

PART-VI

TODDY/NEERA RULES

Adaptation of Andhra Pradesh Excise (Grant of License to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules 2007 in the State of Telangana

[G.O.MS.No. 24., Revenue (Ex-II) Department, Dated 04-09-2014.]

Read the following:-

1. The Andhra Pradesh Reorganisation Act, 2014 (Central Act No.6 of 2014)
2. Government Circular Memo.No.13665/SR/2014, GA (SR) Dept., dated 26.05.2014.
3. The Andhra Pradesh Excise (Grant of License to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules 2007 issued in G.O.Ms.No.1228, Revenue (Ex.II) Dept., dated 19.9.2007.

ORDER:

Whereas by virtue of Section 3 of the Andhra Pradesh Reorganization Act, 2014 (Central Act No.6 of 2014), the State of Telangana comprising the territories specified therein has been formed on and from the appointed day i.e., of 02.06.2014;

2. And whereas, in section 101 of the Andhra Pradesh Reorganization Act, 2014, a provision has been made for the purpose of facilitating the application of any law (as defined in section 2 (f) of the Act), made before the appointed day, in relation to the State of Andhra Pradesh or the State of Telangana, the appropriate Government may before expiration of two years from 02.06.2014, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority;

3. And whereas, the Andhra Pradesh Excise (Grant of License to Sell Toddy, Conditions of License and Tapping of Excise Trees) Rules 2007, made under the Andhra Pradesh Excise Act, 1968 (Andhra Pradesh Act No.17 of 1968) vide G.O. third read above and published in the Andhra Pradesh Gazette,

Rules Supplement to Part-II, Extraordinary, dated 20.9.2007 at PP.1-25, are in force as on 01.06.2014;

4. And whereas, after careful examination, Government have decided to adapt the said Andhra Pradesh Excise (Grant of License to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules 2007 which are in force as on 01.06.2014;

5. Now therefore, in exercise of the powers conferred by section 101 of the Andhra Pradesh Reorganization Act, 2014 (Central Act No.6 of 2014), the Government of Telangana hereby, order for adaptation of the Andhra Pradesh Excise (Grant of License to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules 2007 in force as on 1.6.2014 to the State of Telangana, with modifications as set out in the Schedule annexed to this order.

ANNEXURE

G.O.Ms.No.24, Dated 04.09.2014

SCHEDULE

(See para 5)

The Andhra Pradesh (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007.

1. Throughout the Rules, except occurring in the citation of the Act viz., in rule 2, for the words “Andhra Pradesh” substitute the word “Telangana”.

2. In rule 3, in sub-rule (2), delete the expression “within 50 Kms from the area of the shop”.

3. In rule 4, sub-rule (2), in item (ii), delete the expression “within 50 Kms”.

1. THE TELANGANA EXCISE [GRANT OF LICENCE TO SELL TODDY, CONDITIONS OF LICENCE AND TAPPING OF EXCISE TREES] RULES, 2007

[G.O.Ms.No. 1228, Revenue (Ex.II) Department, dt. 09-09-2007]

[Pub. in A.P. Gazette (RS) Part-II Ext., No.7 dated 20-9-2007]

In exercise of the powers conferred by Section 72 read with Sections 13,15,17,18,21,22,23,26, 28 and 29 of the Telangana Excise Act, 1968 (Act 17 of 1968) the Governor of Telangana hereby makes the following Rules to come into force with effect from the date of notification:

The following rules which are in force at present cease to operate with effect from 1.10.2007.

1. The Andhra Pradesh Excise (Tree Owner's Rent) Rules, 1968.
2. The Andhra Pradesh Excise (Levy of Excise Duty on Toddy) Rules, 1968.
3. The Andhra Pradesh Excise (Lease of Right to sell liquor in retail) Rules, 1969.
4. The Andhra Pradesh Excise (Arrack and Toddy Licenses General Conditions) Rules, 1969.
5. The Andhra Pradesh Excise (Tapping of Trees and toddy shops special conditions of Licence) Rules, 1969.
6. The Andhra Pradesh Excise (Arrack Retail Sale Special conditions of licence) Rules, 1969.
7. The Andhra Pradesh Excise (Intimation of Unwillingness to tap the Excise Trees) Rules, 1974.

RULES

PART-I

PRELIMINARY

1. Short title, extent and commencement:— (1) These rules may be called The Telangana Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007.

[The word "Telangana" subs. for "Andhra Pradesh" by G.O.Ms. No. 24, Rev (Ex-II) Dept., dt. 4-9-2014, w.e.f. 4-9-2014.]

(2) They shall extend to the whole of the State of Telangana.

[The word “Telangana” subs. for “Andhra Pradesh” by G.O.Ms. No. 24, Rev (Ex-II) Dept., dt. 4-9-2014, w.e.f. 4-9-2014.]

(3) They shall come into force at once.

2. Definitions:— (1) In these rules unless the context, otherwise requires:-

- (i) “*Act*” means the Telangana Excise Act, 1968;
- (ii) “*Collector*” means the Collector of a District and includes the Joint Collector or any person appointed by the Government to exercise the powers and to perform the functions of the Collector under Telangana Excise Act, 1968.
- (iii) “*Excise Tree*” includes the tree of mohwa, coconut, palm, palmyrah, date, begani, sago, sendhi or any tree of the species of palm or palmyrah from the fermented or unfermented juice of which toddy or liquor can be prepared.
- (iv) “*Excise Year*” means the period of Twelve months commencing from 1st October of the year and ending with 30th September of the succeeding year.
- (v) “*Form*” means a form appended to these Rules.
- (vi) “*Incidental Tapper*” means the person incidental to tapping, sale of toddy and includes disabled tapper, professional tapper who is above 65 years of age and widow of a tapper who died while engaged in tapping.
- (vii) “*Licence*” means a licence granted for the tapping of excise trees or drawing of toddy there from or the sale of toddy in retail under the Act and the ‘Licensee’ means the holder of such licence.
- (viii) “*Licence period*” means period of Ten excise years or part thereof commencing from the 1st October of the excise year or from the date of grant of licence during the first year of the Ten year licence period ending with the 30th September of tenth consecutive excise year.

[Clause (viii) subs. by G.O. Ms. No. 118, Rev. (Ex.II) Dept., dt. 20-6-2018]

- (ix) “*Licensed premises*” means any specified place and premises where toddy is authorized to be stored and sold on a licence issued by the competent authority of the State Government.
- (x) “*Neera*” means the juice known as sweet toddy drawn from excise trees into receptacles and treated so as to prevent fermentation.

(xi) “Permit” means a permit issued under these rules and includes a pass and an authorization.

(xii) [xxx]

[Clause (xii) omitted by G.O. Ms. No. 118, Rev. (Ex.II) Dept., dt. 20-6-2018.

Prior to omission, it read as below:

(xii) “Rental” means the annual rental which includes tree tax payable for a shop or group of shops as a part of sum in consideration of the grant of licence payable under Section 23 read with Section 17 of the Act.]

(xiii) ‘Shop’ means the licensed premises where toddy is sold in retail for public consumption.

(xiv) “Tapper” means a person who is a major and engaged in the profession of tapping and who can climb and draw toddy from an excise tree.

(xv) “Toddy” means fermented or unfermented juice drawn from an excise tree containing alcohol.

(xvi) “Toddy Co-Operative Society” means a society formed as per the provisions of the Telangana Co-Operative Societies Act, 1964 consisting of not less than 80% of the tappers as defined in clause (xiv) above, and not exceeding 15% of the persons incidental to tapping and sale of toddy and not exceeding 5% of the following categories:-

- a) Disabled tappers;
- b) Professional tappers who are above 65 years of age, and c) Widows of tappers who died while engaged in tapping;

(xvii) “Tree Owner’s rent” means the sum payable as rent under Section 26 of the Act.

(xviii) “Tree Tax” means the duty leviable under Section 22 of the Act as tax on excise trees from which toddy is drawn.

(2) The words and expressions used but not defined in these rules shall have the meanings assigned to them in the Telangana Excise Act, 1968.

PART-II

PROVISIONS RELATING TO GRANT OF LICENCE

3. (1) Subject to the provisions of these rules the right to sell toddy shall ordinarily be granted by assigning the toddy shops to “Tappers Cooperative Society” or to individual tappers under “Tree for Tappers Scheme”. The licence shall ordinarily be for a period of five excise years;

Provided that where the Commissioner considers it necessary to grant the licence for selling toddy in any other manner he shall do so with the prior approval of the Government.

