

**HARYANA VIDHAN SABHA**

**REPORT**

**OF**

**THE COMMITTEE**

**ON**

**SUBORDINATE LEGISLATION**

**THIRTYFIRST REPORT**

**2000-2001**

**(Presented to the Haryana Vidhan Sabha on the 14th March, 2001)**



**HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH**

(i)

## CONTENTS

	Pages
Composition of the Committee	(ii)
I Introduction	(iii)
II Report	1
III Scope and Functions of the Committee	1-4
IV General Observations/Recommendations of the Committee	5-6
V Further observations/recommendations made by the Committee on Subordinate legislation in respect of non implementation of its earlier recommendations in respect of —	
<b>1 Twenty Eighth Report 1996-97 (Housing Department)</b>	<b>7</b>
The Housing Board Haryana (Disposal of Property Betterment Charges Eviction Assessment of Damages and Manner of Appeal) Rules 1975 framed under the Haryana Housing Board Act 1971	
<b>2 Thirtieth Report 1998-99 (Development &amp; Panchayats Deptt )</b>	<b>8</b>
The Haryana Panchayati Raj Finance Budget Accounts Audit Taxation and Works Rules 1996 framed under the Haryana Panchayati Raj Act 1994	
VI Scrutiny of Rules and Observations/ Recommendations thereon —	
1 The Haryana Rural Development Rules 1987 framed under the Haryana Rural Development Act 1986 ✓	9
2 The Punjab Livestock Improvement Rules 1958 framed under the Punjab Livestock Improvement Act 1953	10
3 The Haryana Minerals (Vesting of Rights) Rules 1979 framed under the Haryana Minerals (Vesting of Rights) Act 1973	11-12
4 The Haryana Restaurant (Consumption of Liquor) Rules 1988 framed under the Punjab Excise Act 1914 X	13 <i>Drafted</i>
5 The Haryana Liquor License Rules 1970 framed under the Punjab Excise Act 1914	14-31

(ii)

**COMPOSITION OF THE COMMITTEE  
(2000-2001)**

**Chairperson**

Vaid Kapoor Chand

**Members**

Shri Kanwar Pal

Rao Narender Singh

Shri Bhim Sain Mehta

Shri Ranbir Singh Mandola

S Nishan Singh

Shri Bishan Lal Saini

Advocate General

**Special Invitees**

Shri Bhagwan Sahai Rawat

Shri Dan Singh

**Secretariat**

1 Shri Sumit Kumar Secretary

2 Shri Data Ram Deputy Secretary

The Committee was constituted vide Haryana Vidhan Sabha Secretariat  
Notification No HVS LA (Sub Leg) 1/2000 2001/21 dated the 24th March 2000

(III)

### INTRODUCTION

1 the Chairperson of the Committee on Subordinate Legislation having been authorised by the Committee to present the report on their behalf present this Thirtyfirst Report to the House

2 The previous Committee could not finalise and present its Report due to dissolution of the House on 14 12-1999 However this Committee took up the unfinished work of the previous Committee also

3 The Committee consisting of eight members (including the Advocate General) and two Special Invitees was nominated by the Speaker Haryana Vidhan Sabha under Rule 252 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 23rd March 2000 notified in the official gazette vide notification No HVS LA (Sub Leg) 1/2000 2001/21 dated the 24th March 2000

4 A brief record of the proceedings of each meeting of the Committee has been kept on record of the Haryana Vidhan Sabha Secretariat

5 The Committee also place on record their high appreciation for whole hearted co operation and assistance given by the Secretary, Deputy Secretary and staff of the Legislation Branch

Chandigarh  
The 28th February 2001

VAID KAPOOR CHAND  
CHAIRPERSON

## **REPORT**

1 The Committee on Subordinate Legislation for the year 2000 2001 consisting of eight members including the Chairperson the Advocate General and two Special Invitees was nominated by the Speaker Haryana Vidhan Sabha under Rule 252 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 23rd March 2000 and was notified in the official Gazette vide notification No HVS LA (Sub Leg) 1/2000 2001/21 dated the 24th March 2000

2 Vaid Kapoor Chand was appointed as the Chairperson of the Committee by the Speaker

3 The Committee held 53 sittings till the presentation of this Report

4 The Committee scrutinised the following Rules—

- 1 The Haryana Rural Development Rules 1987 framed under the Haryana Rural Development Act 1986
- 2 The Punjab Livestock Improvement Rules 1958 framed under the Punjab Livestock Improvement Act 1953
- 3 The Haryana Minerals (Vesting of Rights) Rules 1979 framed under the Haryana Minerals (Vesting of Rights) Act 1973
- 4 The Haryana Restaurant (Consumption of Liquor) Rules 1988 framed under the Punjab Excise Act 1914
- 5 The Haryana Liquor License Rules 1970 framed under the Punjab Excise Act 1914

The Committee also orally examined the various departments of the State Government and made its observations/recommendations on the relevant Rules under scrutiny

## **SCOPE AND FUNCTIONS OF THE COMMITTEE**

The scope and functions of the Committee are set down in rules 251 259 and 260 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly Rule 251 enjoins upon the Committee to scrutinise and report to the House whether powers to make regulations rules sub rules bye laws etc conferred by the Constitution or delegated by legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker Further rule 259 of the said Rules lays down

that while examining any such set of rules bye laws etc the Committee shall in particular consider —

- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made
  - (ii) whether it contains matters which in the opinion of the Committee should more properly be dealt within an Act of the Legislature
  - (iii) whether it contains imposition of any tax
  - (iv) whether it directly or indirectly bars the jurisdiction of the courts
  - (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power
  - (vi) whether it involves expenditure from the Consolidated Fund of the State of the Public Revenues
  - (vii) whether it appears to made some unusual or unexpected use of the powers conferred by the constitution or the Act pursuant to which it is made
  - (viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature and
  - (ix) whether for any reason its form or purport calls for any elucidation
- Rules 260 lays down as follows —

