

**THE EXCISES AND SALT ACT, 1944****CONTENTS****CHAPTER I**

## SECTIONS

1. Short title, extent and commencement
2. Definitions

**CHAPTER II**

## LEVY AND COLLECTION OF DUTY

3. Duties specified in the First Schedule to be levied
  - 3A. Regulatory duty of Excise
  - 3AA. Additional duty of excise
  - 3B. Goods particularly composed of dutiable articles
  - 3C. Principle for determination of tariff classification
    4. Determination of value for the purposes of duty
    5. [*Omitted.*]
    6. Certain operations to be subject to licence
    7. Form and conditions of licence
    8. Restriction on possession of excisable goods
    9. Offences and penalties
  - 9A. Certain offences to be non-cognizable
  - 9B. Presumption of culpable mental state
  - 9C. Relevancy of statements under certain circumstances
  - 9D. Power of Court to publish name, place of business, etc., of persons convicted under the Act
10. Power of Courts to order forfeiture
11. Recovery of sums due to Government
12. Application of the provisions of Act IV of 1969 to excise duties
  - 12A. Exemptions

**CHAPTER III**APPOINTMENT OF EXCISE OFFICERS AND THEIR POWERS  
AND DUTIES

13. Appointment of Excise Officers
  - 13A. Powers and duties of Excise Officers
  - 13B. Delegation of powers

SECTIONS

- 13C. Entrustment of functions of the Excise Officers to certain other officers
- 13D. Power to arrest
- 14. Power to summon persons to give evidence and produce documents in inquiries under this Act
- 15. Officers required to assist Excise Officers
- 16. Owners or occupiers of land to report manufacture of contraband excisable goods
- 17. Punishment for connivance at offences
- 18. Searches and arrests how to be made
- 19. Disposal of persons arrested
- 20. Procedure to be followed by officer-in-charge of police station
- 21. Inquiry how to be made by Excise Officers against arrested persons forwarded to them under section 19
- 22. Vexatious search, seizure, etc., by Excise Officer
- 23. Failure of Excise Officer in duty

**CHAPTER IV**

TRANSPORT BY SEA

- 24. Penalties for carrying excisable goods in certain vessels
- 25. Exceptions
- 26. Power of stoppage, search and arrest
- 27. Penalties for resisting officer
- 28. Confiscation of vessel and cargo
- 29. Jurisdiction
- 30. Power to exempt from operation of this Chapter

**CHAPTER V**

SPECIAL PROVISIONS RELATING TO SALT

- 31. Special and permanent rights of manufacturing salt to be recognised
- 32. [*Omitted.*]

**CHAPTER VI**

ADJUDICATION OF CONFISCATIONS AND PENALTIES

- 33. Power of adjudication
- 34. Option to pay fine in lieu of confiscation

## SECTIONS

- 34A. Confiscation of containers and conveyance
- 35. Appeals
- 35A. Power of the Board on departmental proceedings
- 35B. Power of the Board to rectify mistakes
- 36. Revision by Government
- 36A. Appearance by authorised representative
- 36B. Power of the Government to rectify mistakes
- 36C. Power to write off sums due to Government

**CHAPTER VII**

## SUPPLEMENTAL PROVISIONS

- 37. Power of Board to make rules
- 38. Publication of rules and notifications
- 39. [*Omitted.*]
- 40. Bar of suits and limitation of suits and other legal proceedings

**FIRST SCHEDULE****SECOND SCHEDULE****THIRD SCHEDULE** [*Omitted*]

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## THE EXCISES AND SALT ACT, 1944

ACT NO. I OF 1944

[24<sup>th</sup> February, 1944]

**An Act to consolidate and amend the law relating to  
<sup>1</sup>[\* \* \*] duties of excise and to salt. \* \***

WHEREAS it is expedient to consolidate and amend the law relating to <sup>2</sup>[\* \* \*] duties of excise on goods manufactured or produced, and services provided or rendered, in Bangladesh and to salt;

It is hereby enacted as follows:-

### CHAPTER I

**1.** (1) This Act may be called the <sup>3</sup>[\* \* \*] Excises and Salt Act, 1944.

Short title,  
extent and  
commencement

(2) It extends to the whole of Bangladesh <sup>4</sup>[except the areas of Export Processing Zones declared under section 10 of the Bangladesh Export Processing Zones Authority Act, 1980 (XXXVI of 1980)].

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\* Throughout this Act, the word “Bangladesh” was substituted for the word “Pakistan” by Article 3 of the Finance Order, 1972 (President’s Order No. 77 of 1972).

❖ Throughout this Act, the words “Government” and “Taka” were substituted for the words “Central Government” and “rupees” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup> The word “Central” was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The word “Central” was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The word “Central” was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>4</sup> The words, figures, comma and brackets “except the areas of Export Processing Zones declared under section 10 of the Bangladesh Export Processing Zones Authority Act, 1980 (XXXVI of 1980)” were inserted by section 5 of the Finance Ordinance, 1986 (Ordinance No. XLV of 1986).

(3) It shall come into force on such date as the Government may, by notification in the *official Gazette*, appoint in this behalf.

## Definitions

<sup>1</sup>[2. In this Act, unless there is anything repugnant in the subject or context,-

- (a) “admission” includes admission as a spectator or as one of an audience, and admission for the purpose of amusement by taking part in an entertainment;
- (b) “Board” means the National Board of Revenue constituted under the National Board of Revenue Order, 1972 (P.O. No. 76 of 1972);
- (c) “broker” or “commission agent” means a person who, in the ordinary course of business, makes contracts for the sale or purchase of excisable goods for others;
- (d) “charge for admission” includes any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a duty or a higher rate of duty is required, and any payment for seats or other accommodation in a place of entertainment;
- (e) “curing” includes wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture;
- (f) “distributor” means a person appointed by a manufacturer in or for a specified area to purchase excisable goods from him for sale to a wholesale dealer in that area;
- (g) “enterprise” includes a company, firm, establishment, institution, club or any other association of persons by whatever name called;
- (h) “entertainment” includes any cinema show, theatrical performance, musical performance, amusement, exhibition, show or performance in any other manner or by whatever name called, games and sports to which persons are admitted on payment;

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<sup>1</sup> Section 2 was substituted by section 5 of the Finance Act, 1979 (Act No. V of 1979).

- (i) “Excise Officer” means any officer of the Excise Department or any person invested by the Board with any of the powers of an Excise Officer under this Act or the rules made thereunder;
- (j) “excisable goods” means goods specified in Part I of the First Schedule as being subject to a duty of excise and includes salt;
- (k) “excisable services” means services, facilities, utilities and entertainments specified in Part II of the First Schedule as being subject to a duty of excise;
- (l) “factory” means any premises, including the precincts thereof, wherein or in any part of which excisable goods other than salt are manufactured, or wherein or in any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;
- (m) “manufacture” includes any process incidental or ancillary to the completion of a manufactured product and any process of remanufacture, re-making, re-conditioning or repair and the process of packing or re-packing such product; and
  - (i) in relation to tobacco, includes the preparation of cigarettes, cigars, cheroots, biris, cigarette or pipe or hookah tobacco, chewing tobacco or snuff; and
  - <sup>1</sup>[(ii) in relation to salt, includes collection, removal, preparation, steeping, evaporation, boiling, or any one or more of these processes, the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce elementary salt and the excavation or removal of natural saline deposits or efflorescence:
  - (iii) in relation to steel furniture, fittings and fixtures, footwear, all sorts and wooden furniture, all sorts, includes labelling, re-labelling, printing or marking the name of the shop or establishment or the trade mark of the goods or the container thereof, or printing or labelling of prices or adoption of any other process to render the product marketable to consumers;