Provided further that the toddy shops in Scheduled area shall be assigned to the Schedule Tribes only.

Explanation: - For the purpose of this rule:-

- (a) 'Scheduled Tribe' means any Tribe or tribal community or part of or within a tribe or tribal community resident in the Scheduled areas and specified as such by a public notification by the President under clause (1) of Article 342 of the Constitution of India.
- (b) 'Scheduled Area' means such area as the President may declare to be Scheduled areas by an order under sub-paragraph (1) of paragraph 6 in the fifth Schedule to the Constitution of India.

(2) The Commissioner shall be competent before the publication of notification under rule 4 having due regard to requirement, public order, health, safety, availability of trees in topes [xxx] and other factors as he thinks fit, to fix the number of toddy shops to be established in an area, their location, assignment of trees for tapping.

[The words "within 50 Kms from the area of the shop" Deleted by G.O.Ms.No. 24, Rev (Ex-II) Dept., dt. 4-9-2014, w.e.f. 4-9-2014.]

Explanation: Area means the village, town, municipality or Municipal Corporation. The specified distance to the tope shall be measured from the location of the proposed shop in the area along the nearest motorable road.

4. Notification:— (1) Where it is proposed to grant the licence for sale of toddy to a Tappers Co-operative Society or Tree for Tapper, a notification containing the particulars mentioned in Sub-rule (2) shall be published by the Collector of the District in the District Gazette or in such other manner as the Collector may deem fit.

(2) The notice shall contain the following particulars, namely:-

- (i) The name and locality of the shop or group of shops which sell Toddy in the area.
- (ii) Name of the Tope and the number of trees allotted [xxx].

[The words "within 50 Kms" Deleted by G.O.Ms.No. 24, Rev (Ex-II) Dept., dt. 4-9-2014, w.e.f. 4-9-2014.]

- (iii) The conditions governing the grant.
- (iv) The period of licence.
- (v) Any other matter which may be considered necessary by the Collector for information to the members of Toddy Co-operative Society/tappers of Tree for Tapper Scheme.

5. (1) Subject to the provisions of these rules, the licence for sale of toddy shall be granted to Tappers Co-operative Society or to individual tappers under 'Tree for Tapper Scheme'.

Provided that a Tree for Tapper Scheme shall be granted for a minimum of one tapper.

(2) *Disqualifications*: No licence shall be granted to Tappers Cooperative Society which, or tapper under 'Tree for Tappers Scheme' who:-

- (a) Has been convicted of any offence specified in clause (d) of subsection (1) of Section 31 of the Act in respect of which he has been penalized or convicted within the preceding five years.
- (b) Has been convicted or whose licence has been cancelled for breach of any of the conditions of licence granted under Section 31 of the Act within the preceding three years.
- (c) Has been held guilty either in a departmental proceeding or in a Court of an offence under Section 37 of the Act for adulteration of toddy by mixing any article injurious to public health or otherwise within the preceding five years.
- (d) Is a defaulter of Excise revenue.
- (e) Is adjudged as an insolvent by a competent court, or
- (f) Suffering from leprosy or any other contagious disease.

(3) *Formalities to be completed by Tappers Co-operative Society or tapper under 'Tree for Tappers' Scheme'*:-

Where a toddy shop is allotted to a Tappers Co-operative Society, the society shall pay 2% of the annual rental as earnest money together with half month's rental, on or before the date prescribed for completion of formalities. After paying the above amounts, the Society shall execute a counterpart agreement in conformity with the tenor of the licence in Form TS-2 on a stamp paper of the requisite value as per the provisions of Indian Stamp Act, 1899:

Provided that in case of Tree for Tapper Scheme the tapper shall pay only half month's rental in advance to get a licence.

Sub-rule (3) Subs. by G.O.Ms.No.19, Rev. (Ex-II), dated 5-1-2008.

(4) *Licence for sale of Toddy*:

- (i) The licence for the sale of toddy granted to a Tappers Co-operative Society or to a tapper under 'Tree for Tappers Scheme', shall not take effect until the society or the tapper, as the case may be, obtains a licence after completing the formalities.

- (ii) Every application for grant of licence for sale of toddy shall be accompanied by a treasury Challan for fifty rupees as licence fee for issue of licence.
- (iii) The licence for the retail sale of toddy shall be in Form **TG-1** and shall be issued by the “*District Prohibition and Excise Officer*” of the district concerned to the President of the Tappers Co-operative Society or in the name of the tapper under ‘Tree for Tappers Scheme’ and shall not be transferable.
- (iv) The boundaries of the toddy shop premises shall be indicated in the licence. The tope/area along with number of trees allotted to shop shall be indicated in the licence.
- (v) The period of licence granted to a new Toddy Co-operative Society or to a tapper under ‘Tree for Tappers’ Scheme shall be for Ten years or up to 30th September of the Tenth consecutive year whichever is earlier.

[Clause (v) subs. by G.O. Ms. No. 118, Rev. (Ex.II) Dept., dt. 20-6-2018]

- (vi) The “*District Prohibition and Excise Officer*” may grant B shop licence as a satellite shop to the existing shop subject to condition that the B shop shall be within 2 Kms from the main shop and it shall be 2 Kms away from other neighbouring toddy shop.

(5) *Fixation of Rental:*

- (i) The rental for Toddy Co-operative Society or tapper under ‘Tree for Tappers Scheme’ shall be arrived at by multiplying the rate per tree with the ratio in terms of Dates.
- (ii) The Government may notify the maximum rate per tree separately in rural areas and in urban areas from time to time. The rate per tree includes tree tax.
- (iii) The method of arriving rate per tree shall be communicated by the Commissioner from time to time.
- (iv) The “*District Prohibition and Excise Officer*” will fix the rental of the shop accordingly.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

CASE-LAW

A perusal of Rule 5(2) of the Rules of 2007 shows that cancellation of licence under Section 31 of the A.P. Excise Act, 1968 for breach of any of the conditions

of licence within the preceding three years is a disqualification under Rule 5(2)(b). That apart, Rule 5(2)(c) prohibits grant of licence to society which was held guilty in departmental proceeding for adulteration of toddy by mixing any article injurious to public health or otherwise within the preceding five years. *Toddy Tappers Cooperative Society, Kosgi, Mahaboobnagar District v. State of A.P. and Another*, 2010 (3) ALD 430 = 2010 (3) ALT 173 = 2010 (2) UPLJ 65.

6. Renewal of Licence:— In case of licence granted to Toddy Cooperative Society or individual tapper under tree for tapper scheme for retail sale of toddy, such licence may be renewed after expiry of the period of licence for a further “*period of Ten (10) years*”. The licensee shall however, observe all other conditions that are existing and those that may be prescribed by the Commissioner in this regard from time to time.

[Subs. for “*period of five (5) years*” by G.O. Ms. No. 118, Rev. (Ex.II) Dept., dt. 20-6-2018]

CASE-LAW

Rule 6 provides for renewal of the licence though no such mention appears to have been made to cover any particular period, after the expiry of the original licence period and before the licence is renewed. *Ediga Thippeswamy and Others v. State of Andhra Pradesh*, 2010 (1) ALD (CrI.) 579 (AP) = 2010 (1) ALT (CrI.) 381 (AP).

Toddy is a commodity, which the petitioners could not have stored with impugny, without the fear of decomposition for any considerable length of time and in possessing and transporting the toddy.

Therefore, in the instant case, the petitioners were held not accused of committing or intending to commit any other offence under any excise law. Jurisdiction under Section 482 Cr.P.C. was held to be invoked in the interests of justice in favour of the petitioners. *Ediga Thippeswamy and others v. State of Andhra Pradesh*, 2010 (1) ALD (Cri.) 579 (AP) = 2010 (1) ALT (CrI.) 381 (AP).

PART-III

PROVISIONS RELATING TO FUNCTIONING OF TODDY SHOPS AND CONDITIONS

7. Commencement of Business:— Every licensee shall commence his business from the 1st October or such other date as may be specified in the licence and shall keep the shop open every day during the hours fixed till the expiry of the term of licence, unless the closure of the shop is ordered by the competent authority for the period specified by him.

Explanation: A toddy shop shall not be deemed to be open, unless it keeps always in the shop toddy to the extent of daily requirement.

8. Selection of premises:— [(1) The tappers to whom the Toddy Co-operative Society/Tree for Tapper shop is assigned, subject to the approval of the District Prohibition and Excise Officer, shall select a suitable premises for the location of the shop within the village/municipality/municipal corporation/locality, as the case may be, as notified. It shall be at least 100 meters away from the places of public worship, educational institutions, labour colonies, hospitals and places of payments of salaries in industrial, mining and project areas. In respect of highways the premises shall be as per the distance prescribed under the Explanation (iv).]