1 If the Committee is of opinion that any order should be annulled wholly or in part or should be amended in any respect it shall report that opinion and the grounds thereof to the House

2 If the Committee is of opinion that any other matter relating to any order should be brought to the notice of the House it may report that opinion and matter to the House

In short the functions of the Committee are to see if the rules framed by the Executive are within the scope of the delegation made under the Act and do not go beyond the scope of such delegation If the Committee finds that any rules is beyond the scope of the powers delegated under the Act by the Legislature the Committee can recommend that the rule be suitably amended or omitted

There are certain rules which are required by the statute to be laid before the Legislature But the Committee is competent to examine all the rules Regulations etc framed by the Government under various Acts irrespective of the fact whether these have been laid on the Table of the House or not

The Committee is competent to send for persons papers or records if such a course is considered necessary for the discharge of its duties In this

connection attention is invited to rule 257 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly which reads as under —

"257 (1) The Committee on Subordinate Legislation shall have power to require the attendance of persons or the production of papers or records if such a course is considered necessary for the discharge of its duties

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee the question shall be referred to the Speaker whose decision shall be final

Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State

(2) The witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the Committee

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential

(4) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee

The Committee has framed the working rules wherein the detailed procedure has been laid down. Generally the Committee from time to time select set of rules framed under the various Acts for their scrutiny and examine these at the first instance at their own level with the assistance of the Law Department and the Vidhan Sabha Secretariat. The Committee then invites the Administrative Secretary concerned for oral examination to explain the discrepancies found in the various rules/orders. After the rules/orders and the departmental representatives have been examined the Committee prepares the report and presents it to the House.

Some of the Parliamentary conventions established in connection with the scrutiny of Rules Regulations Bye laws etc are given below —

1 The Committee would scrutinise only such rules which have been finally published in the Gazette and not the draft rules

2 The Department of the Govt would ensure that rules are framed under an Act as early as possible after the enactment of the Act and in no case this period should exceed six months. If the rules are not framed within six months the Committee may ask the Department about the reason for the delay in framing the rules. This is only by convention

3 Executive should ensure that no rule goes beyond the power delegated by legislature. If the rules go beyond the powers delegated by legislature the Committee may examine the same and report to the House

4 The Executive should be impressed upon that whenever rules are framed or amendments are made in the existing rules those should be serially and centrally

numbered and should indicate in the margin of each rule the reference of the section under which the rules are framed

However some of the broad principles established by the Committee for the guidance of the executive are given below —

- (i) As far as possible guidelines/criteria to be followed by the authority concerned for the exercise or discretionary power vested in it should be laid down in the rules
- (ii) In case where the authority concerned deviates from a norm it should be required to record in writing the reasons for such deviation
- (iii) Before any adverse action is taken against a party it should be given a reasonable opportunity of being heard and after a decision adversely affecting a party has been taken it should have the right of appeal or representation as the case may be
- (iv) In order that the persons similarly placed are not treated differently the powers of exemption/relaxation should be exerciseable in respect of categories or classes of persons, as contra distinguished from individuals
- (v) In cases where an authority concerned is vested with the power to suspend a licence or supplies pending institution of regular proceedings a maximum time limit for suspension should be laid down in the rules
- (vi) The provisions of rules which may make a citizen liable to a penalty should be well defined and not worded vaguely
- (vii) In case of seizures and searches suitable safeguards like the presence of witness preparation of inventories of seized goods and giving a copy thereof to the persons concerned should be provided
- (viii) In case of rules relating to disciplinary proceedings not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority be also laid down in the rules
- (ix) Statutory rules should be amended by Statutory rules only and not by executive orders
- (x) The rules made in exercise of powers delegated under statute are precise and free from ambiguity instead of being cryptic sketchy or skeleton or needing further interpretations It should be in simple language so that different people cannot put different interpretations For example expressions like unreasonable large quantity 'reasonable interval' or 'frequent intervals' etc should be avoided



## **GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE**

### **1 Delay in framing the Rules**

The Committee reiterates the recommendations made in its previous Thirtieth Report and observes that ordinarily rules should be framed as early as possible after the enactment of an Act and in no case the period should exceed six months. If no rules are framed within the said period after the enactment of the Act, the department concerned should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the rules within that period.

The Committee further recommends that whenever an ordinance for amending the Act or bringing new legislation involving provisions for making the Rules is promulgated, the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules.

The Committee further recommends that whenever any Act is amended, it should be looked that the relevant rules and forms are also amended so as to bring them in consonance with the change in the Act.

### **2 Reference of Section under which Rules are framed**

The Committee is of the view that giving of reference of the section in the margin of each rule under which the rule has been framed is essential to know under what precise authority each rule has been framed.

The Committee reiterates the recommendations made in its earlier Reports that whenever rules are supplied to it, the authority or the relevant section under which a particular rule or set of rules has/have been framed should also be mentioned in the margin of each rule.

The Committee further recommends that whenever several amendments are made in a set of rules, the same may be republished after incorporating all the amendments made from time to time. This recommendation of the Committee should be observed meticulously.

### **3 (i) Supply of printed and up-to-date corrected copies of the Rules**

The Committee recommends that copies of the rules to be supplied to it by the Department should be in the printed form or in the form of Gazette in which they are published. If, however, it is not possible for the Department to do so, it should be ensured that the copies of the rules etc. are up to date, meticulously compared and duly corrected before supplying these to the Committee to save its valuable time in pointing out such mistakes.

