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PART I - Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
EXCISE DEPARTMENT

NOTIFICATION

No. 800-EX, the 29.07.2003 – In exercise of powers conferred by sections 85 and 86, read with section 30, 31, 36, 37 and 37A of the Bengal Excise Act, 1909 (Ben. Act V of 1909), the Governor is pleased to make, with immediate effect, the following Rules in supersession of the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Spirit and Certain other Intoxicants) Rules, 1993 published Department Notification No. 148-EX dated 22nd March, 1993 as subsequently amended:-

Rules

1. Short title - These rules may be called The West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain other Intoxicants) Rules, 2003.

2. Application – (1) These rules shall apply to grant of license for retail sale of liquor (other than denatured spirit) and such other intoxicants as may be notified by the State Government from time to time.

(2) Nothing in these rules shall apply to a license required to be granted after inviting tenders and/or bid in public auction.

3. Definitions – (1) In these Rules, unless there is anything repugnant in the subject or context :-

- (i) "company" means a company as defined in the Companies Act, 1956(I of 1956);

- (ii) "department stores" means a shop with a minimum floor area of one thousand and five hundred square feet, having departments for retail sale of various commodities.
- (iii) "existing site" means a site for which a license has been granted under section 30 or is required to be granted under section 31 on the expiry of a license granted under section 30, as the case may be, for retail sale of liquor or any other intoxicants specified in sub-rule (1) of rule (2):

Explanation – An "existing site" shall continue to remain an existing site even if retail sale of liquor or any other intoxicants specified in rule 2 under a license is stopped or closed from the existing site for whatever reasons for any period, or even if the license is cancelled or suspended or withdrawn or surrendered, or even when the license lapses on the death of person(s) to whom with or without other, it was granted;

- (iv) "firm" means a firm as defined in the Indian partnership Act, 1932 (9 of 1932);
- (v) "holder" means holder of a license granted under the Act, and includes all the holders, if there is more than one holder;
- (vi) "license" means license granted under the Act for the retail sale of liquor or any other intoxicant to which these rules apply; and the terms "licensee" shall be construed accordingly.
- (vii) "local area" in relation to new site in a *Panchayat* area shall mean whole of the concerned *Gram Panchayat* in relation to a Municipality or Notified Area whole of the concerned Municipality or Notified Area and in relation to a Municipal Corporation the concerned ward, as specified by the Collector;
- (viii) "new site" means a site other than an existing site;
- (ix) "period of settlement" means unless otherwise defined in case of any particular intoxicant or intoxicants, the period from the 1st day of April of an year to the 31st March of the following year or such shorter period within the said limits as the Collector may fix;
- (ix)(a) "licensing year" means the year beginning from 1st April to 31st March following.

(ix)(b) "next period of settlement " means a period commencing from 1st April of the licensing year following the licensing year upto which the license has been granted and consists of one licensing year".

- (x) "schedule" means a schedule appended to these rules;
- (xi) "section" means a section of the Act;
- (xii) "site" means any place in a local area preferably in a market place, commercial centre or business area;
- (xiii) "society" means a society registered under the West Bengal Co-operative Societies Act, 1983 (West Ben. Act XLV of 1983) or the West Bengal Societies Registration Act, 1961 (West Ben. Act XXVI of 1961);
- (xiv) "State Government" means the Government of West Bengal;
- (xv) "supplementary license" means a license which may be granted under rule 15 to a holder of a license mentioned in clause (a), (c), (d) and (f) of rule 4;
- (xvi) "the Act" means the Bengal Excise Act, 1909 (Ben. Act V of 1909)

(2) The words and expressions used in these rules but not defined shall have meanings respectively assigned to them in the Act.

4. Categories of licenses – Unless otherwise directed by the State Government, a license may, subject to the provisions contained elsewhere in these rules, be granted for the retail sale of -

- (a) country spirit and coloured and/or flavoured spirit for consumption "off" and/or "on" the site;
- (b) foreign liquor for consumption "off" the site from the opium depots/erstwhile opium depots/erstwhile *ganja* shops
- (c) *bhanga* for consumption "off" the site;
- (d) *pachwai* for consumption "off" and /or "on" the site;
- (e) foreign liquor for consumption "off" the site;

- (f) beer, wine, and low alcoholic beverage (LAB) for consumption "off" and/or "on" the site;
- (g) beer wine and low alcoholic beverage (LAB) from departmental stores for consumption "off" the site;
- (h) foreign liquor for consumption "on" the site (without hotel or restaurant) -Foreign Liquor "on " shop;
- (i) foreign liquor for consumption "on" the premises of any restaurant and attached bar-Restaurant -cum-Bar;
- (j) foreign liquor for consumption "on" the premises of any hotel and restaurant and attached bar-Hotel-cum -Restaurant -cum-Bar;
- (k) foreign liquor for consumption "on" the premises of any hotel and attached bar-Hotel-cum-Bar;
- (l) foreign liquor for consumption "on" the premises of any theatre, club, canteen, Dak-bungalow, Railway refreshment room, dining car, steamer, customs airport or any places of public resort and entertainment and attached bar;
- m) foreign Liquor for consumption 'off' and/or 'on' the premises of any canteen for Service Personnel or a canteen established by or for the BSF or by a similar other forces, under Central Government, engaged in protection of the border of the country;
- n) 50°UP FL for consumption 'Off' and/or 'On' the site
- o) 25°UP Rum for consumption 'off' the site of existing country spirit and coloured and/or flavoured spirit shop or 25°UP Rum for consumption 'off' the site of existing Bhang shop or 25°UP Rum for consumption 'off' the site of existing pachwai shop.