[Opening Paragraph subs. by G.O.Ms. No. 220, Rev. (Ex-II) Dept., dt. 27-9-2017]

Explanation:- For the purpose of sub-rule (1)

- (i) *‘Place of public worship’* means a temple registered with Endowment Department, Mosque registered with Wakf Board and Church and includes such other religious institutions as the State Government may by order specify in this behalf;
- (ii) *‘Educational Institution’* means any Primary School and High School recognized by the State Government or Central Government, Junior Colleges or any College affiliated to any University established by law;
- (iii) *‘Labour Colonies’* means colonies where labourers may be residing in a large number and includes Housing Board Colonies for labour and Industrial workers, Labour Housing Colonies of Companies.
- [(iv) *‘Highway’* means National Highway or State Highway as notified by the competent authority, excluding the stretches of the highways passing through Municipal areas.

The premises shall not be;-

- (a) within a distance of 500 Meters of the outer edge of the National or State highway or of a service lane along the highway;
- (b) within a distance of 220 Meters in case of local bodies with a population of 20,000 people or less;
- (c) visible from a National or State Highway;
- (d) directly accessible from a National or State Highway;
- (e) no signages and Advertisements of the availability of liquor shall be permitted both on National and State Highways.]

[Clasue (iv) subs. by G.O.Ms. No. 220, Rev. (Ex-II) Dept., dt. 27-9-2017]

- (v) '*Hospital*' means any Hospital which is managed or owned by a local authority, State Government or Central Government or any private hospital having a provision of at least thirty (30) beds.

(2) The distance referred to in sub-rule (1) above shall be measured from the mid point of the entrance of the shop along the nearest path by which pedestrian ordinarily reaches, to the mid point of the nearest gate of the institution if there is a compound wall, and if there is no compound wall to the mid point of the nearest entrance of the institution.

- (3) The boundaries of the premises shall be indicated in the licence.

(4) The licensee shall provide easing facility like urinals and drinking water facility within the boundaries of the premises and shall keep the premises and its surroundings always clean. The licensee shall also provide moderate sitting accommodation for at least five customers within the boundaries of the shop premises.

(5) The licensee shall screen the premises in such a way that the customers while consuming toddy are not visible to outsiders and passers by.

(6) Any shop in respect of which a licence has been granted shall not be deemed to be situated within the prohibited distance referred to in sub-rule (1) if any time after such licence is granted any institution referred in sub-rule (1) comes into existence within the prohibited distance.

9. Sales to be conducted within the licensed premises:— Sale of Toddy shall be conducted in a suitable place within the premises set apart for that purpose. If the premises of the shop is amidst the dwelling houses, it shall be isolated so as to render it inaccessible to non-consumers.

10. Licence to be exhibited:— The licence shall be exhibited in a conspicuous part of the shop.

11. Sign Board to be affixed:— The licensee shall affix a sign board written in the regional language in a conspicuous part of the shop showing the nature of intoxicant sold in the shops, its retail price and the number of the licence.

12. Sale of other intoxicants prohibited:— Any intoxicant other than Toddy shall not be sold or kept in the shop.

13. Hours of business and dry days:

- (i) Every shop shall remain open from 7 A.M. to 10.30 P.M. If at any time during the term of the licence the Commissioner or any officer authorized by him brings about any change in the timings, the licensee shall observe the timings so changed.

- (ii) The licensed premises shall be closed and no business transacted on the following days declared as dry days:
- (a) 26th January Republic day.
 - (b) 15th August Independence Day.
 - (c) 2nd October..... Gandhi Jayanthi.

Provided that the licensee shall not be entitled to any compensation whatsoever for the closure of the licensed premises.

14. No restriction on retail price of toddy:— There shall be no restriction on the retail sale price of toddy.

15. Use of standard measures:— The licensee shall use only, the standard measures as certified and stamped by the Weights and Measures Department of the Government of [Telangana] at the shop for the purposes of sale. The measures shall be obtained by the licensee at his costs.

[The word “Telangana” subs. for “Andhra Pradesh” by G.O.Ms.No. 24, Rev (Ex-II) Dept., dt. 4-9-2014, w.e.f. 4-9-2014.]

16. Adulteration of Toddy prohibited:— Toddy which is sold or offered for sale in the shop shall be unadulterated. The licensee shall not vary or manipulate the intoxicating quality or strength of toddy either by mixing any foreign ingredient or otherwise. The licensee shall not keep within the premises of the shop any material injurious to health, which may be used for adulteration of toddy.

Explanation: Mixing of sugar in toddy is permissible.

17. Employment of women and certain other persons for selling toddy prohibited:— (1) Where the licensee proposes to employ a woman, other than a woman belonging to the family of the licensee for the sale of toddy in any shop, he shall obtain prior permission of the “*District Prohibition and Excise Officer*”. The licensee shall not employ any person for the sale of toddy in a shop if he is disqualified by or under the Act or is disapproved by the “*District Prohibition and Excise Officer*” for sufficient cause.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

(2) No person under the age of eighteen years shall be employed in any shop where toddy is consumed.

18. Toddy not to be sold to certain persons:— Toddy shall not be given or sold to the following persons namely:—

- (1) Insane persons;
- (2) Persons known or believed to have been drunk;
- (3) Persons known or suspected to be about to take part in a riot, disturbance of public peace or any other crime;
- (4) Policemen, Prohibition and Excise Officers, Railway servants or Automobile Drivers when on duty or in uniform;
- (5) Soldiers in uniform or members of their camp in uniform;
- (6) Persons below the age of 21 years.

19. Regulation of sale of Toddy:— The licensee shall not sell toddy to any person at any time more than the maximum quantity notified under Section 14 of the Act for private possession.

20. Licensee not to permit certain acts in the shop:— The licensee shall not permit in any shop gambling or any other kind of disorderly conduct.

21. Objectionable advertisement prohibited:—The licensee shall not advertise the sale of toddy by beat of drum or displaying hoardings or in any other manner on highways, in lanes, by lanes or public places.

22. Licence to be surrendered to the licensing authority on expiry:- Every licence granted under these rules shall be deemed to have been granted either jointly or severally to the licensees named therein, and shall on its expiry, be surrendered by the licensee to the licensing authority.

23. Death of TFT Licensee:— In the case of death of licensee of a TFT, the legal heir of the deceased licensee, if he so desires, he may be permitted to continue the licence if he is eligible to hold the TFT licence.

24. Transport of toddy:— No transport permit is required for transportation of toddy from the place where the allotted trees are situated to the toddy shop.

25. Returns:— The licensee shall furnish such returns and particulars as may be required by the “*District Prohibition and Excise Officer*” from time to time.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

26. Deposit of forms and books:— On the expiry of the licence, the licensee shall deposit with the local Station House Officer, all the registers and forms pertaining to the shop and all accounts except those required for income tax purpose.

27. Drawal of the samples:— (1) Any Prohibition and Excise Officer, not below the rank of Sub-Inspector of Prohibition and Excise or Food Inspector appointed under the *Prevention of Food Adulteration Act, 1954, shall be competent to inspect at any time and to take samples from the toddy possessed by the licensee or any other person, for the purpose of analysis. Such officer shall take three (3) samples in the presence of the licensee or his agent or other person in charge of the licensed premises or who is found selling toddy in the said premises, after conducting a panchanama. The samples shall be sent to the Court having jurisdiction with a requisition to send one of the samples expeditiously to the Chemical Examiner of the Prohibition and Excise Department having jurisdiction in the region, in which licensed premises are situated or to any independent laboratory as instructed by the Commissioner for chemical examination. If the sample sent to the Chemical Examiner/Laboratory is damaged in transit or otherwise before the completion of the analysis, the Court may be requested by the concerned officer to send a second sample to the Chemical Examiner/Laboratory. If the licensee desires that the sample should be sent for analysis to an independent laboratory he may apply to the “*District Prohibition and Excise Officer*” within three (3) days of the drawl of sample. In case, where licensee or any one of his nowkarnama holder was not present at the time of taking sample, the licensee may apply to the concerned “*District Prohibition and Excise Officer*” within seven (7) days from the date of communication of drawl of sample. The application should be accompanied by a demand draft for an amount sufficient to cover the analysis charges. If no such application is filed within the requisite time limit, the licensee shall not be entitled to seek analysis thereafter. On receipt of the application within the time and with requisite demand draft, the concerned officer shall request the court to send a sample to the independent laboratory.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

Provided that any adverse analysis report will constitute sufficient cause for the purpose of exercising the power under Section 31 of the Act, by the authority granting licence or permit to safe guard the public health.

