

Chapter III

Sections

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UTTAR PRADESH NUMBER AND LOCATION OF EXCISE SHOPS RULES, 1968

In exercise of the powers under clauses (e) and (f) of sub-section (2) of Section 40 of Uttar Pradesh Excise Act, 1910 (U.P. Act No. 4 of 1910), read with Section 21 of the U.P. General Clauses Act, 1904 (U.P. Act No. 1 of 1904), and in suppression of all rules and orders on the subject, the Governor is pleased to make the following rules regarding the number and location of retail shops for the vend of excisable articles and having considered that they should be brought into force at once, is further pleased to direct that they shall come into force with immediate effect :

RULES

1. Short title and commencement - These rules may be called the Uttar Pradesh Number and Location of Excise Shops Rules, 1968.

2. Definition - ² In these rules,-

- (a) "Shop" means a retail shop for vend of
- (b) "Sub-shop " means a retail shop for vend of country liquor to be opened by a grantee of Exclusive privilege for retail sale of country liquor under section 24 of the aforesaid the United Provinces Excise Act, 1910 within the area and during the currency of the Excise Year of his contract.

³2-A Determination of the distribution and location of shops and sub-shops- Subject to the control of the State Government and of the Excise Commissioner and to the limitations expressed in these rules, the distribution and general location of shops and sub-shops shall be determined by the collector provided that in military cantonments the Collector shall exercise this power only with the consent of the Officer Commanding the Station.

⁴3. Principles to be observed in fixing the number of shops and sub-shops- In determining the number of shops and sub-shops to be licensed the Collector shall, as far as possible, be guided by the principle that no more shops or sub-shops shall be allowed than are necessary to meet the normal requirements of the consuming classes.

4. No. shop or sub-shops shall be licensed for the sale of liquor or any other excisable article at fairs and exhibitions.

Explanation -For the purposes of this rule, the term fair shall also include Bazars, markets and Hats.

5. The following principles shall be observed in determining the location and the sites for shops / sub-shops.

(1) The location and the sites of all shops and sub-shops shall be decided by the Collector.

(2) No change in the site of any shop or sub-shop shall ,except for very cogent reasons to be recorded in writing, shall be permitted during the currency of a settlement. The location of all shops and sub-shops shall be clearly defined at settlement in order to prevent any shifting of sites.

(3) The sites of all shops and sub- shops shall be selected with regard to police control especially in case of cities, towns and large villages and traffic regulation needs.

(4) No new shop or sub-shop shall be licensed in close proximity to a place of public resort, school, hospital, place of workshop or factory, or to the entrances to a Bazar or a residential colony. All objections to the licensing of a shop or sub-shop made by persons affected, shall receive full consideration.

(5) No shop or sub-shop shall be located outside the inhabited site of a village, town or city.

(6) In the case of the existing shops, periodical enquiry shall be made as to whether their position is in conformity with policy under these rules. If their location is found to be objectionable, such steps as are possible, shall be taken to select a more suitable site and to arrange for its removal.

(7) No new shop or sub-shop shall be opened within 400 metres of a railway station without previous intimation of the site to the railway administration concerned. If any objection is raised by that administration, which is not accepted by the licensing authority as a sufficient reason for refusing the license, the question shall be referred for the views of the Excise Commissioner. The same procedure shall be adopted when complaints are made by railway administration with regard to an existing shop or sub-shop.

(8) In urban areas , no new shop or sub-shop shall be opened without notice to the Nagar Mahapalika, Nagar Palika, Town Area or Notified Area, as the case may be . In rural centres, notice of the intention to open a new shop or

sub-shop shall be given to the Zila Parishad and published in the vicinity. Any objection which may be brought forward shall receive due consideration.

(9) No licences for the retail sale of liquor at any place within five Kilometers the border of another district shall be granted unless the Collectors of both the District concur or if they fail to concur, then at a site approved by the Collector for the purpose.

6. The sub- shops shall remain in operation for the period upto March 31st of the excise year in which such sub-shop is opened on the payment of licence fees in advance as may be determined by the Excise Commissioner from time to time.

Section IV

AWARD , ISSUE AND CANCELLATION OF LICENCES

1. Period and durations of licences - (1) Licences for wholesale and retail vend of intoxicant shall be granted usually for the excise year, which shall be the year from April 1 to March 31.

C.f Govt.
Notification
No.650 /XIII-85,
dated August
18,1910

(2) Tari licences shall be granted for the year October 1 to September 30.

(3) In special cases licenees may be given with the sanction of the Excise Commissioner for speical period.

(3-A) Notwithstanding anything contained in clause (1) or (3), when the State Government so directs, the licences may be for such short period only as the State Government specifies.

Cf. G.O No. 2616-
E-XIII/505-72,
March 30,1972

(4) If any licence other than a Tari licence ususally granted for a year, be granted during the course of the year it shall be granted so as to terminate not later than March 31, next following

U.P. Excise
(Amentment)
Rule, 1972

(5) A Tari licence granted during the course of a year shall terminate on September 30, next following.

2. Issues of duplicate licences - If the original licence is lost, a duplicate may be issued on payment of a fee Rs. 1 unless for special reasons the Collector considers that the fee should be waived.

Cf. E.Cs.
Ntification No.
5364/IX-326
dated August
12,1936

3. Persons to whom licences may be granted -

(1) licences should only be granted to person

Cf. Govt.

approved as suitable vendors, In particular they should not be granted to:

Notification No. 650/ XIII-85, dated August 18,1910

(a) Persons who have been convicted by a criminal court of a non-bilabial offence;

Cf. Govt. Notification No.717/XIII - 116, dated November, 24,1938

(b)Former licensees who are in arrears to Government, or whose conduct has been found to be unsatisfactory, or who have been found guilty of any serious breach of the condition of their licences;

(c)Persons below the age of eighteen years;

(d) Persons suffering from any infectious or contagious disease.

(2) Any person may be granted licence for the vendor country liquor or foreign liquor or both Provided that -

Cf. Govt. Notification No.5512F/XIII - 335-7, July 5, 1972

(1)Person holding licences for retail vend of country spirit in Form C.L.3-A,CL.4-A or C.L.5-A may store low strength rum for retail sale after obtaining licence in Form F.L. 4-B in accrodance with the rules on the subject.

Cf. Govt. Notification No.3385-E-2/XIII - 8-86, (TC)-IV dated 4-10-1988

(2) Licences for the retail vend of foreign liquor for consumption both on and off the premises in Form F.L.-4 and for consumption off the premises only in Form F.L.-5 shall not be granted to persons holding hotel and Dak Bangalow licences in Form F.L.-6, F.L.6-A or restaurant or hotel bar licences in Form F.L.-7,F.L.7-A, F.L.7-B, F.L. 7-C and vice versa

Cf. Govt. Notification No.4668-E-2/XIII - 8-86, dated Feruary, 4,1938

4. Cancellation and reassignment of licences - Subject to the conditions given in section 34 ad 35 of the Act, licence of any shop may be cancelled by the authority granting it. When a licence has been cancelled under section 34, and it is intended to continue the licence it should be promptly resettled in the manner prescribed in paragraphs 357;359 and 375.

Cf.ECs Notification No. 3745/IX-241-A dated August 16, 1923

5. Dsiposal of stock on termination of licences - The holder of a licenee for the vend of an intoxicant shall, on the termination of licence, report to the Collector the amount of stock, if any remaining in his possession. The Collector shall fix a time within which the vendor must dispose of such stock to a licensed vendor. Any stock not so disposed of shall, at the expiration of the period thus fixed by surrendered to the Collector who shall dispose of the same in the manner be deems fit.

Cf. B.O. No. 7-V, Ex/469-B, dated January 4,1913

[Excise Inspectors will be held responsible for securing the observance of this rule. They must also ascertain in each case how

the surplus stock has been disposed of]

1. Interest of supplier in retail vend of country liquor forbidden- The contract supplier of country spirit and if the supply contractor be a corporation or a company registered or otherwise every member or shareholder of it, for the time being, is not permitted to hold any interest in the retail vend of country spirit or Tari within the area of his contract.

