



Gujarat

Judicial Services Exam

The High Court of Gujarat

Volume - 7

**The Gujarat Prohibition Act 1949, The Gujarat Court Fees Act 2004,
The Gujarat Prevention of Gambling Act 1887, The Registration of
Births and Deaths Act 1969, Pre-conception and Pre-Natal Diagnostic
Techniques (Prohibition of Sex Selection) Act 1994**

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Gujarat Prohibition Act, 1949

Act 25 of 1949

Date of commencement: 20 May 1949

Chapter I Preliminary

Section 1 — Short Title, Extent and Commencement

This section explains:

1. The name of the Act,
2. Where it applies,
3. When it comes into force, and
4. That all related rules and orders will also apply.

Sub-section (1) — Short Title

“This Act may be cited as The Bombay Prohibition Act, 1949.”

Meaning:

The official name of the law is **The Bombay Prohibition Act, 1949.**

Sub-section (2) — Extent

“It extends to the whole of the State of Gujarat.”

Meaning:

This law applies to the entire State of Gujarat.

Originally, it applied only to certain Bombay areas, but later amendments extended it to the whole State of Gujarat.

Sub-section (3) — Commencement

This part explains when the Act will start operating.

The Act will come into force on the date fixed by the State Government through a notification published in the Official Gazette.

In areas where the Act was later extended through the Bombay Prohibition (Extension and Amendment) Act, 1959, the Government could appoint different dates for enforcement in those areas.

What is “Official Gazette”?

The Official Gazette is the government’s official publication in which laws, notifications, rules, and government orders are formally published.

Sub-section (4) — Rules and Orders Also Apply

This provision says that when the Act is extended to a new area, not only the Act itself but also:

- rules,
- regulations,
- orders, and
- notifications

made under the Act will automatically become applicable in that area.

Suppose the Act was already applicable in Ahmedabad with certain prohibition rules.

Later, the Act is extended to another district.

Then:

- the Act, and
- all existing prohibition rules and notifications

will automatically apply to that new district as well.

Section 2 — Definitions

The Bombay Prohibition Act, 1949

This section explains the meanings of important words used in the Act.

These definitions help in proper interpretation and application of the law.

The opening line:

“Unless there is anything repugnant in the subject or context”

means that these meanings will apply unless the context requires a different interpretation.

Clause-wise Explanation

(1) “Authorisation”

Definition:

It means permission granted under Section 45 for using liquor for sacramental or religious purposes.

Meaning:

If liquor is needed for a religious ceremony or ritual, the government may specially permit its use. That permission is called “authorisation”.

Example:

Wine used during a Christian religious ceremony.

(2) “To Bottle”

Definition:

It means transferring liquor from a large container (like a cask or vessel) into bottles, jars, flasks, pots, etc., for sale.

It also includes:

- re-bottling.

Meaning:

Whenever liquor is packed into smaller containers for selling, it is called bottling.

Example:

A liquor manufacturer filling whisky from a large drum into glass bottles.

(3) Deleted Clause

This clause was removed by amendment in 1960.

Meaning:

The definition earlier existing under clause (3) no longer forms part of the Act.

(4) “Collector”

Definition:

Collector includes:

- the District Collector, and
- any officer appointed by the State Government to perform the powers or duties of the Collector under this Act.

Meaning:

The government may authorize another officer to act as Collector for prohibition matters.

(5) “Director”**Definition:**

Director means the Director of Prohibition and Excise appointed under Section 3.

It also includes officers who are given the Director’s powers by the State Government.

Meaning:

The Director is the chief officer responsible for implementing prohibition and excise laws.

(6) “Committee or Board”**Definition:**

It means a committee or board appointed by the State Government under Section 7.

Meaning:

The Government may create special committees or boards for carrying out functions under this Act.

(7) “Common Drinking House”**Definition:**

A place where people are allowed to drink liquor or consume intoxicating drugs for the owner’s profit or gain.

It includes:

- clubs,
- premises,
- or any place habitually used by more than one person for drinking without a licence.

Meaning:

Any place where people gather to drink liquor illegally or without licence is called a common drinking house.

