

## **CHAPTER XII PROHIBITION**

### **Section**

XXIX

- (1) U.P. Intoxicant Prohibition Rules
  - A- Preliminary
  - B- Exemption and permits
  - C- Excise shops in prohibition area
  - D- Miscellaneous
- (2) U.P. Foreign Liquor Retail Vend (Prohibition Area ) Rules
- (3) U.P. Grant of Reward by Magistrate Rules

### **SECTION XXIX**

#### **THE U.P. INTOXICANT PROHIBITION RULES, 1978<sup>1</sup>**

In exercise of the powers under section 40 and sub-sections (5) and (6) of section 37-A of the U.P. Excise Act, 1910 and in suppression of U.P. Intoxicant Prohibition Rules, 1947 notified under Government Notification No. 546-E/XIII-402-46, dated March 31, 1974, as amended from time to time, the Governor is pleased to make the following rules:

#### **Section A –Preliminary**

- Rule 1** – (i) These rules may be called the U.P. Intoxicant Prohibition Rules, 1978.  
(ii) They shall apply to all Prohibition areas in Uttar Pradesh.

**Rule 2** – In these rules, unless there is anything repugnant in the subject or context:

- (1) 'Prohibition' means a prohibition notified by the State Government in accordance with the provisions of section 37-A of the U.P. Excise Act, 1910 (Act No IV of 1910).

#### **Section B- Exemptions and Permits**

**Rule 3- Exemptions from the operation of these rules** – The prohibition shall not apply to the import, export, transport and possession –

- (a) of liquor by troops either permanently stationed in the prohibition areas or in transit through such areas, as well as by Military Officer Messs and Canteens attached to the

Troops stationed or in transit through such areas or to the sale of liquor by such canteens and Messes to the persons authorised to use them subject to the following conditions:

- (1) Bottled foreign liquor and draught fermented liquor may be consumed only on the Mess premises by Members and Honourary Members if the Mess who are officers on the Active List of the Regular Defence Forces or Officers of the Reserve Auxiliary Forces and Territorial Forces and are attached thereto for training and live in the Mess.
- (2) The quantity of bottled foreign liquor and draught fermented foreign liquor which the mess may possess at any one time shall not exceed such quantity as may from time to time be fixed, by the Excise Commissioner in consultation with the station commander.
- (3) Canteen may supply liquor to troops under licences in Form F.L. 9 and F.L. 9-A granted under the U.P. Excise Act, 1910 and rules made thereunder.
- (4) No quantity of bottled foreign liquor any draught fermented foreign liquor obtained from Canteen by Troops is kept in any residential area by any member of the troop.

(b) of lawfully manufactured or obtained liquor and intoxicating drugs up to the maximum quantities mentioned below by a bona fide traveler while passing through a prohibition area by air or rails:

(i) Foreign liquor by Europeans and other foreigners (not being national of India)	Foreign spirit and wine Beer	1.5 litres
		2.6 litres
(ii) Foreign liquor by Indians, including domiciled Europeans, Anglo-Indians Jews and Parsis	Foreign spirit and wine Beer	750 mls.
		1.3 litres
(iii) Medicated wine specified in appendices E-I and E-II of the U.P. Excise Manual, Volume I and in the Schedule appended to the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956		1 litres.
(iv) Ayurvedic and Unani preparations containing self-generated alcohol.		1 litres
(v) Denatured spirit		1.5 litres
(vi) Other spirituous medicinal preparations besides those mentioned in (iii) and (iv) above		0.5 litres.
(vii) Medicinal and Toilet Preparations containing Indian hemp.		10 grams
(ix) Plain Country spirit		750 mls
(x) Bhang or any admixture thereof		750 mls

(c) of consignment of lawfully manufactured or obtained liquor by rail or by road and lawfully manufactured or obtained intoxicating drugs by rail from and to out-side the prohibition areas, provided the consignments are not tampered with or used during transit;

(d) of lawfully manufactured or obtained liquor of intoxicating drug for the manufacture of medicinal preparations or by or on behalf of the persons or institutions mentioned in Appendices N and D of the U.P. Excise Manual, Volume II provided that such import, export, transport or possession does not contravene the Provisions of the Dangerous Drugs Act, 1930 (Act No. II of 1930), the Medicinal, and Toilet Preparations (Excise Duties) Act, 1955 or any other Act for the time being in force;

(e) of lawfully manufactured or obtained denatured spirit not exceeding 1.5 litre;

(f) of wine or wine from grapes or Bhangs in small quantity for the bonafide religious or sacramental purposes.