Explanation I – For the purpose of this rule no 50⁰ UP foreign liquor shall be sold for consumption "on" the site for categories mentioned in clauses (h) to (m).

Explanation II – For sale of intoxicants of each category, a separate license shall be granted.

Explanation III – For the purpose of this rule, when licenses under category (j) and (k) are granted, no separate permission for room service will be required.

Explanation IV – If the holder(s) of a license for categories (i) to (l) apply for one or more additional bar(s) at the existing site the concerned Collector shall grant the additional bar license(s) and

approve the blue print plans after realization of fees in force in this regard.

For the purpose of this rule the "main bar" at a site in respect of licenses under categories (h) to (l) shall be either (i) the bar whose license was granted at the earliest point in time when the license for only one such bar was granted or (ii) the bar whose license was along with license(s) for other bar(s) in the same category at the earliest point in time and which was declared as the main bar by the applicant at the time of application for all such bars and all other bar(s) other than the main bar shall be additional bar(s)

Provided that the application for grant of license for the next period of settlement for one or more bar(s) under a particular category [main bar and/or additional bar(s)] can be made in a single application The fees for grant of license(s) for the next period of settlement shall, however, be payable for each separate bar as applicable

Explanation V – For the purpose of this rule, licenses under category (m) will be granted as per provisions of Chapter XII of the West Bengal Excise (Foreign Liquor) Rules, 1998 as amended".

Explanation VI– For the purpose of this rule, category (n) and (o) license shall only be granted as supplementary licenses as provided in rule 15.

5. Licensing authority – Subject to the provisions contained elsewhere in these rules, license for the retail sale of liquor or any other intoxicants under items (a) to (o) of rule 4 shall be granted by the Collector.

6. Terms and conditions of license – Every license shall be granted subject to such terms and conditions as specified in the license and shall be granted in license Form No. I to License Form No. XVII, appended to the rule as applicable for the category of the license.

Notwithstanding anything contained elsewhere in these rules or any other rules for the time being in force, the licenses already granted in other Form shall remain valid till 31.03.2009 and at the time of grant of License for the next period of settlement for the year 2009-2010 onwards, license shall be granted in the specified License Forms as applicable for the category of license.

7. Payment of fees etc. – No license shall be granted unless fees and other sums, if any, prescribed under any other rule relating to grant of license for the

time being in force have been paid in full by the applicant after being selected under rule 13 for grant of a license at new site or the holder of a license at new site or the holder of a license at an existing site, as the case may be.

8. Restrictions on grant of license at certain new sites – (1) No license for the retail sale of liquor or any other intoxicant at a new site shall be granted where the new site is situated in the vicinity of an educational institution recognized by the State Government or Central Government, or any college or institution affiliated to any University established by law, traditional place of public worship and hospital for public use.

Explanation : (i) For the purpose of this rule, the word “vicinity” means a distance of 1000 feet measuring,-

- (A) where the new site is situated in the part of any building, from the mid-point of the entrance of such building to the mid-point of the entrance of the educational institution, college/ institution or traditional place of worship or hospital etc. as referred to in this sub-rule; or
- (B) where any educational institution, college/ institution, traditional place of worship or any hospital as referred to in this sub-rule is situated in any part of a building , from the mid-point of the entrance of such building to the mid-point of the entrance of the new site; or
- (C) in any other cases, from to the mid-point of the entrance of an educational institution or any college/ institution or traditional places of public worship or hospital as referred to in this sub-rule to the mid-point of the entrance of the new site,

along the path which an ordinary prudent person normally takes to reach such new site from such educational institution or college or traditional place of worship or hospital and includes, in case of sub-item (A), the vertical distance to be reckoned from the mid- point of the entrance of such building to the floor where such new site is situated, or in case of sub-item (B), the vertical distance to be reckoned from the mid- point of the entrance of such building to the floor where such educational institution, college/institution or traditional places of public worship or any hospital, is situated.

(ii) For the purpose of this rule, traditional place of public worship means a place of public worship that is in existence for a period of not less than twenty years, or as per section 5 of the West Bengal Religious Building and Places Act, 1985 (West Ben. Act XXXII of 1985) has taken prior permission of the Collector of the district if the place is outside the jurisdiction of Kolkata, or the Police Commissioner if the place is within the jurisdiction of Kolkata.

(2) No license for the retail sale of liquor or any other intoxicant shall ordinarily be granted at any new site in a tribal area.