Example:

- Illegal bars,
- unlicensed drinking clubs,
- secret liquor rooms.

(8) “Country Liquor”**Definition:**

It includes all liquor produced or manufactured in India.

Meaning:

Liquor made within India is called country liquor.

Example:

- Desi liquor,
- locally manufactured alcohol.

(9) “Cultivation”**Definition:**

It means growing a plant from seed and also taking care of it during growth.

Meaning:

Cultivation includes:

- planting,
- watering,
- protecting,
- and maintaining the plant.

Example:

Growing cannabis or intoxicating plants.

(10) “Denatured”**Definition:**

It means liquor or alcohol treated by a prescribed process so that it becomes unfit for human consumption.

Meaning:

Certain chemicals are mixed in alcohol so people cannot drink it safely.

Example:

Industrial alcohol used in factories.

(10A) “Denatured Spirituous Preparation”**Definition:**

It means any liquid preparation made using:

- denatured spirit, or
- denatured alcohol.

It includes:

- lacquer,
- French polish,
- varnish, etc.

Meaning:

These are industrial or commercial products made from alcohol that has been chemically treated so people cannot safely drink it.

Example:

- furniture polish,
- paint varnish,
- industrial spirit products.

(11) Deleted Clause

This clause was removed by amendment in 1960.

(12) “To Drink”

Definition:

It means:

- drinking liquor, or
- consuming any intoxicating drug.

Meaning:

The word “drink” under this Act is broader than ordinary meaning.

It includes consuming intoxicating substances in any form.

(13) “Excisable Article”

Definition:

These are substances on which excise laws apply.

They include:

1. alcoholic liquor for human consumption,
2. intoxicating drugs or hemp,
3. opium,
4. other narcotic drugs declared by the State Government.

Meaning:

Any intoxicating substance on which the Government can impose excise duty or regulation is called an excisable article.

Example:

- liquor,
- bhang,
- opium,
- narcotic drugs.

(14) “Excise Duty” and “Countervailing Duty”**Definition:**

These are duties mentioned in Entry 51 of List II (State List) of the Seventh Schedule of the Constitution.

Meaning:

These are taxes imposed by the State Government on liquor and intoxicating substances.

Difference:

- **Excise Duty** → tax on goods manufactured within the State.
- **Countervailing Duty** → tax on similar goods brought from outside the State.

(15) “Excise Revenue”**Definition:**

Revenue earned from:

- duties,
- fees,
- taxes,
- fines,
- confiscation,
- forfeiture

under this Act or related intoxicant laws.

Meaning:

Any money earned by the Government through prohibition and excise laws is called excise revenue.

(16) “Export”

Definition:

It means taking something out of the State otherwise than across an international customs frontier.

Meaning:

When liquor or intoxicants are taken from Gujarat to another State within India, it is called export under this Act.

Example:

Sending liquor from Gujarat to Rajasthan.

(17) “Foreign Liquor”

Definition:

It means liquor produced or manufactured outside India.

The Government may also declare some kinds of country liquor as foreign liquor for purposes of this Act.

Meaning:

Imported liquor is called foreign liquor.

Example:

- Scotch whisky,
- imported wine,
- foreign beer.

(18) “Hemp”

Definition:

Any variety of Indian hemp plant from which intoxicating drugs can be produced.

Meaning:

Cannabis-type plants capable of producing intoxicating substances are called hemp.

(19) “Hotel Licence”

Definition:

A licence granted under Section 36.

Meaning:

Permission given to a hotel under the Act for activities related to liquor.

(19A) “Household”

Definition:

A group of persons living and eating together as one domestic unit.

Servants are not included.

Meaning:

Family members or people jointly living as one home are considered one household.

(20) “Import”

Definition:

It means bringing something into the State otherwise than across an international customs frontier.

Meaning:

Bringing liquor or intoxicants from another Indian State into Gujarat amounts to import under this Act.

Example:

Bringing alcohol from Rajasthan into Gujarat.

(21) “Interim Permit”

The definition is incomplete in the provided text, but generally:

Meaning:

A temporary permit granted under the Act until a regular permit is issued.