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<sup>1</sup> Sub-clauses (ii) and (iii) were substituted by section 5 of the Finance Act, 1981 (Act No. XI of 1981).

and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account if those goods are intended for sale and, in respect of gold and silver and products thereof, steel furniture, fittings and fixtures, footwear, all sorts and wooden furniture, all sorts, also any person dealing in such excisable goods who, whether or not he carries out any process of manufacture himself or through his employees or relatives, gets either directly or indirectly, any process of manufacture carried out on his behalf by any person who is not in his employee and any person so dealing in such goods in any capacity whatever shall be deemed to have manufactured such goods for all purposes of this Act;]

- (n) “prescribed” means prescribed by rules made under this Act;
- (o) “sale” and “purchase”, with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other consideration;
- (p) “saltpetre” includes *rasi*, *sajji*, and all other substances manufactured from saline earth, and *kharinun* and every form of sulphate or carbonate of soda;
- (q) “salt factory” includes-
  - (i) a place used or intended to be used in the manufacture of salt and all embankments, reservoirs, condensing and evaporating pans, buildings and waste places situated within the limits of such place as defined from time to time by <sup>1</sup>[Commissioner] of Excise;
  - (ii) all drying grounds and storage platforms and store-houses appertaining to any such place;

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<sup>1</sup> The word “Commissioner” was substituted for the word “Collector” by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

- (iii) land on which salt is spontaneously produced; and a “private salt factory” is one not solely owned or not solely worked by the Government;
- (r) “wholesale dealer” means a person who buys or sells excisable goods wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of excisable goods for others, stocks such goods belonging to others as an agent for the purpose of sale.]

## CHAPTER II

### LEVY AND COLLECTION OF DUTY

**3.** (1) There shall be levied and collected in such manner as may be prescribed duties of excise on all *excisable goods*, produced or manufactured, and on all *excisable services* provided or rendered, in Bangladesh, as, and at the rates, set forth in the First Schedule. Duties specified in the First Schedule to be levied

<sup>1</sup>[**Explanation.**- For the purpose of levy and collection of duties under this section, classification and description of excisable goods shall be as per First Schedule of the Customs Act, 1969 (IV of 1969).]

(2) The <sup>2</sup>[Board] may, by notification in the *official Gazette* fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the First Schedule as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.

(3) Different tariff values may be fixed for different classes or descriptions of the same article.

<sup>3</sup>[<sup>4</sup>(4) With the prior approval of the Government, the <sup>5</sup>[Board] may, in lieu of levying and collecting under subsection (1) duties of excise on excisable goods and services,

<sup>1</sup> The Explanation was added by section 6 of অর্থ আইন, ২০০০ (২০০০ সনের ১৫ নং আইন)।

<sup>2</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>3</sup> The original sub-section (4) was substituted as sub-sections (4), (5), (6) and (7) by section 4 of the Finance Act, 1966 (Act No. XI of 1966).

<sup>4</sup> Sub-section (4) was substituted by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

<sup>5</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).



by notification in the *official Gazette*, levy and collect duties on the capacity of plants, machinery, undertakings, establishments, installations or premises producing or manufacturing such goods, or providing or rendering such services; and such notifications shall specify-

- (a) the guiding principles for the determination of capacity,
- (b) the capacity, as determined in accordance with such guiding principles of the plants, machinery, undertakings, establishments, installations or premises affected by it,
- (c) the duty or the rate of duty on such capacity as determined, and
- (d) the manner of collection of such duty.]

<sup>1</sup>[(5) The capacity of any plant or machinery or part thereof or establishments or premises producing or manufacturing excisable goods, or providing or rendering excisable services, specified in a notification under sub-section (4) shall, upon an application made to the Government within thirty days of the notification by any aggrieved person, be reviewed by a Standing Tribunal constituted under sub-section (6) to which the application shall be referred; and the decision of the Standing Tribunal confirming, reducing or increasing the capacity shall be final.]

<sup>2</sup>[(6) The Government shall, for the purpose of sub-section (5), constitute a Standing Tribunal consisting of not less than two persons each of whom may be either an officer not below the rank of a Joint Secretary to the said Government or a person who held such rank at the time of his retirement from service.]

(7) The <sup>3</sup>[Board] may, by notification in the *official Gazette*, at any time, cancel a notification under sub-section (4); and where a notification is so cancelled or, for any reason

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<sup>1</sup> Sub-section (5) was substituted by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

<sup>2</sup> Sub-section(6) was substituted by section 3 of the Finance (1971-72) Order, 1972 (President's Order No. 52 of 1972).

<sup>3</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

whatsoever, cannot be given effect to, the duty under sub-section (1), in lieu whereof the duty under sub-section (4) was levied by such notification, shall be levied and, with necessary adjustment, collected for the financial year during which such notification is cancelled or for the period for which it cannot be given effect to.]

**Explanation.-** For the purposes of this sub-section, an order of a Court suspending or staying the collection of the whole or any part of the duty under sub-section (4) shall be deemed to be a reason for which a notification under sub-section (4) cannot be given effect to.

<sup>1</sup>[3A. (1) The Government may, by notification in the *official Gazette*, levy, subject to such conditions, limitations and restrictions as it may deem fit to impose, a regulatory duty-

Regulatory duty  
of Excise

- (a) on any excisable goods or excisable services, in addition to the duty leviable under section 3, at a rate not exceeding <sup>2</sup>[100] per cent of the rate of duty leviable thereon under the said section, or, in the case of excisable goods, at a rate not exceeding <sup>3</sup>[30] per cent *ad valorem* or <sup>4</sup>[25] per cent of the retail price and, in the case of excisable services, <sup>5</sup>[25] per cent of the charges for such services; and
- (b) on any other goods or services, at a rate, in the case of goods, not exceeding <sup>6</sup>[50] per cent *ad valorem* or <sup>7</sup>[35]

<sup>1</sup> Section 3A was added by section 4 of the Finance Act, 1964 (Act No. V of 1964) and sub-section (1) was substituted by section 3 of the Finance Ordinance, 1970 (Ordinance No. XI of 1970)

<sup>2</sup> The figure "100" was substituted for the figure "40" by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

<sup>3</sup> The figure "30" was substituted for the figure "10" by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

<sup>4</sup> The figure "25" was substituted for the figure "10" by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

<sup>5</sup> The figure "25" was substituted for the figure "10" by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

<sup>6</sup> The figure "50" was substituted for the figure "20" by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

<sup>7</sup> The figure "35" was substituted for the figure "20" by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

per cent. of the retail price and, in the case of services, not exceeding <sup>1</sup>[35] per cent of the charges for the services] <sup>2</sup>[:

Provided that, if the assessed amount has a fraction of less than five poisha, the assessment shall be rounded off to the next higher five poisha.]

(2) Any notification issued under sub-section (1) shall, if not earlier rescinded, stand rescinded on the expiry of the financial year during which it was issued.]

Additional duty of excise

<sup>3</sup>[**3AA.** The Government may, by notification in the *official Gazette*, levy and collect, by way of penalty an additional duty of excise on any excisable goods and services, in addition to the duty leviable under sections 3 and 3A in cases when such duty is not paid in time, not exceeding the amount of duty remaining so unpaid, subject to such conditions, limitations and restrictions as it may deem fit to impose.]