Provided further, that the officer requesting the court, to send a sample to an independent laboratory on the application of the licensee, has to indicate the name of the independent laboratory to the court.

Explanation: Independent Laboratory means any laboratory over which the Government of Telangana has no control.

* Now Food Safety and Standards Act, 2006.

(2) **Manner of packing, sealing, Labeling and Addressing the**

Sample: All samples of toddy taken under sub-rule (1) shall be packed, fastened and sealed in the following manner, namely:—

- (a) The stopper shall first be securely fastened so as to prevent relevant leakage of the contents in transit.
- (b) The bottle, jar or other container shall then be completely wrapped in fairly strong thick paper. The ends of the paper shall be neatly folded in and affixed by means of gum or other adhesive.
- (c) A proper slip of the size that goes round completely from the bottom to top of the container bearing the signature and code of the inspecting officer, shall be pasted on the wrapper, the signature or the thumb impression of the person from whom the sample has been taken being affixed in such a manner that the paper slip and the wrapper both carry a part of the signature or thumb impression:
Provided that in case, the person from whom the samples have been taken refuse to affix his signature or thumb impression, the signature or thumb impression of the witnesses, shall be taken in the same manner.
- (d) The paper cover shall be further secured by means of strong twine or thread both above and across the bottle, jar or other container and the twine or thread shall then fastened on the paper cover by means of sealing wax on which there shall be at least four distinct and clear impressions of the seal of the sender, of which one shall be at the top of the packet, one at the bottom and the other two on the body of the packet. The knots of the twine or thread shall be covered by means of sealing wax bearing the impression of the seal of the sender.

(3) **Manner of dispatching the samples:** The samples, after following the procedure laid down in sub-rule (2) shall be forwarded to the Court as specified in sub-rule (1) immediately after the drawl of the samples but not later than the succeeding day by any suitable means. A copy of the specimen impression of the seal used to seal the sample shall be sent to the Chemical Examiner separately by registered post or delivered to him or to any person authorized by him.

(4) **Contents of one or more similar sealed containers having identical labels to constitute the quantity of a sample:** Where toddy is sold or stocked for sale or for distribution in sealed containers having identical labels of declaration, the contents of one or more such containers as may be

required to satisfy the minimum quantity necessary for conducting analysis as deemed sufficient by the Chemical Examiner shall be treated as part of the sample. The quantity of sample sent for analysis shall be considered as sufficient unless the Chemical Examiner reports to the contrary.

(5) Spot test by Prohibition and Excise Officers: It shall be lawful for an officer of and above the rank of Prohibition and Excise Sub-Inspector to subject the toddy or any other substance that is available in the licensed premises or in its vicinity to chemical examination by a test conducted on the spot in order to find out *prima facie* whether the toddy has been adulterated with drugs or chemicals in order to enhance its intoxicating quality:

Provided that it shall be the responsibility of the licensee to report forthwith in the nearest Prohibition and Excise Station any possession, storage or sale of toddy by unauthorized persons within the area / locality where he holds licence.

28. Maintenance of accounts:— Every licensee shall maintain accounts in ink and each page shall be machine numbered serially. The licensee or any person authorized in this behalf by the “*District Prohibition and Excise Officer*” shall write the accounts daily and they shall be reconciled and closed at the end of the day’s transactions.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

29. Harboursing of certain persons prohibited:— Persons, who are known or believed to have been convicted of any non-bailable offences, who are prostitutes and habitual offenders, shall not be employed nor shall they be allowed to assemble or remain in the licensed premises, and if such persons visit licensed premises the matter shall be forthwith reported to the nearest police station by the licensee.

30. Customers not to be allowed to stay at nights:— The licensee shall not allow any person other than members of his family or his authorized servant in the shop after closure of the business for the day.

31. Payment of Rental:— ¹[xxx]

32. Adjustment of earnest money and deposits:— ¹[xxx]

1. [Rules 31 & 32 omitted by G.O.Ms.No. 118, Rev (Ex-II) Dept., dt. 20-6-2018. Prior to Omission, they read as follows:

“31. Payment of Rental:— (1) The Toddy Co-operative Society or tapper under Tree for Tappers Scheme shall remit the annual rental fixed for the shop or group in twelve equal monthly instalments commencing from October or from such other dates as the Government may specify in this regard.

(2) *Rental of the shop shall be remitted by the licensee into the Government Treasury of the Mandal / District in which the shop is situated and the receipted Xerox copy of the Challan submitted to the Prohibition and Excise Officer concerned soon after the remittance. Payment of monthly rental shall ordinarily start from the month of October of every excise year. The monthly rental shall be remitted by 20th of the month. Where the due date or the next day of the due date happens to be a holiday, the rental shall be remitted on the next working day. In case the monthly rental is not remitted by the due date, the licence shall be liable for suspension or cancellation after giving an opportunity to the holder thereof of making his representation within seven days against the action proposed.*

(3) *In the case of tapping of an excise tree or drawing toddy from any such tree without remitting the rentals by due date, his licence is liable for suspension or cancellation.*

32. Adjustment of earnest money and deposits:— *The earnest money and deposits made by Tappers Co-operative Societies at the time of grant of licence shall be adjusted towards the rentals of the last month(s) of the licence period, subject to the condition that the licensee is not in arrears of rentals or other amounts payable as on the date of adjustment.]*

[33. Tree Owners Rent:— (1) Tree Owner's rent shall be at the following rates shown in the table.

Sl.No.	Variety of Excise Tree	Tree owners rent per tree
1.	Sendhi (Date)	Rs.15.00
2.	Palmyrah	Rs.18.00
3.	Date Palm (Khajoor)	Rs.28.00
4.	Sago	Rs.34.00
5.	Coconut	Rs.28.00

(2) The licensee shall pay tree owner's rent to the owner or other persons in possession of the Excise tree:

Provided that no tree owner's rent shall be collected in respect of excise tree standing on Government lands and allotted to Tappers Co-operative Societies and to individual tappers under "Tree for Tappers Scheme."

(3) Payment of tree owner's rent: The licensee shall pay the rent prescribed in sub-rule (1) direct to the tree owner or other person in possession of excise trees, and obtain receipt in triplicate therefore, duly attested by the Village Assistant or Panchayat Secretary.]

[Rule 33 subs. by G.O.Ms.No. 118, Rev (Ex-II) Dept., dt. 20-6-2018]

34. Suspension of Licence:— [xxx]

[Rule 34 omitted by G.O.Ms.No. 118, Rev (Ex-II) Dept., dt. 20-6-2018. Prior to omission, it read as below:

“34. Suspension of Licence:— *In the case of default of any dues by a licensee, the licence may be suspended. The suspension of the licence may be revoked if the defaulter pays the entire dues.”*]

35. Authorization of servants or agents of a licensee:— (1) A licensee who desires to have any person as his employee for acting on his behalf as an agent or servant, shall make an application in that behalf to the Station House Officer concerned, affixing court fee stamp of the value of rupees one and obtain a nowkarnama in Form-A on payment of fees of rupees two.

Provided that the licensee under Tree for Tapper Scheme may authorize his spouse to sell toddy on his behalf under prior intimation of such authorization to the Prohibition and Excise Inspector concerned under acknowledgement.

(2) The licensee shall be bound to give effect to any orders passed by the “*District Prohibition and Excise Officer*” if any such agent including the authorized person of ‘Tree for Tapper’ licensee or servant who commits any breach of these rules, applicable to the licenses or other provisions made by or under the Act.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

(3) Any notice or order served on such agent including the authorized person of ‘Tree for Tapper’ licensee or servant shall be deemed to have been duly served on the licensee himself.

36. Pecuniary dealings with officers prohibited:— The licensee or his agent or servant shall not have pecuniary dealings of any kind of personal nature with the officials of the Government.

37. Inspection:— (1) Any Prohibition and Excise Officer not below the rank of Sub-Inspector shall be competent to enter and inspect the shop and examine the licence or test or measure the toddy therein.

(2) The licensee shall furnish necessary receptacles at the time of inspection for the measurement of toddy and shall afford all facilities for such inspection. The licensee shall maintain an Inspection Book in Form TG-4 at his own cost and make it available at the shop to the inspecting officers for recording notes of inspection. He shall be responsible for its safe custody.

