

ORDINANCE No. 1 OF 1905.

AN ORDINANCE to consolidate and amend the Laws relating to the manufacture, storage, conveyance, and sale of spirits ⁽¹⁾. A.D. 1905.

[8th February, 1905.]

BE it enacted by the Governor of British Guiana, with the advice and consent of the Court of Policy thereof, as follows:—

1. This Ordinance may be cited as the Spirits Ordinance, 1905. Short title.
2. In this Ordinance, unless the context otherwise requires⁽²⁾:—
“The Chief Commissary” means the Chief Commissary. Interpreta-
tion of terms.
“Commissary” means the Commissary of Taxation of the fiscal district for which he has been appointed, and such assistants to the Commissary as may be appointed by the Governor,

¹ For taxation see Ordinance 26 of 1905 under “Revenue.”

² For new definitions see Section 18 of Ordinance No. 15 of 1911.

- and any Government Officer who may be appointed by the Governor to perform the duties assigned by law to a Commissary of Taxation.
- “ Proper Officer ” means the Officer assigned by lawful authority for the performance of any particular duty under the Ordinance or under the Regulations.
- “ Officer ” means the Chief Commissary or any Commissary or any member of the Police Force or Rural Constable, and includes any person employed on any duty or service relating to the Excise law by the order or with the consent of the Chief Commissary.
- “ Distiller ” means any person to whom a licence is granted under this Ordinance to have, keep, or make use of any distillery apparatus for the purpose of distilling spirits.⁽¹⁾
- “ Distillery ” means the place at or in which any distillery apparatus is situate, and includes any room or other place contiguous or adjacent thereto and used in connection with the manufacture or storage of spirits.
- “ Distillery apparatus ” means any still, or any part of a still, and any casks, receptacles, implements, instruments, pipes, cocks, vessels, utensils, and fittings of whatever kind used or capable of being used with a still for the purpose of or in connection with the distillation of spirits, with their contents, if any, being the product of such distillation.
- “ Owner ” means the owner, tenant, or other occupier of any place in which any distillery may be situate.
- “ Wash ” means any liquid prepared for the distillation of spirits, in which fermentation may or may not have taken place.
- “ Low wines ” or “ feints ” means spirit conveyed into a feints receiver or into the retort of a still, or mixed with wash for re-distillation.
- “ Spirits ” means spirits of any description.
- “ Proof ” means of the strength of proof as indicated by Sikes’ Hydrometer in accordance with the table printed under the authority of the Imperial Parliament and entitled “ A Table of the Strengths of Spirits denoted by Sikes’ Hydrometer.”
- “ Methylate ” means to mix spirits with some substance in such manner as to render the mixture unfit for use as a beverage, and “ methylated spirits ” means spirits so mixed to the satisfaction of the Chief Commissary.
- “ Gallon ” means an imperial gallon.
- “ Package ” means any puncheon, butt, pipe, hogshead, cask, barrel, demijohn, or case, or any other receptacle which contains or is capable of containing any spirits.
- “ Vessel ” means any ship, boat, bateau, canoe, corial, punt, scow or any other kind of craft whatsoever.
- “ Master of a vessel ” means the captain or other person for the time being in charge of such vessel.
- “ Prescribed ” and “ approved ” mean respectively prescribed and approved by the Chief Commissary.

(1) For amended definitions see Section 2 of Ordinance No. 32 of 1915.

- “Excise Law” means any Ordinance or rule or regulation having the force of law for the time being in force relating to spirits.
- “The Regulations” means the regulations made by the Governor and Court of Policy under this Ordinance.
- “The Government Analyst” includes any Assistant Analyst appointed under the Sale of Foods and Drugs Ordinance, 1892.
- “Dealer” means the holder of a “Liquor Store Licence” granted under the authority of the Wine, etc., Licences Ordinance, 1868.
- “Retailer” means the holder of a “Retail Spirit Shop Licence” granted under the authority of the Wine, etc., Licences Ordinance, 1868. ⁽¹⁾

3. Every person who makes or keeps wash, low wines, or feints, and has in his possession or uses a still or any distillery apparatus (not being a still specially licensed by the Governor-in-Council as hereinafter provided), shall, as respects the duties, penalties, and forfeitures imposed by law on distillers, be deemed to be a distiller.

Liabilities of person having wash, etc.

PART I.

ADMINISTRATION.

4. The Chief Commissary shall be the principal officer charged with the administration of the excise system established by this Ordinance, and shall be responsible to the Governor for the efficient carrying out of the provisions of this Ordinance and of the Regulations.

Powers and functions of the Commissary.

5. The Commissaries shall be the subordinate officers charged with the administration of the excise system established by this Ordinance, and shall be responsible to the Chief Commissary for the efficient performance of any duties which may be assigned to them in respect thereof.

Powers and functions of the Commissaries.

6.—(1) No officer, or officer of the Government Laboratory Department, shall permit any person in his family or in his service to take part, nor shall he himself be interested or concerned, either directly or indirectly, in the sale of any spirits, whether manufactured in the Colony or elsewhere.

Prohibition of officer being interested in sale of spirits.

(2) Any such officer as aforesaid who contravenes the provisions of this section shall be liable to a penalty not exceeding four hundred dollars.

PART II.

LICENCES FOR DISTILLATION.

7.—(1) It shall not be lawful for any person to have, keep, or make use of any distillery apparatus whatever for the purpose of distilling spirits without having first obtained a licence for that purpose, as hereinafter provided.

Licence to be obtained for distillery apparatus.

¹ See Ordinance No. 8 of 1868.

(2) Persons in partnership, carrying on any one such trade or business in one house or premises only, shall not be obliged to take out more than one licence.

(3) No one licence shall authorize or empower any person or persons to whom the same may be granted to have, keep, or make use of any distillery apparatus, or to distil any spirits, in any other house or premises than the house or premises mentioned in such licence.

8.—(1) Before any licence is granted for any distillery apparatus as aforesaid, the person applying for the same shall furnish the Commissary, for the information of the Chief Commissary, with a full description of the still, setting forth the kind, shape, dimensions, and proportions of such still, and of the premises in which the same is erected, or in which it is intended to work the same, and likewise with a statement in writing setting forth the name or names and the residence or residences of himself and of the principal person under whose actual management or superintendence the said trade or business is intended to be carried on, and setting forth further that such applicant is the owner of the still, or that he is the duly authorized representative or agent of the owner or occupier of the premises upon or in which such still is to be worked.

(2) If, at any time while such licence is in force, a change takes place in the ownership of the still or if any other person is entrusted with the actual management or superintendence of such trade or business, a further statement thereof shall be forthwith made in like manner.

(3) Every such statement shall be signed by the person making the same, and shall be registered by the Chief Commissary in a book to be kept for that purpose.

(4) If any such description or declaration is false in any material particular, the person furnishing or making the same shall be liable to a penalty not exceeding one hundred dollars.

9.—(1) The licence shall be issued by the Chief Commissary to the person applying for the same within fourteen days from the receipt by the Commissary of the application, and shall come into force on such day as may be specified therein.

(2) The Chief Commissary may refuse to issue a licence to a person applying. If he so refuses, he shall deliver to the person applying a statement in writing of his reasons for such refusal. The person applying may, within fourteen days after receiving such statement, appeal to the Governor-in-Council against such refusal, and the decision of the Governor-in-Council of such appeal shall be final.