Goods partially composed of dutiable articles

<sup>4</sup>[**3B.** Goods whereof any article liable to duty under this Act forms a part or ingredient shall be chargeable with the full duty which would be payable on such goods if they were entirely composed of such article, or, if composed of more than one article liable to duty, then with the full duty which would be payable on such goods if they were entirely composed of the article on which the highest amount of duty would be payable.]

Principle for determination of tariff classification

<sup>5</sup>[**3C.** When for any reason, goods are, *prima facie*, classifiable under two or more headings of the First Schedule, the heading which provides the most specific description shall be preferred to headings providing a more general description.]

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<sup>1</sup> The figure “35” was substituted for the figure “20” by section 4 of the Finance Ordinance, 1976 (Ordinance No. XLV of 1976).

<sup>2</sup> The colon (:) was substituted for the full stop (.) at the end of sub-section (1) and thereafter the proviso was inserted by section 3 of the Finance Ordinance, 1985 (Ordinance No. XXXII of 1985).

<sup>3</sup> Section 3AA was inserted by section 5 of the Finance Act, 1981 (Act No. XI of 1981).

<sup>4</sup> Section 3B was inserted by section 5 of the Finance Act, 1968 (Act No. XI of 1968).

<sup>5</sup> Section 3C was inserted by section 5 of the Finance Ordinance, 1984 (Ordinance No. XLII of 1984).

4. (1) Where under this Act any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold to the general body of retail traders or, if there is no general body of retail traders, the general body of consumers on the day on which the article which is being assessed to duty is removed from the factory or warehouse, as the case may be, without any abatement or deduction whatever except the amounts of duty and sales tax then payable.

Determination  
of value for the  
purposes of  
duty

(2) Where under this Act any article is chargeable with duty at a rate dependent on the retail price of the article, the retail price shall be the price fixed by the manufacturer, inclusive of all charges and taxes, at which any particular brand or variety of such article should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest such price.

(3) Where under this Act any services, facilities and utilities are subject to duty at a rate dependent on the charges therefore and-

(a) any such services, facilities or utilities are, in any case, rendered or provided free of charge or at a concessional rate, the duty shall be levied and collected on the amount which would have been charged for such services, facilities and utilities had they not been rendered or provided free of charge or at a concessional rate; and

<sup>1</sup>[(b) the amount with reference to which the duty shall be levied shall be the total amount charged for all services, facilities, utilities, catering, supplies and merchandise provided or rendered, <sup>2</sup>[\* \* \*] which the recipient pays or would have to pay but for any special relationship between the parties in question.]

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<sup>1</sup> Clause (b) was substituted by section 6 of the Finance Ordinance, 1978 (Ordinance No. XXI of 1978 ).

<sup>2</sup> The words and comma "inclusive of the duty," were omitted by section 5 of the Finance Ordinance, 1982 (Ordinance No. XVI of 1982).

<sup>1</sup>[(4) Where under this Act any entertainment is subject to a duty dependent on the charge for admission to such entertainment and-

- (a) the proprietor or enterprise of an entertainment admits any person to any place of entertainment as a spectator or as an audience for the purpose of amusement by taking part in it without any payment or on payment of an amount less than the amount normally charged for admission thereto, the duty shall nevertheless be levied and collected on the amount which would have been charged for such entertainment had it not been provided free of charge or at a concessional rate; and
- (b) the amount with reference to which the duty shall be payable shall be the amount charged for admission to an entertainment, exclusive of the duty and any other tax, which a spectator or an audience pays or would have to pay but for any special relationship between the parties in question.

**Explanation.-** For the purpose of clause (a),-

- (i) “proprietor”, in relation to any entertainment, includes any person responsible for the management thereof; and
- (ii) in case there are different classes of seats in the entertainment, ‘place of entertainment’ means the class to which such person is admitted.]

**5.** [*Power of Government to impose Customs duty on goods mentioned in the First Schedule.- Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

Certain operations to be subject to licence

**6.** The <sup>2</sup>[Board] may, by notification in the *official Gazette*, provide that, from such date as may be specified in the notification, no person shall, except under the authority and in accordance with the terms and conditions of a licence granted

<sup>1</sup> Sub-section (4) was inserted by section 5 of the Finance Act, 1979 (Act No. V of 1979.)

<sup>2</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).

under this Act, engage in-

- (a) the production or manufacture or any process of the production or manufacture of any specified excisable goods or of saltpetre or of any specified component parts or ingredients of such goods or of specified containers of such goods,
- (b) the wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage of any excisable goods specified in this behalf in Part A of the Second Schedule, or
- (c) providing or rendering any excisable services.

**7.** Every licence under section 6 shall be granted for such area, if any, for such period, subject to such restrictions and conditions, and in such form and containing such particulars, as may be prescribed. Form and conditions of licence

**8.** From such date as may be specified in this behalf by the <sup>1</sup>[Board] by notification in the *official Gazette*, no person shall, except as provided by rules made under this Act, have in his possession any excisable goods specified in this behalf in Part B of the Second Schedule in excess of such quantity as may be prescribed for the purposes of this section as the maximum amount of such goods or of any variety of such goods which may be possessed at any one time by such a person. Restriction on possession of excisable goods

<sup>2</sup>**9.** Whoever commits any of the following offences, namely:- Offences and penalties

- (a) contravenes any of the provisions of a notification issued under section 6 or section 8;
- (b) evades in any manner the payment of any duty payable under this Act;
- (c) removes any excisable goods in contravention of any provision of this Act or any rule made thereunder or in any way concerns himself with such removal;

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<sup>1</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> Section 9, 9A, 9B, 9C and 9D were substituted for the previous section 9, by section 6 of the Finance Ordinance, 1978 (Ordinance No. XXI of 1978).

- (d) acquires possession of, or in any way concerns himself in transporting, depositing, keeping, concealing, selling or purchasing or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or any rule made thereunder;
- (e) fails to supply information which is required by rules made under this Act to supply, or unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true, supplies false information;
- (f) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section;
- (g) makes or attempts to make a deduction in the duty payable under sub-section (4) of section 3 on account of removal of goods for export, or to a licensed warehouse or a licensed factory, otherwise than in accordance with the provisions of the appropriate notification under the said sub-section (4), shall, for every such offence, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to Taka five thousand or ten times the amount of duty involved, if any, whichever is greater, or with both.

Certain offences to be non-cognizable

**9A.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) offences under section 9 shall be deemed to be non-cognizable within the meaning of that Code.

Presumption of culpable mental state

**9B.** (1) In any prosecution for an offence under this Act or the rules presumption made thereunder which requires a culpable mental state on the part of accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

**Explanation.-** In this sub-section, “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

**9C.** (1) A statement made and signed by a person before any Excise Officer not below the rank of Superintendent during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains-

Relevancy of statements under certain circumstances

- (a) when the person who made the statement is dead or cannot be found or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expenses which, under the circumstances of the case, the Court considers unreasonable; or
- (b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceedings under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.

**9D.** (1) Where any person is convicted under this Act for contravention of any of the provisions thereof, the Court convicting the person shall be competent to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars the Court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person, in such newspapers or in such other manner as the Court may direct.

Power of Court to publish name, place of business, etc., of persons convicted under the Act

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.



(3) The expenses of any publication under sub-section (1) shall be recoverable from the convicted person as if it were a fine imposed by the Court.]