The Committee further recommends that it is the duty of the Department concerned to see that the rules supplied to the Committee are amended up to date and ensure that the suggestions/recommendations/observations made by the Committee from time to time and agreed to by the concerned Department are implemented by the department and incorporated in the rules expeditiously.

## **(ii) Footnote in the Act and Rules**

It came to notice of the Committee that sometimes it is laid down in the Act and Rules that such Act and Rules shall come into force on such date as may be specified in the notification by the State Government. The Committee is of the view that in such circumstances the date of commencement of the Act and Rules should invariably be given in the footnote so that legislators in particular and the public in general may come to know as to from which date the Act and Rules had come into force.

The Committee further recommends that whenever any amendment is made in an Act or Rules framed thereunder it should also invariably be stated in the footnote the reference of the Act or Rules by which amendment has been made.

### **4 Publishing the Acts and Rules in Hindi**

The Committee recommends that sincere efforts be made to publish the Acts and Rules in Hindi also so that the copies of the Acts and Rules may be available in Hindi easily at reasonable price.

### **5 Delay in laying Rules on the Table of the House**

The Committee recommends that where the rules, orders, etc. are required to be laid on the Table of the House before the State Legislature under any statute, the same should be laid on the Table of the House as early as possible immediately following such publication in the Gazette, so that the House may statutorily modify or annul such rules.

### **6 Implementation of recommendations of the Committee**

The Committee recommends that the action on the outstanding recommendations and observations contained in its earlier reports should be given top priority and expedited. The Committee also recommends that when a recommendation is implemented by the Government, the Department concerned should supply a copy of the notification containing the amendment in the rules along with the statement showing the action taken by the Government in the implementation of the recommendations/observations.

### **7 Availability of Copies of Acts and Rules to Public**

The Committee is of the view that copies of all the Acts and Rules framed thereunder, as amended up-to-date, are generally not available in the Government Press for the use of the Public. The Committee therefore recommends that copies of all the Acts and Rules made thereunder should be kept up-to-date in the Press for sale to the Public at reasonable price.

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**TWENTY EIGHTH REPORT 1996 97**  
**HOUSING DEPARTMENT**

The Housing Board Haryana (Disposal of Property Betterment Charges Eviction Assessment of Damages and Manner of Appeal) Rules 1975 framed under the Haryana Housing Board Act 1971

The Committee after taking into consideration the reply of the department dated 18 1 2001 was of the view that the Committee be informed regarding the decision taken by the Council of Ministers in the matter

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**THIRTIETH REPORT 1998-99****DEVELOPMENT & PANCHAYATS DEPARTMENT**

The Haryana Panchayati Raj Finance Budget Accounts Audit Taxation and Works Rules 1996 framed under the Haryana Panchayati Raj Act 1994

The Committee was satisfied with the action taken by the Development & Panchayats Department regarding implementation of most of its recommendations/ observations made in its 30th Report in respect of the Haryana Panchayati Raj Finance Budget Accounts Audit Taxation and Works Rules 1996 framed under the Haryana Panchayati Raj Act 1994. However the Committee desires that efforts may be made to implement the remaining/outstanding recommendations at an early date by issuing necessary notification in this regard

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**SCRUTINY OF THE HARYANA RURAL DEVELOPMENT RULES 1987  
FRAMED UNDER THE HARYANA RURAL DEVELOPMENT ACT, 1986**

**General**

The Committee recommends that the relevant section under which a particular rule has been framed be given in the marginal heading of each rule

**Rule—3(14)**

(14) The appellate authority may after affording reasonable opportunity of hearing to the parties confirm modify or revoke the order appealed against The order of the appellate authority shall be final

The Committee is of the view that the provision be made in the rules for affording 2nd appeal against the order passed by the appellate authority i.e Director Development and Panchayats Haryana and the power of the 2nd appeal would be given to the Commissioner & Secretary Development & Panchayats Department Haryana

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**SCRUTINY OF THE PUNJAB LIVESTOCK IMPROVEMENT RULES, 1958  
FRAMED UNDER THE PUNJAB LIVESTOCK IMPROVEMENT ACT, 1953**

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**Rule—5**

5 If after inspection the local Veterinary Assistant or Veterinary Assistant Surgeon is satisfied that the bull is unserviceable for breeding purposes in a local area he shall report the matter to the Deputy Director and the District Animal Husbandry Officer concerned and on hearing from the latter he shall castrate the bull immediately so as to render it unserviceable for breeding purposes and if any such bull is branded with mark 'A' it shall be crossed with mark '(X)'

The Committee recommends that for the word "unserviceable" appearing in line 2nd and 5th the word 'unsuitable' be substituted

**Rule—7**

"7 The Livestock Officer concerned of the local area shall maintain a register in the following form —

(Form Not Printed)

The Committee noted with concern that the Form under rule 7 has not been printed by the department. The Committee also recommends that format of the register maintained under rule 7 be printed in the rules itself

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**SCRUTINY OF THE HARYANA MINERALS (VESTING OF RIGHTS) RULES,  
1979 FRAMED UNDER THE HARYANA MINERALS (VESTING OF RIGHTS)  
ACT, 1973**

The Committee recommends that the section of the Act under which a particular Rule have been framed be given in the heading of each Rules

**' Rule 3(1)**

\* \* \* \*

**Rule 3(2)**

(2) The Director shall collect collate and tabulate the information in early April every year in the form given below —

**PARTICULARS OF MINERAL BEARING LAND GIVEN ON LEASE OR  
CONTRACT**

District	Tehsil	Village	Quarry (Specify name of the mineral)	Period of operation of quarry	Area exploited Give Khasra/ Rectangle Numbers	Amount of royalty/ cont,act paid from 1st April or from commence ment of lease/con tract which ever is later to the following 31st March
1	2	3	4	5	6	7
	*	*	*	*	*	
	*	*	*	*	*	