Cf. Govt.
Notification No.
E/1770-11, dated
October 16, 1940

७. यदि कोई लाइसेंस धारा २० की उपधारा (४) के अन्तर्गत किसी क्षेत्र में मद्य निषेध लागू करने की विज्ञप्ति के जारी करने पर निरस्त किया जाता है तो लाइसेंसदार के पास जो मादक पदार्थों (इंडोविजकेंट) का स्टॉक बचा रहेगा , उसका निस्तारण निम्नलिखित रीति से किया जायेगा :-

Cf. Excise
Commissioner
Notification No.
657, dated July,
1970

(क) यदि देशी शराब , भांग और गांजे के लाइसेंसदार के पास टाक बचा रहता है तो अपने पास वह बची हुई देशी शराब, भांग व गांजे की मात्रा की सूचना मद्य निषेध लागू होते ही संबंधित जिलाधीश को देगा और जिलाधीश की आज्ञा लेकर अपना बचा हुआ सम्पूर्ण स्टॉक जिले के निकटवर्ती आबकारी वं धित गोदाम में जमा करेगा । जब तक जिलाधीश की आज्ञा नहीं मिलती है तब तक लाइसेंसदार बचे हुए स्टॉक को अपनी सुरक्षा में रखेगा और उसकी रक्षा के लिए उत्तरदायी होगा । यदि जमा की गई देशी शराब उपभोग के योग्य है और उसकी तीव्रता निर्धारित तीव्रता के अनुसार है तो लाइसेंसदार को उसका मूल्य (कंट्रैक्ट प्राइस) जो उसने जमा किया हो, रिफंड कर दिया जायेगा । यदि जमा किया गया गांजा व भांग उपभोग के योग्य है तो लाइसेंसदार द्वारा जमा किया गया मादक द्रव का मूल्य (कंट्रैक्ट प्राइस) एवं ड्यूटी उसको रिफंड कर दिये जायेंगे । यदि वं धित गोदाम का आबकारी निरीक्षक इस तरह जमा किये गये देशी शराब, भांग या गांजे को उपभोग के अयोग्य समझता है तो वह लाइसेंसदार या उसके प्रतिनिधि की उपस्थिति में नमूने लेगा और तुरन्त उन्हें अपने रिपोर्ट साथ संबंधित सहायक आबकारी आयुक्त को भेजेगा । अगर सहायक आबकारी कमिश्नर आबकारी निरीक्षक से सहमत होता है तो वह नमूना रासायनिक परीक्षक, उत्तर प्रदेश सरकार, आगरा को जाँच और रिपोर्ट के लिये भेजेगा । अगर रासायनिक परीक्षक नमूने को उपभोग के लिये अयोग्य बताता है या देशी शराब के मामले में, देशी शराब निर्धारित तीव्रता की नहीं है तो सहायक आबकारी आयुक्त लाइसेंसदार से कारण पूछेगा कि स्टॉक जिससे नमूना भेजा गया था या जो निर्धारित तीव्रता का नहीं है क्यों न नष्ट कर या जाय । यदि लाइसेंसदार कारण बताने में असमर्थ रहता है या उसके बतलाये कारण अपर्याप्त हैं तो सहायक आबकारी कमिश्नर स्टॉक को अपनी उपस्थिति में नष्ट करने के आदेश देगा । इस प्रकार नष्ट किये स्टॉक के मूल्य, ड्यूटी या उसके लिये किसी प्रकार के मुआवजे के लिए लाइसेंसदार हकदार नहीं होगा ।

(ख) यदि विदेशी शराब मदिरा के लाइसेंसदार के पास स्टॉक बच रहता है तो वह अपने पास बचे हुए स्टॉक की सूचना जिलाधीश को देगा और जब तक जिलाधीश की अन्यथा आज्ञा नहीं मिलती तब तक वह बचे हुए स्टॉक को अपनी सुरक्षा में रेगा और उसकी रक्षा के लिए उत्तरदायी होगा । जिलाधीश कोई अवधि निर्धारित करेगा जिसे भीतर लाइसेंसदार को अपने पास बचे स्टॉक को किसी दूसरे लाइसेंसदार को निस्तारित करना होगा । यदि इस प्रकार निर्धारित अवधि के भीतर लाइसेंसदार उपरोक्त प्रकार के स्टॉक निस्तारित नहीं कर पाता है तो निर्धारित अवधि की समाप्ति कपर जिलाधीश उसका निस्तारण जिस रीति से उचित समझे, करेगा ।

7. Destruction of intoxicant unfit for consumption - Any intoxicant kept on the premises of a vendor licensee to sell the same and found after examination to be unfit for human consumption may be destroyed under orders of the Collector.

E.Cs. -- 425/V----
dated September
20, 1910

8. District management of shops or farms to be avoided- Except where such a course is absolutely unavoidable, direct management of shops or farms should be resorted to even as a temporary measure. Recourse should not be had to this expedient without the approval of the Excise Commissioner. The latter officer will exercise his own discretion as to whether the circumstances of the case justify the proposal.

B.O. No. 423/V-
284B, dated
September 26,
1910.

Section V

GENERAL CONDITIONS TO BE OBSERVED BY ALL LICENSEES

A General Conditions under section 41 of the U.P. Excise Act by Excise Commissioner's Notification.

1. The admixture the with liquor of any anxious or otherwise objectionable substances whether in order to increase the intoxicating effect of the liquor or to provide thirst or for any other purpose, by manufactures of liquor or licensed vendor thereof, is strictly prohibited.

Cf. B.O. No.
423/V-248B,
dated September
26, 1910

2. The admixture with intoxicating drug of any other substance whatever by licensed drug vendors is strictly prohibited.

3. The reduction of strength of spirit of licensed vendors of foreign spirit except under such condition as may be prescribed is prohibited.

4 to 6. Omitted as ordinary distillery system not in force .

7. Licensed vendors, whether wholesale or retail, under the contract system are not permitted to reduce liquor below the prescribed strengths at which it has been issued to them from a distillery or bonded warehouse.

8. Omitted in view of Excise Commissioner's Notification No. 628/Licence Anugha-3 dated April 17, 1978.

9. Denatured spirit shall not be sold by any licensed vendor at a strength lower than 50 degrees over land on proof .

A retail vendor of denatured spirit shall not possess at any one time more than the quantity of denatured spirit fixed by the Collector or consideration of reasonable local requirement and specified in the vendor's licences.

10. Omitted in view of U.P. Country Spirit (Strength) rules 1981.

11. Omitted in view of Government Notification No. 224/XIII- 73 dated May 4, 1971.

12. Omitted in view of Notification Nos. 3774 and 3775/IX-14B, dated September 18,1977.

13. Shop to be closed during passage of troops- Retail country spirit shops situated on or near the line of March shall be closed during the passage of Indian troops if the officer commanding so requires. Tahsildars under the Collectors orders will arrange for the closing all such shops from time the advanced guard approaches till the near guard has passed onwards a full-time.

Cf. Gvot.
Notification No.
18360E/XIII- 414-
46 dated July 31,
1954

13-A. Every shop licensed for the sale of -

- (1) Country spirit
- (2) Tari;
- (3) Foreign liquor for consumption "on " and "off" the premises;
- (4) Foreign liquor for "off " the premises;

Cf. Excise
Commissioner
Notification No.
16987/II-161-161-
A dated January 2,
1971

shall be kept closed on the day following the burning of Holi and the principal Dewali day.

13-B. All excise shops of every intoxicant shall not be kept open on the following days :

- (1) Republic day (January 26)
- (2) Independence day (August 15)
- (3) Mahatma Gandhi's birth day (October 2)
- (4) The first day of every month, and

Cf. Excise
Commissioner's
Notification No.
818/IX- 161-4
licence dated
March 31, 1983

Any other three days of a year as declared by the Collector in his district:

Provided that if the first day or the month to be a public holiday the day next following the said day shall be the day on which the said shops shall not be kept open:

Provided also that the Excise Commissioner, may in consultation with the Collector of the district concerned, waive the condition of not keeping the aforesaid shops open on the first day of the month or on any of the said three days of the year or on the said next following day of the month, as the case may be, for such specified period as he may think fit, in the case of hotels possessing a licence in Form F.L.6 for the sale to such

foreign tourists as may hold a valid permit under the All India Liquor Permit Scheme of the Government of India.

13-C. If general or bye-elections are held in a territorial constituency, all the shops licensed for the sale of foreign liquor, country spirit and Tari, located in that constituency and in an area eight kilometers around that constituency shall remain closed on the day of the poll and on two days immediately preceeding the day of the poll.

Cf. Excise
Commissioner's
Notification No.
921/IX-161-A
dated March
14,1977

14. Except in the case of chemists and druggists holding excise licenses, there shall be fixed in a prominent position at the entrance of all premises licensed for the wholesale or retail vend of any excisable article a sign board showing in large characters the name of the licensee and the class of excisable article for the vend of which the premises are licensed. Where separate rooms have been proved for private accommodation of customers in premises situated in municipalities and licensed for the consumption on the premises of foreign liquor or country spirit, the entrance to such rooms shall have sign-boards attached to them bearing in prominent lettering the words "Licensed Private Bar."