(g) of lawfully manufactured or obtained liquor (including denature spirit exceeding 1.5 litres) or intoxicating drug for bona fide industrial, scientific educational or medicinal purposes, obtained under permits granted by the Collector in accordance with rules made in this behalf.

NOTE - For the purpose of these rules the world troops shall not include military personnel on leave or/and ex-serviceman not entitled to Mess facility.

**Rule 4** - (1) Prohibition shall not apply to a foreigner visiting or residing in the prohibition area who is granted a permit by the Collector to transport did possess foreign liquor excluding denatured spirit for consumption in accordance with the following sub-rules.

Provided that no such permit for a quantity not exceeding 1.5 litres of foreign spirit and wine 2.6 litres of Beer or 7.8 litres or 12 bottles of Beer shall be required in the case of a Foreigner holding a permit under the All India Liquor Licence Rules visiting Prohibition Area for a period not exceeding a week.

(2) Subject to general or special orders as the State Government may make in this behalf a permit under this rule may be granted to a Foreigner-

- (i) Who was either born and brought up or domiciled in any country outside India where such liquor is being generally used or consumed, and
- (ii) Who is on the Register of foreigners under the Registration of Foreigners Act, 1939, and
- (iii) who has been residing and intends to resides in India temporarily with the set purpose of making his sole and permanent home in any country outside India, and
- (iv) who is ordinarily using or consuming such liquor;

Provided that such a person undertakes and in the opinion of the Collector is likely to abide by each one of the conditions of the permit and the rules under the U.P. Excise Act, 1910 (Act IV of 1910) not to do anything which would have the effect of directly or indirectly defeating or frustrating the policy adopted by Government.

(v) who is an European or other Foreigner not being a National of India visiting Prohibition area and staying for more that a week.

(3). (i) The application for permit under sub-rule (2) of Rule 4 shall bear a court-fee stamp of Rs. 1.50 paise and state the following -

- (a) name, age, address, profession and nationality of the applicant,
- (b) the number of quart/print bottles of each kind of foreign liquor for which permit is sought,
- (c) the period of stay in the prohibition area where the application by a foreigner falls under clause (v) of sub-rule (2), and
- (d) an undertaking by the application that in the event of permit being granted to him, he shall not share the foreign liquor obtained under it with any other person, not entitled to the above permit facility.

(ii) Permit under this sub-rule (2) or Rule 4 shall be issued on payment of the fees of Rs. 15 in advance.

(4) A permit granted by the Collector under sub-rule (2) of Rule 4 may allow the possession of foreign liquor to the extent noted below:

- (a) Limit of possession at a time      750mls. of foreign spirits and wine and 1.3 litres of Beer or 3.9 litres of 6 bottles of Beer.
- (b) Limit of possession per week      1.5 litres of foreign spirits and wine and 2.6 litres of Beer or 7.8 litres or 12 bottles of Beer.

(5) A permit-holder will be entitled to obtain his requirements either from -

- (i) any place outside the district but within Uttar Pradesh, or
- (ii) any place outside Uttar Pradesh, subject to the conditions hereinafter specified.

(6) (i) in case he intends to bring his requirements from any other district of Uttar Pradesh, he shall make a duly stamped application to the Collector of his district for a transport permit giving the name and address of the firm from which the liquor is to be purchased and the quantity which he intends to obtain accomplished with the permit to possess foreign liquor (over-seas or Indian made) obtained under this rule. if the quantity for the transport of which the application is made does not exceed the limit of the permit-holder's possession, the Collector shall issue a transport permit and the same time endorse on the permit for possession issued under sub-rule (2) of Rule 4 the quantity in respect of which transport has been allowed. The permit shall be issued in triplicate in the Form prescribed by the Excise Commissioner, one copy shall be given to the permit holder, to cover the transport of Foreign liquor, the second copy shall be sent to the Excise Inspector concerned and the third shall be retained by the Collector for the record. The permit of possession shall after endorsement be returned to the applicant.

