34. Offenders may be arrested and contraband liquor, vehicles, etc., seized without warrant .—(1) Any officer of the Excise Department or the Police Department may arrest without warrant in any public thoroughfare or open place other than a dwelling house, any person found committing an offence punishable under section 15C or section 55 or section 57 or section 58, and in any such thoroughfare or public place may —

(a) seize and detain —

i. any liquor or intoxicating drug.

ii. Any material, still, utensil, implement or apparatus;

iii. Any receptacle, package or covering; and

iv. Any animal, cart, vessel or other conveyance, which he has reason to believe to be liable to confiscation under this Act;

(b) search any person, animal, cart, vessel or other conveyance, package, receptacle or covering upon whom or in or upon which he may have reasonable cause to suspect any such liquor or intoxicating drug to be, or to be concealed.

(2) If the officer making an arrest under sub-section (1) is not empowered under section 5A to admit to bail, the person arrested shall forthwith be produced before an officer so empowered.

(3) It shall be the duty of the officer empowered under section 5A to admit such person to bail if sufficient bail is tendered for his appearance before an Abkari Officer having jurisdiction to inquire into the case."

3. **Amendment of section 67.**—In section 67 of the principal Act, —

(a) in the first paragraph, —

(i) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(ii) the portion beginning with the words "and, in all cases whatsoever" and ending with the words "on payment of the value thereof as estimated by such officer" shall be omitted;

(b) for the second paragraph, the following paragraph shall be substituted, namely: —

"On the payment of such sum of money to such officer, the accused person if in custody shall be discharged and no further proceedings shall be taken against such person.

4. **Insertion of new section 67B to 67H.**—After section 67A of the principal Act, the following sections shall be inserted namely:—

"67B. Confiscation by Abkari Officers in certain cases. — (1) Notwithstanding anything contained in this Act or other law for the time being in force, where any liquor, intoxicating drug, materials, still, utensil, implement or apparatus or any receptacle, package or covering in such liquor, intoxicating drug, material, still, utensil, implement or apparatus is found or any animal, cart, vessel or other conveyance used in carrying the same is seized and detained under the provisions of this Act, the officer seizing and detaining such property shall, without any unreasonable delay, produce the same before an officer authorised by the Government in this behalf by notification in the Gazette, not being below the rank of an Assistant Excise Commissioner (hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes and detains any property specified in sub-section (1) or where any such property is produced before an authorised officer under the sub-section and he is satisfied that an offence under this Act has been committed in respect of or by means of that property and that such property is liable to confiscation under this Act, such authorised officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property and where such property consists of any receptacle or package, the authorized officer may also order confiscation of all contents thereof.

(3) When making an order of confiscation under sub-section (2), the authorized officer may also order that such of the properties to which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed.

67C. Issue of show cause notice before confiscation under section 67B .—(1) No order confiscating any property shall be made under section 67B unless the person from whom the same is seized—

a. is given a notice in writing informing him of the grounds on which it is proposed to confiscate such property;

b. is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation ; and

c. is given a reasonable opportunity of being heard in the matter.

(2) Without prejudice to the provisions of sub-section (1) no order confiscating any animal, cart, vessel or other conveyance shall be made under section 67B if the owner of the animal, cart, vessel or other conveyance proves to the satisfaction of the authorized officer that it was used in carrying the liquor or intoxicating drug or the material, still, utensil, implement or apparatus or the receptacle, package or covering without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the animal, cart, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.

67D. Property not liable to confiscation to be returned to owner .—Where the authorised officer passes an order under section 67B that any property seized and detained by him or produced before him under that section is not liable to confiscation under this Act, he shall, after the expiry of thirty days from the date of such order, release such property to the person from whom it was seized :

Provided that where the Commissioner has called for under section 67F the record of an order of the authorised officer such property shall be released only subject to the orders of the commissioner under that section.

67E. Appeal .—(1) Any person aggrieved by any order passed under section 67B may, within thirty days from the date of communication to him of such order, appeal to an officer not below the rank of Deputy Commissioner of Excise authorized by the Government in this behalf by notification in the Gazette (hereinafter referred to as the appellate authority).