15. All premises situated in municipalities and licensed for the consumption the premises of foreign liquor or country spirit, with the exception of hotels, restaurants, railway refreshment -rooms and dining cars so licensed, shall be constructed in accordance with the following rules:-

(1) There shall be one door only, which shall open into a public road. Additional doors must be sanctioned by the Collector and must have signboards attached to them in accordance with the provisions of the preceding rule. Windows opening into the street shall be covered with wire netting.

(2) Separate rooms for the private accommodation of customers shall not be provided without the special licence of the Collector.

(3) The shop shall be so constructed that the interior of every public and private bar shall be visible from the doorway.

(4) The building in which the shop is situated shall not be used as a place of residence except by the vendor and his family or by a caretaker.

16. Daily accounts shall be maintained by all wholesale and retail vendors of foreign liquor (except auctioneers) including licensed vendors of rectified spirit and denatured spirit, and by person licensed to purchase denatured spirit, in excess of the ordinary limit of retail.

17. Omitted the distillery system not in force.

18. Wholesale vendors of country spirit under the contract system shall maintain accounts in the form prescribed in their licenses and shall submit to the Collector on the first of each month a copy of the account so maintained.

19. Retail vendors under the contract system shall maintain accounts in the form prescribed in their licenses.

20. Wholesale vendors of Bhang shall maintain accounts in the form prescribed in their licenses and shall submit to the Collector on the first of each month a return in the form prescribed by the E in that behalf.

21. Omitted Cocaine not governed by U.P. Excise Act.

22. No transfer or sub-lease (whether entire or partial) of a business covered by an excise license shall be made except with the previous permission of the Collector.

23. The Collector shall not allow such -sub-lease or transfer unless good and sufficient reason be shown to his satisfaction and unless the transference.

24. In the event of a licensee's death the Collector may continue the licence on the same terms to a representative of the deceased if he be satisfied that such representative is a fit person to hold it and on the condition that any arrears due from the deceased licensee are recovered before the licence is so transferred.

CONDITIONS UNDER OTHER NOTIFICATIONS AND PROVISIONS OF THE ACT

(1) General conditions or country spirit hemp drugs or tari shops- Every shop shall, unless exempted by the Excise Commissioner or any officer not below the rank of Excise Inspector to whom he may deligate this power, be kept open every day throughout the year and the licence-holder shall maintain at his shop a minimum quantity of the intoxicant for which he holds the licence and the same shall be fixed by the Collector for each shop with due regard to the normal demand of consumers in the locality.

Cf. Excise Commissioner's Notification No. 14056/II-650, dated January 7, 1942

NOTES-(1) This condition does not apply to Tari licences settled under the Auction system , but it does to those settled under the 'tari tax system'.

(2) The power of exemption has been delegated to Collectors, District Excise Officers and Excise Inspectors. A rule the power should be exercised by the latter who have been authorised to grant exemption to any licence-holder within their circle (a) on a fixed day each week, and (b) on any other day on the ground of urgent necessity.

Cf. E.C.'s order dated February 20, 1930 p. 88 of file No.II-67-A

(2) Sales shall be made only on the premises for which the licence is granted.

B.O. No. 187/V-E - 648 B, dated March 30,1915

(3) The licensee shall close his shop when ordered to do so by any Magistrate or Police officer above the rank of Constable, and shall without any order close his shop in the event of riot or unlawful

Section 59 of the U.P. Excise Act, 1915

assembly.

(4) The licensee shall produce for inspection his licence on demand by officers who are duly authorised to do so.

Cf. E.C.s order dated October 31, 1929 (See section 64)

(5) The licensee shall store all his stock of excisable articles pertaining to his shop in the premises for which the licence is granted.

(See section 20)

Further conditions binding on same category of F.L. Shops-
The following further conditions are binding on retail shops for the sale of foreign liquor.,

(1) Country spirit shall not be kept on the same premises.

NOTE :- This condition does not apply to canteen tenant licences.

(2) If the Excise Commissioner has prohibited the sale of any particular brand of foreign liquor as being unwholesome, that brand shall not be kept or sold under this licence.

Cf Excise Commissioner & Notification No.6281 licence Anubhag-3 dated April 17, 1978, published in U.P. Gzette, Extra dated April 17, 1978

(3) The sale strength of foreign liquor (other than Beer Rectified spirit and Denatured spirit excepted under the special order of the Excise Commissioner, is prohibited.

NOTES - (1) Canteen tenant licensees are permitted to store and sell spirituous liquor diluted with mineral water with the permission of the General Officers Commanding.

(ii) The sale strength prescribed for whisky, brandy, rum and gin are the apparent strength as indicated by the hydrometer. A margin up to 1⁰ below the prescribed strength is, however, allowed in the case of such spirit contained in sealed capsulated bottles.

(4) No sale of brandy, whisky, gin and rum shall be allowed in bottles of capacity lesser than 225, 313 and 157 millilitres in the case of quart, pint and half pint bottles, respectively.

(5) In the following cases, the guaranteed fluid contents of the bottles shall be clearly indicated in bold letters on the label whether the liquor is bottled in India or abroad:

(a) Quart bottles of whisky, brandy or rum if containing less than 710 millilitres of such spirit.

(b) Quart bottles of gin, if containing less than 682 millilitres of gin.

(c) Pint bottles of whisky, brandy or rum, if containing 185 mls. of such spirit.

(d) Pint bottles of gin, if containing less than 341 millilitres of gin.

(e) Half pint bottles of gin, if containing less than 171 mls. of gin.

(6) No greater quantity of liquor than 1.5 litres and no greater quantity of beer than 2.6 litres shall be sold to any person at one time.

(7) No drug or deleterious substance shall be added to the liquor, nor shall any adulterated liquor be knowingly stored or sold.

(8) The licence-holder shall receive no other article but money in barter for any intoxicant, the sale of which is covered by this licence.

(9) Bottling and compounding of any liquor are prohibited. The alternation of the original labels under which spirit or fermented liquors have been received is also prohibited.

(10) No person under the age of twenty-one years shall be employed with or without remuneration in the licensed premises.

(11) Except with the previous permission in writing of the Excise Commissioner, no woman shall be employed with or without remuneration in the licensed premises.

NOTES - (1) Conditions 10 and 11 and do not apply to the shop licensed for consumption "off" the premises.

(2) Infringement of conditions 10 and 11 is punishable under section 61 and cannot be dealt with under section 64 or 74 of the Excise Act, 1910 (U.P. Act No. IV of 1910)

(12) The licensee shall exhibit at a prominent place in his shop a list of all brands of foreign liquor available at the shop for sale giving their retail prices as may be fixed by the Excise Commissioner from time to time or where no such prices have been fixed by the Excise Commissioner, the retail prices as fixed by him reasonably of his own.

(13) Under section 40 by Government Notification.

Under Section 40(2) (g)

Sales shall not be made to -

(a) soldiers or members of a soldier's family, except when such sale is expressly authorized by the Collector.

Cf. Government
Notification No.
158/X-II-176,
dated April 28,
1926

Proviso - This prohibition does not extend to the sale of Bhang to soldiers.

Explanation - "Soldier" does not include a commissioned officer, member of the Auxiliary or the Indian Territorial Forces when not in uniform, a soldier in civil employ, or an Indian soldier absent on leave from his regiment.

(b) camp followers , except when such sale is expressly authorized by the Collector;

Explanation - "Camp followers " means followers whether on or off duty other than a private servant whom the vendor knows is or has reason to believe to have a right to be cantonment.

NOTES-(1) The Collector shall authorise sale under clauses (a) and (b) above only in the case of licensed vendors of foreign or country liqueur specially approved by the General Officer Commanding the division (or the Independent Brigade or by the Officer Commanding the station and then only the sale of such liquor as shall have been approved by the same authority in consultation with him. The terms of such permission must be recorded on the licence.

(2) Clause (a) and (b) above do not apply to canteen tenant licences.

(c) Persons Under eighteen years;

NOTE - Branch of this condition punishable under section 61 and cannot be compounded under section 74 of Excise Act IV of 1910.

(d) Railway servants on duty;

(e) Police Officers below the rank of Sub-Inspector, when in uniform;

(f) Officers of the Excise Department below the rank of Excise Inspector, when in uniform;

(g) European vagrant under police custody;

(h) Insane persons;

(i) Persons know or believed to be intoxicated.

Under Section 40-(2) (k)

(1) No licensed vendor of any excisable article shall allow any person to conduct sales in his licensed premises unless the name of such person shall have been previously submitted to the Collector for approval and endorsed by him on the licence.

Cf. Govt.
Notification No.
224/XIN-73, dated
May 4, 1931

(2) No licensed vendor of any excisable article shall employ any person suffering from any infectious or contagious disease for any purpose in his licensed premises.