Provided that this sub-rule will not apply to a local area, within which a tourist lodge/spot is situated or within which the headquarters of a block or a sub-division or a police station is located.

Note - The provision of rule 8 shall not apply to the licenses mentioned in categories “(b), (g), hotels of category 3-Star and above of (j), (l), (m) and (n) of rule 4.

(3) No License for retail sale of liquor or any other intoxicants shall be granted at a new site if the new site is situated within 720 ft. from the mid-point of any National Highway / State Highway.

Explanation: For the purpose of this rule such part of National Highway / State Highway which are situated within the limits of any Municipal Corporation, City or Town of Municipality or such other authority having population of twenty thousands or more, shall not be treated as restriction.

9. Procedure for selection of new site for grant of licenses - (1) Subject to such instructions as may be issued by the State Government or Excise Commissioner from time to time, If the Collector is of the opinion, having regard to the general trend of consumption of liquor and other intoxicants as specified in sub-rule (1) of rule 2, in a local area or its adjoining area, that it is necessary to grant license(s) of any number and any category referred to in clause (a) and (c) to (m) of rule 4 at certain new sites within the local area in order to meet the demand of such area or adjoining areas, he shall, for the purpose of selection of new sites by the State Government under section 30, prepare a preliminary list of such local areas within which, in his opinion, license of any category should be granted.

Provided that in preparing a preliminary list, the Collector shall not include therein the sites for the grant of the licenses of the categories specified in clauses (f), (g), (l) , (m) of rule 4 unless a person or company, or firm, the owner of a hotel, restaurant, club, sites, theatre or other places of public resort and entertainment who is eligible under the provisions of these rules, or any person duly authorized by him, makes an application in Form I or Form II (appended to these rules) as the case may be, with the requisite court-fee.

Provided further that, all applications submitted for the grant of licenses of the categories specified in clauses (h),(i),(j) and (k), of rule4, shall initially be treated as applications for the grant of license(s) temporarily for a period not exceeding six months and the Collector may process the proposals, only if the proposed site is completed, accordingly to the blue-print plan.

The collector shall also go through the following steps, for disposal of the proposal for grant of such licence:-

A. He shall ensure whether the following information and documents have been furnished by the applicant, along with the application:-

a) A copy of treasury challan, showing deposit of non-refundable application money as fixed under the prevailing rules.

- b) An estimated monthly sale of Foreign Liquor from the proposed licensed premises.
- B. After obtaining the application, with the information and documents mentioned above, the Collector shall cause enquiry of the same by a responsible officer, to ascertain:-
- (i) The demand of the local area.
 - (ii) Whether the area is free from objections as contemplated in Rule 8 of the West Bengal Excise (Selection of New Sites and Grant of Licence for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003, published vide Notification No. 800-Ex dated 29.07.2003, as amended.
 - (iii) Whether the applicant(s) is/are eligible to hold the licence according to Rules 11 and 12 of the Rules published under Notification No. 800-Ex. dated 29.07.2003 as amended.
- C. The following steps shall thereafter be followed by the Collector:-
- (a) To assess the demand of the locality, he may also consider the public opinion of the locality, if any.
 - (b) In case he finds that the public opinion is adverse, for which the assessed demand of the locality might be lower, he shall not consider the prayer for grant of such licence at the proposed site.
 - (c) To form an opinion, he may conduct any other enquiries as he feels necessary.
- D. After being satisfied that the proposed site is free from any restriction/objection and the proposed licensee(s) is/are eligible to hold an excise licence, the Collector shall grant a licence temporarily for a period not exceeding six months to the said applicant(s).
- E. During the period of running such licence, the holder(s) shall be required to pay fees, as may be fixed from time to time.
- F. Grant of a regular licence may be considered: a) after the holder of such temporary licence has run the same for a period not exceeding six months, b) after the Collector is satisfied that the revealed demand justifies the location for the grant of a regular licence and c) subject to the Collector's satisfaction that the application merits recommendation. The Collector may in such cases recommend the proposal for grant of a regular licence and send the same to the Excise Commissioner, who may send it to the Government with his opinion if any. If the Government approves the grant of the regular licence, the same shall be conveyed by the Excise Commissioner, to the Collector. After receiving the approval of the government, the Collector shall grant the regular licence, after

realization of fees applicable to new licence(s) of the same category of the same local area.

Explanation: For the purpose of this rule, the word 'revealed demand' shall mean the average monthly sale of foreign liquor, during the previous six months, when the licence was allowed to run on a temporary basis.

- G. If the Collector recommends and sends the proposal to the Excise Commissioner for the grant of a regular licence for the remaining period of the settlement year or the next period of settlement, he shall issue further temporary licenses for periods not exceeding six months in favour of the holder. Such fresh licenses, granted on a temporary basis not exceeding six months, shall be continued to be granted till receipt of an order of approval or rejection from the Government, duly conveyed by the Excise Commissioner. Fee, as mentioned at 'E' above, shall be realized by the Collector for such further grant of licence on a temporary basis not exceeding six months.