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving an opportunity to the appellant to be heard, if he so desires, and after making

such further inquiry as may be necessary, pass such order as he thinks fit, confirming, modifying or annulling the order appealed against .

(3) An order of the appellate authority under sub- section (2) shall, subject to the provisions of section 67F, be final and shall not be called in question in any court.

67F. Revision .—(1) The Commissioner may, before expiry of thirty days from the date of an order passed under section 67B or section 67E, of his own motion, call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit:

Provided that the Commissioner shall not call for and examine the record of any order passed under section 67B if an appeal against such order is pending before the appellate authority:

Provided further that no order prejudicial to a person shall be passed under this section with out giving an opportunity of being heard.

(2) An order of the Commissioner under sub-section (1) s hall be final and shall not be called in question in any court.

67G. Award of confiscation not to interfere with other p unishments .—The award of any confiscation under section 67B or section 67E of section 67F shall not prevent the infliction of any punishment to which any person is liable under this Act.

67H. Property confiscated when to vest in Government .—When an order for confiscation of any property has been p assed under section 67B or section 67E or section 67F and such or der has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in the Government free from all encumbrances.”.

5. **Validation.** —Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, all animals, carts, vessels and other conveyances used in carrying any receptacle, package or covering containing any liquor, intoxicating drug, material, still, utensil, implement or apparatus in respect of, or by means of which, an offence under the principal Act is believed to have been committed and seized and detained before the commencement of this Act may be disposed of under the provisions of the principal Act as amended by this Act, as if this Act were in force at the time of such seizure and detention.

THE ABKARI (AMENDMENT) ACT, 1995 [\[1\]](#)
(ACT 12 OF 1995)

An Act further to amend the Abkari Act, 1077.

Preamble.—WHEREAS it is expedient further to amend the Abkari Act, 1077 (1 of 1077) for the purposes hereinafter appearing;

BE it enacted in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement*—This Act may be called the Abkari (Amendment) Act, 1995.

(2) It shall come into force at once.

2. *Amendment of section 26.*—In section 26 of the Abkari Act, 1077 (1 of 1077) (hereinafter referred to as the principal Act), after clause (b), the following clause shall be inserted, namely:—

"(bb) if the holder thereof or his servant, or anyone acting with his express or implied permission on his behalf, sells or stores for sale liquor in any place other than the licenced premises; or".

3. *Amendment of section 55.*—In section 55 of the principal Act,—

(a) clause (c) shall be omitted;

(b) in clause (i), for the words "sells liquor", the words "sells or stores for sale liquor" shall be substituted;

(c) for clauses (1) and (2) the following clauses shall be substituted, namely:—

"(1) for any offence, other than an offence falling under clause (d) or clause (e), with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees; and

(2) for an offence falling under clause (d), or clause (e) with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both

Explanation.—For the purpose of this section and section 64A, "intoxicating drug" means any intoxicating substance, other than a narcotic drug or psychotropic substance regulated by the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985), which the Government may by notification declare to be an intoxicating drug".

4. *Omission of section 55A.*—Section 55A of the principal Act shall be omitted.

5. *Amendment of section 58.*—In section 58 of the principal Act, for the words "with fine which may extend to three thousand rupees or with imprisonment for a term, which may extend to six months, or with both" the words "with a fine which shall not be less than rupees fifteen thousand and with imprisonment for a term which may extend to one year" shall be substituted.

6. *Insertion of new section 64A.*—After section 64 of the principal Act, the following section shall be inserted, namely:—

"64A. *Penalty for allowing land, building, room, etc., for manufacture, sale or storing for sale of liquor or intoxicating drug.*—Notwithstanding anything contained in this Act, or in any other law for the time being in force, any owner or occupier or person having control of, any land, building, room, space or enclosure, permits any person to use such land, building, room, space or enclosure for manufacture, sale or storing for sale of liquor or intoxicating drug in contravention of this Act or of any rule or order made thereunder or of any licence or permit obtained under this Act shall be punishable with fine which shall not be less than twenty-five thousand rupees unless he proves to the satisfaction of the court that all due and reasonable precautions were taken by him to prevent such use."