(ii) In case he intends to get requirements from any place outside Uttar Pradesh, he shall likewise apply for import permit and the Collector shall issue in import permit in the manner laid down in clause (1) of this sub-rule. In addition to the above the procedure prescribed in paragraphs 614, 615 and 619 to 630 of the U.P. Excise manual, Volume- I for the import of Indian made and overseas foreign liquor respectively shall be followed mutatis mutandis, in the case of import in the prohibited area.

(7) on receipt of a consignment covered by clauses (1) & (2) of sub-rule 6, the permit holder shall immediately inform the Excise Inspector in whose circle he resides and shall allow him to check the consignment and examine its contents. The Excise

Inspector after checking the consignment shall endorse the result on the permit for possession and the transport permit and send the letter to the Collector.

Provided that if the consignment is not verified by the Excise Inspector within 24 hours of the notice of its arrival, the permit holder shall be at liberty to open the consignment and utilise the content.

(8) All the permits in the foregoing clauses are strictly personal and not transferable. The foreign liquor covered by the permit is to be used only for the personal consumption of the permit holder.

(9) Any infringement of the above rule or any of the conditions of the permit shall render the permit liable to cancellation and the permit holder liable to prosecution under the provisions of the U.P. Excise Act, 1910 (Act No. IV of 1910) Rule 5

(1) Permits required under clause (g) of Rule 3 shall be granted by the Collector in accordance with the following sub-rules.

Provided that no such permit shall be necessary in case of liquor or in toxicating drugs to be used for administering to patients and kept in a chest at the district hospital/medical college with the Chief Medical Officer/ Principal for the quantities which the Excise Commissioner on annual indent of the Chief Medical Officer/Principal of Medical College and own being satisfied after consultation with the Director of Medical and Health Services for the aforesaid purpose.

(2) Application for permits for use of Intoxicants under clause (g) of Rule 3 shall be submitted to the Collector bearing the requisite court-fee stamp and stating -

- (i) the name, address and profession of the applicant;
- (ii) the purpose for which the intoxicant is required;
- (iii) the quantity required and whether it is required periodically or at one time;
- (iv) the name of the licensed shop or the distillery or bonded warehouse from which the purchase is to be made; and
- (v) the place with sufficient details where the intoxicant would be kept for the proposed use.

(3) Where the Collector is satisfied of the bonafide needs of the applicant for the purpose mentioned in his application, he may on payment in advance of a fee of Re. 1 for the whole year or part thereof grant a permit for the purpose or purposes specified in the permit for such quantities as he may deem fit. One copy of the permit shall be dispatched to the licensed shop or the distillery or Bonded warehouse from which the purchase is to be made and the other shall be kept for record.

Where the permit authorises the applicant to obtain the supply from a distillery, Bonded Warehouses or a licensed shop outside a prohibition district, or a district other than the one where the application is submitted, a copy of the permit shall also be forwarded to the Collector of the district from which the supply is to be obtained.

(4) Such permit shall authorise the issue of the intoxicant for which the permit has been issued only for the purposes mentioned therein and the permit-holder, unless exempted in writing by the Collector, shall maintain accurate daily account of the receipt and disposal of the intoxicant.

<sup>1</sup>Rule 5-A - Permit for consumption of foreign liquor -(1) The prohibition shall not apply to the transport and possession of foreign liquor (except denatured spirit) for personal consumption by person holding permit issued by the Collector or any officer of the revenue department to whom he may delegate his powers.

(2) Foreign Liquor Permit for one year shall be granted by the Collector or the Officer authorised by him to a person, who is not below 21 years of age in accordance with the following sub-rules.

(3) Application for permit for one year for use of foreign liquor shall be submitted to the Collector or the Officer authorised by him on plain paper stating the following particulars:-

- (a) The name of the applicant in full
- (b) Father's /Husband's name
- (c) Residential address in full (for local residents with ration card number)
- (d) Age
- (e) If permit-holder is not local resident, the temporary period of stay for which permit is needed
- (f) Quantity of foreign liquor in bottles (quarts) required during a fortnight
- (g) Signature or thumb-impression of the applicant

(4) The Collector or the officer authorised by him will register the name of the applicant and will issue a permit in form F.L.-38 with the signature of the issuing authority (appended) specifying the fortnightly quota and the name of the shop from which the purchase shall be made. A fee of Rs. 15 (Rupees Fifteen) will be levied per permit for which payment in cash shall be realized from the applicant and the same shall be required to be affixed on the permit issued to him/her.