Provided further that at the time of processing the proposal for grant of the categories of licenses mentioned in clauses (i) to (o) of rule 4, the Collector may process the proposal before completion of the proposed site according to the blue-print plan, but before issuing license, after obtaining approval of Government for selection of site, the Collector shall ask the applicant to acquire the premises or complete the construction within thirty days of receipt of the communication and only after acquisition or completion within the stipulated time, as the case may be, the Collector shall issue the license.

(2) In arriving at an opinion referred to in sub-rule (1), the Collector may hold such enquiry as he deems fit, subject to any direction in this regard which may be issued by the State Government or the Excise Commissioner from time to time.

(3) The Collector shall forthwith send the list referred to in sub-rule (1) along with his opinion to the Excise Commissioner.

(4) The Excise Commissioner shall thereafter forward to the State Government the list, the records and the documents sent to him under sub-rule (3), as the case may be, along with his own opinion to the State Government.

(5) The State Government shall finally consider the preliminary list and the documents with the opinions forwarded to it under sub-rule (4), and if it is so satisfied that it is necessary to grant licenses in the local area in order to meet the demand for liquor or any other intoxicant, it may select local areas for categories and number off licenses referred in clauses (a) and (c) to (e) of rule 4

and sites for categories of licenses referred in clauses (f) to (m) of rule 4 for grant of licenses and communicate the same to the Excise Commissioner.

Provided that before selecting any local area for grant of licenses of the categories referred in rule 4, the State Government may, if it considers it necessary, obtain the views of the Commissioner of the Division under whose jurisdiction the local area falls.

10. Application for license at a new site - (1) All applications for grant of license at a new site mentioned in rule 4, excluding the license for any canteen referred to in clauses (a),(b), (d),(e) , (f),(g) and (h) and for canteen referred to in clause (m) of rule 4, shall be made in Form I or Form II appended to these rules, as the case may be.

(2) Applications for grant of license at a new site in areas selected by the State Government shall be invited from the eligible persons by the Collector through public notice, including advertisement in daily newspaper, for the categories of license referred to in clauses (a) and (c) to (e) of rule 4. For the clauses (f) to (m) of rule 4, license may be granted in consideration of the application made under the proviso to sub-rule (1) of rule 9.

(3) All applicants for grant of license at new sites for categories of license referred to in rule 4 shall pay, along with their application, a non-refundable application fee, as prescribed by the State Government from time to time, by appropriate Treasury *Challan*.

11. Persons eligible to apply for grant of license – Application for grant of license at a new site can be made by :-

- (a) in case of individual, any person of and above the age of twenty one years who is a citizen of India and a Person of Indian Origin (P.I.O.);
- (b) a firm;
- (c) a company;
- (d) a society;

Provided that the applicant shall be eligible as per eligibility criteria on the date of application:

Provided further that if it is detected at any stage, after filling of the application by the applicant, that the applicant was not eligible on the date of application, his candidature / licence(if issued) will be cancelled.

Explanation - A P.I.O. should be in possession of a P.I.O. card issued by competent authority under the Government of India.

12. Restrictions on grant of license to certain persons – No license for the retail sale of liquor or any other intoxicant at a new site shall ordinarily be granted to -

- (a) a person who was convicted by a criminal court of a non-bailable offence;
- (b) a former licensee who was found guilty of serious breach of the terms and conditions of his license;
- (c) a former licensee who was defaulter in the payment of excise revenue to the State Government;
- (d) a person who is interested, either directly or indirectly, in the manufacture or sale of any intoxicant in a foreign territory or any bordering State of West Bengal;
- (e) a person who has been granted the exclusive privilege of manufacturing and/or supplying and/or selling country spirit by wholesale under section 22 of the Act or a person who holds a license for the sale of foreign liquor by wholesale.

13. Selection of person for grant of license – (1) The Collector shall, for the categories of licenses specified in clauses (a) and (c) to (e) of rule 4, select a person from amongst those whose applications have been received on or after the date of issue of the public notice under rule 10 within the time specified in such notice in accordance with such manner as the State Government may prescribe by rules in this regard, and grant to the person so selected the license of the category for which the notice has been issued:

Provided that if the Collector fails to select a person for the grant of license at a new site in a local area, Collector shall intimate the fact to the Excise Commissioner who shall give such directions as may be necessary.

(2) On an application made under the proviso to sub-rule (1) of rule 9 for the grant of license of any of the categories mentioned in clauses (i) to (o) of rule 4, if the State Government selects the new site under sub-rule (5) of rule 9, the Collector shall grant to the applicant a license of that category as mentioned in the application.

(3) Notwithstanding anything contained in any special order under sub-rule (1) of rule 13 and subject to the provisions of sub-rule (6) of rule 9, the Collector shall, on an application made by the opium depot managers/erstwhile opium

depot managers or erstwhile *ganja* licensees, grant license of the category mentioned in clause (e) of rule 4.