7. *Amendment of section 67.*—For section 67 of the principal Act, the following section shall be substituted, namely:—

"67. *Power to compound offences.*—Any Abkari Officer specially empowered in that behalf may accept from any person,—

(a) whose licence or permit is liable to be cancelled or suspended under clauses (a) end (b) of section 26 or who is reasonably suspected of having, committed an offence under clause (2) of section 55, sections 56, 57 or 63, a sum of money not less than ten thousand rupees; and

(b) whose licence or permit is liable to be cancelled or suspended under clause (bb) of section 26 or who is reasonably suspected of having committed an offence under clause (1) of section 55 or sections 58 or 64A, a sum of money not less than twenty-five thousand rupees,

in lieu of such cancellation or suspension or by way of compensation for the offence which may have been committed, as the case may be.

On the payment of such sum of money to such officer, the accused person, if in custody, shall be discharged and no further proceedings shall be taken against such person."

8. *Amendment of section 67A.*—In section 67A of the principal Act,—

(a) in sub-section (1) for the words "not exceeding two thousand rupees" the words, "of rupees five thousand" shall be substituted;

(b) to sub-section (1), the following proviso shall be added, namely:—

"Provided that if the holder of such licence or permit sells or stores for sale liquor in any premises, other than the licensed premises; such penalty shall not be less than twenty-five thousand rupees."

9. *Repeal and Saving.*—(1) The Abkari (Amendment) Ordinance, 1995 (13 of 1995) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

ACT 4 OF 1996

THE ABKARI (AMENDMENT) ACT, 1996 [\[1\]](#)

An Act further to amend the Abkari Act, 1 of 1077.

Preamble. —WHEREAS, it is expedient further to amend the Abkari Act, 1 of 1077, for the purposes hereinafter appearing;

BE it enacted in the Forty-Seventh Year of the Republic of India as follows:—

1. *Short title and commencement.* —(1) This Act may be called the Abkari (Amendment) Act, 1996.

(2) Sections 8, 13 and 14 of this Act shall be deemed to have come into force on the 16th day of February, 1996 and the remaining provisions of this Act shall come into force on the 1st day of April, 1996.

2. *Amendment of section 3.*—In section 3 of the Abkari Act, 1 of 1077 (hereinafter referred to as the principal Act),—

(a) after clause (6) the following clause shall be inserted, namely:—

"(6A) "arrack" means any potable liquor other than Toddy, Beer, Spirits of Wine, Wine, Indian made spirit, Foreign liquor and any medicinal preparation containing alcohol manufactured according to a formula prescribed in a pharmacopoeia approved by the Government of India or the Government of Kerala, or manufactured according to a formula approved by the Government of Kerala in respect of patent and proprietary preparations or approved as a bona fide medicinal preparation by the Expert Committee appointed under section 68A of the Act,";

(b) in clause (9),—

(i) the words "whether it is denatured or not" shall be omitted;

(ii) the 'Explanation' shall be omitted;

(c) in clause (10), for the words "methylated spirit" the word "arrack" shall be substituted;

(d) for clause (12) the following clause shall be substituted, namely:?

"(12) "country liquor" means toddy or arrack;"

(e) for clause (14) the following clause shall be substituted, namely:?

"(14) "Intoxicating drug" means any intoxicating substance other than a Narcotic Drug or a Psychotropic Substance regulated by the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985) which the Government may by notification declare to be an intoxicating drug;"

(f) clause (18A) shall be omitted.

3. *Amendment of section 6.* — In sub-section (1) of section 6 of the principal Act, the following shall be added at the end, namely:—

"or a bond for such payment on its importation has been executed."

4. *Insertion of new section 8.*—After section 7 of the principal Act, the following section shall be inserted, namely:—

"8. *Prohibition of manufacture, import, export, transport, transit, possession storage, sales etc., of arrack.* —No person shall manufacture, import, export, transport, transit, possess, store, distribute, bottle or sell arrack in any form."

5. *Amendment of section 15.*—In section 15 of the principal Act, the Explanation shall be omitted.

6. *Amendment of section 15C.*—In section 15C of the principal Act, in *Explanation I*, for the words "or other public office" the words "or other public office or any club" shall be substituted.