10. Every such licence shall expire on the last day of the financial year in which it comes into force.

11. A Register shall be kept by the Chief Commissary of all licences for distillation issued by him in each year, and such Register shall be evidence in all Courts that the persons specified therein are duly licensed as distillers, and the absence of the name of any person from such Register, or a certificate of such absence

Application
for licence.

Issue of
licence.

Duration of
licence.

Register of
licences for
distillation
to be kept.

purporting to be under the hand of the Chief Commissary shall be evidence, until the contrary be made to appear, that such person is not duly licensed as a distiller.

12. Every person who, not having a licence as hereinbefore required, unless he is acting for and by the authority and for the benefit of, and in conformity with the licence granted to a distiller, has, keeps, or makes use of any distillery apparatus, or any part thereof, or distils any spirits, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to penal servitude for a period not exceeding five years.

Penalty on person distilling spirits without licence, etc.

13. Every person who, being a distiller, or the manager or superintendent of a licensed distillery, erects, places, or uses any distillery apparatus upon any premises other than those mentioned in the licence granted for the same, shall be liable to a penalty not exceeding two thousand dollars, and to a further penalty not exceeding two dollars for every gallon or less quantity of spirits which may be proved to have been so distilled; and in addition to such penalty to imprisonment with or without hard labour, for any term not exceeding six months; and all such distillery apparatus and all such spirits shall be forfeited.

Penalty for erection of distillery on premises not licensed.

14.—(1) If a distiller is convicted of felony, his licence shall, *ipso facto*, be forfeited.

Forfeiture or suspension of licence.

(2) If a distiller is convicted of an offence against any excise law, the Governor may direct his licence to be forfeited, or to be suspended during such time as the Governor may think fit.

15.—(1) The Governor-in-Council may, in his discretion, grant a special licence to distil spirits for the purpose of scientific research to any person, or to any chemist or druggist for his trade only in the preparation of medicines or other articles required for medicinal purposes, or, when the Governor-in-Council is satisfied that the capacity of the still for which a licence is desired does not exceed one quart and that it will not be used for any other than testing purposes, to any other person, subject to the Regulations; and such person shall not be deemed to be a distiller, and shall be exempt from the provisions of Parts II. and III.

Power to grant special licence for purposes of scientific research.

(2) Every such special licence shall expire on the last day of the financial year in which it may be granted.

(3) The Governor-in-Council may, in his discretion, at any time cancel any such licence.

16.—(1) No person, except a distiller or the holder of a licence granted under the last preceding section, and no distiller or the holder of a licence as aforesaid, on any building or place to which his licence does not extend, may make or keep or have in his possession any quantity of wash, low wines, or feints, or of any two or more of those articles, exceeding one gallon.

Prohibition against making or keeping wash unless licensed.

(2) Every person making, keeping, or having in possession any wash, low wines, or feints in contravention of this section shall be liable to a penalty not exceeding five hundred dollars and may be apprehended without warrant by any officer, and conveyed as soon as practicable before a Magistrate to be dealt with according to law.

Licences for Making, Repairing or Keeping Stills.

No person
to keep, make
or repair stills
without a
licence.

17.—(1) No person shall make, or repair, or keep for sale, or sell any still or any part thereof, without first obtaining a licence for so doing from the Chief Commissary. Such licence shall expire on the last day of the financial year in which it comes into force.

(2) The Chief Commissary may require any applicant for such licence to state his name and address, and the place where he carries on business, and to furnish such other particulars as the Comptroller may see fit to require.

(3) The Chief Commissary may refuse to issue any such licence without assigning any reason for such refusal.

(4) Every person licensed as aforesaid shall keep a book in which shall be entered the following particulars:—

- (a) The name and address of the person to or for whom any still or part thereof has been sold, made or repaired by him;
- (b) The place or places where such still or part thereof has been sold, made or repaired;
- (c) The time at which such still or part thereof was delivered to the person to or for whom it was made or repaired; and
- (d) The capacity of such still.

Such book shall be open at all reasonable times to the inspection of any officer.

(5) Any person committing a breach of any of the provisions of this section shall be liable on summary conviction thereof to a penalty not exceeding five hundred dollars, or to imprisonment with or without hard labour for any term not exceeding six months.

(6) This section shall not apply to any person employed by a distiller to make any alteration or repairs to any still, or to any person who sells any still or any part thereof to a distiller.

PART III.

REGULATION OF DISTILLERIES.

Construction of Stills.

Description
of still.
Schedule.

18.—(1) Every still used by a distiller shall be constructed and worked in the manner set out in the Schedule to this Ordinance, and shall be so constructed that the spirit distilled shall be received in a locked receiver to which access shall not be obtainable except in the presence of the Commissary or other Officer appointed by the Chief Commissary ⁽¹⁾.

(2) Every cock and valve kept or used by a distiller must when so required by the Chief Commissary be furnished with a fastening provided by the distiller and approved by the Chief Commissary, and a revenue lock provided by the Chief Commissary at the expense of the distiller, all of which must be affixed to the satisfaction of the Commissary.

(3) Except with the permission of the Commissary, no spirit run into the spirit receiver may be removed therefrom.

¹ Provisions made for licences to keep stills by Ordinance No. 16 of 1911.

(4) Except in the presence of the Commissary access may not be had to the end of the worm of the still, or to any spirit from the time of the distillation thereof until it is taken account of in the receiver by the Commissary.

(5) The key of every test case and spirit receiver shall be kept by the Commissary who alone shall open such test case and receiver, and the Commissary shall enter in the distillery charge and stock book the quantity of spirits at proof contained in such receiver, and after such entry the spirits shall, subject to the provisions of this Ordinance, be at the disposal of the distiller.

Form of Entry.

19.—(1) Every distiller shall, when applying for a licence to distil spirits, make entry of the premises, vessels, utensils, fittings, and places intended to be used by him, by signing and delivering to the Commissary, for the information of the Chief Commissary, an account in the prescribed form, setting forth, with the prescribed particulars,—

Making entry
of premises,
etc.

- (a) His name and abode, and the situation of the premises intended to be entered;
- (b) A true and particular description of every vessel, utensil, and fitting, other than buckets and similar vessels and utensils, intended to be used on those premises for the purposes of his business;
- (c) Either—
 - (i) The number of gallons which every still is capable of containing; or
 - (ii) The number of gallons of wash per hour which every still is capable of distilling;
- (d) The purpose for which each such vessel and utensil is intended to be used;
- (e) The number of gallons of wash which each wash vat is capable of containing;
- (f) Every house, room, and place in which any part of his business is to be carried on, or any spirits are to be kept; and
- (g) The purpose for which each such house, room, or place is intended to be used.
- (h) In the event of any disagreement under this or any other section between a distiller and the Commissary as to the capacity of any vessel, the actual capacity shall be ascertained by filling the vessel and measuring off the contents by Imperial gallon measure, or by such other method as may be authorized by the Chief Commissary.

(2) In the account every vessel, utensil, fitting, house, room, and place shall be distinguished by the name and number painted thereon.

(3) No vessel, utensil, fitting, house, room, or place shall be described in the account as intended to be used for more than one purpose.