<sup>1</sup>(5) The permit shall be granted subject to the following conditions -

- (a) Fortnightly quantity shall not exceed 1.5 litres of foreign spirits and wines (2 bottles of 750 M.L.) and 2.6 litres of beer or 1.7 litres (12 bottles) of beer.
- (b) The permit-holder shall not possess at any one time any quantity of foreign liquor in excess of the quantity specified in his permit.
- (c) The permit-holder shall not obtain foreign liquor required by him from any place other than the specified licensed shop of foreign liquor.
- (d) The permit-holder shall not use or consume foreign liquor in a public place or in the rooms of a hotel or restaurant or institution to which the public may have access.
- (e) The permit-holder shall not get drunk on any public place.
- (f) The permit-holder shall not share the foreign liquor obtained under the permit with any other person.
- (g) The permit-holder shall abide by the conditions of this permit and the provisions of the U.P. excise act and the rules, regulations and orders made thereunder.

(h) The permit may be suspended or cancelled in accordance with the provisions of sections 34 of the act.

(i) In case this permit is cancelled or suspended or the permit-holder himself surrenders it he shall surrender the whole of the unconsumed stock of foreign liquor forthwith to the collector disposal

**Rules 6-** subject to the provisions of the dangerous drugs act, 1930 (Act 2nd of 1930), the Medicinal and Toilet (Excise duty) Act, 1955, the spirituous preparations (Inter-state trade and commerce) control act, 1955 or any other law for the time being in force including the rules framed thereunder a permit granted under rules 5 the use for the use of intoxicants-

(i) for scientific or industrial purposes shall authorise the permit holder to sale, transport and export articles manufactured therefrom, and

(ii) shall authorise the permit-holder to transport and use intoxicants covered by the permit for medicinal purposes for which a permit was obtained, and also

(iii) *bonafide* medicinal preparations manufactured therefrom and to export, dispense and sell the said preparations.

**Rule 7-** Subject to the provisions of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Spirituous Preparations (Inter-State Trade and Commerce) Control Act, 1955 or the rules made under any of the aforesaid acts, U.P. Transport and Possession or Notified Restricted Spirituous Preparations, (Prevention of Misuse) Rules, 1978, the prohibition shall not apply to the import, export, transport, possession and sale of Medicinal and Toilet Preparation containing alcohol of Indian hemp.

**Rule 8-** The Prohibition shall not apply to the drawing of Neera for sale or for manufacture of Gur (Jaggery) or similar products under a licence granted by the Collector under the provisions of the U.P. Neera (or Sweet Toddy) Rules, 1951 as amended up to date.

### **Section C-Excise Shops in Prohibition Areas**

**<sup>1</sup>Rule 9- Exemption to the sale of denatured spirit to general public and foreign liquor to troops by certain shops within the prohibition area-** Subject to the following conditions, the prohibitions shall not apply to such shops as may be licensed by the Collector in accordance with the provisions of the U.P. Excise Act, 1910 (Act No. IV of 1910) for the sale of foreign liquor to persons holding foreign liquor permits granted by him and to troops and for the sale of denatured spirit to public:-

(1) The Collector may grant licence for import, transport and sale of denatured spirit to meet the requirements of the public entitled to use and possess denatured spirit in accordance with rules made under Section 41(a) of the U.P. Excise Act, 1910 (Act IV of 1910).

The maximum quantity permitted to sell in a month may be fixed by the collector.

(2) Supplies to permit-holders shall be made strictly in accordance with the quantities specified in the permit and detailed accounts of such sales shall be accurately maintained by the licence-holders in their sale register and also entered on the back of the permit.

(2) The sale at these shops shall be allowed in accordance with the conditions of the licence prescribed by the Excise Commissioner.



