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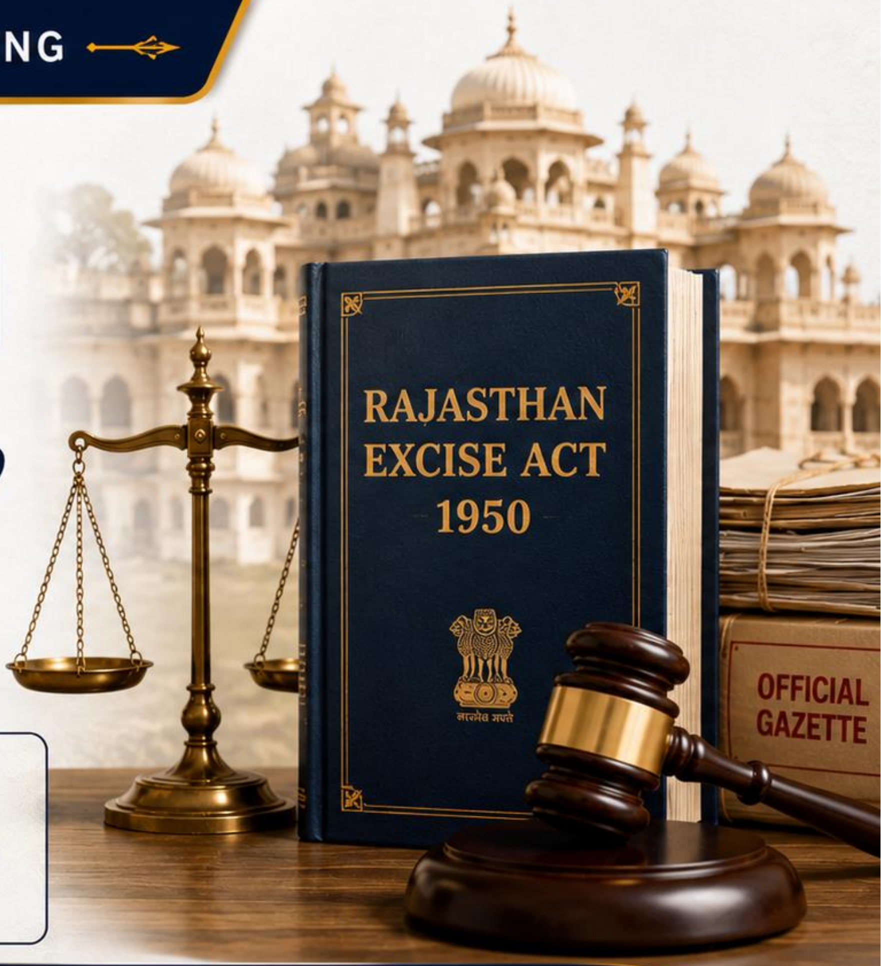
PRESENTING

THE RAJASTHAN EXCISE ACT, 1950

SECTIONS 4 TO 10-A

AN OVERVIEW OF PROVISIONS



WE COVER

GOVERNMENT POWERS	EXCISE ADMINISTRATION	APPEALS & REVISION	CHECK-POSTS & TRANSPORT
Notifications & Retail Limit	Hierarchy, Appointment & Powers	Appellate Authority & Revision	Establishment & Driver Duties

CONCEPT BASED LEARNING | EXAM FOCUSED | MCQ & MAINS READY | JUDICIARY ORIENTED

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PRELIMINARY – GOVERNMENT'S POWER TO DECLARE

SECTIONS 4 & 5

NOTIFICATION POWERS OF THE STATE GOVERNMENT

SECTION 4 – DECLARATION OF LIQUOR

Sec. 4(1)

State Government may, by notification in the *Official Gazette*, declare any substance to be **"LIQUOR"** for the purposes of this Act or any portion thereof.

STATE GOVERNMENT → NOTIFICATION (*Official Gazette*) → DECLARES ANY SUBSTANCE AS LIQUOR

Sec. 4(2)

State Government may, in like manner and for the like purposes, declare what shall be deemed to be **"COUNTRY LIQUOR"** and **"FOREIGN LIQUOR"**.