Power of Courts  
to order  
forfeiture

**10.** Any Court trying an offence under this Chapter may order the forfeiture to Government of any goods in respect of which the Court is satisfied that an offence under this Chapter has been committed, and may also order the forfeiture of any receptacles, packages or coverings in which such goods are contained and the animals, vehicles, vessels or other conveyances used in carrying the goods, and any implements or machinery used in the manufacture of the goods.

Recovery of  
sums due to  
Government

<sup>1</sup>[**11.** (1) When under this Act or the rules made thereunder a duty is payable to the Government by any person or a penalty is adjudged against any person or a notice or demand is served upon any person calling for the payment of any amount unpaid which may be payable by way of duty, penalty or under any bond or other instrument executed under the rules and such duty, penalty or other sum is not paid within the time it was required to be paid, an Excise Officer empowered by the Board may at any time-

- (a) deduct or require any other Excise Officer to deduct the amount so payable from any money owing to such person or due which may be in the hands or at the disposal or under the control of such Officer or of the Government;
- (b) require, by a notice in writing, any person owing any money to the person from whom such duty or penalty or any other sum is recoverable or due, to pay to such Officer the amount specified in the notice, or the whole of such money if it is less than the amount so recoverable or due, within seven days of the receipt of the notice or within such longer time as may be allowed by such Officer;
- (c) recover such amount by attachment and sale of excisable goods or any plant, machinery and equipment used for the manufacture of such goods or any other goods in the factory or bonded warehouse or in any premises where any excisable services are provided or rendered;

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<sup>1</sup> Section 11 was substituted by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

- (d) stop removal of any excisable goods from such factory, bonded warehouse or premises till such amount is paid or recovered in full; or
- (e) require any officer of customs to recover such amount by detaining and selling any goods belonging to such person which are under the control of the customs authorities.

(2) If the amount is not recovered from such person in the manner provided in sub-section (1), the Excise Officer may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or owns any property or conducts his business and the said Collector shall, on receiving such certificate, proceed to recover the amount specified in the certificate as a public demand or as if it were an arrear of land revenue.]

**12.** The Government may, by notification in the *official Gazette*, declare that any of the provisions of the <sup>1</sup>[Customs Act, 1969 (IV of 1969), hereinafter referred to as the Customs Act], relating to the levy of and exemption from customs duties, draw back of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duties imposed by section 3 <sup>2</sup>[or section 3A].

Application of the provisions of Act IV of 1969 to <sup>3</sup>[\* \* \*] excise duties

<sup>4</sup>[**12A.** (1) The Government may from time to time, by notification in the *official Gazette*, exempt, subject to such conditions, if any, as may be specified therein, any goods or class of goods or any services or class of services from the whole or any part of the duty leviable under this Act.

Exemptions

<sup>1</sup> The words, comma and figure “Customs Act, 1969 (IV of 1969), hereinafter referred to as the Customs Act” were substituted for the words, comma and figure “Customs Act, 1969 (IV of 1969)” by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>2</sup> The words, figure and letter “or section 3 A” were inserted by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

<sup>3</sup> The word “Central” was omitted by section 3 of the Excises and Salt (Amendment) Ordinance, 1978 (Ordinance No. XII of 1978).

<sup>4</sup> Section 12A was added by the Tax Laws (Amendment) Ordinance, 1962 (Ordinance XXXI of 1962)

(2) The <sup>1</sup>[Board] may, by special order in each case, exempt from the payment of the whole or any part of the duty leviable under this Act, under circumstances of an exceptional nature to be stated, in such order, any goods <sup>2</sup>[or services] on which such duty is leviable.]

### CHAPTER III

#### <sup>3</sup>[APPOINTMENT OF EXCISE OFFICERS AND THEIR POWERS AND DUTIES]

Appointment of  
Excise Officers

<sup>4</sup>[13. For the purposes of the Act and the rules made thereunder, the Board may, by notification in the *official Gazette*, appoint, in relation to any area specified in the notification, any person to be-

- (a) a <sup>5</sup>[Commissioner] of Excise;
- (b) a <sup>6</sup>[Commissioner] of Excise (Appeal);
- (c) an <sup>7</sup>[Additional Commissioner] of Excise;
- (d) a <sup>8</sup>[Joint Commissioner] of Excise;
- (e) a <sup>9</sup>[Deputy Commissioner] of Excise;

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<sup>1</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> The words "or services" were inserted by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

<sup>3</sup> The Heading of Chapter III was substituted by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

<sup>4</sup> Sections 13, 13A, 13B, 13C and 13D were substituted for the previous section 13, by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

<sup>5</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>6</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>7</sup> The words "Additional Commissioner" were substituted for the words "Additional Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>8</sup> The words "Joint Commissioner" were substituted for the words "Joint Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>9</sup> The words "Deputy Commissioner" were substituted for the words "Deputy Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

- (f) an <sup>1</sup>[Assistant Commissioner] of Excise;
- (g) a Superintendent of Excise;
- (h) an Excise Officer with any other designation.

**13A.** An Excise Officer appointed under section 13 shall exercise such powers and discharge such duties as are conferred or imposed on him by or under this Act; and he shall also be competent to exercise all powers and discharge all duties conferred or imposed upon any officer subordinate to him:

Powers and  
duties of Excise  
Officers

Provided that, notwithstanding anything contained in this Act or the rules, the Board may, by general or special order, impose such limitations or conditions in the exercise of such powers and discharge of such duties as it thinks fit.

**13B.** The Board may, by notification in the *official Gazette*, and subject to such limitations or conditions, if any, as may be specified therein, empower by name or designation-

Delegation of  
powers

- (a) any <sup>2</sup>[Additional Commissioner] of Excise or any <sup>3</sup>[Joint Commissioner] of Excise to exercise any of the powers of a <sup>4</sup>[Commissioner] of Excise under this Act or the rules;
- (b) any <sup>5</sup>[Deputy Commissioner] of Excise to exercise any of the powers of an <sup>6</sup>[Additional Commissioner] of Excise or a <sup>7</sup>[Joint Commissioner] of Excise under this Act or the rules;

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<sup>1</sup> The words "Assistant Commissioner" were substituted for the words "Assistant Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>2</sup> The words "Additional Commissioner" were substituted for the words "Additional Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>3</sup> The words "Joint Commissioner" were substituted for the words "Joint Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>4</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>5</sup> The words "Deputy Commissioner" were substituted for the words "Deputy Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>6</sup> The words "Additional Commissioner" were substituted for the words "Additional Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>7</sup> The words "Joint Commissioner" were substituted for the words "Joint Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

- (c) any <sup>1</sup>[Assistant Commissioner] of Excise to exercise any of the powers of a <sup>2</sup>[Deputy Commissioner] of Excise or a <sup>3</sup>[Joint Commissioner] of Excise under this Act or the rules;
- (d) any other Excise Officer to exercise any of the powers of an <sup>4</sup>[Assistant Commissioner] of Excise under this Act or the rules.

Entrustment of functions of the Excise Officers to certain other officers

**13C.** The Board may, by notification in the *official Gazette*, entrust, either conditionally or unconditionally, any functions of any Excise Officer under this Act or the rules to any officer of the Government.

Power to arrest

**13D.** (1) Any Excise Officer duly empowered by the Board in this behalf may arrest any person whom he has reason to believe to be liable to punishment under this Act.