## **Section D- Miscellaneous**

**Rule 10- Power of the Collector to suspend or cancel licence-** The Collector may cancel or suspend any licence or permit granted by him-

- (a) if any fee payable by the holder thereof has not been duly paid; or
- (b) in the event of any breach of condition of the licence or permit by the holder thereof or by his servant or by any one acting with his express or implied permission on his behalf; or
- (c) if the holder is convicted of any offence against these rules or of any cognizable and non-bailable offence; or
- (d) if the conditions of such licence or permit provide for the cancellation or suspension at will; or
- (e) if the purpose of which the licence or permit is granted ceases to exist.

**Rule 11-** Any order passed by the Collector under these rules shall be subject to an appeal or revision as provided under sub-section (1) and (2) of section 11 of the U.P. Excise Act, 1910 (U.P. Act No. IV of 1910).

**Note -** The U.P. Intoxicant Prohibition (First Amendment) Rules, 1989, Published in U.P., Gazette, Extra., Part 4, Section (Ka), dated July 20, 1989, P.21 vide Notification No. 1139-E-2/XIII-335-88 dated July 20, 1989.

## **THE UTTAR PRADESH FOREIGN LIQUOR RETAIL VEND LICENCE (PROHIBITION AREA) RULES, 1991**

**English translation of Abkari Anubhag-2 Noti. No. 1628-E-2/XIII-103-88 dated May 3, 1991, published in the U.P. Gazette, Extra., Part 4, Section (Ka), dated 3rd May, 1991, p.2. (W)**

In exercise of the powers under Section 40 and in particular under clause (e) of sub-section (2) of that section of the U.P. Excise Act, 1910 (U.P. Act No. IV of 1910), the Governor is pleased to make the following rules, with a view to regulate the class of persons to whom licences for the vend of foreign liquor by retail may be granted in prohibition area.

**Rule 1- Short title and commencement-** (1) These rules may be called the Uttar Pradesh Foreign Liquor Retail Vend Licence (Prohibition Area) Rules, 1991

- (2) They shall come into force with immediate effect.

**Rule 2-Grant of licence to certain class only-** (1) In any prohibition area, in relation whereof exception, exemption or relaxation under sub-section (2) or under sub-section (5) of

Section 37-A of the U.P. Excise Act, 1910 has been made in respect of foreign liquor, the licence for retail vend of foreign liquor shall not be granted to any person other than an Apex Co-operative Society or a Government Undertaking or a Divisional Development Corporation and such licence may be granted on payment of fixed fee, or fee determined in accordance with graduated or uniform scale or by tender cum-auction or by auction or by tender or by negotiation.

(3) The rules made under Section 41 of the said Act by the Excise Commissioner prescribing the scale of fee and the manner for the grant of licence for the retail vend, of, foreign liquor for the time being in force, shall so far as may be, mutatis mutandis, apply to the grant of licence under sub-rule (1).

### **THE UTTAR PRADESH GRANT OF REWARD BY THE MAGISTRATE RULES, 1979**

Aabkari Anubhag Noti. No. 7299-E/XIII-517-78-U.P. Act-4/1910-Rule-1979, dated August 31, 1979, published in U.P. Gazette, Extra., dated 31st August, 1979, p.2.

In exercise of the powers under sub-section (1) and clause (m) of subsection (2) of Section 40 of the U.P. Excise Act, 1910 (U.P. Act No. IV of 1979).

(ii) They shall apply to all prohibition areas in Uttar Pradesh.

(iii) They shall come into force with effect from the date of their publication in the Gazette.

**Rule 2- Definition-** In these rules:-

(i) 'Prohibition Area' means an area wherein prohibition in relation to any intoxicant has been notified by the State Government in accordance with the provisions of Section 37-A of the U.P. Excise Act, 1910 (Act No. IV of 1910).

(ii) 'Informer' means a person who initially provides a clue or an information found material in detection of an excise offence.

(iii) 'Official' means a Government servant who is not an officer, and is working in the department concerned with the excise offences.

(iv) 'Officer' means a Government servant who is an officer working in the department concerned with the excise offences.

**Rule 3- Power of the magistrate to grant reward-** A magistrate trying an excise case may, at his discretion, grant reward to an official, Officer or Informer out of and up to fifty percent of fine imposed by him. In granting the reward, the Magistrate shall have regard to the contribution of the official, officer or informer:

Provided that the reward may be granted only if a fine of rupees one thousand or more has been imposed:

Provided further that the granted reward shall be payable only when the fine has been recovered.