The Committee recommends that the word "collate" appearing in the first line be deleted being superfluous

**Rule—5**

'5 In the case of the mineral bearing land which had been exploited by the State Government itself in the preceding year ending on 31st March the State Government shall calculate the rolyalty or

Calculation  
of royalty or  
dead rent

dead rent whichever is higher on the quantity of mineral or minerals actually raised and removed from the mine or quarry and furnish the statement *mutatis mutandis* to the Collector in the form and manner laid down in rule 4 "

The Committee further recommends that for the word 'and' appearing in the last line of this Rule the word 'and' be substituted

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**SCRUTINY OF THE HARYANA (RESTAURANT CONSUMPTION OF  
LIQUOR) RULES, 1988 FRAMED UNDER THE PUNJAB EXCISE  
ACT, 1914**

During the course of oral examination of the departmental representatives the Committee was informed that the Haryana Restaurant (Consumption of Liquor) Rules 1988 framed under the Punjab Excise Act 1914 were not invoked after the 1988-89 due to change of policy. Therefore it was urged that there appears no need to scrutinise the above Rules.

The Committee agreed with the proposal of the department and dropped the scrutiny of the aforesaid Rules.

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## SCRUTINY OF THE HARYANA LIQUOR LICENSE RULES, 1970 FRAMED UNDER THE PUNJAB EXCISE ACT, 1914

### General Observation

The Committee observed that so many amendments have been made in the Haryana Liquor License Rules 1970 The Committee therefore propose that these rules may be got republished after getting all the amendments incorporated

### Rule—2

'2 There shall be following classes of licenses Their mode of grant and the authority to grant and renew them shall be as noted against each —

Form	Nature	Mode of grant	<u>Authority empowered to</u>	
			Grant	Renew
I to IV				
	*	*	*	-
	*	*	*	*
V-Special				
1 21	Extension of hours during which sale is permitted	Fixed Fee	Collector	Collector

Licenses in forms L 1 L 1 A L 1 B L 2 L 3 L 4 L 5 L 6 L 7 L 8 L 9 L 10 L 11 L 12 A L 12 B L 12 C L 13 L 14 L 14 A L 15 and L 16 shall however be granted with the previous consent of the Financial Commissioner

The Committee recommends that ending para of rule 2 be re cast as under —

Provided that licenses in forms L 1 L 1 A L 1 B L 2 L 3 L 4 L 5 L 6 L 7 L 8 L 9 L 10 L 11 L 12 A L 12 B L 12 C L 13 L 14 L 14 A L 15 and L 16 shall however be granted with the previous consent of the Financial Commissioner'

### Rule—4

4 Every license shall be granted to a particular licensee in respect of particular premises

The Committee recommends that after the word premises appearing in the end of rule the sign and word /area be also added

**Rule—6**

6 When a license is granted to a company or society referred to in rule 5(b) or 5(c) above it must show the name of an individual as agent acting on behalf of the licensee who is amenable in full to the Criminal Courts in India. On the application of the company or society the representative licensee may be changed by the authority competent to renew the license "

✓ The Committee recommends that in line 3 of rule 6 the words "in full" be deleted being superfluous

**Rule—10**

10 A license granted to a partnership is determined by the dissolution of the partnership subject to the liability of the partners jointly and severally for any loss caused to the Government thereby and for the performance of all obligations to Government incurred by the partnership

✓ The Committee recommends that in Rule 10 after the word partnership the words "or firm" be added to make the rule more clear

**Rule—11**

"11 A license is said to be renewed when it is continued after the period of its expiry by the same licensee in respect of the same premises and whenever a license has been determined by reason of surrender cancellation or order of non renewal or other causes or where it is proposed to issue a license in respect of premises or persons not previously licensed a new license is required

Provided that —

- (a) a new license is not required on account of the addition or removal of a partner on the application of all the partners or the change of representative of a company or society
- (b) a license continued in favour of the legal representative of a deceased licensee for the remaining period of the license shall not be deemed to be new license
- (c) if the premises of a license are changed during the period of its currency the authority competent to grant the license may direct that license may be continued for the remaining period of the term on the existing fee
- (d) a license may be transferred by the authority competent to grant it for the remainder of its currency to a new licensee

✓ The Committee observes that in Rule 11 (b) line two for the words deceased licensee the words deceased licensee be substituted to make the rule intelligible

**Rule—13**

13 No person to whom a license has been granted shall be entitled to claim any renewal thereof and no claim shall lie for damages of otherwise in consequence of any refusal to renew a license on the expiry of the period for which it remains in force

The excise inspector shall lay before the Collector by the 7th January each year a list of all licenses requiring renewal The list shall be accompanied in the case of licenses granted on assessed fee by a certificate of sales as required by rule 30 in the case of bottling licenses by a similar certificate showing litres (London Proof) bottled up to December 31

Except with the special sanction of the Financial Commissioner no order for renewal or non renewal shall be made after January 20 in respect of licenses for the following financial year

The Committee observes that in line 10 for the words 'Except with the special sanction' the words 'Except in exceptional circumstances with the sanction' be substituted to make the rule properly worded

**Rule—14**

"14 No license under these rules except a license for the vend of medicated wines denatured and rectified spirit in form L 12 L 17 and L 19 respectively shall be combined with any license for any dealings with any dangerous drug as defined in section 2(h) of the Dangerous Drugs Act 1930 (Central Act No 2 of 1930) without the specified section of the Collector

The Committee recommends that in line 5 for the word 'section' the word 'sanction' be substituted to make the rule intelligible

**Rule—15**

15 No license shown in column 2 of the sub joined table shall be held by persons holding or in any way connected in interest with the persons holding any of the licenses shown against them in column 3 except where it has been specifically provided that it may be held with the special sanction of the Financial Commissioner —