(2) Any person accused or reasonably suspected of committing an offence under this Act or any rules made thereunder, who on demand of any officer duly empowered by the Board in this behalf refuses to give his name and residence, or who gives a name or residence, which such Officer has reason to believe to be false, may be arrested by such officer in order that his name and residence may be ascertained.]

Power to summon persons to give evidence and produce documents in inquiries under this Act

**14.** (1) Any <sup>5</sup>[Excise Officer] duly empowered by the <sup>6</sup>[Board] in this behalf shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain

<sup>1</sup> The words "Assistant Commissioner" were substituted for the words "Assistant Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>2</sup> The words "Deputy Commissioner" were substituted for the words "Deputy Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>3</sup> The words "Joint Commissioner" were substituted for the words "Joint Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>4</sup> The words "Assistant Commissioner" were substituted for the words "Assistant Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>5</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>6</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, shall be applicable to requisitions for attendance under this section.

(3) Every such inquiry as aforesaid shall be deemed to be a “judicial proceeding” within the meaning of section 193 and section 228 of the <sup>1</sup>[Penal Code].

**15.** All officers of <sup>2</sup>[Police, Customs, Commerce, Industry and Food] and all officers of Government engaged in the collection of land-revenue, and all village officers are hereby empowered and required to assist the <sup>3</sup>[Excise Officers] in the execution of this Act.

Officers required to assist <sup>4</sup>[Excise Officers]

**16.** Every owner or occupier of land, the agent of any such owner or occupier, in charge of the management of that land, if contraband excisable goods are manufactured thereon, shall in the absence of reasonable excuse be bound to give notice of such manufacture to a Magistrate, or to an officer of the <sup>5</sup>[Excise], Customs, Police, or Land Revenue Department, immediately the fact comes to his knowledge.

Owners or occupiers of land to report manufacture of contraband excisable goods

<sup>1</sup> The words “Penal Code” were substituted for the words “Pakistan Penal Code” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The words and commas “Police, Customs, Commerce, Industry and Food” were substituted for the words and commas “Police and Customs” by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

<sup>3</sup> The words “Excise Officer” were substituted for the words “National Excise Officer” by section 4 of the Finance Act (Act No. III of 1975).

<sup>4</sup> The words “Excise Officer” were substituted for the words “National Excise Officer” by section 4 of the Finance Act (Act No. III of 1975).

<sup>5</sup> The word “Excise” was substituted for the words “Central Excise” by section 5 the Excises and Salt (Amendment) Ordinance, 1978 (Ordinance No. XII of 1978).

Punishment for  
connivance at  
offences

**17.** Any owner or occupier of land or any agent of such owner or occupier in charge of the management of that land, who wilfully connives at any offence against the provisions of this Act or of any rules made thereunder shall for every such offence be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Taka, or with both.

Searches and  
arrests how to  
be made

**18.** All searches made under this Act or any rules made thereunder and all arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating respectively to searches and arrests made under that Code.

Disposal of  
persons arrested

**19.** Every person arrested under this Act shall be forwarded without delay to the nearest <sup>1</sup>[Excise Officer] empowered to send persons so arrested to a Magistrate, or, if there is no such <sup>2</sup>[Excise Officer] within a reasonable distance, to the officer-in-charge of the nearest police station.

Procedure to be  
followed by  
officer-in-charge  
of police station

**20.** The officer-in-charge of a police station to whom any person is forwarded under section 19 shall either admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

Inquiry how to  
be made by  
<sup>3</sup>[Excise  
Officers] against  
arrested persons

**21.** (1) When any person is forwarded under section 19 to a <sup>4</sup>[Excise Officer] empowered to send persons so arrested to a Magistrate, the <sup>5</sup>[Excise Officer] shall proceed to inquire into the charge against him.

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<sup>1</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>2</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>3</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>4</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>5</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

(2) For this purpose the <sup>1</sup>[Excise Officer] may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898, when investigating a cognizable case: forwarded to them under section 19

Provided that-

- (a) if the <sup>2</sup>[Excise Officer] is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;
- (b) if it appears to the <sup>3</sup>[Excise Officer] that there is not sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the <sup>4</sup>[Excise Officer] may direct, to appear, if and when so required before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

**22.** Any <sup>5</sup>[Excise] or other officer exercising powers under this Act or under the rules made thereunder who-

- (a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place;
- (b) vexatiously and unnecessarily detains, searches or arrests any person;

Vexatious search, seizure, etc., by <sup>6</sup>[Excise Officer]

<sup>1</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>2</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>3</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>4</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>5</sup> The word "Excise" were substituted for the words "Central Excise" by section 7 of the Excises and Salt (Amendment) Ordinance, 1978 (Ordinance No. XII of 1978).

<sup>6</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).



- (c) vexatiously and unnecessarily seizes the movable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;
- (d) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty;

shall, for every such offence, be punishable with fine which may extend to two thousand Taka.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand Taka or with imprisonment for a term which may extend to two years or with both.

Failure of  
<sup>1</sup>[Excise  
Officer] in duty

**23.** Any <sup>2</sup>[Excise Officer] who ceases or refuses to perform or withdraws himself from the duties of his office, unless he has obtained the express written permission of the <sup>3</sup><sup>4</sup>[Commissioner] of Excise, or has given to his superior officer two months' notice in writing of his intention or has other lawful excuse, shall on conviction before a Magistrate be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to three months' pay, or with both.

#### CHAPTER IV

##### TRANSPORT BY SEA

Penalties for  
carrying  
excisable goods  
in certain  
vessels

**24.** When any excisable goods are carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Taka, or with both.

<sup>1</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>2</sup> The words "Excise Officer" were substituted for the words "National Excise Officer" by section 4 of the Finance Act (Act No. III of 1975).

<sup>3</sup> The words "Collector of Excise" were substituted for the words "Collector of Central Excise" by section 4 of the Finance Act (Act No. III of 1975).

<sup>4</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

**25.** Nothing in section 24 applies to- Exceptions

- (a) any excisable goods covered by a permit granted under rules made under this Act;
- (b) any excisable goods covered by a pass granted by any officer whom the <sup>1</sup>[Board] may appoint in this behalf;
- (c) such amount of excisable goods carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the <sup>2</sup>[Board] may from time to time exempt from the operation of section 24.

**26.** When any officer empowered by the <sup>3</sup>[Board], to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any excisable goods are being carried, or have within the previous twenty-four hours been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties imposed by section 24, he may require such vessel to be brought-to and thereupon may-

Power of  
stoppage, search  
and arrest

- (a) enter and search the vessel;
- (b) require the master of the vessel to produce any documents in his possession relating to the vessel or the cargo thereof;
- (c) seize the vessel if the officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in Bangladesh; and
- (d) where any excisable goods are found on board the vessel, search and arrest without a warrant any person on board the vessel whom he has reason to believe to be punishable under section 24.

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<sup>1</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>3</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

Penalties for  
resisting officer

**27.** Any master of a vessel refusing or neglecting to bring to the vessel or to produce his papers when required to do so by an officer acting under section 26, and any person obstructing any such officer in the performance of his duty, may be arrested by such officer without a warrant, and shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand Taka, or with both.

Confiscation of  
vessel and cargo

**28.** (1) Every vessel (including all appurtenances) in which any excisable goods are carried so as to render the owner or master of such vessel liable to penalties imposed by section 24, the cargo on board such vessel and the excisable goods in respect of which an offence under this Act has been committed shall be liable to confiscation on the orders of the officer empowered in this behalf by the <sup>1</sup>[Board].