(3) No licensed vendor of any excisable article (except licensed retail vendors of foreign liquor for consumption on the premises, whose case is governed by section 23(2) of the Act) shall allow sales to be made by any female except the wife, daughter or other near female relation of the vendor.

(4) No person under the age of eighteen (except a member of the family of the vendor) shall be permitted to enter the shop during the shop during hours of sale.

(5) Sales shall be made on payment of cash only. [see section 41(e)]

NOTES- In backward tracts payment in grain may be permitted with the sanction of Excise Commissioner. An entry of this effect will be recorded on the licence.

Under Section 40(2) (1)

Government
Notification No.
650/XIII- 85,
dated August 18,
1910.

No retail vendor of any excisable article shall allow any person of bad repute to resort to his shop. The presence of suspicious characters shall be at once reported to the nearest police officer. Intoxicating, gambling disorderly conduct and the holding of entertainment shall not be permitted on the premises.

HOURS OF RETAIL SALE OF EXCISABLE ARTICLES EXCEPT FOREIGN LIQUOR

No. 3775/ IX- 14 B¹

Dated Lucknow, September 18, 1977

In exercise of the powers conferred under sub-section (5) of clause (e) of section 41 of the U.P. Excise Act, 1910 (U.P. Act IV of 1910), read with section 21 of the U.P. General Clauses Act, 1904 (U.P. Act No. 1 of 1904), and with the previous sanction of the State Government, the Excise Commissioner, Uttar Pradesh. in suppression of his Notification No. 20100 IX-14-B, dated December 30, 1967, makes the following rule relating to all retail shops licensed for the sale of excisable articles except Foreign Liquor. This rule shall come into force from the date of its publication in the Uttar Pradesh Government Gazette,

RULE

Every licensee for the retail sale of excisable articles except Foreign Liquor shall keep his shop open between 10.00 a.m. to 8.00 p.m. and shall not keep his shop open outside these hours.

NOTES-(1) Sales may be made at any hour to a person holding a prescription signed by a medical practitioner for supply of commodity covered by the licence, and

(2) The Collector may sanction the opening of the tari shops at sunrise in districts in which the consumption of fresh tari is permitted provided that no other excisable article but tari is sold in such shops.

In exercise of the powers under section 41 of the U.P. Excise Act, 1910 (U.P. Act No. IV of 1910), read with section 21 of the U.P. General Clauses Act, 1904 (U.P. Act No. 1 of 1904), and in suppression of E.C. Notification No. 3268/ IX - 14-B, dated 24-11-19975 on the subj. et the Excise Commissioner, Uttar Pradesh with the previous sanction of the state Government is pleased to, make the following rules regarding the hours for retail sale of foreign sale of foreign liquor by the licensees there of:

UTTAR PRADESH HOURS OF RETAIL SALE OF FOREIGN LIQUOR RULES, 1977³

1. Short title and commencement - These rules may be called the Uttar Pradesh Hours of Retail sale of Foreign Liquor Rules. 1977.

(b) They shall come into force from the date of their publication in the Uttar Pradesh Gazette.

2. hours of sale - The hours for retail sale of foreign liquor under the following licences shall be as noted against each :

- | | |
|---|---|
| (a) Shop licensed for consumption "off" the premises (F.L.5) | ¹ [From 10.00 a.m. to 10.00 p.m.] |
| (b) Hotel licence (F.L.6) | Sunrise to 2 p.m. and from 5p.m. to 11p.m. to bona fide residents, but any time in rooms occupied by resident or reserved for them. |
| (c) Restaurant or hotel bar licence
11 | Noon to 2p.m. and from 6 p.m. to 11 p.m. on week days except Saturdays and upto 12 midnight on Saturdays. (F.L.7) to |

NOTE - Sale may be made any time to bona fide passengers by air by licensees holding a restaurant licencee at an aerodrome.

- | | |
|---|---|
| (d) Railway refreshment rooms or driving car licences (F.L.8) | At any time to bona fide travelers. |
| (e) Canteen tenant licence (F.L.9) and Unit Canteen Licence (F.L.9-A) | Such time as may be fixed by the military authorities. |
| (f) Occasional licence (F.L.11) | Such time as may be fixed by the Collector. In the case of theatres no sale will be permitted after 11p.m. except up to 12 p.m. except up to 12 p.m. In the case cinema there will be no sale after the interval in the last performance except on Saturdays when sales will be permitted for half an hour after the performance ends or until 12 p.m. Whichever is earlier. The sale of foreign liquor is also prohibited between 2p.m. and 6 p.m. |
| (g) Theatre or cinema bar licence (F.L.12) | |

NOTE - The consumption of liquor by any person shall not be allowed on licensed premises of all kinds of "on" licences of foreign liquor beyond half an hour after the prescribed closing hours of sale.

**THE UTTAR PRADESH EXCISE FINANCES (TENDER-CUM- AUCTION),
RULES , 1992
No. 10702/X-97-B-Licence-91-92**

Februrary 23, 1991¹

In exercise of the powers under clause (c) of section 41 of the U.P. Excise Act, 1910 (U.P. Act No. IV of 1910), read with section 21 of the U.P. General clauses Act, 1904 (U.P. Act No. 1 of 1904), the Excise Commissioner, Uttar pradesh with the previous sanction of the State Government, makes the following rules for determining consideration for and the manner of the grant of licence for exclusive privilege of retail sale of country liquor, foreign liquor and Bhang under section 24, 24-A and 30 of the said Act by tender-cum-auction system in superession of all previous rules published in this behalf to the extend of their inconsistency with these rules:

**THE UTTAR PRADESH EXCISE LICENCE (TENDER-CUM-AUCTION)
RULES, 1991**

RULES

1. Short title and commencement -(1) These rules may be called the Uttar Pradesh Excise Licences (Tender-cum-Auction) Rules , 1991.

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

²2. Application - These rules shall apply to the grant of licences for exclusive privilege of selling Bhang, Country liquor, and foreign liquor by retail, under the tender-cum-auction system in the manner prescribed here-in-after, but the Excise Commissioner reserves the right to grant any such licence on payment of a fixed fee or fee determined in accordance with graduate or uniform scale or by auction or by inviting tenders or through negotiations.

3. Definition - In these rules:

(a) ' Act' means the U.P. Excise Act, 1910;

(b)'Auction' means the manner of inviting tenders as well as bids in public auction for grant of licence for the retail sale of Bhang and country liquor and foreign liquor.

(c) ' Auctioning authority means the licensing authority, or any officer of the rank of Additional Collector or any officer of the Excise Department not below the rank of Assistant Excise Commissioner, authorised by the Licensing Authority to conduct auctions and call for tenders;

(d)' auction purchaser' means the person whose bid or tender is accepted by the Licencing Authority;

(e) 'bid' means an offer of bid-money by a bidder in an excise Auction and includes a tender;

(f) 'bid- money' means the consideration of the grant of licence under section 24 or 24-A of the Act for the exclusive privilege of selling by retail any Bhang, or country liquor , or foreign liquor in the shop or group of shops for which the auction is made, payable by the auction purchaser under section 30 of the Act in two parts comprising the licence fees and the basic licence fee, if any;

(g) 'basic licene fee' means that part of bid - money which is payable by the auction purchaser calculated on the entire minimum guaranteed quantity at the rate notified by the Excise Commissioner from time to time;

(h) 'Country liquor ' includes country spirit;

(i)'excise year' means the financial year commencing from 1st April to 31st March of next calendar year;

(j)'form ' means a form given in the Appendix to these rules ;

(k) 'highest bidder' means the person who offers the highest id-money by bid or tender;

(j) 'Licencing Authority' means the Collector of the District;

(m) 'licence fee' means that part of bid-money which is payable on acceptance of the bid other than the part of bid-money described as basic licence fee;

¹(mm) 'Low Strength Rum' means spirit made from molasses base and coloured and flavoured so as the resemble rum imported into India and which contains not more than 30 percent absolute alcohol by value.

(n) ' minimum guaranteed quantity' means the minimum quantity of Bhang, country liquor or foreign liquor, as the case may be fixed by the Licensing Authority, if any guaranteed by the auction purchaser to be lifted by him from the licenced excise bonded ware-house or otherwise as specified by the Excise Commissioner, for the purpose of being sold by retail in his shop or group shops during the excise year or part of the excise year for which he has obtained the licence, sohowever, that the total minimum guaranteed quantity for the district shall not be less than the quantity fixed by the Excise Commissioner for the whole district.

¹4. Settlement of grant for retail sale -(1) Subject to the provisions of these rules and subject to the payment of bid -money for the shop or group of shops as consideration under section 30 read with section 24 or 24-A of the Act a licence for retail sale of Bhang or country liquor or foreign liquor shall be settled by tender-cum-auction system as specified hereinafter.