Sr No	A license in form	May not be held in conjunction with
1	2	3
1	L 1	A License in form L 3 L 4 L 5 L 8 L 12 B or L 12 C except with the special sanction of the Financial Commissioner

2	L 2 and L 10	A Licence for vend of any country liquor denatured spirit or rectified spirit
3	L 3 L 4 L 5 L 8 L 12 B or L 12 C	A license in form L 1 L 2 or L 10 except with the special sanction of the Financial Commissioner and a license for any dealings in country liquor
4	L 9	A licence in form L 2 L 3 L 4 L 5 L 6 L 7 L 8 L 10 L 12 A L 12 B or L 12 C
5	L 13 L 14 L 14 A or L 14 B	Any license except licence in form L 10 for any dealing in foreign liquor rectified or denatured spirit or country fermented liquor
6	L 17	A license for any dealings in country liquor or for the vend of foreign liquor or rectified spirit

The Committee recommends that in line 3 for the word "is" the word "it" be substituted to make the Rule grammatically correct

#### Rule—22

'22 A license in form L 14-B may be granted for the vend of country spirit on special occasions subject to the following conditions —

- (i) No special liquor license shall be granted for any fair where such a license has hitherto not been granted or where having in the past been granted it has now been discontinued. If a new fair is inaugurated the Collector shall not grant a special licence without the consent of the Financial Commissioner
- (ii) In the case of fair for which the special liquor licence have hitherto been granted the Collector may continue to grant such licences. He should however take cognizance of any *bona fide* movement favouring prohibition and he may without further sanction decline to grant the special liquor license if on testing local opinion as provided in the Punjab Intoxicants License and Sales Orders he is thoroughly satisfied that the discontinuance of such a license would be a measure approved by the unquestioned voice of the local opinion and that such local opinion is free from any suspicion of connivance at illicit distillation
- (iii) Licenses for recurring fairs of importance at which it is permissible under these rules to provide for the sale of country liquor should be included in the list of shops to be auctioned

The Committee observes that the word 'fair' mentioned in Rule 22 has not been defined. In the absence of specific definition of 'fair' it is not clear as to whether the 'fair' relates to a cultural fair or a religious fair or some any other type of fair.

Therefore the Committee recommends that the word 'fair' be defined suitably in the Rules itself.

The Committee also recommends that in Rule 22(i) in line 4/5 between the words 'without the' and 'consent' the word 'written' be inserted to make the Rules clear.

The Committee further recommends that in Rule 22(ii) in line 7 the word 'thoroughly' be deleted being superfluous.

#### Rule—24

I to IX

\* \* \* \*

(x) Application fee for the grant of licenses in form L 1 and L 1 A shall be accompanied by a treasury receipt of Rs 2 500/ (Rs Two thousand and five hundred) deposited in Government Treasury as an application fee, which shall be refundable to the applicant in case his application is rejected."

The Committee is of the view that in Rule 24(X) a provision be made in the Rule itself that before rejecting the application of the applicant for grant of license in form L 1 and L 1 A he/she shall be given a reasonable opportunity of being heard.

Therefore the Committee recommends that the following proviso be added in rule 24(X) —

provided that before rejection of the application for the grant of licenses in form L 1 Or L 1 A an opportunity of being heard shall be provided to the licensee

The Committee further recommends that the criteria/grounds for rejection of application may also be mentioned in the Rules to make the rule clear and comprehensive.

#### Rule—26

**'26 Fixed and assessed fees** — A license in form L 16 for the reduction of country spirit is granted free of free.

The Committee recommends that fixed and assessed fees be suitably revised keeping in view the Price Index.

**Rule—27**

27 (1) A licence in form L 17 will be granted on fixed fees in addition to the fees assessed according to the scale thereunder. The following are the rates of fixed fees —

(i) Rs 10 000 per annum for a retail license for one year to possess a quantity not exceeding 2 000 bulk litres of denatured spirit at one time

(ii) [Omitted by 2]

Provided that no licence in form L 17 shall be issued or renewed unless a refundable security of five thousand rupees in case per licence is deposited which shall be liable to be forfeited or adjusted towards any amount or penalty due under the Act

(2) The assessment shall be based on the following scale —

Rs 3 6 per bulk litre

(3) The fixed fee is payable in advance and the assessed fee shall be recovered at the time of issue of the permit in form L 32 prescribed under the Punjab Liquor Permit and Pass Rules 1932

Provided that no assessment fee shall be charged on the quantity of denatured spirit on which such fee has already been recovered in Haryana

27 A (1) The licences in form L 10 and L 10 A shall be granted on fixed fee as indicated below

Wine and Sweets	Rs 1 25 per bottle
(i) For a License in Form L 10	Rs 15 000 per annum
(ii) For a License in Form L 10A	Rs 5 000 per annum

Provided that a license in Form L 10 A license shall not be issued unless a refundable security of Rs 5 000/- is deposited which shall be liable to be forfeited or adjusted for any amount or penalty due under the Act

2 In addition to the fee payable under Sub Rule (1) of this rule an assessed fee shall be paid according to the following scale —

Kind of spirit	Rate of Assessment
(i) Imported and Indian made cider	Rs 0 50 per bottle of 650 millilitres
(ii) Imported and Indian made beer	Rs 0 25 per bottle of 650 millilitres

Provided that Indian made beer having alcoholic contents upto 3 per cent shall be exempted from the payment of assessment fee