(12) “To Drink”

Definition:

“To drink” means:

- drinking liquor, or
- consuming any intoxicating drug.

Meaning:

Under this Act, the word “drink” is not limited only to alcohol.

It also includes consuming intoxicating substances or drugs.

Example:

- drinking whisky,
- consuming bhang or narcotic substances.

(13) “Excisable Article”

Definition:

The following are called excisable articles:

- (a) Any alcoholic liquor for human consumption.
- (b) Any intoxicating drug or hemp.
- (c) Opium.
- (d) Other narcotic drugs declared by the State Government through notification.

Meaning:

Any intoxicating substance on which the Government can impose excise control, tax, or regulation is called an excisable article.

Examples:

- Beer,
- whisky,
- bhang,
- opium,
- narcotic drugs.

(14) “Excise Duty” and “Countervailing Duty”

Definition:

These are duties mentioned in Entry 51 of the State List under the Constitution of India.

Meaning:

Excise Duty:

Tax imposed on liquor or intoxicants manufactured within the State.

Countervailing Duty:

Tax imposed on similar goods brought from another State.

Example:

- Liquor manufactured in Gujarat → Excise Duty.
- Liquor brought from Rajasthan → Countervailing Duty.

(15) “Excise Revenue”

Definition:

Revenue earned from:

- duties,
- taxes,
- fees,
- fines,
- confiscation,
- forfeiture

under this Act or other intoxicant laws.

Meaning:

Any money collected by the Government through prohibition and excise laws is called excise revenue.

Example:

- licence fees,
- money from confiscated liquor.
- excise tax,

(16) “Export”**Definition:**

It means taking something out of the State otherwise than across an international customs frontier.

Meaning:

When liquor or intoxicants are taken from Gujarat to another Indian State, it is called export under this Act.

Example:

Sending liquor from Gujarat to Maharashtra.

(17) “Foreign Liquor”**Definition:**

Foreign liquor means liquor produced or manufactured outside India.

The State Government may also declare some country liquor as foreign liquor through notification.

Meaning:

Imported liquor is called foreign liquor.

Examples:

- Scotch whisky,
- imported wine,
- foreign vodka.

Important Point:

Even some Indian-made liquor can legally be treated as “foreign liquor” if the Government issues a notification.

(18) “Hemp”**Definition:**

Any variety of Indian hemp plant from which intoxicating drugs can be produced.

Meaning:

Cannabis-type plants capable of producing intoxicating substances are called hemp.

Example:

Cannabis plant used for making narcotic substances.

(19) “Hotel Licence”**Definition:**

A licence granted under Section 36.

Meaning:

Permission given to a hotel under the Act for activities related to liquor.

(19A) “Household”**Definition:**

Persons living and eating together as one domestic unit.

Servants are excluded.

Meaning:

A family or group living together and sharing meals forms one household.

(20) “Import”**Definition:**

It means bringing something into the State otherwise than across an international customs frontier.

Meaning:

Bringing liquor or intoxicants from another Indian State into Gujarat amounts to import under this Act.

Example:

Bringing alcohol from Rajasthan into Gujarat.

(21) “Interim Permit”**Definition:**

A permit granted under Section 47.

Meaning:

It is a temporary permit issued until a regular or final permit is granted.

Example:

Temporary permission to possess or use liquor for a short period.

(22) “Intoxicant”

Definition:

It includes:

- liquor,
- intoxicating drugs,
- or any other substance declared by the State Government as an intoxicant.
- opium,

Meaning:

Any substance that causes intoxication or intoxicated effect can be treated as an intoxicant.

Example:

- alcohol,
- narcotic drugs,
- opium,
- notified intoxicating substances.

(23) “Intoxicating Drugs”

This clause explains different kinds of intoxicating drugs.

(a) Ganja

Definition:

Flowering or fruiting tops of the cannabis plant (excluding seeds and leaves not attached to tops).

Meaning:

The intoxicating upper portion of the cannabis plant is called ganja.

(b) Charas

Definition:

Resin obtained from the cannabis plant.

Meaning:

The sticky substance separated from cannabis is called charas.

(c) Mixtures or Drinks

Definition:

Any mixture or drink prepared from ganja or charas.