(4) If any vessel, utensil, fitting, house, room, or place used by a distiller for any purpose connected with his business—

- (a) Is not specified in the account required to be delivered on making entry; or

- (b) Is not numbered as so specified; or
- (c) Is in any other place, or used or applied for any other purpose, than as so specified; or
- (d) Does not in all respects correspond with the representation thereof as so specified,

the distiller shall be liable to a penalty not exceeding one hundred dollars, and every such vessel, utensil, or fitting, with its contents, and all spirits or materials for distilling spirits found in any such house, room, or place, shall be forfeited.

(Sub-section (5) repealed and new sub-section enacted by Section 1 of Ordinance No. 15 of 1911.)

(6) Where any change takes place in respect of any matter or thing mentioned in the account, a memorandum thereof shall be delivered to the Commissary by the distiller within ten days next after the change has taken place; and if the distiller makes default in complying with this requirement, he shall be liable to a penalty not exceeding fifty dollars for every day during which such default continues.

Distilling.

Notice by distiller.

20. Every distiller shall give at least two days' notice in writing to the Commissary of the date when distilling operation shall commence and when such distilling operation shall cease during each distilling period. In any case where the stoppage is for less than one week, verbal notice may be given to the Commissary on his visit to the distillery.

Taking of samples of wash.

21. It shall be lawful for the Comptroller or any Officer of Customs or Commissary at any time to take an account of all wash in any licensed distillery, and to take such samples of wash, low wines, feints, or spirits from any vessel as he may think proper, and test the gravity thereof, or submit such samples for analysis to the Government Analyst.

Checking quantity of spirits produced from wash.

22.—(1) If at any time it appears to the Comptroller that the quantity of spirits produced by any distillery is less than nine-tenths of a gallon of spirits at proof for each five degrees of attenuation on each hundred gallons of wash distilled, the Governor may cause enquiry to be made, and if the distiller fails to show to his satisfaction that the deficiency in production has legitimately arisen, he may cause an officer to be specially employed to superintend the working of the distillery.

(2) All expenses incurred by causing such officer to be employed as aforesaid shall be paid by the distiller: Provided that where the officer reports that the deficiency in production is not due to any wrong doing on the part of the distiller, the latter shall not be called upon to pay.

Prohibition of mixing spirit or low wines with other matters.

23.—(1) There shall not be mixed with or added to any spirits in a distillery any substance which increases the gravity thereof and prevents the true strength thereof from being ascertained by Sikes' Hydrometer, before a Commissary has taken an account of the quality of such spirits in the manner hereinafter provided.

(2) There shall not be mixed with or added to any low wines or feints in a distillery any substance which increases the gravity thereof and prevents the true strength thereof from being ascertained by Sikes' Hydrometer: Provided that nothing shall prevent the addition in the retort of low wines or feints with wash or with such other substance as may be necessary.

(3) If this section is contravened, the distiller shall be liable to a penalty not exceeding two hundred dollars.

(Sub-section (4) repealed and new sub-section enacted by Section 2 of Ordinance No. 15 of 1911.)

Distillery Charge Book (1).

24.—(1) Every distiller shall provide himself with and keep a charge book, which shall be in the following form, and shall contain the following particulars:—

Keeping and particulars of record book.

PERIOD FROM					TO										
WASH ACCOUNT.					SPIRIT ACCOUNT.										
Wash set up.			Wash Attenuated.		Spirit Manufactured.										
Date.	Number of Vat.	Number of gallons.	Density before Fermentation.	Temperature of Wash.	Density after Fermentation.	Temperature of Wash.	Number of degrees attenuated.	Date.	Numbers of Vats distilled.	Gallons of Wash distilled.	Liquid Gallons from Still.	Strength.	Number of proof gallons.	Average attenuation of Wash.	Return of proof spirits per cent. of wash per 5 deg. of attenuation.

a. To be filled in by the Commissary when delivering spirit from receiver to distiller.

(2) He shall make these entries forthwith as the respective operations proceed.

(3) The Commissary shall enter the quantity of spirits found in the receiver and delivered by him to the distiller, and the distiller or his authorized agent shall countersign the entry as an acknowledgment of the delivery of such quantity of spirits to him.

(4) He shall keep the charge book in some secure place in the spirit store, open to inspection by any officer, and shall allow such officer to make any entries therein, or take any extract therefrom for a period of not less than six months after it is filled up.

(5) If any distiller—

(a) Fails to keep such book, or to produce the same when required by any officer to do so; or

¹ See Ordinance No. 15 of 1911, Section 3.

(b) Fails to make in such book any entry required to be made therein; or

(c) Fraudulently makes an entry in such book, he shall be liable to a penalty not exceeding five hundred dollars.

(6) If any distiller commits an error in making any entry required to be made in the charge book, the incorrect entry shall not be obliterated or erased, but shall be cancelled by drawing a thin red line through it, and the correct entry made. If this subsection is contravened, the distiller shall be liable to a penalty not exceeding fifty dollars.

Stock book.

25. Every distiller shall provide at his distillery a stock book, which shall be in the following form and shall contain the following particulars:—

Date.	Balance from last Account.		Quantity from Spirit Receiver.			Delivered.				
	Proof Gallons.	Liquid Gallons.	Strength.	Proof Gallons.	Date.	Liquid Gallons.	Strength.	Proof Gallons.	To whom sent or for what purpose used.	

The stock for revenue purposes may be balanced by the Commissary at any time, and in no case shall it be balanced less frequently than once a month, and the details of such account shall be entered in the said book.

Transmission of certified copy of entries in record book.

26.—(1) Every distiller shall, on or before the sixth day of each month, forward to the Chief Commissary an abstract, certified by such distiller, or by his agent duly authorized by him in writing for that purpose, of the particulars for the month immediately preceding contained in such distiller's records directed by section 24 (1) and section 25, to be kept (1).

Warehousing of spirits.

27.(2)—(1) All spirits manufactured by a distiller, except as hereinafter provided in sub-section (3) of this section, shall be warehoused in a spirit warehouse provided under this Ordinance, within six weeks from the time when such spirits are passed by the Commissary to the distiller, unless permission to the contrary be given by the Chief Commissary (3).

(New Sub-section (2) in Section 5 of Ordinance No. 15 of 1911.)

(3) If any distiller fails to comply with the requirements of this section, he shall forthwith pay or cause to be paid to the Receiver General the duty on such spirits not warehoused, at the rate of duty for the time being provided to be paid on spirits taken out of bond for private consumption, and, in addition thereto, he

¹ See amendment in Section 4 of Ordinance No. 15 of 1911.

² For amendment see Section 5 of Ordinance No. 15 of 1911.

³ Proviso added by Section 5 of Ordinance No. 15 of 1911.

shall be liable to a penalty not exceeding five hundred dollars for each such offence.

(4) Distillers may sell to any licensed retailer any quantity of rum exceeding 25 gallons direct from the distillery, provided that the Commissary shall have full knowledge of the transaction and shall be paid the excise duty thereon according to his decision as to strength and quantity, and at the rate leviable under the Tax Ordinance for the time being in force.

Spirit Store and Utensils.

28.—(1) Every distiller shall provide at his distillery a spirit store of sufficient size to contain all necessary receivers and to store all spirits manufactured in his distillery until such spirits are removed to a spirit warehouse or sold to a licensed retailer. Spirit store.