27 B The following procedure shall be followed for the grant of license in form L 10 —

- (1) Any person who
  - (a) pays income tax or wealth tax or
  - (b) pays not less than 100 Rupees as land revenue or
  - (c) has the capacity to invest to the satisfaction of the Collector or
  - (d) is a general merchant or chemist not holding a license to sell denatured spirit country liquor or fulfils any of the conditions in clauses (a) (b) and (c) desiring to obtain a license in form L 10 may submit an application to the Collector through the Deputy Commissioner of the district concerned —
    - (a) on a judicial paper bearing a court fee stamp of forty paise and
    - (b) accompanied by a treasury receipts of two hundred rupees which shall be non refundable

The Committee recommends that fixed and assessed fees be suitably revised keeping in view the Price Index

The Committee recommends that the court fee stamp of 40 paise mentioned in rule 27 B(1) (d) (a) requires to be substituted by a suitable amendment

#### Rule—29

'29 The fee for new license except license in form L 9 shall be fixed by Financial Commissioner for which purpose the Collector shall forward his proposals for assessment. If the license is granted in respect of premises previously licensed the fee shall be based on previous sales in the manner hereinafter provided for the renewal of licenses otherwise it shall be based on probable sales. In case of licenses in form L 9 the fee assessed on the basis of rates provided in rule 31 shall be recovered in advance in the form of permit fee at the time of issuing permits for the import or transport of liquor by the licenses

The Committee recommends that in the last line of the rule 29 for the word 'Licenses' the word 'licensees'

#### Rule—30

30 When any of the licenses is renewed the Collector shall assess the fees on the scale laid down in Rule 31. In order to estimate the sales on which the fees for the ensuing year shall be assessed the Collector shall obtain from the Excise Inspector through the Deputy Excise and Taxation Commissioner a certificate as regards the sales made from the 1st January to the 31st December last in which the Inspector shall certify that the register in which sales are recorded have been personally verified by him and that totals of the sales are correct



The Committee recommends that in line 4 between the words 'Excise Inspector' and 'through' the words 'or any other official discharging the duties as such' be inserted

The Committee further recommends that in the 6th line between the words 'Inspector' and 'shall' the words 'or any other official discharging the duties as such' be inserted

### Rule—31

31 Rate of assessment vend fee per bulk litres The assessment fee will be based on the following rates on sales per bulk litre —

Kind of license	Spirit Indian made Rs	Imported Rs	Wine Rs	Beer cider etc	
				Indian made Rs	Imported Rs
L 9 (i) (except Rum)	4 00	7 50	2 00	0 10	0 40
(ii) (on Rum)	5 25				
L 6 L 7 and L 12 B	6 20	8 80	1 80	0 10	0 35

Provided that if any L 12 B license is attached to a cinema it shall also pay a flat fee of Rs 150 00 per annum in addition to the fee assessed according to the scale laid down above

Provided further that in the case of hill stations the flat fee shall be calculated at the rate of Rs 12 50 per month or part of a month during which the cinema remains open The licensee shall pay Rs 150 00 in the first instance and claim refund at the end of the financial year

Provided further that the assessment fee from L 9 licenses shall not be recovered for a period of six months from the issue of this notification in respect of the following qualities —

- (i) ten thousand quart bottles of Indian made Foreign liquor
- (ii) one lac and fifty thousand quart bottles of Indian made beer rum and
- (iii) seventy five thousand bottles of Indian made beer (each of 650 ml )

The Committee observes that the rate of assessment vend fee per bulk litre may be suitably revised keeping in view the prevailing circumstances

**Rule—32**

32 If in any case the Collector considers that for special reasons a fee lower than the prescribed fee should be sanctioned because the license will not be used throughout the whole year although in the previous year it has been so used he may recommend that a reduced fee sanctioned by the Financial Commissioner

The Committee recommends that in the last line between the words 'fee' and 'sanctioned' the words 'may be' be inserted

**Rule—36**

"36 Procedure for grant of licenses by auction —

- (i) Subject to such condition as the Excise Commissioner may make in the number and location of excise vends each year before annual auction the Collector shall —
- (ii) determine the minimum license fee for each group of vends or vend on the recommendation of the Deputy Excise and Taxation Commissioner incharge of the Excise district having regard to the estimated sales and other incidental factors pertaining to each vend or group of vends as the case may be The minimum license fee so determined and fixed for each vend or group of vends shall be announced at the time of auction As a matter of general policy the vends will be auctioned in groups each comprising maximum of 10 country liquor vends However the size of group can be increased with the permission of Excise Commissioner prior to auction or during auction Further where grouping is not feasible the vends may be auctioned singly The groups shall be constituted in such a manner so as to maximise the State revenue

The Foreign Liquor vends (L 2) will be clubbed with the country liquor vends falling in a group However L 2 vends clubbed with each country liquor vends or group of vends shall be announced at the time of auction and given to the highest successful bidder of the country liquor vend or group of vends at a fixed price to be announced at the time of auction In case the successful bidders for country liquor vends in an area do not show interest in taking the Foreign Liquor (L 2) vends in that area or if it is in the interest of State revenue Foreign Liquor (L 2) vends shall be auctioned separately singly or in group of 10 or less vends

The Deputy Excise and Taxation Commissioner incharge of the Excise district concerned will define clearly the area of each vend or group of vends Further in case a vend has to be closed down because of Court order or local resistance or for any other reasons beyond the control of licensee the licensee will have the option to shift the vend with the prior permission of Collector within his area on the same terms and conditions The closure of one or more vends in that area for the aforesaid reasons for any period will not entitle him to any rebate/reduction in the license fee for that vend or

group of vends In case the licensee refuses to run group of vends/ vend then the same will be put to re auction by relocating closed vends/vend at the alternative sites/site and given to the highest bidder at the risk and cost of the original licensee

(1 A) The Deputy Excise and Taxation Commissioner of the concerned district will ensure that the command area of a country liquor vend is well defined and compact by specifying names of villages falling in the command area

