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THE SINDH PROHIBITION ORDINANCE, 1978.
SINDH ORDINANCE NO.IV OF 1978.

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[15th March,1978]

An Ordinance to prohibit the manufacture, sale and consumption of intoxicating liquors.

Preamble.

WHEREAS the Prohibition Act, 1977 was enacted by the Parliament during the period when the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan was in force;

AND WHEREAS in consequence of revocation of the Proclamation of Emergency on 15th September, 1977, it is expedient to re-enact the provisions of the said Act as a Provincial law, on the expiry of six months from the said date;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order. 1977, the Governor of Sindh is pleased to make and promulgate the following Ordinance:-

CHAPTER I
PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Sindh Prohibition Ordinance, 1978.

(2) It shall come into force at once and be deemed to have taken effect on and from the 15th day of March, 1978.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context—

(a) "bottle" means to transfer intoxicating liquor from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not,' and includes rebottling;

(b) "Collector'' means any person appointed under this Ordinance to exercise or perform all or any of the powers or functions of a Collector under this Ordinance;

(c) "Government" means the Government of Sindh;

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(d) "intoxicating liquor" includes toddy, spirits of wine, wine, beer and ail liquids consisting of or containing alcohol normally used for purposes of intoxication;

(e) "manufacture" includes every process, whether natural or artificial, by which any intoxicating liquor is produced, prepared or blended, and also re-distillation and every process for the rectification of intoxicating liquors;

(f) "place" includes a house, shed, enclosure, building, shop, tent and vessel;

(g) "police station" includes any place which Government may, by notification in the official Gazette, declare to be a police station for the purposes of this Ordinance;

(h) "Prohibition Officer'' means a person appointed as Prohibition Officer by Government and includes the Collector:

(i) "public place" means a street, road, throughfare, park, garden or other place to which the public have free access;

(j) "rectification" includes every process whereby intoxicating liquors are purified, coloured or flavoured by mixing any material therewith;

(k) "sale" or "selling" includes any transfer by way of gift or otherwise; and

(l) "transport" means to move from one place to another.

CHAPTER II
PROHIBITION AND PENALTIES

Prohibition of manufacture, etc., of intoxicating liquors.

3. (1) Whoever—

(a) imports, exports, transports, manufactures or processes intoxicating liquor; or

(b) bottles any intoxicating liquor for purposes of sale; or

(c) sells intoxicating liquor; or

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(d) allows any of the acts aforesaid upon premises in his immediate possession.

shall subject to the provisions hereinafter contained, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

(2) Nothing in sub-section (1) shall be deemed to apply to the import of intoxicating liquor by a diplomatic agent for consumption by any such agent.

Explanation.— In this sub-section, "diplomatic agent" has the same meaning as in the Diplomatic and Consular Privileges Act, 1972 (IX of 1972).

Prohibition of consumption of intoxicating liquor by Muslim Citizen

4. Any Muslim citizen of Pakistan who consumes intoxicating liquor shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Punishment for vexatious arrest at a public place.

5. (1) No officer shall detain or arrest any person at a public place on suspension that he has consumed intoxicating liquor in violation of section 4 and is under the influence thereof, unless he has given to such person notice to so accompany him to a medical practitioner for examination whether he is in fact under such influence nor unless such person either refuses to accompany him or, having been examined by the medical practitioner, is certified by him to be under such influence.

(2) Whoever contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for vexatious delay.

6. Any officer or person exercising powers under this Ordinance who vexatiously and un-necessarily delays forwarding to a Prohibition officers any person arrested or any article seized under this Ordinance shall be punishable with fine which may extend to one thousand rupees.

Things liable to confiscation.

7. In any case in which an offence has been committed against this Ordinance, the intoxicating liquor, still, utensil, implement or apparatus in or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages coverings, animals, vessels, carts or other vehicles used to hold or

carry the same:

Provided that an animal, vessel, cart or other vehicle shall not be so liable to confiscation unless the owner or other person in charge thereof knew or had reason to believe that an offence has been so committed in respect or by means of such liquor, still, utensil, implement or apparatus.

Confiscation how ordered.

8. (1) In any case involving anything liable to confiscation under this Ordinance, the court deciding the case may order such confiscation despite the acquittal of the person charged with an offence.

(2) When an offence against this Ordinance has been committed but the offender is not known or cannot be found, or when anything liable to confiscation under this Ordinance and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector or other Prohibition Officer of the District or any other officer authorized by Government in this behalf, who may order such confiscation:

Provided that no such order shall be made until the expiration of fifteen days from the date of seizure of the things intended to be confiscate or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims.

Cognizance of offences, etc.

9. (1) Notwithstanding anything contained in the Code of Criminal Procedure. 1898 (Act V of 1898), cognizance of an offence punishable under this Ordinance shall not be taken except in accordance with the provisions of this section.

(2) The following offences shall lie cognizable, namely: —

(a) an offence punishable under section 3; and

(b) an offence punishable under section 4, if committed at a public place.