(2) A part of the spirit store shall be set apart solely for the storing of spirits as distilled, of colouring matter, and of packages intended for the removal of spirits. It shall be a secure place approved by the Chief Commissary.

(3) In the event of any difference between the Chief Commissary and a distiller arising under this section, either party may refer the matter in dispute to the Governor-in-Council, whose decision thereon shall be final.

(4) If any distiller fails to comply with any of the provisions of this section, he shall be liable to a penalty not exceeding five hundred dollars.

(5) If any spirits are found on any part of a distillery other than a spirit receiver or the spirit store, or in any premises adjacent to or adjoining a distillery, such spirits shall be forfeited and the distiller shall be liable to a penalty not exceeding five hundred dollars.

29.—(1) Every store, warehouse, room, place, vessel, utensil, or fitting used for any purpose under this Ordinance shall be secured with proper locks and fastenings, to the satisfaction of the Chief Commissary. Locks and fastening of store.

(2) If the distiller fails to so secure any such store, warehouse, room, place, vessel, utensil or fitting, or fails to keep it so secure, the Chief Commissary may provide the necessary locks and fastenings, and the cost thereof shall be paid by the distiller.

30.—(1) There shall be in each spirit store a sufficient number of receivers, approved by the Chief Commissary, for the storage of spirits run from the still before such spirits are drawn off into vats or into other packages for removal from the distillery. Receivers in store.

(2) Each such receiver and vat shall have legibly painted thereon the number of gallons it is capable of containing, and shall be provided with brass taps, properly secured, to the satisfaction of the Chief Commissary.

(3) The cover of each receiver shall have in it a hole faced with metal, and be secured to the satisfaction of the Chief Commissary, in order that the quantity of spirits in each receiver may at any time be ascertained and determined by means of a graduated dip rod (which the distiller is hereby required to provide), showing the gallons per inch and tenths of an inch according to a table to be prepared by the Commissary for each receiver.

(4) Whenever the hoops of such receivers shall be driven, or the receivers are repaired, such receivers shall be regauged by the distiller, and he shall report the result of such regauging to the Chief Commissary, through the Commissary, who shall himself gauge the said receivers and certify to the correctness of such regauging.

New distilleries.

31. The provisions in section 30 relative to receivers shall only apply to distilleries which are licensed at the time of the passing of this Ordinance. Any new distillery shall before it is licensed be fitted with a sufficient receiver intermediate between the test case and the vats within the spirit store, and such receiver shall be in accordance with the requirements of the First Schedule to this Ordinance.

Furniture of store.

32.—(1) Every distiller shall provide sufficient and just scales and weights and a standard imperial gallon measure for the purpose of weighing, measuring, and taking an account of the spirits in his store, stock, or possession, and of any packages used for the purpose of containing any such spirits.

(2) The scales shall be scales approved by the Chief Commissary and capable of weighing twelve hundred-weight, and the weights shall be a complete set of the imperial standard, and not less than twelve hundred-weight.

(3) The distiller shall maintain and keep the scales, weights and measure in such proper and convenient place in his spirit store as the Chief Commissary may direct, and so that the same shall be at all times ready for the inspection and use of any officer.

(4) The distiller shall permit any officer to use the scales, weights and measure for the purpose aforesaid, and shall with his servants and workmen, whenever required by any officer, weigh or measure, and assist him in weighing or measuring, as he requires, and in taking account of any such spirits as aforesaid.

(5) If any distiller refuses or neglects to comply with any of the preceding provisions of this section, he shall be liable to a penalty not exceeding five hundred dollars.

(6) If any distiller—

(a) Provides, or uses or permits to be used, any insufficient, false, or unjust scales, weight, or measure for the purpose aforesaid; or

(b) Practices any device or contrivance by which any officer may be prevented from, or hindered or deceived in, taking the just and true quantity, weight, or measure of any spirits or of any package,

he shall be liable to a penalty not exceeding one thousand dollars, and all such scales, weights and measures shall be forfeited.

Marking packages.

33.—(1) Every distiller shall legibly cut, brand, or paint with oil colour on the outside of one end of every movable package in his premises for keeping or delivering spirits, and keep so cut, branded, or painted, the distillery mark, the progressive number of the package and the year, the tare of the package, and the number of gallons which the package is capable of containing, and, if that number is less than eighty, the quarter or quarters of a gallon of capacity above the number of entire gallons.

(2) The distiller shall acquaint the Chief Commissary in writing of the date when the progressive numbers commence, and of the date when they terminate.

(3) If a distiller fails to comply with any requirements of this section he shall be liable to a penalty not exceeding fifty dollars, and the package, together with any spirits contained therein, shall be forfeited.

34. It shall be lawful for the Chief Commissary to grant relief to any distiller who proves actual loss of spirits by reason of accident or malicious destruction of property: Provided that no such relief shall be granted unless the distiller has at the time of such loss entered the particulars thereof in his stock book, and has also within twenty-four hours of the discovery of such loss given notice thereof to the Commissary.

Colouring Matter.

35.—(1) Nothing in this Ordinance shall prevent a distiller from using spirits in the fortifying of colouring matter, subject to the following regulations:—

Use of spirits
in fortifying
colouring
matter.

- (a) Spirits shall not be used in the making of the colouring matter;
 - (b) When made, the colouring matter shall be conveyed into the spirit store, and there fortified with spirits;
 - (c) The spirits so drawn for the purpose of fortification shall be shown in a separate account, both in proof and in bulk;
 - (d) If such colouring matter is used in the spirits store for colouring spirits, no duty shall be chargeable on the spirit contained in the colouring matter so used;
 - (e) If such colouring matter is removed to another distillery no duty shall be chargeable on the spirits so removed, but the colouring matter shall only be removed on a permit issued by the Commissary. The distiller who delivers out the colouring matter shall make an entry in his stock book crediting the quantity of spirit at proof contained in the colouring matter delivered by him, and the distiller who receives the colouring matter shall make an entry in his stock book debiting the quantity of spirit at proof contained in such colouring matter;
 - (f) Duty shall be payable on the quantity of spirit at proof contained in such colouring matter—
 - (i) At the rate for the time being payable on spirits taken out of bond for private consumption in the Colony, if the colouring matter is purchased by a person other than a retailer; and
 - (ii) At the rate of duty chargeable for the time being to a retailer, if the colouring matter is purchased by a retailer;
 - (g) All colouring matter so removed shall be accompanied by a permit, and such permit shall not be issued until the duty payable thereon, if any, has been paid into the Treasury;
 - (h) Notice shall be given to the Commissary as in the removal of spirits; and
 - (i) All packages containing colour shall be so marked.
- (2) If a distiller contravenes this section, he shall be liable to a penalty not exceeding five hundred dollars.

Testing of
colouring
matter.

36.—(1) The Chief Commissary, or any Commissary, may take a sample of colouring matter from any package for the purpose of ascertaining the quantity of spirits at proof contained therein.

(2) The quantity of spirits at proof contained in such sample shall be ascertained by the Government Analyst, whose certificate shall be considered sufficient proof thereof.

(3) If the quantity of spirits at proof so found in the sample is either more or less, to the extent of ten per cent., than the quantity shown by the stock account to have been used, the distiller shall be liable to a penalty not exceeding five hundred dollars.