7. *Amendment of section 17.*—In section 17 of the principal Act, for the proviso the following proviso shall be substituted, namely:—

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

8. *Amendment of section 18.* —In section 18 of the principal Act, —

(i) in clause (a) of sub-section (1) for the words "or wort" the words "or wort or on the value of the liquor" shall be substituted.

(2) in sub-section (3), —

(a) in clause (1), under the heading "maximum rights", against item (i), for the words and figures "Rs. 20 per proof litre or Rs. 90.92 per proof gallon" the words and figures "Rs. 200 per proof litre or an amount equal to 200 per cent of the value of the liquor" shall be substituted;

(b) in clause (2), —

(i) in sub clause (a), item (v) and the entries against it shall be omitted;

(ii) sub-clause (c) and the entries against it shall be omitted;

(c) in the proviso, for the words "country liquor" the words "Indian made foreign liquor" shall be substituted;

(d) the following Explanation shall be added, namely: —

" *Explanation* . —Where any liquor is chargeable with duty at a rate depending on the value of the liquor, such value shall be the value at which the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited purchases such liquor from the suppliers and in case any such liquor is not purchased by the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited such value shall be the value fixed by the Commissioner."

9. *Amendment of section 31* .—In section 31 of the principal Act for the words and figures "section 55 or section 57 or section 58" the words and figures "section 8 or section 15C or section 55 or 55B or section 56A or section 57 or section 58 or section 58A or section 58B" shall be substituted.

10. *Amendment of section 33* .—In section 33 of the principal Act shall be renumbered as sub-section (1) of that section and after the sub-section as so renumbered the following sub-section shall be inserted, namely: —

"(2) An Abkari Officer may without an order or without a warrant from a Magistrate, arrest and detain any person who obstructs him while in the execution or discharge of his duty or who has escaped from his lawful custody:

Provided that every person who is arrested and detained in custody shall be produced before the Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate."

11. *Amendment of section 34*.—In section 34 of the principal Act, for the words and figures "section 15C or section 55 or section 57 or section 58" the words and figures "section 8 or section 15C or section 55 or section 55B of section 56A or section 57 or section 58 or section 58A or section 58B" shall be substituted.

12. *Insertion of new section 54A*.—After section 54 of the principal Act, the following section shall be inserted, namely:—

"54A. *Bar of certain proceedings.* —(1) No suit, prosecution or other proceeding shall lie against any Abkari officer or servant of the Government for any Act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act."

13. *Insertion of new section 55 A.*—After section 55 of the principal Act, the following section shall be inserted, namely:—

"55A. *Magistrates of First Class to have power to impose penalties for certain offences.* —Notwithstanding anything contained in sub-section (2) of section 29 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), it shall be lawful for a Magistrate of the First Class to pass the sentence mentioned in sections 55, 58 and 64A, for any offence referred to in those sections in exercise of his powers under sub-section (2) of section 29 of the said Code."

14. *Repeal and saving.* —(1) The Abkari (Amendment) Ordinance 1996 (2 of 1996) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE ABKARI (AMENDMENT) ACT, 1997 [\[1\]](#)

(ACT 16 OF 1997)

An Act further to amend the Abkari Act 1 of 1077

Preamble.-WHEREAS it is expedient further to amend the Abkari Act 1 of 1077, for the purposes hereinafter appearing;

Be it enacted in the Forty-eighth year of the Republic of India as follows:-

1.*Short title and commencement.*-(1) This Act may be called the Abkari (Amendment) Act, 1997.

(2)It shall be deemed to have come into force on the 3rd day of June, 1997.

2.*Amendment of section 3.*-In section 3 of the Abkari Act 1 of 1077 (hereinafter referred to as the principal Act), for clause (17A), the following clause shall be substituted, namely:-

“(17A) “transit” means to move from one place in a State to another place in that State or to any other State through the territory of the State of Kerala.

Explanation.-In this clause “State” means a State other than the State of Kerala and includes a Union Territory.”.

3.*Amendment of Section 8.*-Section 8 of the principal Act shall be renumbered as sub-section (1) of that section and,--

(a)in sub-section (1) as so renumbered for the word, ‘transit’ the words ‘without permit transit’ shall be substituted;

(b)after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

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

4.*Amendment of section 29.*-In section 29 of the principal Act, clause (o) of sub-section (2) shall be omitted.