Meaning:

Even drinks or products made using these intoxicating drugs are covered.

Example:

Cannabis-based drink.

(d) Other Intoxicating or Narcotic Drugs

Definition:

Any other intoxicating substance declared by the Government through notification.

But it does not include:

- opium,
- coca leaf,
- manufactured drugs under the Dangerous Drugs Act.

Meaning:

The Government can declare additional substances as intoxicating drugs under this Act.

(23A) “Laththa”

Definition:

Spurious or illegal liquor containing methanol or poisonous substances harmful to the human body.

Meaning:

Illegally made poisonous liquor is called “Laththa”.

It may:

- seriously injure health,
- or even cause death.
- cause blindness,

Example:

Toxic country liquor made illegally using harmful chemicals.

(24) “Liquor”

Definition:

Liquor includes:

- spirits,
- beer,
- denatured spirits,
- toddy,
- wine,
- all liquids containing alcohol.

It also includes any other intoxicating substance declared by the Government as liquor.

Meaning:

Any alcoholic drink or alcohol-containing liquid is liquor under this Act.

Examples:

- whisky,
- rum,
- beer,
- wine,
- toddy.

(25) “Manufacture”**Definition:**

Manufacture includes:

- producing,
- preparing,
- blending,
- re-distilling,
- rectifying,
- flavouring,
- colouring liquor or intoxicating drugs.

It also includes:

- producing toddy from trees.

Meaning:

Any process involved in making or preparing liquor or intoxicating drugs amounts to manufacture.

Example:

- brewing beer,
- distilling alcohol,
- preparing toddy,
- colouring or flavouring liquor.

(26) “Medical Board”**Definition:**

A board constituted under Section 8.

Meaning:

A special medical board created under the Act for medical-related functions.

(27) “Mhowra Flower”

Definition:

It does not include the berry or seed of the mhowra tree.

Meaning:

Only the flower part is covered; seeds and berries are excluded.

(28) “Molasses”

Definition:

A thick dark liquid produced during the final stage of making sugar or gur containing fermentable sugars.

It also includes:

- solid forms,
- similar products made from it.

Meaning:

Molasses is the sugary thick residue left after making sugar, often used for making alcohol.

Example:

Molasses used in distilleries for producing spirit.

(29) “Officer in Charge of a Police Station”

Definition:

It means the officer in charge of a police station as defined under the Code of Criminal Procedure, 1973.

Meaning:

The Station House Officer (SHO) or officer heading a police station for criminal law purposes.

(30) “Opium”

Definition:

Opium includes:

(a) Capsules of the poppy plant (*Papaver Somniferum*), whether:

- whole,
- crushed,
- cut,
- or powdered

(b) Juice naturally obtained from poppy capsules.

(c) Any mixture containing opium.

But it does NOT include:

- preparations containing less than 0.2% morphine,
- manufactured drugs under the Dangerous Drugs Act.

Meaning:

Any raw form of opium obtained from the poppy plant is called opium under this Act.

Example:

- raw opium,
- crushed poppy capsules,
- opium mixtures.

(31) Deleted Clause

This clause was removed by amendment in 1960.

(32) “Permit”

Definition:

A permit granted under the provisions of this Act.

Meaning:

Official permission issued under the Act is called a permit.

The person holding it is called a permit holder.

Example:

Permit to possess or consume liquor legally.

(33) “Police Station”

Definition:

Any place declared to be a police station under the Code of Criminal Procedure, 1973.

Meaning:

Any officially recognized police station under criminal law.

(34) “Prescribed”

Definition:

Prescribed by rules, orders, or regulations made under the Act.

Meaning:

Whenever the Act says something is “prescribed”, it means fixed or specified through official rules or regulations.

(35) “Prohibition Officer”**Definition:**

Includes:

- Director,
- Collector,
- officers appointed under the Act,
- members of committees,
- members of boards,
- members of Medical Boards.

Meaning:

Any officer or authority empowered to enforce prohibition laws is a prohibition officer.

Example:

- Excise officers,
- authorised inspectors,
- prohibition authorities.