Spirits in Store.

Storing of
spirits.

37.—(1) Except with the permission in writing of the Chief Commissary, no spirits may be brought into a distiller's spirit store unless they have been distilled in his distillery, and run directly from the still into the store or through a locked receiver.

(*Sub-section (2) repealed and new sub-section inserted by Section 6 of Ordinance No. 15 of 1911.*)

(3) All spirits in the store must be filled into packages in the prescribed manner.

(4) The capacity of each package shall be ascertained by weighing the same with the spirits contained therein, and the tables prepared, signed and issued by the Chief Commissary for this purpose shall be used, and the quantity ascertained thereby shall be deemed to be the true quantity in accordance with the regulations for that purpose.

(5) If any spirits are brought into or found in a distiller's spirit store in contravention of this section, the distiller shall be liable to a penalty not exceeding one thousand dollars, and the spirits shall be forfeited.

Removal of
spirits from
store.

38.⁽¹⁾—(1) Spirits may not be removed from the store in any quantity less than twenty-five gallons, except with the express sanction of the Chief Commissary.

(2) Spirits may not be removed from the store, except to a spirit warehouse or for exportation in the manner hereinafter mentioned, or to a retail spirit shop under permit of the Commissary after the excise duty thereon has been paid: Provided that the Chief Commissary may, on the application in writing of the distiller, permit him to remove spirits from the store for his private consumption on payment of such duty as may for the time being be fixed by the Combined Court; but no such permission shall authorize the removal of less than five gallons at any one time, or of a greater quantity than forty-five gallons in any one year.

(3) Before removing any spirits from the store, the distiller shall give to the Commissary not less than twenty-four hours' notice in writing, specifying the time of the intended removal and the quantity to be removed.

(4) The Commissary may re-weigh and examine the contents and strength of the spirits of one package in every five of the consignment to the spirit warehouse, and endorse on the certificate the number of the packages which he has examined.

¹ Other provisions relating to the removal of spirits from a distiller's spirit store are contained in Part V.

(5) In any case of emergency special permission for the removal of spirits may be granted by the Chief Commissary.

(6) The packages in which spirits are removed may be either full or subject to the regulations on ullage.

(7) If any spirits are removed from a distiller's spirit store in contravention of this section, the distiller shall be liable to a penalty not exceeding one thousand dollars, and the spirits shall be forfeited.

(8) Every distiller shall provide accommodation at his spirit store, to the satisfaction of the Chief Commissary in charge thereof, and, in default of so doing, he shall be liable to a penalty not exceeding fifty dollars for every week during which the default continues.

39.—(1) The Commissary shall from time to time take an account, in the prescribed manner, of the quantity of spirits in a distiller's spirit store. Taking stock of spirits in store.

(Sub-section (2) repealed and new sub-section inserted by Section 7 of Ordinance No. 15 of 1911.)

(3) If the true quantity of spirits computed at proof found in the store is less than the quantity which, according to the account so taken, ought to be therein as shown by the distillery stock book, the distiller shall be liable to a penalty not exceeding five hundred dollars: Provided that a distiller shall not be liable to any penalty under this section if the deficiency does not exceed two per cent.⁽¹⁾ on the balance struck when the account was last taken, together with the quantity made during distilling operations in the period covered by the notice given under section 20.

40.—*(Sub-section (1) repealed by Section 8 of Ordinance No. 15 of 1911 and new sub-section enacted.)*

(2) Before any such refuse matter or sediment is re-distilled or destroyed as aforesaid, the distiller shall give at least twenty-four hours' notice to the Commissary, and the Commissary or any person authorized by him in writing shall take a sample of such refuse matter or sediment, and submit the same to the Government Analyst for determination of the proportion of spirits therein.

41.—(1) If from any cause a still ejects wash from the worm instead of spirits, and such wash flows into a spirit receiver and the spirits therein are thereby spoiled, the Commissary shall, on application, allow the distiller to re-distil such spoiled spirits. Re-distilling spoiled spirits.

(2) If from any cause low wines or feints pass into a spirit receiver, and the spirits therein are thereby spoiled, the Commissary shall allow the distiller to re-distil such spoiled spirits.

(3) If from any other cause, proved to the satisfaction of the Commissary, spirits may require to be re-distilled, he may permit this to be done by the distiller.

(4) Whenever spirits are re-distilled they shall be mixed with wash in the presence of the Chief Commissary before being re-distilled.

¹ Amendment made and new proviso enacted by Section 1 of Ordinance No. 4 of 1913.

PART IV.

SPIRIT WAREHOUSES.

Power to
appoint Spirit
Warehouses.

42. The Governor-in-Council may from time to time, by notice in the *Gazette*, appoint any suitable place or building in any part of the Colony to be a Warehouse for the receipt and storage of spirits, without payment of duty thereon and every such warehouse shall be under the charge of the Chief Commissary.⁽¹⁾

Payment of
duty.

43.—(1) No spirits sold from a distillery for consumption in the Colony shall be delivered to the purchaser thereof until the duty is paid thereon according to the quantity and strength at the time of removal.

(2) Every person who—

(a) Delivers spirits so sold contrary to the provisions of this section; or

(b) Knowingly causes or permits such spirits to be so delivered on his account for consumption as aforesaid, shall be liable to a penalty not exceeding one thousand dollars, and to a further penalty not exceeding one dollar for every gallon or less quantity of spirits so delivered.

(3) All such spirits so delivered shall be forfeited, together with any conveyance and animals employed in such delivery.

Taking
account, etc.,
of spirits on
arrival at
Warehouse.

44.—(1) On the arrival at a spirit warehouse of any spirits required to be warehoused under the provisions of this Ordinance, the officer in charge of such warehouse may take an account of the quantity (by weight)⁽²⁾ and strength of such spirits, and may enter account, with the mark and number of each package containing the spirits, in a book to be kept by him for that purpose.

(2) The said officer shall deliver to the distiller or his agent a certificate under his hand, specifying the mark and number of each package, and the several particulars so found by him, with the day of the month and year when such spirits were warehoused, the date and number of the certificate under which such spirits were received and the name of the distiller who granted the same.

(3) If the quantity of spirit at proof received at a spirit warehouse in any package is found deficient of the quantity of spirit at proof sent out of a distillery to a spirit warehouse, the distiller shall become chargeable with duty on such deficiency at the rate of duty for the time being fixed by the Combined Court on spirits taken out of bond for private consumption: Provided that the distiller shall not be liable for such payment of duty if the deficiency does not exceed the following quantities, that is to say, from the time the spirits are drawn off from the spirit store receivers in a distillery until the spirits are received in a spirit warehouse—

(*New table inserted by Ordinance No. 18 of 1917.*)

(4) Such duty shall be payable on demand made by the Chief Commissary.

(5) If any such duty remains unpaid for six days after such demand has been made, the distiller shall become liable to a

¹ New words added by Section 9 of Ordinance No. 15 of 1911.

² See Section 2 of Ordinance No. 4 of 1913.

penalty not exceeding one hundred dollars, and all the spirits warehoused in the name of such distiller may be detained by the Comptroller in satisfaction of such duty and penalty.