(1) The aforesaid licences shall be setteld for an excise year or for such lasser period as may be considered necessary .

(2) The licences shal be granted in :

(a) From I.D. 14-B for retail sale of Bhang.

(b) Deleted.

- (c) Form C.L. 4-B of retail sale of country liquor and low strength Rum, in sealed bottles and poly pouches and beer in sealed bottles for consumption off premises only.
- (d) Form C.L.5-B for retail sale of country liquor and low strength Rum in sealed bottles and poly pouches and beer in sealed bottles for consumption both 'on' and 'off' the premises.
- (e) Form F.L. 5-A for retail sale of foreign liquor.

5. Power to fix number of shops and groups of shops - The Licensing Authority shall be competent to fix the number of shop or group of shops and the minimum guaranteed quantity, if any of the Bhang or country liquor or foreign liquor in relation to such shop or group of shops.

6. Date of auction - The settlement of shops under these rules shall ordinarily be made on such date or dates as may be published by the Excise Commissioner in the proclamation of auction issued by him in Form G-35-D.

7. Auction notice-(1) The date or dates fixed for various districts along with general conditions auction and licence shall be notified by the Excise Commissioner in prominent daily newspapers. The licensing Authority shall also give timely publicity including publication in any regional or district daily newspaper of the date or dates of settlement with the following particulars;

- (i) date of auction of different licences relating to country liquor foreign liquor , Bhang;
- (ii) time and place of auction of licence.

(2) Unless prevented by unavoidable circumstances, the Licensing Authority shall proceed with auction on the date or dates appointed leaving any unsettled shops to be settled at a subsequent auction or as opportunity offers. Should a general postponement become necessary for any reason immediate intimation shall be given by the Licensing authority to the Excise Commissioner about the postponed date with a brief statement of reasons for the postponement.

(3) The settlement of licences not settled on the previous date of auction shall ordinarily be made within ten days of the date of postponement. As far as possible the Licensing Authority will declare the date of re-auction at the closure of undecided auction and shall also notify about the re-auction programme in a local daily newspaper.

(4) As far as possible , the settlement of licences should be completed before the commencement of the next excise year.

8. List of licences to be exhibited- A list of licences to be disposed of shall be exhibited along with basic licence fee, if any, in advance at the Licensing Authority's Office and at the time of the auction. No shops other than those thus specified shall except under very special circumstances, be auctioned.

¹9. Hall Tickets- (1) No person, other than he officers on duty shall enter the place of auction without presenting a hall ticket. The hall ticket may be issued by the District Excise Officers to any *bonafide* bidder or tenderer free of cost, after he submits a demand draft of ten thousands rupees in cash.

(2) The demand draft so submitted or cash so deposited shall be returned at the end of the auction.

²10. Disqualification for bidding- No person shall be allowed to bid at any auction-

(a) Unless he produces a certificated of solvency, to the extend of at least one-fourth of his bid in Form G-39 granted by the Tehsildar of the Tehsil in which he resides or holds immovable property and duly countersigned by the Licensing Authority concerned or the Additional Collector authorised by the Licensing Authority in this behalf;

(b) Unless his name is included in the consolidated list of solvency certificate holders circulated by the Excise Commissioner, Uttar Pradesh:

Provided that in case a person does not produce a solvency certificate and / or whose name does not appear in the consolidated list of solvency certificate holders, such person may bid at the auction if he furnishes cash and / or Banks Draft and / or bank guarantee from a Scheduled Bank valid for the period of settlement, which is at least one-eighth of his total anticipated bid and submits his recent photograph duly certified by a gazetted officer of the Government;

(c) Unless he produces a dully sworn affidavit containing the particulars of his immovable and movable property alongwith the copies of documents of title to establish the ownership of property shown in the affidavit with non-encumbrance certificate and also furnishes an undertaking not to transfer the properties shown in the affidavit till the final settlement of all claims and dues of Government in respect of auctioned shops.

NOTE - In case of any doubt about the genuiness of the solvency certificate the decision of the officer conducting the auction shall be final.

(a) if he is a defaulter of the excise revenue:

Provided that if his name finds place in the list of defaulters having arrears of excise revenue circulated by the Excise Commissioner, he may bid at the auction if he makes payment of the entire arrears due against him alongwith penal interest accrued thereon, before the auction and also furnishes a stamped

undertaking for depositing dues of Excise arrears, if any, as per calculation in the district, to which the arrears related within two weeks after the conclusion of the auction, of the commencement of the licence for running the shop or group of shops, whichever is earlier;

(f) if he has been debarred from bidding under the provision of these rules to participate in auction.

11. Procedure regarding solvency certificate and consolidated list of solvency certificate holders-(1) An intending bidder shall apply by 10th January or such extended date as may be specified by the Excise Commissioner through publication in the daily newspapers, to the Tahsildar of the tahsil in which he resides or holds immovable property for granting a solvency certificate and shall state in his application the details of his immovable and movable properties with all particulars of the encumbrances, if any, thereon. The Tahsildar shall verify after careful inquiry, whether the particulars given by the applicant are true and if satisfied shall forward the solvency certificate in the prescribed Form G- 39 in duplicate along with the supporting documents of title to the Licensing Authority or the Additional Collector authorised by the Licensing Authority to countersign the same. Before countersigning the certificate the authority shall check that the property exists in the name of the applicant and has been correctly valued. After countersignature, the original copy will be handed over to the applicant. A consolidated list of all the solvency certificate issued by the countersigning authority, indicating the details regarding the applicants name address the date and amount of the solvency certificate issued to him, shall be prepared and authenticated by the countersigning authority, One hundred cycle- styled copies of this list shall be forwarded to the Excise Commissioner by 10th February or such other date as may be by the Excise Commissioner.

(2) In case of bidders residing outside the state a list of solvency certificate holders issued along with a copy of the solvency certificates duly authenticated by the countersigning authority shall be sent to the applicant.

The Excise Commissioner will get prepared a consolidated list of all such solvency certificate holders received in respect of bidders residing outside the State.

(3)The Excise Commissioner shall circulate to all the Licensing Authorities the consolidated list of all solvency certificate holders received from the districts and the list prepared in his office under sub-rule (2)

12. Bidders of other States- A prospective bidder from outside the State will be allowed to participate in the auction subject to his production of a certificate from the Collector of the district in which he resides certifying that he is not a person convicted by a criminal court of a non- bailable offence and that he is not in arrears of Government revenues.

13. General conditions to be read and explained: Excise Manual 374(4) - Before the auction proceedings for the day commence, the general conditions governing the auction shall be read out and explained to all present, so that competitors may clearly understand the conditions on which they bid. The general conditions governing retail sale and the special conditions governing retail sale and the special conditions governing each class of licence shall also be read out in public before the sales to which they apply. Information should be freely given in all matters affecting the values of contracts about to be sold.

14. Auction of shops-(1) The licences of retail sale of country liquor, foreign liquor and Bhang shall be auctioned separately.

(2) The licences shall ordinarily be auctioned shopwise. However, the shops may be auctioned in such groups as may be decided by the Licensing Authority. No group shall however, be formed except for the shops of one sector in urban areas and shops of an Excise Inspector circle in other areas:

Provided that the Licensing Authority may, in special circumstances, if he considers necessary in the interest of revenue to increase the size of the group of shops for conducting the auction, successfully, with previous approval of the Excise Commissioner from a bigger group of shops not exceeding the tahsil limits, inclusion of an isolated shop or shops in bigger group of shops, situated at an inconvenient location in the adjoining other circle or tahsil may also be allowed with prior permission of the Excise Commissioner.

15. Submission of tenders-(1) The tender shall contain the following particulars and shall be submitted by the tenderer in a closed cover addressed to the Auctioning Authority before the commencement of the bidding for the shop or group shops, as the case may -

- (i) name of the tenderer or tenderers along with father's name and address;
- (ii) name of location of shop or group or shops and kind of shops for which he has offered his tender;
- (iii) the basic licence fee, if any, for the shop or the group of shops in figures as well as in words;

(2) The tender shall be accompanied by the demand draft for a sum not less than ten percent of the entire sum offered including basic licence fee, if any, drawn on a scheduled Bank in favor of Auctioning Authority and any tender not accompanied by

such demand draft shall be rejected by the Auctioning Authority forthwith upon opening the sealed cover under Rule 17(1).

The demand draft of a person, whose tender is not accepted, shall, if he so desires, be returned forthwith.

(3) The sealed cover containing the tender shall be superscribed with the words "Tender for theshop/Group of shops for the year....." The tenderer may obtain acknowledgement for the sealed cover presented.