14. Grant of license at an existing site for the next period of settlement –

(1) The holder of a license at an existing site may make an application to the Collector for grant of a license for the next period of settlement before expiry of the period of validity of the current license in Form I or Form iii as the case may be, No application for the next period of settlement shall be considered unless the application contains the signature of the existing holder(s) and is accompanied by the requisite court fee stamp and original receipted challans showing payment of fees as prescribed by the State Government from time to time and /or other sums payable under any other provisions of the said Act or any other rules made under the said Act relating to grant of license at an existing site for the time being in force.

(2) On receipt of the application referred to in sub-rule (1) along with the requisite fees and other sums payable and documents, and Collector shall grant license to the existing holder for the next period of settlement.

Provided that the Collector may refuse to grant a license to the existing holder for the next period of settlement if such holder –

- (a) has been convicted by a criminal court for commission of non-bailable offence, or
- (b) has committed serious violation of the terms and conditions of the license, or
- (c) is a defaulter in the payment of excise revenue to the Government.

Provided further that where the Collector refuses to grant license to an existing holder for the next period of settlement, he shall record the reasons for doing so and intimate the fact to the Excise Commissioner.

(3) Where an application for the grant of license for the next period of settlement has been under sub-rule (1), but such license is not granted nor the grant of such license is refused nor the fact of refusal intimated to the holder, the licensee shall have the right to carry on business till the fact of refusal is intimated to such holder. Such license will, however, be liable to pay all dues at the specified rate for the period for which decision of the competent authority has been delayed.

(4) Where the Collector refuses to grant a license for the next period of settlement to an existing holder and the fact of refusal is intimated by him, the holder shall have no right to carry on business after the expiry of the current

period of settlement or with effect from the date on which the fact of refusal is intimated to him, whichever is later, and the Collector, unless otherwise directed by the Excise Commissioner, may select, in the same manner as prescribed for the purpose of the grant of license at a new site, any other person for the grant of license at the existing site or in the vicinity thereof.

(5) Where no application for the grant of a license for the next period of settlement is made by an existing holder before the expiry of the current period of settlement, the holder shall have no right to carry on business after the expiry of the current period of settlement, and the Collector shall be free to select, in the same manner as prescribed for the purpose of the grant of license at a new site, any other person for the grant of license at the existing site or in the vicinity thereof:

Provided that the Collector may, at his discretion, grant a license to the person whose right to carry on business has ceased under this sub-rule, if such person agrees to pay a late fee of Rs. 100/- per day counted from the date following the date of expiry of the license.

(6) Notwithstanding anything contained elsewhere in these rules or in any other rules for the time being in force, when a license granted by the Collector at an existing site lapses on the death of the holder, a license of the same category in lieu of the one lapsed, shall be granted in favour of one or more heirs or representatives of the deceased licensee along with the surviving partner/surviving joint licensees, if any, at the existing site, if such representatives are willing and eligible to hold the license and the arrears, if any, due from the deceased licensee:

Provided that where it is not possible to grant the license under this sub-rule to any representative of the deceased licensee with or without the surviving partners/surviving joint licensees, as the case may be, the said license may be granted in favour of all the surviving partners/surviving joint licensees:

Provided further that in the case of cessation of partnership due to death, no license shall be granted to the person or persons who have been partners, unless the partnership is validly reconstituted and the Excise Commissioner accords his approval to the grant of a license to the reconstituted partnership firm:

Provided also that if a fresh license cannot be granted in any manner under the first or second proviso, the Collector may select, in the same manner as prescribed for the grant of a license at a new site, a person for the grant of license at the existing site or on the vicinity thereof.

(7) Where a license of any existing licensee at an existing site has been cancelled, withdrawn or surrendered, the Collector shall, as soon as possible,

select in the same manner as prescribed for the grant of license at a new site, any other person for the grant of license within the said existing site.

(8) If no license at the existing site can be granted by the Collector as per foregoing provision and if he is of the opinion that there is no demand for the intoxicant for the which the license was granted, he may submit proposal to the State Government through the Excise Commissioner for abolition of that existing site.

(9) On receipt of any such proposal for abolition of an existing site, the Excise Commissioner will send the proposal to the State Government with his views thereon for final decision.

15. Supplementary license – “On an application made by the holder of a license of the categories mentioned in clauses (a), (c), (d and (f) of rule 4 to the Collector with requisite application fees, as applicable, for grant of supplementary licenses for transaction from the existing sites, the Collector shall grant such supplementary license on realization of fees prescribed for grant of such licenses in accordance with the following table :-

TABLE

Sl. No.	Category of license as at	Supplementary License(s) to be granted
1.	Clause (a) of rule 4	4(f) Beer, wine and Low Alcoholic Beverage (LAB) for consumption 'off' and/or 'on the site of existing country spirit shop.
		4(n) 50 ⁰ UP foreign liquor for consumption 'off and/or 'on' the site of existing country spirit shop.
		4(o) 25 ⁰ UP Rum for consumption 'off' the site of existing country spirit and coloured and/or flavoured spirit shop.
2.	Clause (c) of rule 4	4(a) Country spirit and coloured and/or flavoured spirit for consumption "off" the site of existing <i>bhang</i> shop.
		4(f) Beer, wine and Low Alcoholic Beverage (LAB) for consumption "off" the site of existing <i>bhang</i> shop.
		4(n) 50 ⁰ UP foreign liquor for consumption 'off' the site of existing <i>bhang</i> shop.