38. Seizure of Toddy unfit for human consumption:— Any officer of the Prohibition and Excise Department who is competent to inspect shall also be competent to seize or prohibit toddy from being sold when he finds the same unfit for human consumption or to have been adulterated or diluted in any manner. Adulterated toddy which is unfit for human consumption may

be destroyed by the inspecting authority on the spot after duly following the procedure for drawl of samples.

39. Cancellation of Licence:— In case of cancellation of licence for default of payment of any dues, the order of cancellation of licence of the shop(s) may be revoked by the Collector after satisfying himself that the defaulter has paid the entire dues together with interest payable thereon as per rules.

Provided that if the licensee of toddy shop of Toddy Co-operative Society is found indulging in adulteration, for the first time, the members of managing committee will be disqualified and removed from the primary membership and the society may be continued with eligible tapper / member by imposing fine as prescribed by the Commissioner of Prohibition and Excise.

Provided further that if the licensee of toddy shop of a TCS is found indulging in adulteration for second time the toddy shop licence shall be cancelled after following due procedure. In case there are any eligible tappers in such Society after cancellation of shop licence of Tappers Cooperative Society, licenses may be granted under tree for tapper scheme and the members of the managing committee will be disqualified in getting any licence under these rules. In case of tree for tapper scheme, when a license is cancelled due to adulteration, the tapper shall be disqualified in getting a licence in future or becoming a member of any Tappers Cooperative Society.

CASE-LAW

As could be seen, the first proviso to Rule 39 provides that if the licensee of the society is found indulging in adulteration for the first time the members of the managing committee will be disqualified and removed from the primary membership and the society may be continued with eligible tappers/members by imposing the fine as prescribed by the Commissioner of Prohibition and Excise. It is apparent that it is a discretionary power conferred on the authority competent to cancel the licence to allow the society to continue with eligible members in certain circumstances.

However, the said power under Rule 39 is not available to the licensing authority while considering the request for the grant of fresh licence. *Toddy Tappers Co-operative Society, Kosgi, Mahaboobnagar District v. State of A.P. and another*, 2010 (3) ALD 430 = 2010 (3) ALT 173 = 2010 (2) UPLJ 65.

Availability of benefit of first proviso to Rule 39:— The contention that inasmuch as the 3rd respondent having directed the 1st petitioner's society to avail Rule 39 of the Rules, ought not to have cancelled the licence, does not merit consideration in view of the language of the first proviso to Rule 39 of the Rules, which requires that an act to be done and a step to be taken by the society in the event of a finding recorded that the society had indulged in or involved in an offence falling within the definition of 'adulteration'. To take that step, the society is required

to convene a general body meeting and thereafter, in place of the existing Managing Committee a new Managing Committee is required to be elected and that new Managing Committee has to make an application seeking to extend the benefit of Rule 39 of the Rules to the society. Viewed from that angle, the cancellation order passed by the 3rd respondent invoking Rule 39 of the Rules cannot be found fault as the benefit of the first proviso to Rule 39 of the Rules can be given to the society only after compliance of the mandatory conditions of making an application after taking the step as required under the first proviso to Rule 39 of the Rules.

Inasmuch as in the present writ petition, it is asserted by the petitioners that such step has already been taken by passing a resolution on 1.2.2019 and the same has been submitted to the Commissioner of Prohibition and Excise, Nampally, the 2nd respondent herein, alongwith the reply dated 1.2.2019, the benefit of first proviso to Rule 39 of the Rules would be extended to the 1st petitioner society as opined by the 3rd respondent in the order dated 31.1.2019, under the caption 'notice'. Subject to the above observation, the writ petition is closed, with a direction to the 2nd respondent to pass appropriate orders on the reply filed by the petitioners dated 1.2.2019, within a period of two weeks from the date of receipt of a copy of this order. *Toddy Tappers Co-operative Society, Hyderabad v. State of Telangana*, 2019 (2) ALD 182 (TS) = 2019 (2) ALT 96 (TS).

40. Forfeiture of deposits:— When a licence is cancelled for violation of licence conditions or due to adulteration, the deposit and earnest money made in respect thereof may be forfeited to Government either in whole or in part.

41. Recovery of sums due to Government:— Without prejudice to any other mode of recovery, all moneys due from a licensee to the Government may be deducted from the deposit amount or earnest money, if it has not been already forfeited to Government. In the event of deduction from the deposit or earnest money, the licensee shall be bound to replenish the deposit or earnest money to the extent of the deduction within fifteen (15) days of notice to that effect served on him by the "*District Prohibition and Excise Officer*".

[*The words "District Prohibition and Excise Officer" subs. for "Prohibition and Excise Superintendent" by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016*].

42. Shifting of shops/Depots:— The licensee shall not shift the shop/Depots from one place to another within the notified area during the currency of the licence. In special circumstances the Commissioner or any officer authorized by him in this behalf may permit such shifting after collecting Rs.250/- as shifting fee.

43. Licensee not entitled to claim compensation:— Where a licence is withdrawn or a shop is ordered to be closed by or under provisions of the Act, otherwise than by cancellation or suspension, no demand of rental or for

the period during which it was withdrawn or shop is closed, as the case may be made. The licensee shall have no right to claim any damage or compensation on that account except to the refund of the proportionate licence fee.

PART-IV

PROVISIONS RELATING TO TAPPING OF TREES AND TODDY SHOPS

44. Excise Trees to be made available for tapping:— (1) Tappable Excise trees shall be made available for tapping:

Provided that this rule shall not apply to Excise Trees withdrawn or taken over for public purpose by R & B Department or for any tree standing on the banks or beds of irrigation works under the control of Irrigation Department which those Departments may require to cut down or to strip of their leaves or branches.

(2) Owner unwilling to have his trees tapped to give intimation:

- (a) The owner or other person in possession of excise trees who is unwilling to have his excise trees tapped during the ensuing excise year shall present an intimation not later than the date notified by the “*District Prohibition and Excise Officer*” in the form of a petition giving full details in the office of the “*District Prohibition and Excise Officer*”, either in person on any working day between 10.30 am., to 5.00 pm or send through Registered Post.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

- (b) Factors for approving intimation: The intimation which mentions one or more of the following reasons shall be taken into consideration for according approval namely:
- (ii) that the trees are situated in the residential quarters or within the premises of places of worship or schools.
 - (iii) That the trees situated inside a place which is prohibited place, within the meaning of Section 2 of Official Secrets Act, 1923 (Central Act 19 of 1923).
- (c) Disposal of the Application:
- (i) On receipt of the intimation, the Prohibition and Excise Superintendent shall send a copy of the intimation along with his report to the concerned Deputy Commissioner of Prohibition and Excise to approve or withhold such approval.

- (ii) After making such enquiry as may be considered necessary and after satisfying himself that the reasons given in the intimation are found to be genuine and correct and are in accordance with the factors provided in sub-rule 2(ii), the Deputy Commissioner of Prohibition and Excise may accord such approval.
- (iii) If the intimation does not comply with any of the requirements of sub-rule 2(ii), it shall be rejected.
- (iv) Communication of the orders: A copy of every order passed under these rules shall be communicated to the petitioner and must contain reasons.

(3) No owner or other person in possession of Excise Trees or any other person shall cause obstruction in any manner of tapping of trees by or on behalf of licensee in respect of which there is no intimation of unwillingness to tap the excise trees and even if there is such an intimation, unless and until it is approved under these rules.

45. Provisions relating to tapping of trees:— Toddy drawn from allotted trees alone to be sold:-

- (i) The licensee in respect of toddy shops allotted to Toddy Cooperative Societies and Tree for Tapper Scheme shall possess or sell toddy drawn from allotted excise trees.
- (ii) Where a licensee of the group Toddy Co-operative Societies shops in any such city or town desires to pool toddy of all shops at one place and distribute it to constituent shops in separate receptacles, instead of transporting direct to all the shops, he shall do so after obtaining prior permission of the “*District Prohibition and Excise Officer*”. In such a case, the licensee shall obtain a licence in Form-TG.3 for establishing a depot on payment of a fee of rupees one hundred only from the “*District Prohibition and Excise Officer*” concerned and shall maintain accounts in Form-TG.3 (A). The depot shall ordinarily be established within the area of the group of shops. The transport of toddy from depot to constituent shops shall be under Form TG.3 (B).

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

- (iii) In the case of toddy shops assigned to toddy Co-operative Societies or tappers under Tree for Tapper Scheme, the provisions relating

to the marking of trees, issue of tapping licence and transport permits shall not apply.