(4) A tenderer shall also be eligible to participate in the bidding at an auction for the same shop or group of shops.

(5) The tenderer may be present at the place of auction at the time of opening of the tenders which shall be after the bidding is over, but his absence shall in no way affect his tender or auction proceedings.

(6) The auctioning authority shall announce at the commencement of the auction, the number of tenders received for a particular shop or group of shops.

(7) The tenders shall be opened only when the Auctioning Authority is of the opinion that any bid offered for a shop or group of shops in an auction or in a postponed auction is worth consideration.

(8) No tender received after the commencement of auction of a shop or group of shops shall be taken into consideration.

16. Auction procedure-(1) The auction shall be held at the headquarters of the district and shall be presided over by the Licensing Authority. In case the Licensing Authority for Unavoidable reason cannot personally preside over the auction, he may authorise an officer the rank of Additional Collector or an officer of the Excise Department not below the rank of an Assistant Excise Commissioner to preside over the same . The auction proceedings conducted by the officer shall be sent to the Licensing Authority for consideration.

(2) The auction proceedings shall be attended by the Excise Inspectors on Preventive Duty and by Tahsildars who will assist the Officer conduction the auction in securing adequate bids and in laminating bidders of unsatisfactory character or doubtful solvency.

(3) The officer conducting the auction may withdraw any licence or licences from the auction before the auction is commenced under instructions of the Excise Commissioner along with reasons for such action.

(4) As a rule bids should not be taken in amount smaller than multiples of Rs. 100 up to Rs. 10,000 and all bids above ten thousand rupees should be in multiples of Rs. 1,000.

(5) Following precautions need to be observed while deciding the bids.

(i) Care should be taken in respect of bids obviously in excess of fair market value of the licence or which are the result of speculation or ulterior motive, the acceptance of such bids may be injurious to the interests of the consumers and ultimately to the excise revenue.

(ii) It is necessary to guard against the acceptance of bids which may have the effect of constituting an overt or covert monopoly and against the acceptance, as licence holders of undesirable person of doubtful solvency or criminal background.

(6) (a) The officer conducting the auction shall record the name of each person making a bid and the amounts of his bids.

(b) The signature of the highest bidder and the next two lower bidders shall be taken on the bid sheet.

17. Acceptance of bid or tender- After opening the tenders or after receiving tenders or bids under Rule 16 for consideration, the Licensing authority shall consider all the bids and tenders and take decision as far as possible on the same day, regarding the settlement of licence. The Licensing Authority shall take decision which is best in the interest of State revenue and is not bound to accept the highest or any bid. In case the highest bid is not proposed to be accepted and the Licensing Authority decides to consider the next higher bid, the same shall immediately be reported to the Excise Commissioner along with reasons for not accepting the highest bid. The Excise Commissioner may either accept one of the bids received at the auction or order reaction.

(2) When after having given due weight to the foregoing considerations, a bid has been finally or provisionally accepted at an auction, no subsequent offers in respect of the same engagement should be considered. No further negotiations are admissible and auction once finalised cannot be reopened by the Licensing Authority.

18. Final acceptance of bid- The final acceptance of any bid is subject to the sanction of Excise Commissioner which in its turn is subject to the decision of the State Government in appeal or revision, if any.

19. Validity of bid- Every person bidding will be held to his bids whether it be highest or not and all such bids shall remain valid till the final decision of the Excise Commissioner or for a period of 60 days whichever it earlier.

20¹. Licence security - (1) In case the Licensing Authority has accepted the highest bid which shall include basic licence fees in the case of Bhang and country liquor, advance security shall be paid by the highest bidder for the due performance of the contract in the following manner:-

(i) A sum equal to one-twelfth of highest bid (which shall include basic licence fee in the case of Bhang and country liquor) shall be paid immediately on the fall of hammer. In case a bidder has already furnished some cash or Bank Draft under the proviso to clause (b) of Rule 10, such amount shall be adjusted towards the security; and

(ii) The auction purchaser may either deposit one-eighth of the highest bid (which shall include basic licence fee in the case of Bhang and country liquor) in cash or by Bank Draft within 20 days of the auction or he may deposit one-twelfth of the highest bid (which shall include basic licence fee in the the case of Bhang and country liquor) as in the form of fixed deposit receipt obtained from a scheduled Bank for the period of the licence duly pledged to the Licensing Authority or in the form of Bank guarantee issued from a scheduled Bank and valid till the final settlement of all the claims and dues to the Government in respect of the auctioned shop or group of shops, within 20 days of the auction. In case a bidder has already furnished bank guarantee under the proviso to clause (b) of Rule 10 the same may be adjusted towards the bank guarantee required under the clause .

(iii) In case the bidder has furnished some cash or Bank Draft or Bank Guarantee under the proviso the clause (b) of Rule 10 and the same has been adjusted towards the security under clause (i) and clause (ii) above such bidder shall furnish solvency certificate or fresh Bank Guarantee for the amount required under Rule 10 before the commencement of the licence for running the shop or group of shops or within fifteen day of auction, whichever is earlier, before the licensing within fifteen day of auction , whichever is earlier, before the licensing authority of the concerned district. The Excise Commissioner or the Deputy Excise Commissioner of the charge duly authorised by the Excise Commissioner in his behalf may under very special circumstances to be recorded in writing grant further time, for furnishing solvency certificate or fresh Bank Guarantee under this sub-clause, for such a specific period as he may think necessary.

(2) If the Licensing Authority decides to recommend the second highest bid for sanction to the Excise Commissioner second highest bidder will also be required to deposit the security amount as required in sub-rule (1) before such recommendation is made.

21. (1) The Treasurer of the district or one of his recognised assistants shall be required to attend the auction to receive the advance fees paid by bidders provisionally accepted. All sums received by the Treasurer or his assistant up to 2.00 p.m. must be credited in that days account and the amount paid subsequently on the same day shall be kept in sealed bags in the treasury and brought to account the next day. At the close of each day's auction the District Excise Officer shall satisfy himself in personal communication with the Treasury Officer, that the remittances to and the receipts in the treasury on account of that day agree. A person whose bid has been provisionally accepted by the Licensing Authority shall be granted a receipt in Form G-19-A.

(2) When advance security deposits are provisionally received from two or more rival bidders or when they are received in cases requiring further consideration or reference to higher authority, such advances should be held in revenue deposit and not finally credited to the Government. When a final decision is arrived at, the amount so held in deposit should be at once credited or refunded, as the case may be. The officer conducting the auction should intimate to the Treasury Officer the name of depositors and the amounts of their advance security payments which are to be held in deposit under this sub-rule.

22. Default in payment of advance security- In case of default to pay the security deposit as mentioned in sub- rule (1) of Rule 20 within the time specified the auction, and in case a licence has been issued, the licence, shall stand cancelled and the deposit, if any, shall stand forfeited to the Government, In such cases reaction or alternative arrangements shall be made by the licensing authority at the risk of the original auction purchaser. All monetary losses resulting from reaction or alternative, arrangement or from the original auction purchaser as arrears of land revenue.

23. Bar against defaulting auction purchaser- The defaulting purchaser shall be debarred from bidding for the same or any other licence within the period of three years from the date of default and may with the prior sanction of the Licensing Authority, be prosecuted under section 185 of the Indian Penal Code but in every case the defaulter shall be called upon to show cause why he should not be prosecuted for the said offence before he is actually prosecuted thereunder. A consolidated list of defaulting purchasers debarred under this sub-rule from participating in auction along with their addresses shall be circulated by the Excise Commissioner to all the Licensing Authorities before the date of auction every year.

24. Payment of monthly instalments of bid money - (1) The bid money payable by the licensee for a shop or group of shops for the entire excise year shall be payable in twelve equal monthly instalments specified in the licence by the licensing authority at the time of grant of the licence.

(2) The instalment of bid-money for a month as determined in accordance with sub-rule (1) and specified in the licence shall be deposited in full by the licensee into the Government treasury of the district in which shop or group of shops are situated, by the 20th day of each month, or where that day or subsequent days happen to be holidays, by the next working day failing which the total bid-money to the extent of deficit payment shall stand adjusted from the security deposit of the licensee and the licensee shall be called upon to make good the amount so adjusted within ten days.

(3) Consequence of failure to make good the deficiency in security deposit- Where a licensee fails to make good the amount adjusted from security deposits under sub-rule (2) within the specified time, his licence shall, unless otherwise ordered by the Licensing Authority, stand cancelled it shall be settled afresh by tender-cum-auction, under the provisions of these rules and any shortfall in the bid-money in a reaction or settlement in any other way or licence remaining unsettled for want of bidders shall be recoverable from the remaining security and, balance, if any, shall be recovered from the original licensee as arrears of land revenue. Balance of security after recovering shortfall and other arrears, if any, shall stand forfeited to the Government. If a licensee fails to deposit bid- money he shall not be issued the intoxicants for retail sale for which he holds licence.