COUNTRY LIQUOR

FOREIGN LIQUOR

SECTION 5 – LIMIT OF SALE BY RETAIL

Sec. 5(1): State Government may, by notification in the *Official Gazette*, declare the quantity of any excisable article which shall be the **limit of sale by retail.**

STATE GOVERNMENT → NOTIFICATION (*Official Gazette*) → FIXES QUANTITY AS RETAIL LIMIT → SALE WITHIN LIMIT = RETAIL SALE → SALE EXCEEDS LIMIT = DEEMED WHOLESALE SALE

Sec. 5(2): Sale of any excisable article in any quantity in excess of the quantity declared under Sub-section (1) as limit of sale by retail shall be deemed to be **SALE WHOLESALE.**

MEMORY KEYWORDS

- Declare – Liquor
- Classify – Country / Foreign
- Limit – Retail Quantity

MEMORY AID

D – C – F – R

Declare → Classify → Fix → Retail Limit

EXAM TRAP

Government can expand the meaning of "Liquor" through notification, not only the Act defines it.

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SECTIONS 6 & 7

LEGAL FICTIONS & SAVING PROVISION

SECTION 6 – DEEMED POSSESSION

When any excisable article is in the possession of a person's **wife, clerk or servant** on account of that person, it shall be **deemed to be** in the possession of that person.

VISUAL MEMORY

PERSON → WIFE → CLERK → SERVANT → DEEMED TO BE OF THE PERSON

EXPLANATION

A person employed **temporarily** or on a **particular occasion** in the capacity of a clerk or servant is also a clerk or servant within the meaning of this section.

SECTION 7 – SAVING OF CUSTOMS LAW

Nothing contained in this Act **shall affect** the provisions of any law relating to **customs** for the time being in force or any rule or order to be thereunder.

VISUAL MEMORY

EXCISE ACT, 1950
Operates within the State on excisable articles.

CUSTOMS LAW
Operates on import/export & related matters.

Both laws operate in their own fields **without conflicting** with each other.

MEMORY KEYWORDS

- Wife – Clerk – Servant → Deemed Possession
- Temporary/Particular Occasion Clerk or Servant → Also Covered

EXAM TRAP

Do not rely only on actual possession. If in possession of wife, clerk or servant on account of the person → law **presumes** it is the possession of that person.

CONCEPT BASED LEARNING | EXAM FOCUSED | MCQ & MAINS READY | JUDICIARY ORIENTED

SECTIONS 8 & 9(1), 9(1A)

ADMINISTRATIVE HIERARCHY UNDER THE ACT

ORGANISATIONAL STRUCTURE OF EXCISE DEPARTMENT

STATE GOVERNMENT
Overall control of Excise Administration

↓

EXCISE COMMISSIONER
Head of the Department of Excise

↓

ADDITIONAL EXCISE COMMISSIONER
Assists the Commissioner

↓

OTHER EXCISE OFFICERS
Officers subordinate to the Commissioner

SECTION 8 – CONTROL OF DEPARTMENT

The entire control of the Department oExcise shall vest in the **State Government**.

State Government may issue directions to the Excise Commissioner.

SECTION 9(1) – HEAD OF DEPARTMENT

The Excise Commissioner shall be **the head of the Department of Excise.**

Responsible for administration and implementation of the Act and Rules.

SECTION 9(1A) – ADDITIONAL COMMISSIONER

State Government may appoint one or more **Additional Excise Commissioners** to assist the Excise Commissioner.

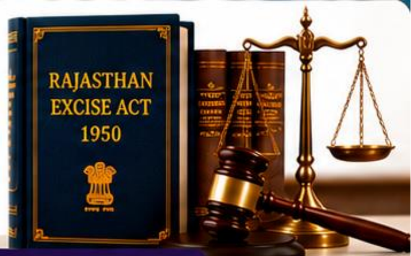
Powers and duties as prescribed by the State Government.

KEY TAKEAWAY

Sections 8 and 9 lay down the administrative hierarchy of the Excise Department –
Control lies with the State Government, **and the Excise Commissioner is the head of the Department**.

SECTION 9 – APPOINTMENT OF OFFICERS

STRUCTURE OF EXCISE ADMINISTRATION



(1) APPOINTMENT BY STATE GOVERNMENT

The State Government shall appoint –

- **Excise Commissioner**
- **Additional Excise Commissioners**

for the whole of those parts of Rajasthan to which this Act extends.

(1-A) The State Government may also appoint such and so many other persons as it thinks fit and necessary to be –

- (i) Joint Excise Commissioner
- (ii) Deputy Excise Commissioners
- (iii) District Excise Officer
- (iv) Assistant Excise Officer
- (v) Other Excise Officers

(1-B) The State Government may prescribe duties and powers to be performed and exercised by each officer or class of officers appointed under Sub-sections (1) and (1-A).