45. All spirits stored in a Spirit Warehouse shall, while in the Warehouse, be at the sole risk of the person warehousing the same: Provided that if at any time happens that any embezzlement, waste, spoil, leakage, or destruction is made in any spirits which are warehoused, by or through the misconduct or negligence of any public officer acting under the provisions of this Ordinance, the damage caused by such embezzlement, waste, spoil, leakage, or destruction of such spirits shall be made good to the person warehousing the same by the Receiver General, in such manner as may be approved by the Governor.

Conditions under which spirits are held in Warehouse.

46. There shall be charged upon all spirits stored in a Spirit Warehouse, over and above any duty which may be due thereon, storage at such rates as may from time to time be fixed by the combined Court, and such storage shall be paid previously to the removal of such spirits from the warehouse.

Storage rates payable upon spirits in Warehouse.

(Section 47 repealed and new section enacted by Section 11 of Ordinance No. 15 of 1911.)

48. It shall be lawful for the Comptroller or Chief Commissary, subject to the Regulations, to permit the owner of any spirits stored in a Spirit Warehouse to strengthen, reduce, colour, skip, or shift into larger or smaller packages, and to bottle, mix, or blend such spirits; but if such spirits are intended for consumption in the Colony, an account of the quantity thereof shall be taken in the manner prescribed in the next succeeding section, and duty and storage paid thereon previously to such permission being granted.

Power to permit dealing with spirits in Warehouse.

49.—(1) All spirits removed from a Spirit Warehouse for consumption in the Colony shall be tested, and the liquid quantity in each package ascertained by taking the wet inches of each package, by which the actual liquid contents, according to the capacity of the package marked on it, may be ascertained at the time of the removal of the package from such Warehouse: Provided that it shall be lawful for the officer in charge of such Warehouse to ascertain the quantity of liquid in any such package by actual measurement or by measurement by calipers whenever such officer has reason to question the correctness of the capacity of such package as marked thereon.

Ascertaining dry ullage.

(2) Spirits removed from a Spirit Warehouse for exportation may be tested, and an account of the quantity thereof taken, at the time of such removal, by an officer in the manner prescribed in the preceding sub-section.

(3) Spirits removed from a Spirit Warehouse shall be removed between the hours of seven o'clock in the morning and four o'clock in the afternoon, except on Saturdays, when spirits shall not be removed after one o'clock in the afternoon.

50. Any duty which may at any time be payable by law upon spirits intended for consumption in the Colony shall be paid previously to the removal of the same from a Spirit Warehouse or distillery Spirit Store, as the case may be.

Payment of duty on spirits for consumption.

Procedure on removal of spirits from Warehouse.

51.—(1) The officer in charge of the Warehouse or the Commissary shall, on the application of any person desirous of removing spirits from a Spirit Warehouse or from a distillery store for consumption in the Colony, deliver to such person a form showing the quantity of spirits to be removed, the amount of duty payable thereon, the amount of storage due, and the place to which the spirits are intended to be removed.

(2) Such person shall thereupon pay to the Receiver General or Commissary, as the case may be, the amount so stated to be due, and obtain his receipt for such payment; and the officer shall, on the production to him of such receipt, issue a permit in the prescribed form.

(3) Spirits shall be removed from a Spirit Warehouse for exportation in accordance with the provisions hereinafter contained.

Spirits for ships' stores.

52. Spirit bonded in a Spirits Warehouse may be issued for ships' stores in such quantities and under such restrictions as any statute for the time being in force relating to Customs and the Regulations may prescribe (¹).

Shipping or clearing for consumption of spirits without bonding.

53. If on the arrival of any spirits at a Spirit Warehouse, the owner of such spirits is desirous of forthwith exporting the same or of paying duty thereon for consumption in the Colony without actually lodging the same in the Warehouse for which they have been entered and examined to be warehoused, the proper officer at such warehouse may, after all the formalities of entering and examining such spirits for warehousing have been complied with, permit such spirits to be entered and shipped for exportation, or to be entered and delivered for consumption in the Colony, on payment of the duties payable thereon, as if such spirits had been actually lodged in the Warehouse; and all spirits so exported, or for which the duties have been so paid, as the case may be, shall be deemed to have been duly cleared from the Warehouse.

Books to be kept at Warehouse.

54. A book to be called the Receipt and Delivery Book shall be kept at every Spirit Warehouse, in the following form:—

ACCOUNT FOR RECEIPT.						ACCOUNT FOR DELIVERY.						
Date of Receipt.	No. and Mark on Cask.	Capacity.	Wet inch.	Liquid Gallons.	Strength.	Gallons at Proof.	Date of Delivery.	Liquid Gallons.	Strength.	Gallons at Proof.	Deficiencies.	
											Allowed.	Charged with Duty.

¹ See Ordinance No. 7 of 1884 under "Customs."

A book to be called the Warrant and Delivery Book shall also be kept at every Spirit Warehouse in the following form:—

RECEIPT ACCOUNT.					DELIVERY ACCOUNT.						DEFICIENCIES.			
Date of Delivery.	Marks and Nos.	Capacity.	Liquid Gallons.	Strength.	Gallons at Proof.	Bung.	Wet inches.	Liquid Gallons.	Temperature.	Indication.	Strength.	Gallons at Proof.	Allowed proof Gallons.	Charged proof Gallons.

PART V.

SALE, REMOVAL, AND EXPORTATION OF SPIRITS.

Sale of Spirits.

55.—(1) No distiller shall sell or dispose of any one package containing a less quantity of spirits than twenty-five gallons for consumption in the Colony or twenty-five gallons for exportation, except in the latter case, with the express sanction of the Comptroller or Chief Commissary.

Minimum quantity of spirits to be sold by distiller.

(2) Every person who contravenes this section shall be liable to a penalty not exceeding five hundred dollars.

56.—(1) A dealer shall not, unless he has an additional licence authorizing him to do so, sell, send out, or deliver spirits in any less quantity than two gallons of the same denomination at a time to or for the same person.

Minimum quantity of spirits to be sold by dealer.

(2) If a dealer contravenes this section, he shall be liable to a penalty not exceeding two hundred dollars.

57. The sale of spirits of one denomination in any quantity less than two gallons shall be deemed sale by retail.

Explanation of sale by retail.

Removal of Spirits.

58.—(1) A permit for the removal of spirits shall be issued only by a Commissary.

General provisions relating to permits and certificates.

(2) A certificate for the removal of spirits may be issued by a distiller or by a dealer.

(3) No spirits may be sent out or delivered from a distiller's spirit store unless accompanied by a certificate or permit.

(4) No spirits may be removed from a spirit warehouse unless accompanied by a permit.

(5) No spirits may be received into the stock of any dealer or retailer without a permit or certificate.

(6) No spirits may be sold, sent out, delivered or removed from the stock of any dealer unless accompanied by a certificate.

(7) All spirits found to have been sent out, delivered, or removed, or in course of being sent out, delivered, or removed, in contravention of this or any other section, together with all horses, mules, donkeys, cattle, or other animals, carriages, carts, punts and boats made use of in conveying the same, shall be forfeited, and every person who is concerned in the sending out, delivering or removal of such spirits, or in whose possession the same are found, shall be liable to a penalty not exceeding five hundred dollars, or, at the election of the Comptroller or Chief Commissary, to a penalty equal to treble the value of the spirits and the duty thereon.

