

The Abkari (Second Amendment) Act, 1975 [1]

Section 67C - Issue of show cause notice before confiscation under section 67B

1975.(2) It shall come into force at once.2. Substitution of new section for section 34 ."For section 34 of the Abkari Act 1 of 1077 (hereinafter referred to as the principal Act), the following section shall be substituted, namely: ""34. Offenders may be arrested and contraband liquor, vehicles, etc., seized without warrant ."(1) Any officer of the Excise Department or the Police Department may arrest without warrant in any public thoroughfare or open place other than a dwelling house, any person found committing an offence punishable under section 15C or section 55 or section 57 or section 58, and in any such thoroughfare or public place may "(a) seize and detain "i. any liquor or intoxicating drug.ii. Any material, still, utensil, implement or apparatus;iii. Any receptacle, package or covering; andiv. Any animal, cart, vessel or other conveyance, which he has reason to believe to be liable to confiscation under this Act;(b) search any person, animal, cart, vessel or other conveyance, package, receptacle or covering upon whom or in or upon which he may have reasonable cause to suspect any such liquor or intoxicating drug to be, or to be concealed.(2) If the officer making an arrest under sub-section (1) is not empowered under section 5A to admit to bail, the person arrested shall forthwith be produced before an officer so empowered.(3) It shall be the duty of the officer empowered under section 5A to admit such person to bail if sufficient bail is tendered for his appearance before an Abkari Officer having jurisdiction to inquire into the case."3. Amendment of section 67."In section 67 of the principal Act, "(a) in the first paragraph, "(i) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;(ii) the portion beginning with the words "and, in all cases whatsoever" and ending with the words "on payment of the value thereof as estimated by such officer" shall be omitted;(b) for the second paragraph, the following paragraph shall be substituted, namely: ""On the payment of such sum of money to such officer, the accused person if in custody shall be discharged and no further proceedings shall be taken against such person.4. Insertion of new section 67B to 67H ."After section 67A of the principal Act, the following sections shall be inserted namely: ""67B. Confiscation by Abkari Officers in certain cases. " (1) Notwithstanding anything contained in this Act or other law for the time being in force, where any liquor, intoxicating drug, materials, still, utensil, implement or apparatus or any receptacle, package or covering in such liquor, intoxicating drug, material, still, utensil, implement or apparatus is found or any animal, cart, vessel or other conveyance used in carrying the same is seized and detained under the provisions of this Act, the officer seizing and detaining such property shall, without any unreasonable delay, produce the same before an officer authorised by the Government in this behalf by notification in the Gazette, not being below the rank of an Assistant Excise Commissioner (hereinafter referred to as the authorised officer).(2) Where an authorised officer seizes and detains any property specified in sub-section (1) or where any such property is produced before an authorised officer under the sub-section and he is satisfied that an offence under this Act has been committed in respect of or by means of that property and that such property is liable to confiscation under this Act, such authorised officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property and where such property consists of any receptacle or package, the authorized officer may also order confiscation of all contents thereof.(3) When making an order of confiscation under sub-section (2), the authorized officer may also order that such of the properties to which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed. . "(1) No order confiscating any property shall be made under section 67B unless the person from whom the same is seized"a. is given a notice in writing informing him of the grounds on which it is proposed to confiscate such property;b. is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation ; andc. is given a reasonable opportunity of being heard in the matter.(2) Without prejudice to the provisions of sub-section (1) no order confiscating any animal, cart, vessel other conveyance shall be made under section 67B if the owner of the animal, cart, vessel or other conveyance proves to the satisfaction of the authorised officer that it was used in carrying the liquor or intoxicating drug or the

material, still, utensil, implement or apparatus or the receptacle, package or covering without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the animal, cart, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.

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