46. The licensee shall tap excise trees subject to the following conditions, namely:— (1) In case of sendhi trees, the duration of tapping shall be four months to be reckoned from the date of tapping which includes the period required for rough and smooth facing of the trees.

(2) The licensee shall cut stalks or leaves, obstructing the way to afford ready access to the trees under tapping situated in the topes.

(3) The licensee shall cut such stalks for drawing toddy from the trees, as are necessary to prepare space for tappings, and shall not either cut more stalks than required or cut down the central whorls springing from the head of tree.

(4) The licensee shall tap on the opposite side of previous tapping of the trees and shall tap the trees on alternative days by making reve or incision on the tree. For ensuring tapping on alternate days, the licensee shall tap one half of the trees on the next day, i.e. if a licensee obtains (100) excise trees, he shall tap the trees bearing serial numbers 1 to 50 on one day and those bearing Nos.51 to 100 on the next day. The depth and length of the reve or incision shall be subject to a maximum of 4 cms. and 8 cms. respectively where the circumference of the tree at the spot of tapping is 50 cms. having regard to the bulkiness and growth of the tree. In other cases, this may be lesser. The general rule for the determination of the depth of the reve or incision shall be that the circumference of the tree at the place of tapping should be divided by 9 and the quotient shall be taken as maximum depth. No excise tree shall be tapped for a period more than 3-1/3 months from the date of attaching the pot.

(5) The licensee shall protect the trees and as far as possible that the following preventive measures to keep the trees safe from insects:

- (a) Shall not allow the filth of the animals and stalks to accumulate near the trees as they serve to breed insects.
- (b) Stalks of the trees shall not be so cut down as to expose the minor portion of the stem thereby allowing insects to enter into the tree through that portion.

(6) No incision shall be made at any point within 120 cms. from the ground or 18 cms. from the top of any other incision.

(7) The incision shall not be cut to a greater depth than one half of the diameter of the tree. In making the incision, the tappers shall see that a medium ridge (vertical ridge in the shape of a nose) is left in the middle of each incision.

(8) The tapper shall leave not less than eight leaves on the top of the tree in addition to the centre whorls springing from the head of the tree.

(9) The licensee shall not be entitled to compensation for any tree withdrawn or taken up for public purposes or for any trees standing on the banks or beds of irrigation sources under the control of the Public Works Department, which that department may require to cut down or strip of their leaves or branches.

(10) Rough facing and fine facing shall be permitted to be done only fifteen days before the end of September of that year and pots may be attached on the 30th September. Tapping shall be reckoned from the 30th September and the during of tapping of such trees shall be shown from the 30th September to the 15th January of the succeeding year.

(11) The licensee shall not leave tappable trees in between the trees, stalks of which are cut or frames are prepared. The "*District Prohibition and Excise Officer*" may at his discretion permit the licensee to tap such trees which are left in between/after taking action for the offence committed.

(12) If the licensee or any person in his employ or acting on his behalf and with his knowledge cut the stalks of the excise trees or prepares golas or makes rough or fine faces or draws toddy from those trees situated in un-allotted topes, or in blocks reserved for the succeeding year in allotted topes, or in excess of allotment in the current year's blocks in allotted topes, the licensee or such person shall be liable for prosecution under the Act and his licence is also liable for cancellation.

[The words "District Prohibition and Excise Officer" subs. for "Prohibition and Excise Superintendent" by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

(13) If the excise trees and the shops are situated in different places, the "*District Prohibition and Excise Officer*" in whose jurisdiction the shop is situated, shall be competent to permit tapping of such trees.

(14) Excise trees to the extent of one half of the total number if the unexpired period of tapping is one and half month or below and to the extent of three fourths of the total number if the unexpired period of tapping is above one and half months, shall be deducted from the quota of the current year fixed for the shop.

47. Allotment of Excise Trees:— (1) Every licensee who sells toddy shall be allotted a specified number of excise trees not less than 30 trees per tapper in terms of dates for tapping and drawing of toddy therefrom, for supply to his shop:

Provided that in case of allotment of both sendhi and toddy trees to a tapper, conversion formula of 3 toddy trees as being equal to 4 sendhi trees and one coconut tree as being equal to 2 toddy trees shall be followed for this purpose.

Provided further that it shall be the duty of the licensee to ascertain as to the availability of trees allotted to the shop and where any shortage in the number of trees available for tapping out of the trees allotted to the shop is noticed by the "*District Prohibition and Excise Officer*" or the Deputy Commissioner as the case may be, he shall allot excise trees to make up the shortage on being pointed out by the licensee, but no remission of rentals shall be entertained in lieu thereof.

[The words "District Prohibition and Excise Officer" subs. for "Prohibition and Excise Superintendent" by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

(2) The licensee shall tap not less than 75% of the trees allotted for the shop regularly. He shall ensure that toddy is available in the shop every day for sale. If he fails to do so the Licence shall be liable for cancellation.

(3) Excise trees in excess of the quota shall not ordinarily be allotted during the course of the year. The Collector within the district and the Deputy Commissioner of Prohibition and Excise within the division, subject to availability of trees may, in special circumstances, allot extra trees after collecting rate per tree on the extra trees allotted to the Toddy Co-operative Society and Tree for Tappers Scheme subject to a maximum of 160 sendhi trees per member who is actually engaged in tapping.

48. Transport and stock of toddy in excess of permissible quantity prohibited:— (1) The licensee shall not transport toddy more than ten percent in excess of the entitled quantity. If toddy is found in excess of this limit at the time of inspection, the excess quantity shall be confiscated to Government and released in favour of the licensee on payment of its cost which shall be determined in accordance with prevailing retail price, if found fit for consumption or otherwise it shall be destroyed under panchanama.

(2) The licensee shall not keep either at the depot or shop, toddy more than ten percent in excess of the toddy drawn from the excise trees meant for the shop(s). Toddy found fit for consumption and in excess of this limit at the time of inspection, shall be confiscated to Government and released in favour of the licensee on payment of the cost, which shall be determined in accordance with prevailing retail price. Toddy found unfit for consumption or adulterated shall be destroyed under panchanama.

49. Technical Specification of Toddy: (i) **Description:** Toddy shall be clear, pale straw or cloudy in appearance with sediments on storage. It shall possess the characteristic flavour derived from the sap and fermentation, without addition of extraneous alcohol.

(ii) **Ethyl Alcohol content:** The ethyl alcohol content shall be at least 4% by volume at 15/15°C when determined according to the method prescribed in 3 of IS 3752:1988.

(iii) **Freedom from harmful ingredients:** Toddy shall be free from any ingredient injurious to health. It shall be free from chloral hydrate, paraldehyde and other narcotic, psychotropic drugs like diazepam, alprazolam etc.

(iv) Toddy shall be free from pathogenic micro organisms such as *Escherichia coli*.

(v) Toddy shall also comply with other requirements as prescribed in IS 8538:1988.

50. Removal of Difficulties:— If there is any doubt regarding the application or interpretation of any of these rules, the decision of the Commissioner thereon shall be final. Subject to the provisions of the Act and these rules, the Commissioner may from time to time give such directions, as he may think fit for the purpose of carrying out the provisions of these rules.

FORM T.G-I

[See Rule 5(4) (iii)]

Licence for the retail sale of toddy

Serial Number of the Licence:

Date:

I "*District Prohibition and Excise Officer*" District, hereby authorize you.....Son of.....resident ofMandal to establish a toddy shop or group of shops.....under this licence atMandalDistrict for the sale of toddy for the period from the.....To the.....in the following premises under the "Telangana" Excise Act, 1968.

House No: & Locality:

Boundaries:

North: East:

South: West:

- (1) The licence together with general conditions relating to the sale and special conditions applicable to toddy shops shall be displayed in a conspicuous place in the shop.
- (2) This licence is subject to the special and general conditions relating to the sale of toddy and other rules and orders which are in force

and also the rules and orders if enforced after the issue of this licence, from time to time.

- (3) The licence shall be subject to cancellation or suspension, at will by the Commissioner of Excise.
- (4) The licensee shall not act in any manner prejudicial to the Revenue due or becoming due to the Government.
- (5) The licensee shall tap all the trees allotted for the shop regularly and ensure that toddy is available in that shop every day for sale. If he fails to do so, the licence is liable for cancellation.

The licensee shall be bound to observe all the above conditions.

Details of the shops	Name of the shop / Place
Group of shops:	

“District Prohibition and Excise Officer”

..... District.