25. Adjustment / refund of advance security deposit- The security referred to in sub-rule (1) of Rule 20 shall, unless it is forfeited, be refunded at the end of the excise year. The aforesaid security may be refunded at an earlier stage in case all dues and claims of Government in respect of the auctioned shop or group of shops have been cleared by the licensee. In the discretion of Licensing Authority the advance security deposit may also be allowed to be adjusted towards the payment of bid- money in the closing months of the excise year.

All interest accruing on fixed deposit shall vest in the Government.

26. Execution of counter-part agreement- Every bidder in whose favor the licence is settled shall execute a counter part agreement in form G-44 in conformity with the terms of the licence on a stamp paper of the requisite value before a licence in respect of the shop or group of shops settled in his favor is granted. The counter- part agreement shall come into force with effect from 1st April of the excise; year to which the auction relates and if the licensee executes the counter part agreement or takes a licence after the

said date, it shall be deemed to have come into force on the said 1st April unless the License Authority otherwise directs.

27. Production of surety bond- A bidder from another district in whose favour a licence is to be settled shall besides the security referred to above also furnish within ten days of the date of auction, a surety bond in Form G-45-A executed by a respectable resident of the district where the licence is granted for the amount of the bid- money and for due performance of the conditions of the licence. In case of bidders from outside the state two such sureties from the district where the licence is granted shall be necessary. The sureties shall be to the satisfaction of the Licensing Authority. No shop shall be allowed to be opened and no issues of intoxicant shall be permitted by the Licensing Authority unless the required surety bonds are not produced the licence shall be re-auctioned at the risk of the auction purchaser and any loss to the State Government shall be recoverable from him as arrears of land revenue.

28. Commencement of period of licence- The licence in favour of an auction purchaser shall be effective from 1st April of the excise year unless the licensing authority otherwise directs. The auction purchaser shall be responsible to pay the bid-money from the first day of the licenced period although he may not have actually received the licence.

29. Declaration of minimum guaranteed quantity- The Excise Commissioner shall declare for every excise year in advance, in the auction proclamation the licences to be settled and the minimum guaranteed quantity of the intoxicants to be lifted by the auction purchase under those licences and the basic licence fee therefor.

30. Month-wise division and lifting of minimum guaranteed quantity- The minimum guaranteed quantity of the intoxicant for the whole excise year shall be divided in twelve equal parts and the auction purchaser shall have to lift one part every month. The licences can lift the minimum guaranteed quantity for a month till the last day of that month. The quantity left un-lifted on the close of the last working day of the month shall be forfeited unless specially permitted to be lifted in the subsequent months by the District Excise Officer.

31. Price of the intoxicants- For lifting the intoxicants from the Bonded Warehouse the licensee, apart from paying the bid-money in the manner specified in sub-rule (2), Rule 24 shall have to pay the price of the intoxicants as fixed by Excise Commissioner or as prevalent at that time.

32. Lifting of intoxicants over and above the minimum guaranteed quantity-

If the licensee desires to lift and sell intoxicant over and above the minimum guaranteed quantity, if any, he shall be required to pay such further sum at the rate fixed by the Excise Commissioner, as further consideration for the grant of privilege of sale of such intoxicant.

33. Sale to be within licensed period-

The licensee shall sell in retail the entire minimum guaranteed quantity of the intoxicant for the excise year, before the expiration of the term of licence. Any balance quantity found outstanding and unsold at the expiration of the term of licence shall be declared by the licensee to the Licensing Authority on the next day, which shall be returned by the licensee to the Government Bonded Warehouse within two days thereafter and the licensee shall be entitled to get the refund of cost price only to the extent of minimum guaranteed quantity and in case of licensee has lifted over and above the minimum guaranteed quantity during the term of licence he shall be entitled to get such amount therefor on such quantity returned as may be fixed by the Excise Commissioner after deducting such sum as the Excise Commissioner may think reasonable, provided the intoxicant returned to the Government Bonded Warehouse of otherwise is found of proper specification.

34. No claim for delay in supply or for closure or not opening of shop or curtailment in hours of sale:

(i) The licensee shall have no claim for damages or for remission of bid-money in the case of delayed supply of the intoxicant.

(ii) The licensee shall have no claim for remission or refund of bid-money, in case a shop or some shops, auctioned in a group remain closed or could not be opened for any reason. Similarly the licensee shall have no claim for remission or refund of bid-money in case of curtailment, at any time, in the hours of sale.

35. List of unsold shops to be submitted to Excise Commissioner-

A list of all sanctioned shops of which it has to be found possible to effect a settlement should be submitted in Form G-33A for orders to the Excise Commissioner by April 1 each excise year with brief statement of the action proposed in each case.

36. Provisional settlement of unsold shops-(1)

Whenever, for any reason it has been possible to settle any licence, it shall be open to the Licensing Authority to settle the shop provisionally in the following manner:

(i) The settlement shall be made by inviting tender offers;

(ii) The Licensing Authority shall normally give advance notice of three days for the receipt of tenders/ offers but in case the auction has not been finalized on the day of auction and if in his opinion it is necessary to make immediate provisional arrangements to avoid any revenue loss the tenders/ offers for the unsettled shops may be invited on the same day from the bidders present at the auction.

(iii) The notice given by the Licensing Authority shall contain the following particulars-

- (a) The name of shop or group of shops to be settled.
 - (b) The period for which tender offers are invited.
 - (c) The date times and place of receipt of tenders/offers.
 - (d) Daily basic licence fee wherever applicable.
 - (e) Conditions governing the tenders/ offers
- (iv) The tenders shall be opened on the same day before tenders.
- (v) The tender/ offers offering highest bid shall ordinarily be accepted.
- (vi) The provisional settlement shall not be made for more than 15 days at a time.
- (vii) The bid-money of the provisional settlement shall be deposited in advance, soon after the acceptance of the tender/offer and no settlement shall be made unless such bid-money is deposited.

(2) In case of re-auction of any licence settled by auction or auction-cum-tender system within the currency of an eixce year, the settlement of the licence for the intervenining period between the of cancellation and final auction shall also be made in accordance with the procedures laid down sub-rule (1).

37. Statement of settled shops- A statement of all the settled shops of Form D-12 A shall be sent to the Excise Commissioner within 30 days of the auction, for final acceptance and the Excise Commissioner shall taken final decision within 60 days of the auction.

38. Rescission and Saving-(1) The following rules are here by rescinded:

(a) The Uttar Pradesh Excise (First Amendment) Rules, 1984 published with Excise Commissioner's Notification No. 5354/Licence Anubhag-3, dated March 3, 1984.

(ba) The Uttar Pradesh Settlement of Country Liquor Licence (Tender-cum-Auction) Rules, 1985 published with Excise Commissioner's Notification No. 15795/Licence-3, dated March 22, 1985.

(c) Rule 8 of the U.P. Licences for the Retail Vend of Foreign Liquor other than Denatured Spirit (Amendment) Rules, 1985, published with Excise Commissioner's Notification No.16719/X-97-B, dated March 24, 1985.

(d) The Uttar Pradesh Settlement of Licence for Retail Vend of Bhang (Minimum Guaranteed Quantity) Rules, 1990 published with Excise Commissioner's Notification No.498/10-97'B' Licence, dated February 17,1990.

(2) Notwithstanding such rescission settlements already executed for shop or group of shops of Country Liquor, Foreign Liquor and Bhang for the financial year 1990-91 under the provisions of the rules referred to in sub-rule (1) shall remain valid and continue in force till March 31, 1991.

UTTAR PRADESH LICENSING UNDER THE SURCHARGE FEE SYSTEM RULES, 1968¹

No.36/ii-619-B- In exercise of the powers under section 41 of the U.P. Excise Act, 1910(U.P. Act No. IV of 1910), and with the previous sanction of the State Government, the Excise Commissioner, Uttar Pradesh , is pleased to make the following rules relating to licences for sale of intoxicants under the surcharge fee system-

1.Short title and commencement -(I) These rules shall be called the Uttar Pradesh Licensing under the Surcharge fee System Rules, 1968.

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

(iii) They shall apply to licences for the retail vends of any excisable article settled under graduated surcharge fee system of under uniform surcharge fee system.

¹2. (a) The following procedure shall apply for the settlement of licences other than F.L. 7-A (Beer Bar) Licences:

(i) Whenever a new licence is proposed to be granted under the Surcharge Fee System, the Collector shall invite applications for the purpose after giving publicity at the office of the Zila Praishad, Nagar Mahapalika or the Nagar Palika , the Collector's office, the Office of the Deputy Assistant Excise Commissioner and in such other manner as is considered reasonable by the Collector.