(8) If any question arises as to the accuracy of the description of spirits in a permit or certificate, the proof that the spirits correspond to the description shall lie on the owner or claimant of the spirits.

Issue and particulars of certificate.

59.—(1) The Comptroller or Chief Commissary shall cause certificates to be prepared in duplicate, and such certificates shall be furnished to the Commissary of each District and be distributed by him to the several distillers and dealers carrying on business therein.

(2) A certificate shall be issued by the distiller or dealer, or by some person authorized by him in writing.

(3) A permit or certificate shall be issued for such limited time as may suffice to convey the spirits to their destination.

(4) A permit or certificate and its counterfoil shall contain the following particulars:—

- (a) The quantity, both in bulk and gallons at proof, denomination, and strength of the spirits sent out and delivered;
 - (b) The number of packages in which the spirits are contained;
 - (c) The day and hour of sending out or delivery;
 - (d) The name of the person by whom and of the place from which the spirits are to be sent or delivered;
 - (e) The name of the person to whom and of the place to which the spirits are to be sent or delivered; and
 - (f) The mode of conveyance, and, if by water, the name and description of the vessel, and the name of the master thereof.
- (5) The officer receiving the certificate and spirits shall give a receipt for the same in the prescribed form.
- (6) Certificates shall be used in the order in which they are numbered.

Dealing with spirits without permit or certificate, etc.

60.—(1) Every person who:—

- (a) Sends out, delivers, removes, or receives any spirits required to be accompanied by a permit or certificate without a permit or certificate; or
- (b) Sends out, delivers, removes, or receives any spirits in quantity greater than, or differing in quality, denomination, or strength from, that expressed in the permit or certificate accompanying the same; or
- (c) Having issued a certificate, does not send out therewith the spirits therein described, or deliver the certificate to the proper officer, within the time by law required; or

- (d) Uses any permit or certificate, or causes or suffers any permit or certificate to be used, for any purpose other than that of accompanying the removal and delivery of the spirits therein described; or
- (e) Produces, or causes or suffers to be produced, to any person any permit or certificate as having been received with spirits other than those therein described; or
- (f) In any manner uses, or causes or suffers to be used, any permit or certificate so that any account of spirits kept or checked by an officer may be frustrated or evaded,

shall, in addition to any other penalty or forfeiture, be liable to a penalty not exceeding two thousand dollars.

(2) Every permit or certificate used for any purpose other than that of accompanying the removal and delivery of the spirits for which it is lawfully issued and as therein expressed shall be deemed to be a false permit or certificate, and any unlawful use thereof shall, in addition to any other penalty or forfeiture, subject the person using it to all penalties and forfeitures imposed by law upon any person for using a false permit or certificate.

(3) If any distiller or dealer is convicted of an offence against this section, he shall forfeit his licence, and no new licence shall be granted to him for the remainder of the year for which such forfeited licence would have been in force.

61.—(1) Any spirits manufactured in any distillery in the Colony may be removed to any place in which such spirits may be warehoused, under such regulations and with such security as the Chief Commissary may direct.

Security for removal of spirits from distillery to warehouse.

(2) Such spirits shall be accompanied by a certificate stating the particulars of the spirits required to be warehoused, and the name of the place and of the warehouse to which the same are intended to be removed, and such certificate shall contain such other information, and be in such form as the Chief Commissary may direct and require.

62. Previous to the delivery of any such spirits for removal, the person requiring the removal thereof shall enter into a bond with one sufficient surety, in a sum equal at least to the duty payable on such spirits about to be removed at the rate for the time being chargeable on spirits taken out of bond for private consumption, for the due arrival and warehousing thereof at the place of destination within such time as the Chief Commissary may direct, and such bond shall not be discharged unless such spirits have been duly warehoused at the place of destination within the time allowed for such removal or have been otherwise accounted for to the satisfaction of the Chief Commissary as the case may be, nor until the full duties payable on any deficiency of such spirits not so accounted for have been paid, but any such person may enter into a general bond, with such sureties, in such amount, and under such conditions as the Chief Commissary may approve, for the removal from time to time of any spirits from the distillery to a spirit warehouse, and for the due arrival and warehousing of the same at the place of destination within such time or times as the Comptroller or Chief Commissary may direct. ⁽¹⁾

Giving of bond to cover removal of spirits from distillery to warehouse.

¹ Proviso repealed by Section 12 of Ordinance No. 15 of 1911.

(Section 63 repealed and new Section enacted by Section 13 of Ordinance No. 15 of 1911. See under "Revenue.")

(Section 64 repealed by Section 2 of Ordinance No. 7 of 1914.)

Dealers and Retailers.

Making entry of room, etc., used by dealer or retailer.

65. Every dealer and retailer shall, in accordance with the Regulations, make entry, in writing signed by him, of every room, place, cask, vessel, and utensil, other than buckets and similar vessels and utensils, intended to be used by him for keeping spirits, distinguishing each place or thing by a separate letter or number.

Marking of packages used for spirits.

66.—(1) There shall be legibly cut, branded or painted with oil colour, on some conspicuous part of every fixed package used by a dealer or retailer for holding spirits in stock, and on the outside of both the ends of every movable package used by him for keeping or delivering spirits, the number of gallons which the package is capable of containing, and also a distinguishing letter or number.

(2) Every package in respect of which default is made in complying with the requirements of this section shall be forfeited, with the contents thereof, and the dealer or retailer shall be liable in respect of such default to a penalty not exceeding two hundred dollars.

Marking of quantity of spirits in package in certain cases.

67.—(1) Where the strength of any spirits forming part of the stock of a dealer or retailer cannot be ascertained by Sikes' Hydrometer, the dealer or retailer shall, on being so required by any officer, cause the quantity and strength of such spirits to be legibly marked on the outside of the package containing them.

(2) Every package which a dealer or retailer refuses or neglects, on being so required, to so mark or fails to keep so marked, or which is found to be untruly marked, shall be forfeited, with the contents thereof; and the dealer or retailer shall be liable to a penalty not exceeding two hundred dollars.

Taking account of spirits in stock of dealer or retailer.

68.—(1) The Chief Commissary or any Commissary may at any time take an account of the quantity of spirits in the stock or possession of a dealer or retailer.

(2) If the quantity of spirits computed at proof found on taking the account exceeds the quantity which ought, according to the stock book of the dealer or retailer, to be in his possession, the excess shall be forfeited; and the dealer or retailer shall be liable to a penalty not exceeding five dollars for every gallon of the excess.

Prohibition of dealer selling rum.

69. No licence shall empower a dealer to sell or keep on his business premises any rum, except samples kept for the purposes of trade.

Taking of sample for analysis.

70. The proper officer may at any time take a sample of spirits from the stock of a retailer and submit such sample to the Government Analyst, who shall analyze such sample and certify the quantity of spirit at proof in such sample.

Stock Book.

71.—(1) Every dealer and retailer shall provide himself with and keep a stock book, according to the form prescribed by the Comptroller, and shall, on receiving any spirits, and also on sending out or delivering any spirits required to be accompanied by a permit or certificate, enter in his stock book the date and number of the permit or certificate, the bulk and number of gallons of spirits at proof received or delivered, and the name of the person from whom the spirits were received or to whom they were sent.

Stock book of
dealer or
retailer.