5.*Amendment of section 30.*-In section 30 of the principal Act, the words and figures “Section 55 or section 57 or section 58 of” shall be omitted.

6.*Amendment of section 31.*-In section 31 of the principal Act,--

(a)the words and figures “section 8 or section 15C or section 55 or section 55B or section 56A or section 57 or section 58 or section 58A or section 58B of” shall be omitted;

(b)the proviso shall be omitted.

7.Amendment of section 34.-In section 34 of the principal Act,--

(a)in sub-section (1),-

(i)for the words “officer of the Excise Department or the Police Department”, the words “Abkari Officer” shall be substituted.

(ii)for the words and figures “section 8 or section 15C or section 55 or section 55B or section 56A or section 57 or section 58 or section 58A or section 58B”, the words “this Act” shall be substituted.

(b)for sub-sections (2) and (3), the following sub-section shall be substituted, namely:-

“(2) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply, in so far as they are not inconsistent with the provisions of this Act, to all arrests, searches and seizures made under this Act.”

8.Amendment of section 36.-In section 36 of the principal Act, for the words and figures “Code of Criminal Procedure, 1898” the words, figures and brackets “Code of Criminal Procedure,, 1973 (Central Act 2 of 1974)” shall be substituted.

9.Substitution of section 40.-For section 40 of the principal Act, the following section shall be substituted, namely:-

“40. *Procedure on arrest and seizure.*-(1) (a) Any officer arresting a person under section 31. section 34 or section 35 shall inform him of the grounds for such arrest.

(b)Where an Abkari Officer arrests without warrant any person other than a person suspected of, or accused of, any non-bailable offence under this Act, such officer shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

(2)Every person arrested under section 30 shall be produced before, and the article seized under that section shall be forwarded to, without unnecessary delay, the Magistrate or the Commissioner, as the case may be, by whom the warrant was issued.

(3)Every person arrested under section 31 or section 34 or section 35 shall be produced before, and articles seized under section 31 or section 34 shall be forwarded to, without unnecessary delay,--

(a) to the officer in charge of the nearest Police Station; or

(b) to the officer empowered under section 5A, or to the Abkari Inspector.

(4) The authority or officer before whom any person is produced under sub-section (2) or sub-section (3) shall, take expeditious steps as provided in section 41.

(5) The authority or officer to whom any article is forwarded under sub-section (2) or sub-section (3) shall, with all convenient despatch, take necessary steps in accordance with law for disposal of such article.”

10. *Substitution of section 41.*—For section 41 of the principal Act, the following sections shall be substituted, namely:—

“41. *Disposal of persons arrested.*—(1) Where any person accused of, or suspected of, the commission of an offence punishable with imprisonment which may not extend to three years under this Act is arrested or brought in accordance with the provisions of section 40, he may be released on bail, if sufficient bail be tendered for his appearance before the concerned Abkari Inspector or the Magistrate, as the case may be.

(2) Where a person accused of, or suspected of the commission of an offence punishable with imprisonment which may extend to three years or more under this Act is arrested or brought in accordance with the provisions of section 40, he shall without any delay be produced before the Magistrate, who shall take such measures as may be necessary to proceed against such person in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

41A. *Offences to be cognizable and non-bailable.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for a term of imprisonment of three years or more under this Act shall be released on bail or on his own bond unless—

(i) the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, 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.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), or any other law for the time being in force on granting of bail.”

11. *Amendment of section 43.*-In section 43 of the principal Act, for the words and figures “Code of Criminal Procedure, 1898” the words, figures and brackets “Code of Criminal Procedure, 1973 (Central Act 2 of 1974)” shall be substituted.

12. *Amendment of section 44.*-In section 44 of the principal Act, for the words and figures “in the manner provided in section 40”, the words “under this Act,” shall be substituted.

13. *Substitution of section 50.*-For section 50 of the principal Act, the following sections shall be substituted, namely:-

“50. *Report of Abkari Officer gives jurisdiction to a competent Magistrate.*-(1) Every investigation into the offence under this Act shall be completed without unnecessary delay.