Seal. (In triplicate)

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

FORM TG-2

[See Rule 5(3)]

Counterpart agreement for lease of Right to sell Toddy in Retail

(As required under Section 29 of Telangana Excise Act, 1968)

I/We S/o. R/o Age (.....) years have severally/jointly obtained the lease of right to sell toddy Shop/ group of shops pertaining to village Mandal District a monthly rental of Rs (In words) for the period from 1st October, to end of September In accordance with the terms and conditions of auction; and

I/We hereby affirm that I/We shall be severally and jointly responsible to abide by the terms and conditions of lease and licence issued in respect of the said shop/group of shops for the lease period as laid down in the licence No Dated and I/We shall pay promptly and in time the monthly rentals, excise duty in the form of tree tax, rent to the owner of the excise trees, amount towards penalties or any other charges or other liabilities if imposed and any other dues if accrued in respect of my/ our shop/group of shops, I/We shall abide by all the provisions of the Telangana Excise Act, 1968 and the Rules, and orders thereunder existing and also those that would be issued from time to time in this respect. I/ We agree

to abide by all the general and special conditions applicable to retail sale of toddy, and the conditions laid down in [Telangana] (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007 and other conditions relating to tapping of trees and sale of toddy that are existing and as may be amended from time to time. I/We shall be bound to pay any enhanced duty in the form of tree tax, Rent to owners of Excise trees and the like as may be levied from time to time. If I/We fail to pay in time rental, excise duty, tree tax, tree owner’s rent, penalties, if imposed, and any other dues or make any efforts to evade payment of these amounts, the licensing authority reserves the right to re-auction the shop/group of shops obtained by me/us and to realize the entire amounts so due by way of forfeiting the deposits and by way of distraining my/our movable and immovable properties whatsoever I/We possess and selling the said properties under the Telangana Revenue Recovery Act, 1864.

[The word “Telangana” subs. for “Andhra Pradesh” by G.O.Ms.No. 24, Rev (Ex-II) Dept., dt. 4-9-2014, w.e.f. 4-9-2014.]

This agreement is executed in favour of the licensing authority that the said authority may enforce the above terms and conditions agreed by me/us.

Place: _____ Signature or thumb impression of
licensee/Licensees

Date:

Witnesses

Signature

I, certify that Sri / Sarva Sri S/o.
R/o. known to me identified by Sri / Sarva Sri
Known to me executed the agreement and signed before me.

Date: _____ Superintendent of Excise
..... District.

FORM T.G.-3

[See Rule 45 (ii)]

Licence for establishment of a toddy depot issued by the “District Prohibition and Excise Officer” District.

I “District Prohibition and Excise Officer” of District, hereby licence you..... S/o. aged R/o. to establish toddy depot in the premises sanctioned below at village Mandal district for staorage and supply of toddy to the constituent shops of his group for the period from

..... to the

Names of the constituent shops:

The licensee shall not sell toddy in the premises of the depot.

Boundaries:

East: North:

West: South:

Amount of the licence fee has been credited in the treasury of
in Mandal district in C.B. No.....

Date. *“District Prohibition and Excise Officer”*

(Seal) District.

[The words “District Prohibition and Excise Officer” subs. for “Prohibition and Excise Superintendent” by G.O.Ms. No. 150, Rev. (Excise-II), dt. 30-6-2017, w.r.e.f. 11-10-2016].

FORM T.G.–3(A)

[See Rule 45 (ii)]

Daily account register in respect of toddy depot

Date	Name of Bun for topes tapped	No. of toddy trees tapped	Transport permit No. & Date	Details of receipts and issues	Opening Balance	Receipts	Total	Issues	Closing balance	Remarks
1	2	3	4	5	6	7	8	9	10	11

FORM T.G.–3 (B)

[See Rule 45(ii)]

Permit for transport of toddy from depot to shop

From toddy depot to Shop Sl.No.....

Date time

Sri son of R/o.
is hereby permitted to transport toddy as per details furnished below:

1. Number and description of receptacles:
2. Quantity:
3. Means of transport:

4. Name of the licensed shop to which toddy is to be transported:
5. Route through which to be transported:
6. Duration of the permit:

(Seal)

Signature

FORM. T.G-4

[See Rule 37(2)]

Inspection Book

1. Date of Inspection:
2. Time of Inspection:
3. Name of the Officer Inspecting with his designation:
4. Quantity of toddy as per Stock books:
5. Quantity found actually in stock:
6. Difference if any and the reasons given by the licensee:
7. General conditions of the licensed premises:
8. Whether spot test conducted:
9. If so, result of spot test:
10. Details of samples drawn:
11. Other remarks or directions if any:

Signature of the Officer Inspecting.

NOTIFICATIONS

1. Andhra Pradesh Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007

¹[*G.O.Ms.No.1433, Revenue (Ex-III), dt. 13-11-2007.*]

In exercise of the powers conferred by Section 72 of the Andhra Pradesh Excise Act, 1968 (A.P. Act of 1968) read with clause (ii) of sub-rule 5 of Rule 5 of the Andhra Pradesh Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007 issued in G.O.Ms.No.1228 Rev. (Ex-II) Dept., dated 19-9-2007 the Government of Andhra Pradesh hereby notify the rate per tree as Rs.25/ in Rural areas and Rs.50/- in Urban areas with effect from 1-10-2007.

2. Guidelines Issued by the Government on Exgratia Scheme

[*G.O.Ms.No.1273 Revenue (Ex.II) Dept. dt. 08-10-2010*]

Read the following:-

1. G.O.Ms.No.361, Revenue (Ex-II) Dept., Dated: 01-03-2009.
2. From the Commissioner of Prohibition & Excise, T.G Hyderabad Lr.No.14289/2009/CPE/E2 Dt:12.04.2010.

ORDER:

In the G.O 1st read above, orders were issued to pay the exgratia amount directly to the disabled toddy tappers / legal heirs of toddy tappers from the Department's budget after expiry of the present Group Insurance Policy to avoid hardship being faced by the tappers who are actually engaged in tapping. It was also ordered therein that necessary guidelines for operation of exgratia scheme would be issued separately.

In the reference 2nd read above the Commissioner of Prohibition & Excise, T.G, Hyderabad has submitted a draft guidelines to Government for approval for operation of the exgratia scheme.

Government, after careful examination, hereby issue the following guidelines to operationalise the exgratia scheme:-

1. (a) The application seeking exgratia shall be submitted by the injured tapper/legal heir (in case of death) to the concerned Prohibition & Excise Superintendent for sanction of exgratia within a month from the date of occurrence of the incident.

(b) The District Collectors shall be competent to condone delays in filing applications upto a period of three months.

1. Pub. in A.P. Gaz. R.S. to Part-II, Ext.No. 9, dt. 17-11-2007.

(c) All the exgratia cases for condonation of delay above three months shall be submitted to the Commissioner of Prohibition & Excise.

2. After receipt of the application for sanction of exgratia the concerned Prohibition & Excise Superintendent has to conduct personal enquiry in the matter within one month.

3. After conducting enquiry the enquiry report of the Prohibition & Excise Superintendent shall be submitted to the concerned District Collector duly informing the facts of the case for sanction of exgratia for death, permanent disability or temporary disability as the case may be.

4 After receipt of enquiry report the District Collector may sanction exgratia of Rs.2,00,000/- in the case of death, Rs. 50,000/- in the case of permanent disability and Rs. 10,000/- in the case of temporary disability.

5. After receipt of the proposal from the Prohibition & Excise Superintendents concerned in the State for allotment of budget for exgratia the Commissioner of Prohibition & Excise will send a consolidated proposal to the Government for release of budget towards payment of exgratia to the family of deceased toddy tappers / injured toddy tappers, as the case may be.

6. After release of the budget from the Government the budget amount would be distributed to the concerned Prohibition & Excise Superintendents in the State with a request to pay the exgratia amount to the eligible toddy tappers @ Rs. 10,000/- for temporary disability, Rs. 50,000/- for permanent disability and Rs. 2,00,000/- in the event of death, to the legal heirs of the deceased tappers.

7. The exgratia amount shall be paid through bankers cheque / D.D only.

8. Medical certificate issued by any Government Doctor (Assistant Civil Surgeon / MRO) should be accepted.

9. The exgratia amount should be handed over to the injured tapper or legal heir of deceased tapper under proper acknowledgement at the place of the applicant on proper identification by the Sarpanch / Gram Panchayat Secretary.

The Commissioner of Prohibition & Excise is requested to take necessary action accordingly.