(2) Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section he may seize such article, and shall at once report the seizure to his superior officer for the information of the officer empowered to order confiscation under sub-section (1) and such officer may, if satisfied on such report or after making such inquiry as he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated, or impose a fine in lieu thereof not exceeding the value of the article.

Jurisdiction

**29.** Any offence punishable under section 24 or section 27 may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section 26 or section 27, he may be brought.

Power to  
exempt from  
operation of this  
Chapter

**30.** The <sup>2</sup>[Board] may, by notification in the *official Gazette*, exempt the carriage of excisable goods within any local limits or in any class of vessels from the operation of this Chapter, and, by like notification, again subject such carriage to the operation of this Chapter.

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<sup>1</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

## CHAPTER V

### SPECIAL PROVISIONS RELATING TO SALT

**31.** The proprietor of a private salt factory who has by virtue of a *sanad* granted by the Government or any former Government, a special and permanent right to manufacture salt, or to excavate or collect natural salt, shall on application made in accordance with the rules made under this Act be entitled to a licence for such purpose and to the annual renewal thereof, unless on a breach of the provisions of this Act, his licence has been cancelled by an officer duly empowered by the <sup>1</sup>[Board] in this behalf.

Special and permanent rights of manufacturing salt to be recognised

**32.** [*Rights of ordinary proprietors of existing salt-works.- Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

## CHAPTER VI

### ADJUDICATION OF <sup>2</sup>[CASE]

**33.** Where by the rules made under this Act <sup>3</sup>[in case] anything is liable to confiscation or any person is liable to a penalty, such <sup>4</sup>[case] may be adjudged-

Power of adjudication

(a) without limit, by a <sup>5</sup>[<sup>6</sup>Commissioner] of Excise];

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<sup>1</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> The word "case" was substituted for the words "confiscation and penalty" by section 3 of the Finance (1971-72) Order, 1972 (President's Order No. 52 of 1972).

<sup>3</sup> The words "in case" were inserted by section 3 of the Finance (1971-72) Order, 1972 (President's Order No. 52 of 1972).

<sup>4</sup> The word "case" was substituted for the words "confiscation and penalty" by section 3 of the Finance (1971-72) Order, 1972 (President's Order No. 52 of 1972).

<sup>5</sup> The words "Collector of Excise" were substituted for the words "Collector of Central Excise" by section 4 of the Finance Act (Act No. III of 1975).

<sup>6</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>1</sup>[(b) subject to such limitations and conditions as the Board may, by notification in the *official Gazette*, determine from time to time, by an <sup>2</sup>[Additional Commissioner] of Excise, a <sup>3</sup>[Joint Commissioner] of Excise, a <sup>4</sup>[Deputy Commissioner] of Excise, an <sup>5</sup>[Assistant Commissioner] of Excise or a Superintendent of Excise.]

Option to pay fine in lieu of confiscation

**34.** Wherever confiscation is adjudged under this Act or the rules made thereunder, the officer adjudging it <sup>6</sup>[may] give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit in addition to any duty and other charges due in respect of the goods.

Confiscation of containers and conveyance

<sup>7</sup>[**34A.** Where under this Act or the rules made thereunder any goods are liable to confiscation, then the receptacles, packages or coverings in which such goods are contained and the animals, vehicles, vessels, or other conveyances on which the goods are loaded or which are used in carrying the goods shall also be liable to confiscation.]

Appeals

**35.** <sup>8</sup>[(1) Any person aggrieved by any decision or order, other than an order of attachment and sale under section 11, passed by an Excise Officer under this Act or the rules made thereunder may, within three months from the date of such decision or order, appeal therefrom:-

- (a) where the decision or order has been passed by an Excise Officer not superior in rank to an Additional Commissioner of Excise, to the Commissioner (Appeal); and

<sup>1</sup> Clause (b) was substituted by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

<sup>2</sup> The words “Additional Commissioner” were substituted for the words “Additional Collector” by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>3</sup> The words “Joint Commissioner” were substituted for the words “Joint Collector” by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>4</sup> The words “Deputy Commissioner” were substituted for the words “Deputy Collector” by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>5</sup> The words “Assistant Commissioner” were substituted for the words “Assistant Collector” by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>6</sup> The word “may” was substituted for the word “shall” by section 6 of the Finance Ordinance, 1978 (Ordinance No. XXI of 1978).

<sup>7</sup> Section 34A was inserted by section 5 of the Finance Act, 1968 (Act No. XI of 1968).

<sup>8</sup> Sub-section (1) and sub-section (1A) were substituted for the former sub-section (1) by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

- (b) where the decision or order has been passed by a Commissioner of Excise, Commissioner (Appeal) or an Excise Officer of equivalent rank, to the Appellate Tribunal constituted under section 196 of the Customs Act, hereinafter referred to as the Appellate Tribunal.

(1A) Upon receipt of an appeal under sub-section (1),-

- (a) if the appeal has been preferred to the Commissioner (Appeal), the Commissioner (Appeal) may make such further enquiry and pass such order as he thinks fit, confirming, altering or annulling the decision or order appealed against:

Provided that no order imposing or enhancing any penalty or fine or requiring payment of a greater amount of duty than has been adjudged in the decision or order appealed against shall be passed by the appellate authority unless the person affected has been given an opportunity of showing cause against it and of being heard:

Provided further that the appellate authority may admit an appeal after the expiration of the aforesaid period, not exceeding two months from the date of such expiration, if he is satisfied that the appellant has sufficient cause for not preferring it within that period;

- (b) if the appeal has been preferred to the Appellate Tribunal, the Appellate Tribunal shall, notwithstanding anything contained in this Act, dispose of the appeal, as far as practicable, in accordance with the provisions relating to the said Tribunal.]

<sup>1</sup>[(1B)] Any person desirous of appealing under sub-section (1) against any decision or order relating to any duty demanded in respect of <sup>2</sup>[services or of] goods which have ceased to be under <sup>3</sup>[Excise] control, or to any penalty levied under the Act or the rules made thereunder, shall, pending the appeal, deposit the duty demanded or the penalty levied or both such duty and such penalty:

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<sup>1</sup> Sub-section (1A) was renumbered as (1B) by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>2</sup> The words “services or of” were inserted by section 5 of the Finance Ordinance, 1986 (Ordinance No. XLV of 1986).

<sup>3</sup> The word “Excise” were substituted for the words “Central Excise” by section 8 of the Excises and Salt (Amendment) Ordinance, 1978 (Ordinance No. XII of 1978).

Provided that where, in any particular case, the appellate authority is of the opinion that deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may dispense with such deposit, either unconditionally or on such conditions as it may deem fit to impose.

(2) No appeal under sub-section (1) shall lie in any case after the <sup>1</sup>[Board] has initiated any proceedings under section 35A in respect of such case.

<sup>2</sup>[(3) Every appeal which is pending immediately before the appointed day before the Board under section 35 of this Act, as it stood immediately before that day, and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal will dispose of such appeal or matter, as far as practicable, in accordance with the provisions laid down in section 196J of the Customs Act.

(4) Notwithstanding anything contained in this Act, an appeal under sub-section (1) shall be deemed to have been allowed if the appellate authority fails to make a decision or order thereon within a period of six months from the date the appeal was preferred.