(2) As soon as investigation into the offences under this Act is completed, the Abkari Officer shall forward to a Magistrate, empowered to take cognizance of the offence on a police report, a report in accordance with sub-section (2) of section 173 of the Code of Criminal Procedure, 1973 (Central Act of 2 1974).

50A. *Procedure to be adopted on receipt of report.*—Upon receipt of a final report from the Abkari Officer, the Magistrate shall inquire into such offence and commit to Court of Session if the offence is exclusively triable by Court of Session or try the person accused thereof in like manner as if a case is instituted upon a police report as provided in the code of Criminal Procedure 1973 (Central Act 2 of 1974).”.

14. *Amendment of section 55.*—In section 55 of the principal Act,—

(a) the words, “or of any licence or permit obtained under this Act” shall be omitted;
(b) for the words “shall on conviction before a Magistrate to be punished” the words “shall be punishable” shall be substituted;

(c) in clause (1) for the words “two years and with fine which shall not be less than twenty-five thousand rupees; and” the words “ten years and with fine which shall not be less than rupees one lakh, and” shall be substituted.

15. *Omission of section 55A.*—Section 55A of the principal Act shall be omitted.

16. *Amendment of section 55B.*-In section 55B of the principal Act, for the words “on conviction before a Magistrate, be liable to imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees”, the words “on conviction before a competent court be liable to imprisonment for a term which may extend to five years and with fine which shall not be less than twenty-five thousand rupees” shall be substituted.

17. *Amendment of section 56.*—In section 56 of the principal Act, clause (c) shall be omitted.

18. *Amendment of section 56A.*-In section 56A of the principal Act,-

(a) in sub-section (1), in clause (b), for the words “on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both, the words “on conviction before a competent court, be punished with imprisonment for a term which may extend to five years and with fine which shall not be less than fifty thousand rupees” shall be substituted;

(b) in sub-section (2), for the words “five hundred rupees”, words “five thousand rupees” shall be substituted.

19. *Amendment of section 57.*—In section 57 of the principal Act, for the words “on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to six months, or with fine which may extend to three thousand rupees or with both”, the words “on conviction before a competent court, be punished for each such offence with imprisonment for a term which may extend to five years or with fine which may extend to fifty thousand rupees or with both” shall be substituted.

20. *Amendment of section 58.*-In section 58 of the principal Act, for the words “shall on conviction before a Magistrate be punished with fine which shall not be less than rupees fifteen thousand and with imprisonment for a term which may extend to one year”, the words “shall be punishable with imprisonment for a term which may extend to ten years and with fine which shall not be less than rupees on lakh” shall be substituted.

21. *Amendment of section 58A.*-In section 58A of the principal Act, for the words “on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees, or with both”, the words “on conviction before a competent court be punished with imprisonment which may extend to five years or with a fine which may extend to fifty thousand rupees or with both” shall be substituted.

22. *Amendment of section 58B.*—In section 58B of the principal Act for the words “on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees or with both”, the words “on conviction before a competent court, be punished with imprisonment for a term which may extend to three years and with fine which may extend to twenty-five thousand rupees” shall be substituted.

23. *Amendment of section 59.*—In section 59 of the principal Act, for the words “on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to six months or with both”, the words “on conviction before a competent court be punished for

each such offence with imprisonment for a term which may extend to three years or with fine which may extend to twenty-five thousand rupees or with both” shall be substituted.

24. Amendment of section 60.—In section 60 of the principal Act for the words “on conviction before a Magistrate, be punished with fine which may extend to two hundred rupees”, the words “on conviction before a competent court be punished with fine which may extend to ten thousand rupees or with imprisonment for a term which may extend to one year or with both” shall be substituted.

25. Amendment of section 61.—In section 61 of the principal Act for the words “on conviction before a Magistrate, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months or with both,” the words “on conviction before a competent court, for every such offence, be punished with fine which may extend to twenty-five thousand rupees or with imprisonment for a term which may extend to three years or with both” shall be substituted.

26. Amendment of section 63.—In section 63 of the principal Act, for the words “which may extend to two thousand rupees”, the words “which may extend to five thousand rupees or with imprisonment for a term which may extend to two years or with both” shall be substituted.