(3) No court shall take cognizance of an offence punishable under—

(a) section 5 or section 6, save on a complaint made by

the person in respect of whom the offence has been committed; and

(b) section 14, save on a complaint made by, or under the authority of, a Prohibition Officer.

CHAPTER III
LICENCES FOR MEDICINAL OR SIMILAR OTHER PURPOSES

Licences for bonafide medical or other purposes.

10. Government or, subject to the control of Government, the Collator, may issue licences to any person or in respect of any institution, whether under the management of Government or not, for the manufacture, export, import, transport, sale or possession of any intoxicating liquor or article containing intoxicating liquor and such person or institution shall not sell or otherwise give the intoxicating liquor or article containing intoxicate liquor except for a bonafide medicinal, scientific, industrial or similar other purposes or for consumption by a person other than a person referred in faction 4, on a permit issued under this Ordinance.

Licences to certain organizations.

11. Government, or any officer authorized by it in this behalf, may issue a licence to an organization established in Pakistan and carrying on an air transport or maritime shipping service to possess intoxicating liquor for serving it to passengers travelling by the air craft or vessel of such organization, not being a Muslim citizen of Pakistan.

Forms and conditions of licences.

12. Every licence or permit issued under this Ordinance shall-

(a) be granted on payment of such fees, if any, for such period and on such conditions; and

(b) be in such form and contain such particulars,

as Government may direct, either generally or in any particular case.

Power to cancel or suspend licences.

13. (1) The Collector may cancel or suspend any licence —

(a) if any fee payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder thereof of

by his servants or by any one acting with his express or implied permission on his behalf of any of the terms or conditions of the licence; or

(c) if the holder thereof is convicted of any offence against this Ordinance; or

(d) if the purpose for which the licence is granted cease to exist.

(2) As and when any licence is cancelled under sub-section (1), the holder thereof shall at once declare to the Collector to the stock of intoxicating liquor or articles containing such liquor lying with him and dispose of such stock to such authorized person as the Collector may specify.

Penalty for the breach of conditions of licences.

14. In the event of any breach, by the holder of licence or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms and conditions of the licence, such holder shall, in addition to the cancellation or suspension of the licence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, unless he proves that he exercised all due diligence to prevent such breach; and any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, also be liable to the same punishment.

CHAPTER IV
ESTABLISHMENT AND CONTROL

Appointment of officers.

15. Government may, from time to time, by notification in the official Gazette—

(a) appoint an officer- to exercise all the powers of a Collector under this Ordinance in any area specified in the notification and to have the control of the administration of the provisions of this Ordinance in such area;

(b) appoint officers with such designations, powers and duties as Government may thing fit to assist the

Collector or other Prohibition Officers; and

(c) delegate, to any Prohibition Officer all or any of its powers under this Ordinance.

CHAPTER V
POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.

Issue of search warrants.

16 (1) If any Collector, Prohibition Officer or Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under section 3 has been committed, he may issue a warrant for the search for any intoxicating liquor, material, still, utensil, implement or apparatus in respect of which the alleged offence has been committed:

Provided that, before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the informant on oath and the examination shall be reduced to writing in a summary manner and be signed by the informant and also by the Collector, Prohibition Officer or Magistrate.

(2) Any person who has been entrusted with the execution of such a warrant may detain and search and, if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of an offence under section 3.

Power to use force in case of resistance to entry.

17. If any officer empowered to make an entry under section 16 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry to any such place.

Searches and custody of offenders.

18. (1) All searches under the provisions of this Ordinance shall be made in accordance with the provisions of the Code of Criminal Procedure. 1898 (Act V of 1898).

(2) Every person arrested shall, subject to the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) regarding bail, be detained in custody at the nearest police station.

Powers of Prohibition officer.

19. In addition to the powers conferred on him by the foregoing provisions of this Ordinance, a Prohibition Officer shall have all the powers conferred on the officer in charge of a police station while conducting an investigation into a cognizable offence.

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CHAPTER VI
MISCELLANEOUS

Indemnity.

20. No suit, prosecution or other legal proceeding shall lie against Government, a Police Officer, a Prohibition Officer or any other officer in respect of anything which is in good faith done under this Ordinance or the rules made thereunder.

Ordinance to override other laws.

21. This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

Power to make rules.

22. (1) Government may, by notification in the official Gazette, make, rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing provision, Government may make rules—

(a) for the issue of licences and permits and the enforcement of the conditions thereof;

(b) authorizing any officer to exercise any power or perform any formed by Prohibition Officers in furtherance of the objects of this Ordinance;

(c) determining the local jurisdiction of Prohibition Officers in regard to inquiries and investigations;

(d) authorizing any officer to exercise any power or perform any duty under this Ordinance;

(e) regulating the delegation by the Collectors or other Prohibition Officers of any powers conferred on them by or under this Ordinance;

(f) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Ordinance or under any rule made thereunder by an authority other than a court, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and procedure for dealing therewith;

(g) for the disposal of articles confiscated and of the proceeds

thereof; and

(h) examination of persons referred to in sub-section (1) of section 5.