**Explanation.-** For the purposes of this section, “appointed day” means the 1st day of October, 1995.]

Power of the Board on departmental proceedings

<sup>3</sup>[35A. (1) The <sup>4</sup>[Board] may of its own motion call for and examine the record of any departmental proceedings under this Act or the rules made thereunder for the purpose of satisfying itself as to the legality or propriety of any decision or order passed therein by an officer subordinate to the Board and may pass such order as it thinks fit:

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<sup>1</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> Sub-sections (3) and (4) were inserted by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>3</sup> Section 35A was inserted by section 4 of the Finance Act, 1966 (Act No. XI of 1966).

<sup>4</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).

Provided that no order imposing or enhancing any penalty or fine or requiring payment of a greater amount of duty shall be passed by the Board unless the person affected by the proposed order has been given an opportunity of showing cause against it and of being heard.

(2) No decision or order shall be revised under this section after the expiry of three years from the date of such decision or order.]

(3) No proceeding under sub-section (1) shall be initiated in a case where an appeal under sub-section (1) of section 35 is pending except after the disposal of such appeal.

<sup>1</sup>[35B. (1) The <sup>2</sup>[Board] may rectify any mistake which is apparent from the record in any order passed by it under any of the provisions of this Act or the rules made thereunder on its own motion or on an application made by a person affected by the order within one year of the passing of such order:

Power of the  
<sup>3</sup>[Board] to  
rectify mistakes

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by the proposed rectification has been given an opportunity of being heard.

(2) No order under this section shall be passed after the expiry of three years from the date of passing of the order which is sought to be rectified.

(3) No proceedings under sub-section (1) shall be initiated in a case where an application under section 36 has been made, and, where any such application is pending, the proceeding so initiated shall abate.]

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<sup>1</sup> Section 35B was inserted by section 9 of the Finance Ordinance, 1978 (Ordinance No. XXI of 1978).

<sup>2</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>3</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).



Revision by  
Government

**36.** The Government may on the application of any person aggrieved by any decision or order passed under section 35 or 35A <sup>1</sup>[or 35B], if such application is made within a period of one hundred and twenty days from the date of the decision or order, pass such order in relation thereto as it thinks fit:

Provided that no order imposing or enhancing any penalty or fine or requiring payment of a greater amount of duty than has been determined in the decision or order in respect of which the application has been made shall be passed unless the person affected has been given an opportunity of showing cause against it and of being heard <sup>2</sup>[:

Provided further that the Government may admit an application after the expiration of the aforesaid period, not exceeding one hundred and twenty days from the date of such expiration, if the Government is satisfied that the appellant has sufficient cause for not presenting the application within that period.]

Appearance by  
authorised  
representative

<sup>3</sup>[**36A.** (1) Any person who is entitled or required to attend before any excise officer, an appellate authority, Standing Tribunal, the <sup>4</sup>[Board], or the Government in any proceedings under this Act, or any rules made thereunder otherwise than when required, under law to attend personally, may attend in such proceedings by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the aggrieved person, or a lawyer who is entitled to plead in any Court of Law, or an excise consultant as defined and licensed under rules prescribed in this behalf, and not being disqualified by or under sub-section (2).

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<sup>1</sup> The words “or 35B” were inserted by section 9 of the Finance Ordinance, 1978 (Ordinance No. XXI of 1978).

<sup>2</sup> The colon (:) was substituted for the full-stop (.) and thereafter the proviso was added by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

<sup>3</sup> Section 36A was inserted by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

<sup>4</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).

(2) No person who has been dismissed from Government service shall be qualified to represent a person under sub-section (1); and if any lawyer or excise consultant is found guilty of misconduct in connection with any excise proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the <sup>1</sup>[Commissioner] of Excise, the <sup>2</sup>[Commissioner] of Excise may direct that he shall be thenceforward disqualified to represent a person under sub-section (1):

Provided that-

- (a) no such direction shall be issued in respect of any person unless he is given a reasonable opportunity of being heard,
- (b) any person against whom such direction is issued may, within one month from the date of receipt of the direction, appeal to the <sup>3</sup>[Board] to have the direction cancelled, and
- (c) no such direction shall take effect until one month from the date of receipt thereof by the person concerned, or when an appeal is preferred, until the disposal of the appeal.]

<sup>4</sup>[**36B.** (1) The Government may rectify any mistake which is apparent from the record in any order passed by it under any of the provisions of this Act or the rules made thereunder on its own motion or on an application made by a person affected by the order within one year of the passing of such order:

Power of the Government to rectify mistakes

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by the proposed rectification has been given an opportunity of being heard.

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<sup>1</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>2</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>3</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>4</sup> Section 36B was inserted by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

(2) No order under this section shall be passed after the expiry of three years from the date of the passing of the order which is sought to be rectified.]

Power to write off sums due to Government

<sup>1</sup>[36C. When under this Act or the rules made thereunder a duty or any other money is payable to the Government by any person or a penalty is adjudged against any person and such duty, penalty or other sum has not been paid within the time it was required to be paid and the sum could not be recovered nor is recoverable from such person in the manner provided in section 11 due to bankruptcy or untraceability of such person or for any other reason, the Government may write-off such duty, penalty or other sum, wholly or partially as it deems fit.]

## CHAPTER VII

### SUPPLEMENTAL PROVISIONS

Power of <sup>2</sup>[Board] to make rules

**37.** (1) The <sup>3</sup>[Board] may make rules to carry into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may-

- (i) provide for the assessment and collection of duties of excise, the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be payable, and the recovery of duty not paid;
- (ii) prohibit absolutely, or with such exceptions, or subject to such conditions as the <sup>4</sup>[Board] thinks fit, the production or manufacture, or any process of the production or manufacture, of excisable goods, or of any component parts or ingredients or containers thereof, or the providing or rendering of any excisable services, except on land or premises approved for the purpose;

<sup>1</sup> Section 36C was inserted by section 2 of the Finance Act, 1996 (Act No. XVIII of 1996).

<sup>2</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>3</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>4</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

- (iii) prohibit absolutely, or with such exceptions, or subject to such conditions as the <sup>1</sup>[Board] thinks fit, <sup>2</sup>[\* \* \*] the transit of excisable goods from any part of Bangladesh to any other part thereof;
- (iv) regulate the removal of excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a licensed person, or a bonded warehouse, or to a market;
- <sup>3</sup>[(iva) regulate the removal and movement of such imported goods as cannot be distinguished from any excisable goods of the same description;]
- (v) regulate the production or manufacture, or any process of the production or manufacture, the possession, storage and sale of salt, and so far as such regulation is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods, or of any component parts or ingredients or containers thereof;
- (vi) provide for the employment of officers of the Government to supervise the carrying out of any rules made under this Act;
- (vii) require a manufacturer or the licensee of a warehouse or a person providing or rendering any excisable services to provide accommodation within the precincts of his factory or warehouse or premises for officers employed to supervise the carrying out of regulations made under this Act and prescribe the scale of such accommodation;
- (viii) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering goods into and clearing goods from such warehouses;

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<sup>1</sup> The word “Board” was substituted for the words “National Board of Revenue” by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>2</sup> The words “the bringing of excisable goods into Pakistan from the territory of any specified Ruler or Chief in Pakistan, or” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> Clause (iva) was inserted by section 9 of the Finance Ordinance, 1977 (Ordinance No. XXIII of 1977).