27. Amendment of section 64.—In section 64 of the principal Act,—

(a) for the words and figures “section 55”, the words and figures, “section 55, section 55B, section 56A, section 57, section 58, section 58A and section 58B” and for the words and figures “section 55 or section 56 or section 57 or section 58”, the words and figures “section 8 or section 55 or section 55B or section 56 or 56A or section 57 or section 58 or section 58A or section 58B” shall, respectively, be substituted;

(b) the proviso shall be omitted.

28. Omission of section 67.—Section 67 of the principal Act shall be omitted.

29. Omission of section 67A.—Section 67A of the principal Act shall be omitted.

30. Amendment of section 68.—In section 68 of the principal Act, for the words and figures “Code of Criminal Procedure, 1898”, the words, figures and brackets “Code of Criminal Procedure, 1973 (Central Act 2 of 1974)” shall be substituted

31. Repeal and Saving.—(1) The Abkari (Amendment) Ordinance, 1997 (13 of 1997), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act, as amended by

the said Ordinance, shall be deemed to have been done or taken under the principal Act,
as amended by this Act.

Act 1 of 2003

THE ABKARI (AMENDMENT) ACT, 2003 [\[1\]](#)

An Act further to amend the Abkari Act, 1 of 1077.

Preamble.- WHEREAS it is expedient further to amend the Abkari Act, 1 of 1077, for the purposes hereinafter appearing;

BE it enacted in the Fifty - fourth Year of the Republic of India as follows:

1. *Short title and commencement.-* (1) This Act may be called the Abkari (Amendment) Act, 2003.

(2) It shall be deemed to have come into force on the 3rd day of September, 2002.

2. *Insertion of new section 53A.-* In the Abkari Act, 1 of 1077, (hereinafter referred to as the principal Act), after section 53, the following section shall be inserted, namely:-

"53A. *Disposal of seized liquor, intoxicating drugs or articles.-* (1) Notwithstanding anything contained in this Act, the State Government may having regard to the nature of the liquor, intoxicating drug or article, its vulnerability to theft, substitution, constraints of proper storage space or any other relevant consideration, by notification in the official Gazette, specify such liquor, intoxicating drug or article which shall, as soon as may be after its seizure, be disposed of by the authorised officer referred to in section 67B, in such manner as the Government may, from time to time determine after following the procedure hereinafter specified.

(2) Where any such notified liquor, intoxicating drug or article has been seized under this Act, the authorised officer shall prepare an inventory of such liquor, intoxicating drug or article containing such details relating to their description, quality, quantity, mode of packing, marks, numbers of such other identifying particulars of the liquor, intoxicating drug or article or the packing containers in which they are kept, place of origin and other particulars, as the authorised officer may consider relevant to identify the liquor, intoxicating drug or article in any proceedings under this Act and make an application to any Magistrate having jurisdiction over the area where the seized liquor, intoxicating drug or articles are stored for the purpose of,-

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such Magistrate, photographs of such liquor, intoxicating drug or article and certifying such photographs as true; or

(c) allowing to draw representative sample of such liquor, intoxicating drug or article in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2) the Magistrate shall , as soon as may be, visit the place where such liquor, intoxicating drug or articles are stored and take appropriate steps as specified in clauses (a), (b), and (c) of sub-section (2), and allow the application.

(4) Where any liquor or intoxicating drug or article under this Act has been kept under the custody of any court in connection with any offence committed under this Act, before the commencement of the Abkari (Amendment) Act, 2003 or has been brought before a Magistrate without complying the procedure laid down in sub-section (2), the authorised officer shall obtain prior permission of the Court or Magistrate before initiating proceedings under sub-section (2).

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1of 1872) or the Code of Criminal Procedure,1973 (Central Act 2of 1974), any court trying an offence under this Act shall, treat the inventory, the photographs of liquor, intoxicating drug or article and any list of samples drawn under sub-sections (2) and (4) and certified by the Magistrate, as primary evidence in respect of such offence.

Explanation.- 'Article' for the purpose of this section includes jaggery and other like substances, the value of which depreciates in passage of time."

3. *Repeal and savings.*- (1) The Abkari (Amendment) Ordinance, 2002 (7 of 2002) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.