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|----|----------------------|---|
| 3. | Clause (d) of rule 4 | 4(o) 25°UP Rum for consumption 'off' the site of existing Bhang shop |
| | | 4(a) Country spirit and Coloured and/or flavoured spirit for consumption "off" and/or "on" the site of an existing <i>pachwai</i> shop. |
| | | 4(f) Beer, wine and Low Alcoholic Beverage (LAB) for consumption "off" and/or "on" the site of an existing <i>pachwai</i> shop. |
| | | 4(n) 50° UP foreign liquor for consumption "off" and/or "on" the site on an existing <i>pachwai</i> shop. |
| 4. | Clause (f) of rule 4 | 4(o) 25°UP Rum for consumption 'off' the site of existing <i>pachwai</i> shop. |
| | | 4(n) 50° UP foreign liquor for consumption 'off' and/or 'on' the site of an existing <i>beer, wine and Low Alcoholic Beverage (LAB)</i> shop. |

Note: Supplementary, license for beer, wine and Low Alcoholic Beverage (LAB) for consumption 'off' and or 'on' the site can only be granted as a combined license.”

16. Shifting of an existing license shop at a new site – Omitted vide Notification No. 30-Ex dated 12.01.2009. A new set of rules named as the West Bengal Excise (Shifting of existing site or change of premises of Excise License) Rules, 2009 was introduced vide Notification No.31-Ex dated 12.01.2009.

17. Overriding effect of rule – These rules shall have effect notwithstanding anything to the contrary contained in any other rules or orders relating to the selection of new sites and the grant of license for the time being in force and all such rules or orders shall be subject to these rules.

18. Interpretation – The power of interpreting these rules is reserved to the State Government.

By order of the Governor,

Sd/=

Principal Secy. to the Govt. of West Bengal

FORM I
(See Rules 9 and 10)
**Form of application by an individual for grant of a license
for the retail sale of liquor and other intoxicants)**

To : The Collector

Sir,

I/We hereby apply for grant of a license for retail sale of liquor and certain other intoxicants. Detailed information is provided below :

1. (a) Category of license applied for :
[See Rule 4]
- (b) Name of the existing / new site :
2. (a) Applicant's full name with father's/husband's name :
- (b) Applicant's nationality/P.I.O. Status (attested photocopy to be enclosed) :
3. Full address -
(a) Present :
- (b) Permanent :
4. Present age with proof in support of age :
(attested photocopy to be submitted)
5. Educational qualification (attested photocopy to be submitted) :
6. Occupation -
(a) Past :
- (b) Present :
7. (a) Annual income of the applicant :
- (b) How the applicant will arrange the capital necessary for financing the shop properly :
8. Business or sales experience, if any, with full particulars :

9. (a) Whether he/she holds or held any Excise license(s) in West Bengal/in any other State of India, and :
- (b) If so, full particulars thereof and if the license(s) is/are not in force now, how it/they terminated (attested photocopy of the documents showing grants/termination to the license(s) should be furnished); :
- (c) Whether he/she is interested, either directly or indirectly in the manufacture or sale of any intoxicant in a foreign territory or any State bordering upon the State of West Bengal; :
- (d) Whether he/she has been granted the exclusive privilege manufacturing and/or supplying and/or selling country spirit by wholesale under Section 22 of the B.E. Act, 1909 or holds a license for the sale of Foreign Liquor by wholesale :
10. Whether any of the following relatives holds any Excise license in West Bengal. If so, full particulars are to be furnished – :
- (a) Spouse :
- (b) Father/Mother :
- (c) Dependant son/dependant daughter-in-law :
11. Whether any of the relatives mentioned at 10 above has also applied for license intended to be granted at the same site :
12. (a) Whether he/she was ever convicted by a criminal court of a non-bailable offence, and :
- (b) If so, full particulars thereof :
13. (a) Particulars of site offered in case of Foreign Liquor "on" categories of licenses :

- (b) Whether the applicant can offer site, if :
 selected, for license other than (a) above,
 within the specified time as per extant rules
 and orders
14. Whether he/she will be in a position to attend :
 and manage the shop personally and
 independently in his/her own interest
15. Particulars of application fee deposited – :
- (a) Amount of application fee deposited :
- (b) Name of the Branch of SBI :
- (c) Challan No. & Date (attested photocopy of the :
 Challan to be enclosed)
16. Special claim, if any :
- It is requested that the license may kindly be
 granted to me/us

Place :

.....