HIERARCHY OF EXCISE ADMINISTRATION

Top Level

Excise Commissioner
↓
Additional Excise Commissioners
↓
Joint Excise Commissioner
↓
Deputy Excise Commissioners
↓
District Excise Officer
↓
Assistant Excise Officer
↓
Other Excise Officers

Operational Level

(2) & (3) DELEGATION OF POWERS

(2) Delegation by State Government

→ Excise Commissioner

The State Government may delegate to the Excise Commissioner such powers of the State Government conferred by this Act, as it may specify, **EXCEPT the power to make rules thereunder.**

(3) Sub-delegation by Excise Commissioner

Excise Commissioner → Any of his Subordinate Officers

The State Government may authorise the **Excise Commissioner** to delegate to any of his **subordinate officers** such of his powers under this Act as may be **specified.**

EXAM TRAP

The State Government **CANNOT delegate the power to make rules.**

KEY TAKEAWAY

Sections 9 & 10 create the entire Excise Administration framework – Appointment → Duties → Delegation → Execution.

SECTION 10 – EMPOWERMENT BY GOVERNMENT

The State Government may:

- ✓ Empower any officer to perform the acts and duties mentioned in Chapter VIII.
- ✓ Order that all or any of the powers and duties assigned to an officer of the Excise
- ✓ Department shall be exercised and performed by any officer of the State Government or by any other person (subject to the Act).

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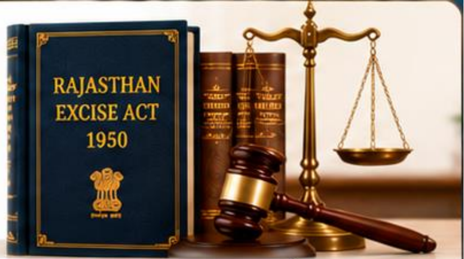
CHAPTER II – CONTROL & ESTABLISHMENT

SECTIONS 9(1B), 9(2), 9(3) & 10

POWERS, DUTIES & DELEGATION



SECTION 9(1B) STATE GOVERNMENT PRESCRIBES POWERS & DUTIES

STATE GOVERNMENT → *prescribes* → DUTIES | POWERS → OFFICER / CLASS OF OFFICERS

KEY POINT

The State Government prescribes the **duties and powers** to be performed and exercised by each officer or class of officers.

SECTION 9(2) DELEGATION BY STATE GOVERNMENT

STATE GOVERNMENT → *delegates powers* → EXCISE COMMISSIONER

IMPORTANT EXCEPTION

The power to make rules **CANNOT** be delegated.

SECTION 9(3) SUB-DELEGATION

STATE GOVERNMENT → EXCISE COMMISSIONER → *authorises* → SUBORDINATE OFFICERS

KEY POINT

Excise Commissioner may authorise any of his **subordinate officers** to exercise such of his powers as may be specified.

SECTION 10

The State Government may –

(a) Empower any officer to perform the acts and duties mentioned in **CHAPTER VIII.**

(b) Order that all or any of the **powers and duties** of an Excise Officer may be exercised by:

- Any officer other than an Excise Officer
- Any other officer of the State Government
- Any other person

MEMORY FORMULA

Government
↓
Excise Commissioner
↓
Subordinate Officers

(G → C → S)

EXAM TRAP

The State Government can delegate powers to the Excise Commissioner, and the Commissioner can sub-delegate to subordinate officers, **BUT the power to make rules under the Act cannot be delegated.**

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SECTION 9-A – APPEALS & REVISION

APPELLATE MECHANISM UNDER THE ACT

RAJASTHAN EXCISE ACT 1950

(1) APPEALS LIE – TWO TIERS

(a) From any order passed by an **Excise Officer** — Appeal to → **Excise Commissioner** under this Act.

(b) From any order passed by the **Excise Commissioner** under this Act — Appeal to → **Division Bench** of the **Rajasthan Tax Board** (Constituted under Section 88 of RVAT Act, 2003)

(PROVIDED)

No appeal shall be entertained unless it is accompanied by a satisfactory proof of payment of **75%** of the amount of the demand created by the order appealed against.

KEY POINT

Pre-deposit of 75% of the demand amount is mandatory for both tiers of appeal.

(2) LIMITATION & (3) FINALITY

(2) Limitation: Any appeal under Sub-section (1) may be preferred at any time within **sixty days** from the date of the order complained of.

(3) Finality: The decision of the Excise Commissioner or the Division Bench of the Rajasthan Tax Board, as the case may be, on such appeal shall, **subject to the result of revision**, if any, under Sub-section (4), be **final**.