(36) “State”**Definition:**

State means the State of Gujarat including territorial waters attached to it.

Meaning:

For this Act, “State” refers to Gujarat and nearby territorial waters under its control.

(37) “Rectification”**Definition:**

Any process by which liquor is purified or refined.

Meaning:

Cleaning or refining alcohol to improve purity is called rectification.

Example:

Purifying spirit in a distillery.

(38) “Registered Medical Practitioner”**Definition:**

A person legally entitled to practise medicine in the State.

It includes:

- doctors,
- dentists,
- veterinary practitioners registered under law.

Meaning:

Any legally registered medical professional is covered.

Example:

- MBBS doctor,
- veterinary doctor.
- registered dentist,

(39) “Regulations”**Definition:**

Regulations made under this Act.

Meaning:

Official regulatory directions issued under the Act.

(39A) “Rotten Gur”**Definition:**

Spoiled or decomposed jaggery/gur which:

- is filthy,
- decomposed,
- putrid,
- unfit for human consumption.

It also includes gur having excessive impurities or chemical contents beyond prescribed limits.

Meaning:

Bad-quality or decomposed jaggery capable of being used for illegal liquor manufacture is called rotten gur.

Why Important?

Rotten gur is often used in illegal distillation of liquor.

Therefore, the Act regulates it strictly.

Example:

Spoiled black jaggery stored for making illicit liquor.

(40) “Rules”

Definition:

Rules made under this Act.

Meaning:

Official rules framed by the Government for implementing the Act.

(41) “Sell”

Definition:

“Sell” includes:

- transfer with or without payment,
- supply or distribution for mutual use,
- supply by a club to members for fees or subscription.

But it does not include export sale of opium across customs frontiers.

Meaning:

Under this Act, “sale” has a very wide meaning.

Even if:

- no money is taken,
- liquor is shared among people,
- or a club serves liquor to members,
- it can still amount to “selling”.

Example:

- Club serving alcohol to members,
- free distribution of liquor,
- exchange of liquor among persons.

Important Point:

The word “buy” will also be interpreted in the same broad manner.

(42) Deleted Clause

This clause was deleted in 1960.

(43) “Spirit”

Definition:

Any liquor containing alcohol obtained by distillation, whether denatured or not.

Meaning:

Alcohol produced through distillation is called spirit.

Example:

- whisky spirit,
- rum spirit,
- industrial spirit.

(44) “Sweet Toddy / Nira / Neera”**Definition:**

Unfermented juice taken from coconut or palm trees and preserved to prevent fermentation.

Meaning:

Fresh palm juice before it becomes alcoholic is called nira or sweet toddy.

Example:

Freshly extracted palm juice.

(45) “Territorial Waters”**Definition:**

Sea area within 12 nautical miles from the coastline of the State.

Meaning:

The nearby sea area legally controlled by the State is called territorial waters.

(46) “Toddy”**Definition:**

Fermented or unfermented juice taken from palm trees.

It includes:

- sweet toddy,
- nira,
- neera.

Meaning:

Juice obtained from palm trees, whether alcoholic or non-alcoholic, is called toddy.

Example:

Palm tree sap that later ferments naturally.

(47) “To Tap”**Definition:**

Preparing or cutting a tree to make juice come out from it.

Meaning:

The process of extracting juice from palm trees is called tapping.

Example:

Cutting a coconut or palm tree to collect toddy.

(47A) “Tourist”**Definition:**

A person:

- who is not an Indian citizen,
- born or domiciled outside India,
- visiting India temporarily for travel.

Meaning:

Foreign visitors coming to India for a short stay are tourists under this Act.

(47B) “Tourist Permit”**Definition:**

A permit granted under Section 46A.

Meaning:

Special liquor permit issued to tourists.

(48) “Trade and Import Licence”**Definition:**

A licence granted under Section 33.

Meaning:

Official licence allowing trade or import activities related to liquor/intoxicants.

(49) “Transport”**Definition:**

Moving something from one place to another within the State.

Meaning:

Carrying liquor or intoxicants from one place to another inside Gujarat amounts to transport.

Example:

Moving liquor from Ahmedabad to Surat.