This order issues with the concurrence of Finance Department vide their U.O No.17335/235/A2/Exp.Rev/2010, Dt:03.07.2010

3. Enhancement of Ex-gratia to Rs. 500000/- (Rupees Five Lakhs Only) to the Toddy Tappers in the State of Telangana in case of death/permanent disability and Rs. 10,000/- (Rupees Ten Thousand Only) for temporary disability to the Legal Heirs of toddy tappers/disabled toddy tappers – Orders

[G.O. Ms. No. 53, Revenue (Excise – II) Dept., dt. 26.03.2017]

Read the following:–

1. G.O. Ms. No. 361, Revenue (Excise – II) Dept., dated 01.03.2009.
2. From the Commissioner of Prohibition & Excise, Telangana, Hyderabad, Letter. Cr. No. 2064/14, CPE/E1, dated 04.10.2015.
3. From the Commissioner of Prohibition & Excise, Telangana, Hyderabad, Letter. Cr. No. 3323/2015/CPE/E2, dated 17.01.2016, 12.08.2016, 18.12.2016 & 02.01.2017.

ORDER

In the reference 1st read above, in case of death while engaged in toddy tapping, the legal heirs of the deceased toddy tappers were sanctioned an *ex-gratia* amount of Rs. 2,00,000/-. In case of permanent disability Rs. 50,000/- and temporary disability Rs. 10,000/- were sanctioned to the toddy tappers if they became disabled while engaged in toddy tapping.

2. In the reference 2nd and 3rd read above, the Commissioner of Prohibition & Excise, Telangana, Hyderabad has submitted proposals to the Government for taking a decision on enhancement of *ex-gratia* to the toddy tappers in the State.

3. After careful examination of the matter, Government hereby enhance the *ex-gratia* to Rs. 5,00,000/- (Rupees Five Lakhs only) in case of death/permanent disability and Rs. 10,000/- in case of temporary disability to the legal heirs of toddy tappers/disabled toddy tappers where death/disability happened due to accident while tapping.

4. The Commissioner of Prohibition & Excise, Telangana, Hyderabad, shall take necessary action in the matter accordingly.

4. Prohibition & Excise Orders Sanction of Ex-gratia to legal heirs to toddy tappers/Disabled toddy tappers where Death/Disability accord due to accident while tapping – Guidelines

[G.O. Ms. No. 164, Revenue (Excise – II) Dept., dt. 14.07.2017]

Read the following:–

1. G.O. Ms. No. 361, Revenue (Ex.– II) Dept., dated 01.03.2009.
2. G.O. Ms. No. 1273, Revenue (Ex.–II) Dept., dated 08.01.2010.
3. G.O. Ms. No. 53, Revenue (Ex.–II) Dept., dated 26.03.2017.
4. From the Commissioner of Prohibition & Excise, Telangana, Hyderabad, Letter Cr. No. 1252/2017/CPE/E2, dated 08.05.2017.

ORDER

Government have issued Orders in the G.O. Second read above, framing guidelines to operationalise the *ex-gratia* scheme for toddy tappers as introduced in the G.O. First read above.

2. Government have issued Orders in the G.O. 3rd read above, enhancing the *ex-gratia* amount from Rs. 2,00,000/- to Rs. 5,00,000/- in case of death/permanent disability and Rs. 10,000/- in case of temporary disability to the legal heirs of toddy tappers/disabled toddy tappers where death/disability happened due to accident while tapping.

3. Keeping in view of the enhancement/revised amount of *ex-gratia*, the Commissioner of Prohibition & Excise, Telangana, Hyderabad in the Letter 4th read above, has submitted proposal for issue of guidelines to operationalise the *ex-gratia* scheme, afresh.

4. Government, after careful examination of the proposals and in supersession of the Orders issued in the G.O. second read above, hereby issued the following guidelines for sanction of *ex-gratia* to the legal heirs of toddy tappers/disabled toddy tappers, where death/disability happened due to accident while tapping:–

1. Definitions:–

- 1) ‘*Toddy Tapper*’ means a person who is a major and engaged in the profession of tapping and who can climb and draw toddy from an excise tree;
- 2) *TCS*: ‘*Toddy Cooperative Society*’ means a society formed as per the provisions of the Telangana Co-operative Societies Act, 1964;

- 3) *TFT*: 'Tree for Tapper' is a licence granted to an individual tapper under Tree for Tapper Scheme;
- 4) *Excise Tree*: 'Excise tree' includes the tree of Mohwa, Coconut, Palm, Palmyra, Date, Bangani, Sago, Sendhi or any tree of the species of palm or palmyra from which the fermented or unfermented juice of which toddy or liquor can be prepared;
- 5) *Death*: 'Death' resulting from accident fall from the Excise tree while engaged in tapping.

II. Temporary Disability/Partial Disablement:— Temporary disability means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a tapper in tapping activity in which he was engaged at the time the injury was sustained as a result of falling from excise tree while engaged in tapping.

III. Permanent Disability:— Where the disablement is of a permanent nature, such disablement as reduces his earning capacity in tapping of Excise Trees which he was capable of undertaking at that time, permanently, as a result of falling from excise tree while engaged in tapping.

Explanation:— For the purpose of toddy tappers *ex-gratia* scheme, temporary disability certified by the Civil Assistant Surgeon that the injury is of such nature that prevents the tapper from performing activities for a minimum period of three months.

IV. Applicability:— The *Ex-gratia* Scheme is applicable to toddy tapper(s) who is/are member(s) in TCS or an individual tapper having a valid licence under TFT Scheme.

V. (1) Eligibility:

- a) The tapper should be a member of toddy Co-operative Societies or an individual tapper under the Tree for Tapper Scheme.
- b) Must possess a valid identity card issued by the Prohibition & Excise Department; and
- c) Must have engaged in tapping.
- d) The tapper must not have completed 65 years of age.
- e) For the determination of age, I.D. Card issued by the Prohibition & Excise Department/Aadhar/SSC Certificate/Voter I.D. or Food Security Card shall be taken into consideration.
- f) The tapper should not have been covered under Aasara Pension Scheme of the Government.

(2) Exclusions:

- a. The *Ex-gratia* Scheme is intended to toddy tappers against the death or disability due to accidental falling from an excise tree while engaged in tapping and excludes the following cases:–
- b. Death or disability arising out of–
 - I. Intentional self – Injury, suicide or attempted suicide,
 - II. Whilst under the influence of Intoxicating Liquor or Psychotropic Substances.
 - III. Morbidity due disease and prolonged illness are excluded.

VI. Time limits:– (1) The application seeking *ex-gratia* shall be submitted by the injured tapper/legal heir (in case of death) to the Prohibition & Excise Superintendent or SHO concerned for sanction of *ex-gratia* within (30) days from the date of occurrence of the incident.

(2) The District Collectors may condone delays in filing applications upto (30) days, on satisfactory grounds.

VII. Procedure:– (1) After receipt of applications for sanction of *ex-gratia* the Prohibition & Excise Superintendent concerned shall cause enquiry into the matter within one month. In case of death or permanent disability the enquiry shall be conducted by an Officer not below the rank of Assistant Prohibition & Excise Superintendent.

(2) After conduct of enquiry, Prohibition & Excise Superintendent shall submit the enquiry report to the District Collector concerned, duly informing the facts of the case for sanction of *ex-gratia* for death, permanent disability or temporary disability as the case may be.

VIII. Appeal:– When the application is rejected, the individual shall be informed in writing along with reasons for rejection. The applicant may prefer an appeal on reasonable grounds to the Commissioner, within 45 days from the date of communication of such rejection order.

IX. Medical Certificate:–

- I. Medical Certificate issued by Medical Board in case of Permanent Disability in prescribed format Annexure to this Order.
- II. In case of Temporary Disability Certificate issued by Government Assistant Civil Surgeon shall be accepted.

X. Sanction:– After receipt of Enquiry Report, the District Collector may sanction *ex-gratia* of Rs. 5,00,000/- in the case of Death/Permanent Disability and Rs. 10,000/- in the case of Temporary Disability.

XI. Allotment of Budget:– (1) After receipt of the proposal from the Prohibition & Excise Superintendents concerned for allotment of budget for *ex gratia*, the Commissioner of Prohibition & Excise will send a consolidated proposal to the Government for release of budget.

(2) After release of the budget from the Government the same will be distributed to the concerned Prohibition & Excise Superintendents concerned in the State for payment to the eligible persons.

XII. Mode of Payment:– The *ex-gratia* amount shall be paid through RTGS into the account of beneficiary. The Commissioner of Prohibition & Excise, Telangana, Hyderabad, shall take necessary action in the matter accordingly.