- (ix) provide for the distinguishing of goods which have been manufactured under licence, of materials which have been imported under licence, and of goods on which duty has been paid, or which are exempt from duty under this Act;
- <sup>1</sup>[(ixa) provide for taking account of goods manufactured and of materials and components, either imported or locally procured, used in the manufacture of excisable goods;]
- (x) impose on persons engaged in the providing or rendering of any excisable services or in the production or manufacture, storage or sale (whether on their own account or as brokers or commission agents) of salt, and, so far as such imposition is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;
- (xi) require that excisable goods shall not be sold or offered or kept for sale in Bangladesh except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed and provide for the printing, embossing or weaving of retail price on any excisable goods and on containers, packages, covers, labels and wrappers in which any excisable goods are sold;
- <sup>2</sup>[(xia) provide for the supply and use of stamps or stamped tickets or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used; for controlling the use of barriers or mechanical contrivances in use for admission of persons to the entertainments; for the checking of admissions and for the renewal of damaged or spoiled stamps;
- (xib) provide for the maintenance of books of accounts, registers, bills and tickets and for the submission of returns and statements;]

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<sup>1</sup> Clause (ixa) was inserted by section 5 of the Finance Act, 1980 (Act No. XXIII of 1980).

<sup>2</sup> Clauses (xia) and (xib) were inserted by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>1</sup>[(xic) provide for collection of duty by affixing stamps on any sale document, sale memorandum, bill of charges and cash memo;]

(xii) provide for the issue of licences and transport permits and the fees, if any, to be charged therefor:

Provided that the fees for the licensing of the manufacture and refining of salt and saltpetre shall not exceed, in the case of each such licence, the following amounts, namely:-

	Taka
Licence to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining	50
Licence to manufacture saltpetre	2
Licence to manufacture sulphate of soda ( <i>Kharinun</i> ) by solar heat in evaporating pans	10
Licence to manufacture sulphate of soda ( <i>Kharinun</i> ) by artificial heat	2
Licence to manufacture other saline substances	2

(xiii) provide for the detention of goods, plant, machinery or material, for the purpose of exacting the duty, the procedure in connection with the confiscation, otherwise than under section 10 or section 28, of goods in respect of which breaches of the Act or rules have been committed, and the disposal of goods so detained or confiscated;

(xiv) authorise and regulate the inspection of any premises where any excisable services are provided or rendered or of factories and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale or transport of salt, and so far as such inspection or search is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods;

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<sup>1</sup> Clause (xic) was inserted by section 5 of the Finance Ordinance, 1982 (Ordinance No. XVI of 1982).

- (xv) authorise and regulate the composition of offences against, or liabilities incurred, under this Act or the rules made thereunder;
- (xvi) provide for permission to export goods on payment of duty or otherwise, and for the grant of rebate, on any basis, of the whole or any part of the duty paid on or in respect of any excisable goods which are exported or which are used in the manufacture of any other goods which are exported out of Bangladesh or shipped as provisions or stores for consumption on board a ship or aircraft proceeding to any destination outside Bangladesh;

<sup>1</sup>[\* \* \*]

- (xviii) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of the Government, or of any factory in which saltpetre is manufactured or refined and regulate the possession, storage and sale of salt within such area;
- (xix) define an area around any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area;
- (xx) authorise the <sup>2</sup>[Commissioner] of Excise appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made under this section.

(3) In making rules under this section, the <sup>3</sup>[Board] may provide that any person committing a breach of any rule shall, without prejudice to any other action that may be taken against him under this Act, be liable to a penalty not exceeding <sup>4</sup>[ten thousand taka] or ten times the amount of duty involved whichever is greater and that any article in respect of which any such breach is committed shall be confiscated.

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<sup>1</sup> Clause (xvii) was omitted by section 2 and the Schedule of the Tax Laws (Amendment) Ordinance, 1962 (XXXI of 1962).

<sup>2</sup> The word "Commissioner" was substituted for the word "Collector" by section 4 of the Finance Act, 1995 (Act No. XII of 1995).

<sup>3</sup> The word "Board" was substituted for the words "National Board of Revenue" by section 5 of the Finance Act, 1979 (Act No. V of 1979).

<sup>4</sup> The words "ten thousand taka" were substituted for the words "two thousand taka" by section 5 of the Finance Ordinance, 1984 (Ordinance No. XLII of 1984).

**38.** All rules made and notifications issued under this Act shall be made and issued by publication in the *official Gazette*. All such rules and notifications shall thereupon have effect as if enacted in this Act <sup>1</sup>[.]

Publication of rules and notifications

**39.** [*Repeal of enactments.- Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

**40.** (1) No suit shall be brought in any civil Court to set aside or modify any order passed, or any assessment, levy or collection any duty, under this Act.

Bar of suits and limitation of suits and other legal proceedings

(2) No suit, prosecution, or other legal proceeding shall be instituted for anything done or ordered to be done under this Act after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.

(3) No suit shall lie against the Government or against any officer of the Government in respect of any order passed in good faith or any act in good faith done or ordered to be done under this Act.

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<sup>1</sup> The full-stop (.) was substituted for the colon (:) and the proviso was omitted by section 3 of the Finance (1971-72) Order, 1972 (President's Order No. 52 of 1972).



<sup>1</sup>[FIRST SCHEDULE  
(See Section 3)  
<sup>2</sup>[\* \* \*]  
<sup>3</sup>[PART-II  
SERVICES

Service Code	Description of services	Statutory Rate
(1)	(2)	(3)

**E 032.00 Services Rendered by Bank or Financial Institute-**

**Explanation.-** In this item, “services Rendered by Bank or Financial Institute” shall mean the services rendered by a scheduled bank as defined in the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972) or by a financial institute ( আর্থিক প্রতিষ্ঠান) as defined in আর্থিক প্রতিষ্ঠান আইন, ১৯৯৩ (১৯৯৩ সনের ২৭ নং আইন) by the way of maintaining any type of account.

Taka  
10,000.00 (ten thousand) per any type of account per year.

**E 033.00 Services Rendered by Airline-**

**Explanation.-** In this item, services rendered by airline shall mean-

(a) the services rendered by airline through issuing a domestic “Airline Ticket per seat” for single journey, which may involve one or more stops over on its way to ultimate airport of destination;

or

(b) the services rendered by airline through issuing an international “Airline Ticket per seat” for single journey, which may involve a connecting flight from a domestic airport.

Taka 300.00  
(three hundred) per issuance of domestic Airline Ticket per seat for single journey.  
  
Taka 1000.00  
(one thousand ) per issuance of International Airline Ticket per seat for single journey.]]

<sup>1</sup> The First Schedule was substituted by First Schedule of the Finance Act, 2003 (Act No. XVII of 2003).

<sup>2</sup> PART-I was omitted by section 2 of the Finance Act, 2004 (Act No. XVI of 2004).

<sup>3</sup> PART-II was substituted by section 2 of অর্থ আইন, ২০১১ (২০১১ সনের ১২ নং আইন) (with effect from 1st July, 2011).

**SECOND SCHEDULE**

(See sections 6 and 8)

**PART A**

Excisable goods specified for the purposes of section 6-

- |  |                                       |
|--|---------------------------------------|
| 1. Tobacco                             | When supplied by a curer to a         |
| 2. Betel nuts                          | wholesale dealer, whether directly or |
| 3. Coffee                              | through a broker or commission        |
|  | agent.                                |
| 4. Gold and silver products<br>thereof |                                       |

**PART B**

Excisable goods specified for the purposes of section 8-

1. Tobacco

**THIRD SCHEDULE**

*[Omitted by section 3 and the Second Schedule of the Bangladesh  
Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]*

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