(2) Auction shall be held by the Collector in the presence of the Deputy Commissioner of the district concerned However if the Collector is prevented by some unavoidable cause to conduct the auction any gazetted officer selected and empowered in this behalf by the Financial Commissioner shall preside and conduct the auction in the presence of the Deputy Commissioner concerned

(3) and (4)

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*	*	*	*

(5) Before the auction begins the Presiding Officer shall read out the conditions to which auction is subject

(6) and (7)

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*	*	*	*

(8) No person shall be allowed to bid for another person whether he is partner or not unless he holds a power of attorney duly executed in his favour authorising him so to bid

(9)

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*	*	*	*

(10) No person shall be allowed to bid if his name is borne on the list of persons debarred from holding licenses in Haryana Punjab Himachal Pradesh or the Union Territory of Delhi or Chandigarh

(11) to (14)

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*	*	*	*

(15) The Presiding Officer shall record the name of each person making a bid and the amount bid by him

(16) to (18)

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*	*	*	*

"(19) When the increase in bidding is over 35% of the reserve (minimum) price the Presiding officer in order to check speculative bidding demand one third of the total bid money in cash or bank draft as security at the time of auction. If such an order is made all subsequent bids shall be deemed to have been made subject to this condition

(20) &amp; (21)

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*	*	*	*

(22) If the minimum license fee fixed for a vend is not bid for the Collector may in his discretion accept the lower bid provisionally but in forwarding the results of the auction to the Financial Commissioner under Sub-Rule (24) shall call special attention to the case of any vend of vendes for which he has provisionally accepted a lower bid. If the Financial Commissioner does not approve the lower bid he may reject it and further direct that either the vend be closed permanently or until a person willing to take it up at the minimum license fee comes forward or that the vend be carried on by a person who will work it for commission on sales. The Financial Commissioner may further direct that the vend be resold by auction or by private contract or negotiations

(23)

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*			*

(24) The Collector shall forward to the Financial Commissioner for approval statements in form M 14 and M 14 A showing the locality of each vend sold the minimum license fee determined under sub rule (1) the name percentage and full permanent address of the person to whom the vend has been sold at the highest bid and in any case in which the vend has not been sold to the highest bidder a short statement of the reasons for rejecting it. If no intimation to contrary is received within ten days from the date of the auction the Collector shall assume that the Financial Commissioner has accepted his proposal. The Deputy Excise and Taxation Commissioner shall forward a list of all licenses and the vendes obtained by them to the Superintendent of Police in the district and the manager of all the distilleries licensed in Haryana

The Committee recommends that in rule 36(1) for the word condition the word conditions may be substituted. The Committee recommends that in line three and four of sub rule (2) of Rule 36 the words 'selected and' be deleted being superfluous

The Committee recommends that sub rule (5) of Rule 36 be recast as under —

✓ (5) Before the auction begins the presiding officer shall read out the terms and conditions of auction

✓ The Committee recommends that in Rule 36 (8) in between the words "holds a" and 'power of Attorney' the word "Registered" be inserted

✓ The Committee also observes that after formation of Delhi State sub-rule(10) may be suitably amended as Delhi is no more a Union Territory

✓ The Committee recommends that in sub rule (15) between the words 'name and of each the words and address' be inserted to make the rule more clear

✓ The Committee recommends that in line second of Rule 36(19) for the word "thire" the word "third" be substituted

✓ The Committee recommends that in line 5 of Rule 36(22) between the words reject it and and further' the words 'after giving an opportunity of being heard to the successful bidder" may be inserted to comply with the principle of natural justice

✓ The Committee recommends that in Rule 36 (24) for the word 'Percentage' the word 'Parentage' be substituted

### Rule—37

#### "D GENERAL CONDITION TO ALL LICENSES

37 Every license under these rules is granted subject to the conditions set forth in this rule

*Exception* – A license in form L 12 D shall be subject to conditions (1) and (2) and the special conditions prescribed for it

#### GENERAL

**1 Conditions dealing licensed premises** (1) The license shall observe all rules under the Punjab Excise Act 1914 applicable to his license and the general and special conditions of his license

(2)

\* \* \* \*

(3) When a licensee has more than one licence sale and other business under each license shall be carried on on each separate premises and liquor to be sold on each license shall be stored separately and the accounts of each license shall be kept separately

*Exceptions* (a) Sales under a license in Form L 5 or L 8 may be carried on the licensed premises of a hotel restaurant railway refreshment room or dining car as the case may be and common stocks may also be kept but separate accounts of sales under each license shall be maintained

(b) In any other case a special permission of the collector may be obtained and endorsed on the license for sales being carried on the same premises But unless the Financial Commissioner sanction otherwise stocks and accounts shall be maintained separately

(4) to (6)

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*	*	*	*

(7) The licensee shall not exhibit at the licensed premises pictures and photographs of Mahatma Gandhi Acharya Vinoba Bhave and such other national leaders as may be notified by the Excise and Taxation Commissioner He shall also not exhibit any board picture or photograph which exhorts public to drinking or contains a photographs of a woman and shall not exhibit bottles containing coloured water outside his vend and shall also not keep any bottle of liquor for sale or otherwise having been moulded in shape of a woman or having a photograph of a woman on the labels affixed to such bottle

(8) to (13)

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*	*	*	*

(14) Any transaction of the nature of a gift or loan between the licensee and an Excise Officer is prohibited

(15)

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(16) Every licensee shall maintain the registers prescribed for the class of business carried on by him and on the expiry of his license shall make them over to the Deputy Excise and Taxation Commissioner of the District or some other excise officer empowered by the latter in this behalf under a valid receipt The licensee shall submit all prescribed returns punctually and maintain true accounts of transactions from day to day in ink He shall enter all figures in English numerals

and other particulars in English or Hindi characters unless the Collector by special order noted on the license permits the use of other numerals or characters