(ii) A list of shops for the retail vend of excisable articles for which the Collector proposes to select licensees shall be exhibited at the Collector's office.

(iii) Applications for the grant of a licence shall be in Form G-28(as annexed to the Rules) and shall be addressed to the District Excise Officer.

(2) An application for grant of licence shall be accompanied by a treasury receipt for twenty-five rupees. Application not accompanied by such a treasury receipt shall not be considered.

(iv) The District Excise Officer shall scrutinise all the applications received by him and draw up a list of applications whom he considered suitable In preparing the list, he may make or cause ot be made such inquiries as he may consider necessary and shall be guided y the principles laid down in Rule 3. He shall also prepare a second list containing the names of those applicants whose names have not been included in the list suitable candidates and record against each name his reasons for omitting it from the first list. Both these lists shall be forwarded by him to the Deputy/Assistant Excise Commissioner shall forward these lists to the Collector after recording his views in regard to the suitability of each of the applicants. The Collector may then make or cause to be made such further inquiries as he considers necessary, and may, for reasons to be recorded, grant the licence to any applicant whom he considers suitable having regard to the principles laid down in Rule 3.

(b) The following procedure shall apply for the settlement of F.L. 7-A(Beer Bar) licences. Any person who is eligible under Rule 3(1) of these rules may apply to the District Excise Officer in Form G-28 for licence of te above category. The District Excise Officer may make or cause to be made such enquiries as he may consider necessary, and shall forward the case to the Assistant / Deputy Excise Commissioner who will record his views before forwarding the case to the Collector. The Collector may after such enquiry, as he may further consider necessary after taking into consideration the principles laid down in Rule 3, grant a licence to the applicant, of found suitable, at a location fixed by him.

NOTE - An application for grant of a licence shall be accompanied by a treasury receipt for twenty-five rupees. Appliations not accompanied by such a treasury receipt shall not be considered.

3. The following general principles are laid down for the selection of licenees-

¹ (1) The person eligible for the licence shall be -

(i) Persons who pay a minimum of one hundred rupees as income Tax, wealth tax or land venue.

(ii) Persons of the following categories who have the capacity to invest capital to the satisfaction of the Collector:

(a) Members of the family of such persons as has been killed in the wars fought for the nation after independence.

- (b) Military personnel who have become invalid in the arms fought for the nation after independence.
- (c) Members of Scheduled Caste/ Scheduled Tribes.
- (d) Members of the family freedom-fighter who are wholly dependent upon him.
- (e) Educated widows.
- (f) Educated unemployed person whose character has been verified by the Collector of the district to be good.

Provided that for licenses for Tari shops under the Surcharge System only members of Pasi, Beldar, Bhar, Tarmali and other Scheduled Caste and Scheduled Tribe communities who are engaged in tapping the Tari producing trees shall be eligible whether or not they fulfill the above conditions and licenses to other persons shall be granted only if members of the said communities are not available.

¹(2) Honesty and ability to supervise the shop personally are the principal qualifications of a licensee. Preference should generally be given to a local resident. Education alone is not sufficient, nor does the possession of a large capital make a man suitable vendor. Capitalists who leave the work to managers and salesmen should be excluded as far as possible.

(3) As far as possible no licensee should be given more than one shop.

(4) Partnerships in shops shall be allowed only under the following conditions.

(a) Where an existing licensee applies voluntarily to take a person into partnership and the Collector considers such person suitable to hold a licence and is further of opinion that the shop cannot be managed well by a single licensee aided by one or more salesmen. Attempt of licensees to transfer their shops to their nominees under the cloak of partnership should be severely decountenanced. Ordinarily, a man who cannot devote enough time to his shop should be asked to resign instead of being allowed to take in a partner. Only if he cannot manage the shop in spite of devoting all his time to it, should a partner be allowed.

(b) Where at or before the time for making application for shops a person jointly apply for a licence in partnership and the Collector finds both of them to be suitable persons for placing on the aforesaid list, their names shall be treated as one name only.

(c) In no case shall more than two persons be permitted to hold a licence jointly.]

4. The Collector shall decide whether a licence for sale of any excisable article should be renewed or not. For this purpose, he shall examine the list of existing licensees in consultation with the Assistant Excise Commissioner every year. If he considers that

the conduct of any licensee has been suitable, he shall order the renewal of the licence. If the conduct of an existing licensee is reported to be unsuitable, the Collector shall call upon such licensee to show cause within specified period why his licence should not be terminated and in doing so, shall inform him of the reasons for believing him to be suitable. The show - cause notice shall be served by registered post on the licensee. If , after considering the explanation, the Collector finds the licensee to be unsuitable he shall refuse to renew the licence and invite applications and select a new licensee in accordance with these rules.

3. GRADUATED SURCHARGE FEE SYSTEM

1.(a) Both the partners shall be jointly and severally responsible for the conduct of the shop and shall stand or fall together. No attempt should be made to differentiate between the rights and responsibilities of each.

Cf. Govt. Notification No. 650/XIII-98, dated October 3, 1934

(b) A licensee taking into partnership in his excise business any person in a manner other than that prescribed under clause (a) supra shall render himself liable to the cancellation of his licence and forfeiture of his security money.

Cf. Govt. Notification No. 650/XIII-98, dated October 3, 1934

(c) When a licence is jointly held by two partners , in the event of death of either of them the survivor shall continue to hold the licence.

Cf. Govt. Notification No. 211 and 212//XIII-224, dated March 23, 1935

2. Renewal of licence or compensation for non-renewal not elamable- The licensee selected under paragraph 329 ad 330 of Part IV shall, ordinarily , retain possession of his shop, so long as he carries on his business in full accordance with the rules. But this continuity of tenure shall create no vested interest in his favor, nor any claim for compensation in the event of closure of the shop or in the event of non-renewal of the licence for any reason.

Cf. Boards Notification No. 366/V.E-333-C, dated September 13, 1922

Cf. C.S.s. Notification No. 26875, dated January 15, 1962

THE UTTAR PRADESH EXCISE (SETTLEMENT OF LICENCES FOR RETAIL SALE OF LOW STRENGTH RUM) RULES, 1988¹

No. 1585/UPA/97-b/licence 88-89

October 15, 1988

In exercise of the powers under section 41 of the U.P. Excise Act, 1910(U.P. Act No. IV of 1910), read with section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act No. 1 of 1904), the Excise Commissioner, Uttar Pradesh with the previous sanction of the State Government, makes the following rules, with a view to regulating the grant of licences for retail sale of low strength rum.

1. Short title and commencement -(1) These Rules may be called the Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Low Strength Rum) Rules, 1988.

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

2. Definitions- In these rules in so far as there is anything repugnant in the subject or context-

(a) 'Act' means the U.P. Excise Act, 1910.

(b)'Low Strength Rum' means spirit made from molasses base and colored and flavored so as to resemble rum imported into India and which contains not more than 30 percent absolute alcohol by volume.

(c) 'minimum guaranteed quantity' means the minimum quantity of country liquor as defined in Rule 2(f) of the U.P. Settlement of Country Liquor Licences (Tender-cum-Auction) Rules , 1985.

²3. Persons holding licences in Forms C.L. 4- Band C.K.5- B for retail sale of country liquor may sell low strength rum under the same licence.

³4. Deleted.

¹5. Deleted.

²6. U.P. Bottling of Foreign liquor Rules, 1969 to apply - The Provisions of the U.P. Bottling of Foreign Liquor Rules , 1969 shall apply *mutatis Mutandis* to the bottling of low strength rum in distillery so far as they are not inconsistent with these rules.

²7. Supply of low strength rum to the licensed vendors holding licences in Form C.L.4B and C.L. 5-B will be made by the whole sale vendors of foreign liquor holding licence in form F.L.-2 in the same district.

²8. A retail vendor of country liquors holding licence in Form C.L. 4-B or C.L. 5-B shall be entitled to draw low strength rum from the F.L. 2 licensee of the district. The licensee holding licence in Form C.L.4-B or C.L. 5-B shall be entitled to draw low strength rum towards and within th limits of minimum guaranteed quantity fixed for retail vend of country liquor and an adjustment of excise duty livable on low strength rum so drawn shall be permitted towards the basic licence fee payable on minimum guaranteed quantity of country liquor fixed for his retail vend. However, if the amount of excise duty payable on low strength rum exceeds the amount of basic licence fees payable on the minimum guaranteed quantity of country liquor fixed for his retail vend, the same shall be paid before drawing the excess quantity of low strength rum.