Date :
 Applicant(s)

Signature(s) of the

- Note 1* : In case of applications of categories of licenses specified in Item Nos. (h) to (l) of Rule 4, blue print of plan of the site in quadruplicate duly authenticated by the applicant(s) shall be submitted along with application with requisite court-fee stamps.
- Note 2* : If any information of particulars furnished in the application is subsequently found to be false, inaccurate or incomplete, the license, if any, granted on the basis of the application, will be liable to instant withdrawal without prejudice to other action than may be taken.
- Note 3* : Extant Rules and Orders relating to grant of the license applied for may be consulted before submission of the application.
- Note 4* : Attested photocopy of documents relating to serial Nos. 2(b), 4, 5, 9(b) and 15(c) as applicable, should be enclosed.

Note 5 : An affidavit in original sworn in before a Notary Public / Competent Magistrate should be enclosed in support of the contention at serial No. 12.

Note 6 : Strike out whichever is not applicable.

FORM II
(See Rules 9 and 10)
**Form of application by a Company / Corporation / Firm / Co-operative
Society for grant of a license for the retail sale of liquor and other
intoxicants**

To : The Collector

Sir,

I/We hereby apply for grant of a license for retail sale of liquor and certain other intoxicants. Detailed information is provided below :

1. (a) Category of license applied for :
[See Rule 4]
- (b) Name of the new / existing site :
2. (a) Name of the applicant :
- (b) Full address of registered office :
- (c) Address of local office :
- (d) Registration No. (if already registered) :
3. (a) Name of the authorised representative of the applicant for transaction of business :
- (b) His/Her address - :
 - (i) Present :
 - (ii) Permanent :
- (c) Present age with proof in support of age :
- (d) Educational qualification :
- (e) Occupation (if any) - :
 - (i) Present :
 - (ii) Past :
4. (a) Profit / Loss as per last audited Balance Sheet :

(wherever applicable)

- (b) How the applicant will arrange the capital :
necessary for financing the shop properly
 - 5. (a) Name of Partners/Directors/Members of :
applicant with educational qualifications of
each
 - (b) Address of all Partners / Directors / Members :
 - (c) Present age of Partners/Directors/Members :
with proof in support of age
 - (d) Occupation (if any) -
 - (i) Present :
 - (ii) Past :
- [This information may be submitted in a
separate sheet under signature of the
authorised representative and to be attached
with the application]
- 6. Business or sales experience, if any, of the :
applicant/authorized representative
 - 7. (a) Whether the applicant or authorized :
representative holds or held any Excise
license(s) in West Bengal /in any other State.
 - (b) If the answer in (i) above is in the affirmative, :
full particulars thereof and if the license(s)
is/are not in force now, how it/they terminated
(attested copies of documents showing grant /
termination of the license(s) shall be furnished
 - 8. Whether any other Excise license of the :
categories mentioned in clauses (a) to (e) and
(g) and (h) of rule 4 and in clause (e) of rule 12
of the West Bengal Excise (Selection of New
Sites and Grant of License for Retail Sale of
Liquor and Certain Other Intoxicants) Rules,
2003 is held by -

- (a) Any of the Directors of the applicant or :
authorized representative
 - (b) Any of the members of the partnership :
firm/cooperative society
 - (c) Any of the following relatives of a member of :
the partnership firm/cooperative society -
 - (i) Spouse :
 - (ii) Father/Mother :
 - (iii) Dependant son/dependant daughter-in-law :
9. Whether any member of the partnership firm or :
any of the relatives mentioned at 8(c) above
has also applied for license intended to be
granted at the same site
10. Whether the partners of the applicant firm / :
members of the Board of Directors and the
authorized representative of the applicant -
- (a) Was convicted by a criminal court of a non- :
bailable offence, if so, full particulars thereof
 - (b) Was/were former licensee(s) found guilty of :
serious breaches of the terms and conditions
of the said license and defaulter in the
payment of Excise revenue to the State
Government
 - (c) Is/are interested, either directly or indirectly, in :
the manufacture or sale of any intoxicant in a
foreign territory or any State bordering the
State of West Bengal
 - (d) Has/have been granted the exclusive privilege :
of manufacturing and/or supplying and/or
selling country spirit by wholesale under
Section 22 of the Bengal Excise Act, 1909 or
hold(s) a license for the sale of foreign liquor
by wholesale

11. (a) Particulars of site offered in case of Foreign :
Liquor "On" categories of license
- (b) Whether the applicant can offer site, if :
selected, for license other than (a) above,
within the specified time as per extant rules
and orders
12. Particulars of application fee deposited -
- (a) Amount of application fee deposited :
- (b) Name of the Branch of SBI :
- (c) Challan No. & Date (Attested photocopy of the :
Challan to be enclosed)
13. Special claim, if any :

It is requested that the license may kindly be granted to me/us.

Place : -----

Applicant(s) Signature(s) of the

Date : Designation
.....

- Note 1* : The following documents and papers shall be submitted along with the application
- (1) Four copies of Memorandum and Articles of Association.
 - (2) A list of present Directors/Manager/Officers as defined in the Companies Act.
 - (3) A copy of the last audited Balance Sheet.
 - (4) A copy of the last Income Tax / Sales Tax clearance certificate.
 - (5) A copy of the minutes of the meeting authorizing the Company/Firm to apply for such license.
 - (6) A copy of the minutes authorizing the authorized representative to sign the application along with his duly attested specimen signature.