(17) The licensee shall not permit the resort to his licensed premises of persons whom there is reason to believe to be habitual criminals he shall prevent gaming and disorderly conduct therein and shall give information to the nearest Magistrate or Police Officer of the resort to his licensed premises of any person suspected of having committed an offence or of habitually committing of offences for which under the Criminal Procedure Code warrants would ordinarily issue and of every irregularities committed therein tending to disturb public peace and he shall at all times for police purposes permit free access to the police to all parts of his licensed premises

(18) The licensee shall at any time produce for inspection on demand of any Excise Officer of the first or second class his licence and his accounts and shall allow the inspection of his registers stock and premises by the said officer

(19) The licensee shall maintain an inspection note book with the pages numbered consecutively and duly authenticated by the Excise and Taxation Officer or the Excise Inspector and hand it over on demand to any Excise Officer of the first or second class on a receipt being given thereof Any punishment or warning incurred by the licensee without forfeiture or cancellation of his license shall be recorded in the book

(20) The licensee shall furnish to the Deputy Excise and Taxation Commissioner on his demand a list of the persons employed or proposed to be employed in his licensed business

(21) **Conditions relating to the sale and storage of liquor** – The licensee shall not sell or store in his licensed premises for sale or other purposes –

(a) any class of liquor other than the permitted by his licence and

(b) liquor of any character or band for bidden by the Financial Commissioner

(22) The licensee shall not sell or keep on his licensed premises any chloral hydrate butyl chloral hydrate or para aldehyde any caramel or clouring matter or any essence or material used for flavouring beverages or any rectified spirit nor shall be mix any of the above substances with any liquor sold or kept by him unless he is a chemist or a druggist or medical practitioner and holds a license in form L 17

(23)

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(24) The licensee shall not reduce any liquor to be sold by him or stored in his premises



★	★	★	★
★		★	★



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✓ The Committee recommends that in Rule 37 (21) (b) for the word "band" the word brand be substituted

✓ The Committee recommends that in rule 37 (22) in line 4 for the word 'mix' the word mixture of be substituted

✓ The Committee recommends that in Rule 37 (24) between the words 'reduce' and "any" the words the 'quantity of ' be inserted

✓ The Committee recommends that in Rule 37 (25) in line 1st between the words "shall" and after the word not be inserted

✓ The Committee recommends that in Rule 37 (31) (b) (i) keeping in view the rise in prices the sale price may be suitably amended

### Rule—38

(1) and (2)

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*	*	*	*

(2A) A license in form L 2 A for retail vend of Rum and Gin of the strength of 50 degree proof to the public only for consumption off the premises

(a) The license shall not sell Rum and Gin of the strength 55 degree proof for consumption on the premises

(3)

*	*	*	*
*	*	*	*

(4) A license in form L 4 and in form L 5 for the retail vend of Indian Made Foreign Liquor in a Restaurant and Bar respectively for 'on consumption subject to the following conditions —

4 (b) & (c)

*	*	*	*
*	*	*	*

(d) The licensee shall keep the stock of Indian Made Foreign Liquor on the licenced premises and Excise Commissioner Haryana may fix the limit of stock that may be kept by the licensee at any given time

(5) [Omitted]

(6) A Licensee in form L 6 for the retail vend of foreign liquor in a Railway Refreshment Room for on consumption

- (a) The license shall only sell foreign liquor in retail for consumption on the premises to bona fide passengers and other persons served with eatable there premises meaning within the limits of the railway station

(7) to (9) and 10 (a)

*	*	*	*
*	*	*	*

- (b) The price of unbottled beer sold under his licensee shall not exceed a specific price per glass if so ordered by the Financial Commissioner

*Note*—Unless orders are received by November 30 the Collector may presume that no price will be fixed

(c) to (j)

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*	*		*

(11) to (15)

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*	*	*	*

(16) Licensee in form L 14 A for the retail vend of country spirit for On and Off consumption respectively and in form 14 B for retail vend of country spirit on special occasion

- (a) The licensee shall unless otherwise permitted by the Collector concerned in exceptional cases get his requirements of country spirit from a person licensed to sell country spirit by wholesale in the district concerned

(b) to (h)

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*	*	*	*

38 (16) (i)

- (i) The following special conditions shall apply to these licenses separately

L 14

- (a) The licensee shall sell ordinary spiced country spirit only in sealed bottles

- (b) The licensee may also sell beer at vends situated in the rural areas only for the consumption of the premises

*Note* — For the purpose of this rule rural area would mean areas other than—

- (i) Municipal Area
- (ii) Notified Area Committee area
- (iii) Ambala Contonment Board
- (iv) Urban Estate Panchkula
- (v) Faridabad Complex and
- (vi) Urban Agglomerations as Ambala Yammuna Nagar Gurgaon and Hissar

#### L 14 A

The licensee shall sell ordinary spiced country spirit only in sealed bottles

✓ The Committee recommends that in Rule 38 (2 A) (a) for the words "Licensee" the word "Licensee" be substituted to make the rule grammatically correct

✓ The Committee recommends that in Rule 38 (4) (d) for the word "Licenced" the word "Licensed" be substituted to convey the correct sense

✓ The Committee recommends that in line 1 of Rule 38(6) for the word "Licensee" the word "Licensee" be substituted to make the rule grammatically correct

✓ The Committee recommends that in line 1 of Rule 38 (6) (a) for the word "License" the word "Licensee" be substituted to convey the correct sense of the provision

✓ The Committee recommends that in line 1 Rule 38 (10) (b) for the word "Licensee" the word "License" be substituted to rectify the mistake

✓ The Committee recommends that Rule 38 (16) (i) be suitably recast to convey the correct sense

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