(4) REVISION BY RAJASTHAN TAX BOARD

The Division Bench of the Rajasthan Tax Board may revise any order passed on appeal by the Excise Commissioner.

(5) LIMITATION FOR REVISION

Any revision under Sub-section (4) may be preferred at any time within **thirty days** from the date of the order complained of.

EXAM TRAP

- ✓ Two-level appeal structure.
- ✓ 75% pre-deposit is compulsory.
- ✓ Appeal: 60 days | Revision: 30 days.
- ✓ Decisions are final subject to revision.

KEY TAKEAWAY

Section 9-A creates a **structured appellate mechanism** with **mandatory pre-deposit**, strict **timelines** and a **revisional power** vested in the Division Bench of the Rajasthan Tax Board.

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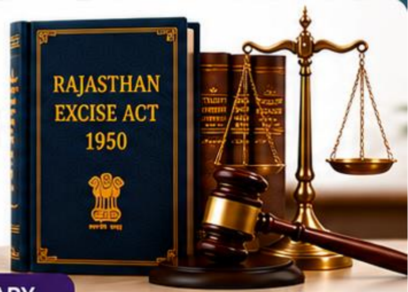
CHAPTER II – CONTROL & ESTABLISHMENT

SECTION 9-B – BAR OF CIVIL COURT JURISDICTION

NO CIVIL COURT CAN INTERFERE



STATUTORY BAR

No civil Court shall have jurisdiction to entertain any suit or proceeding to **set-aside** or **modify**:

(a) Any **original order** passed by an officer competent to do so under the provisions of this Act.

(b) Any order passed under, or referred to in **Section 9-A** (Appeals and Revision).

Essence: Orders under the Act, whether original or appellate/revisional, cannot be challenged before civil Courts.

PURPOSE & EFFECT

- Ensures **finality** and certainty of orders passed under the Act.
- Prevents **parallel litigation** and multiplicity of proceedings.
- Strengthens the **statutory** mechanism of appeal & revision under Section 9-A.
- Protects **administrative efficiency** and specialised adjudication.

QUICK SUMMARY

Who is barred?	All Civil Courts
What is barred?	Suits or proceedings to set-aside or **modify**
Which orders?	• Original orders by competent Excise Officers • Orders under or referred to in **Section 9-A** (Appeals & Revision)
Result	Civil Courts have no jurisdiction; statutory remedy is exclusive.

KEY TAKEAWAY

Section 9-B **bars the jurisdiction** of civil Courts over **orders** passed **under the Act** or under **Section 9-A**. The **remedy** lies **within** the statutory framework of **appeal** and revision.

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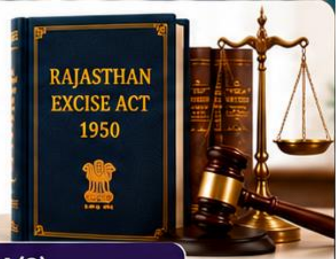
SECTION 10-A – ESTABLISHMENT OF CHECK-POSTS

PREVENTING EVASION & ENSURING INSPECTION



SECTION 10-A(1)

The Excise Commissioner may, with a view to **prevent or check evasion of excise duty**, by **notification** in the **Official Gazette**, direct the setting up of **check-posts** at **such places** and for **such period** as may be specified.

Every officer or official, who exercises his powers and discharges his duties at **such check-posts** by way of **inspection** of documents produced and goods being moved, shall be its **Incharge**.

SECTION 10-A(2)

Notwithstanding anything contained in sub-section (1), the Excise Commissioner may, by **notification** in the **Official Gazette, declare any existing check-post established by any other department of the State Government to be the check-post** for the purposes **of this section.**

He may appoint any officer or official to act as the **Incharge** of the check-post for the purpose of this section.

SECTION 10-A(3)

The **driver** or **person Incharge** of vehicle or carrier carrying **excisable articles** shall –

- **a** Carry with him the permit, pass, bill and bilty;
- **b** Stop the vehicle or carrier at such check-post;
- **c** Produce all documents for inspection of the Incharge of the check-post; and
- **d** Allow inspection of goods/ excisable articles.

EXPLANATION

For the purpose of this section, "vehicle or carrier" shall include any means of transportation including an animal to carry goods from one point to another.

Truck | Car / Jeep | Cart | Vessel | Animal | Train | Air Transport

KEY TAKEAWAY

Section 10-A empowers the Excise Commissioner to **establish or declare check-posts** and mandates strict compliance by vehicle drivers/persons Incharge to ensure **effective control, inspection** and **prevention of evasion of excise duty.**