- Note 2* : If case of applications for categories of licenses specified in Item Nos. (h) to (l) of Rule 4, Blue Print of plan of the site offered at the site in quadruplicate duly authenticated by the applicant(s) shall be submitted along with application with requisite court-fee stamps.
- Note 3* : If any information of particulars furnished in the application is subsequently found to be false, inaccurate or incomplete, the license, if any, granted on the basis of the application, will be liable to instant withdrawal without prejudice to other action that may be taken.
- Note 4* : Extant Rules and Orders relating to grant of the license applied for may be consulted before submission of the application.
- Note 5* : An affidavit in original sworn in before a Notary Public/Competent Magistrate should be enclosed in support of the contention at serial No. 10(a).
- Note 6* : Attested photocopies of documents relating serial Nos. 3(c), 3(d), 7(b) and 12(c), as applicable, should be enclosed.
- Note 7* : Strike out whichever is not applicable.

GOVERNMENT OF WEST BENGAL
Excise Department

No.127EX/O/1A-3/10

Kolkata, the 11th February 2010

NOTIFICATION

In exercise of the powers conferred under Section 30,31,36,37,37A,85 and 86 of the Bengal Excise Act, 1909 (Ben. Act V of 1909), the Governor is pleased hereby to make with immediate effect the following amendments in the West Bengal Excise (Selection of New Sites and Grant of Licence for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003:-

Amendments

In the said rules:-

(1) In the second proviso to sub-rule (1) of Rule 9,-
Replace [clauses(f) to (m) of rule 4], by [clauses (f), (g), (l), (m) of Rule 4]

(2) Add a new proviso after the second proviso to sub-rule (1) of Rule 9,-

Provided further that, all applications submitted for the grant of licenses of the categories specified in clauses (h), (i), (j) and (k), of rule 4, shall initially be treated as applications for the grant of license(s) temporarily for a period not exceeding six months and the Collector may process the proposals, only if the proposed site is completed, accordingly to the blue-print plan.

The collector shall also go through the following steps, for disposal of the proposal for grant of such licence:-

H. He shall ensure whether the following information and documents have been furnished by the applicant, along with the application:-

- c) A copy of treasury challan, showing deposit of non-refundable application money as fixed under the prevailing rules.
- d) An estimated monthly sale of Foreign Liquor from the proposed licensed premises.

I. After obtaining the application, with the information and documents mentioned above, the Collector shall cause enquiry of the same by a responsible officer, to ascertain:-

- (iv) The demand of the local area.
- (v) Whether the area is free from objections as contemplated in Rule 8 of the West Bengal Excise (Selection of New Sites and Grant of Licence for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003, published vide Notification No. 800-Ex dated 29.07.2003, as amended.
- (vi) Whether the applicant(s) is/are eligible to hold the licence according to Rules 11 and 12 of the Rules published under Notification No. 800-Ex. dated 29.07.2003 as amended.

- J. The following steps shall thereafter be followed by the Collector:-
- (d) To assess the demand of the locality, he may also consider the public opinion of the locality, if any.
 - (e) In case he finds that the public opinion is adverse, for which the assessed demand of the locality might be lower, he shall not consider the prayer for grant of such licence at the proposed site.
 - (f) To form an opinion, he may conduct any other enquiries as he feels necessary.
- K. After being satisfied that the proposed site is free from any restriction/objection and the proposed licensee(s) is/are eligible to hold an excise licence, the Collector shall grant a licence temporarily for a period not exceeding six months to the said applicant(s).
- L. During the period of running such licence, the holder(s) shall be required to pay fees, as may be fixed from time to time.
- M. Grant of a regular licence may be considered : a) after the holder of such temporary licence has run the same for a period not exceeding six months, b) after the Collector is satisfied that the revealed demand justifies the location for the grant of a regular licence and c) subject to the Collector's satisfaction that the application merits recommendation. The Collector may in such cases recommend the proposal for grant of a regular licence and send the same to the Excise Commissioner, who may send it to the Government with his opinion if any. If the Government approves the grant of the regular licence, the same shall be conveyed by the Excise Commissioner, to the Collector. After receiving the approval of the government, the Collector shall grant the regular licence, after realization of fees applicable to new licence(s) of the same category of the same local area.

Explanation: For the purpose of this rule, the word 'revealed demand' shall mean the average monthly sale of foreign liquor, during the previous six months, when the licence was allowed to run on a temporary basis.

- N. If the Collector recommends and sends the proposal to the Excise Commissioner for the grant of a regular licence for the remaining period of the settlement year or the next period of settlement, he shall issue further temporary licences for periods not exceeding six months in favour of the holder. Such fresh licences, granted on a temporary basis not exceeding six months, shall be continued to be granted till receipt of an order of approval or rejection from the Government, duly conveyed by the Excise Commissioner. Fee, as mentioned at 'E' above, shall be realized by the Collector for such further grant of licence on a temporary basis not exceeding six months.

By order of the Governor

LAIMA CHOZAH
Secretary to the Govt. of West Bengal