(2) He shall make these entries when the spirits are received, sent out, or delivered, or at any other time if requested to do so by any officer.

(3) He shall keep the stock book open to inspection by any officer, and shall allow any officer to make any entry therein, or take any extract therefrom.

(4) He shall keep the stock book open to such inspection for not less than six months after it is filled up.

72. If any dealer or retailer:—

(1) Fails to obtain, provide, keep, or produce a stock book as by this Ordinance required, or to make in such stock book any entry required to be made therein; or

(2) Hinders or obstructs any officer in examining a permit, or a certificate book or stock book, or in making any entry therein, or taking any extract therefrom; or

(3) Cancels, alters, obliterates, or destroys any part of a permit, or of a certificate book or stock book, or any entry therein; or

(4) Makes a false entry in a permit, or a certificate book or stock book; or

(5) Separates any certificate from its counterfoil, without properly filling up the certificate and counterfoil, or except on the occasion of sending out or delivering spirits therewith, he shall be liable to a penalty not exceeding five hundred dollars.

Offences by
dealer or
retailer.

73.—(1) If any dealer or retailer, or any person employed by him, commits an error in making any entry required to be made in the stock book, or in other document required to be filled up by him, the incorrect entry shall not be obliterated or erased, but shall be cancelled by drawing a thin line through it, and the correct entry made.

Correction
of error in
stock book.

(2) If this section is contravened, the dealer or retailer shall be liable to a penalty not exceeding fifty dollars.

PART VI.

METHYLATED SPIRITS.

74. Parts II., III., IV. and V. shall not apply to methylated spirits.

Saving as to
methylated
spirits.

75. Methylated spirits shall, subject to the provisions of this Ordinance, be exempt from the payment of excise duty.

Exemption of
methylated
spirits from
duty.

Persons
authorized to
methylate.

76.—(1) The following persons, and no others, are authorized to methylate—

- (a) Distillers, if so authorized by the Chief Commissary⁽¹⁾, and
 - (b) Persons licensed by the Chief Commissary⁽¹⁾ to methylate.
- (2) Such persons are called in this Ordinance “authorized methylators.”

Persons
authorized
to supply
methylated
spirits.

77. The following persons, and no others, are authorized to supply methylated spirits—

- (1) Authorized methylators; and
- (2) Persons licensed by the Chief Commissary⁽¹⁾ to retail methylated spirits, whether such are imported or made in the Colony, in this Ordinance called “retailers of methylated spirits.”

Places of
methylation.

78.—(1) Spirits may be methylated in the following places, and no others:—

- (a) Any building or room in the City of Georgetown or in the town of New Amsterdam, approved by the Chief Commissary⁽¹⁾, and entered for the purpose by the methylator in the prescribed manner;
- (b) Any Spirit Store in any licensed distillery, if approved by the Chief Commissary⁽¹⁾ for that purpose; and
- (c) Any room, building, or warehouse provided for the purpose by the Government.

(2) The charge for warehousing and labour in a warehouse provided by the Government shall be at such rate as may for the time being be fixed by the Governor-in-Council.

Materials and
mode of
methylation.

79.—(1) It shall be lawful to use only spirits manufactured in the Colony for the purpose of methylation.

(2) The quantity of spirits used for methylation at one time shall not be less than twenty-five gallons, at not less than thirty-five per cent. above proof.

(3) The substances mixed with spirits for the purpose of methylation shall be such as may be fixed from time to time by order of the Governor-in-Council for that purpose, and such substances shall be mixed with such spirits in such proportion and in such manner as may be provided by the said order. These substances may, if the Chief Commissary⁽¹⁾ thinks fit, be provided by him at the expense of the methylator.

(4) If such substances as aforesaid are not provided by the Comptroller, they shall be examined and approved by the Government Analyst.

(5) Every person authorized to receive spirits for methylation shall, on ordering the same, correctly fill up the prescribed form of requisition and counterfoil with the prescribed particulars.

(6) With respect to the removal of spirits and substances for methylation and the time and mode of methylation, the Regulations shall be observed, and the prescribed security shall be given.

Supply and
receipt of
methylated
spirits.

80.—(1) An authorized methylator shall not supply methylated spirits except in vessels containing not less than five gallons.

(2) Each vessel shall be distinctly labelled with the words

¹ See Section 3 (1) of Ordinance No. 11 of 1911 under “Revenue.”

“methylated spirits,” and shall be accompanied by a permit or such document in the nature of a permit as the Chief Commissary may prescribe.

(3) The sale, delivery, and removal of methylated spirits from the premises of an authorized methylator shall be in accordance with the Regulations, and subject to the prescribed security.

81.—(1) The proper officer shall keep a stock account of all spirits, computed at proof, methylated or received by an authorized methylator. Stock account of methylated spirits.

(2) If the quantity of methylated spirits in the possession of an authorized methylator exceeds by more than one per cent. the quantity which ought by the stock account to be in his possession he shall forfeit the whole excess.

(3) If the quantity of methylated spirits in the possession of an authorized methylator is less by more than one and a half per cent. for every quarter of a year of storage than the quantity which ought by the stock account to be in his possession, he shall pay on the whole deficiency the duty for the time being payable on spirits taken out of bond for private consumption in the Colony.

82.—(1) A retailer of methylated spirits—

- (a) Shall make entry with the proper officer of each room or place where he intends to keep and sell the spirits; and
- (b) Shall not keep or sell the spirits in any place which is not so entered; and
- (c) Shall not receive or have in his possession at any one time a greater quantity of methylated spirits than fifty gallons; and
- (d) Shall not receive methylated spirits except from an authorized methylator or from the Colonial Bonded Warehouse; and
- (e) Shall not sell to or for the use of any one person more than five gallons of methylated spirits at a time; and
- (f) Shall, on request, at all reasonable times produce his stock of methylated spirits for examination by any officer; and
- (g) Shall keep an account, in the prescribed form, of his stock of methylated spirits and of the sale thereof.

Rules to be observed by retailer of methylated spirits.

(2) If a retailer of methylated spirits contravenes this section, he shall be liable to a penalty not exceeding two hundred dollars, and the spirits with respect to which the offence is committed shall be forfeited.

83.—(1) The Chief Commissary or any Commissary or member of the police force may, in the daytime, enter and inspect the premises of an authorized methylator or a retailer of methylated spirits, and inspect, examine, and take samples of any methylated spirits therein, paying a reasonable price for each sample. Powers of entry, inspection and sampling.

(2) If any person refuses to allow any such officer to exercise any of these powers, or prevents him from so doing, he shall be liable to a penalty not exceeding two hundred dollars.

84.—(1) If any person supplies, removes, or receives methylated spirits in contravention of this Ordinance, he shall be liable to a penalty not exceeding two hundred and fifty dollars. Unlawful supply, etc., of methylated spirits.

(2) If any authorized methylator supplies any methylated spirits to any person after having received notice from the proper officer

that the person to whom the spirits are supplied is not authorized to receive them, he shall pay on the spirits so supplied the duty for the time being payable on spirits taken out of bond for private consumption in the Colony.

Unlawful possession of methylated spirits.

85. If any person—

- (1) Being an authorized methylator, has in his possession any methylated spirits in any place where he is not authorized to keep them; or
- (2) Not being an authorized methylator, has in his possession any methylated spirits not obtained from a person authorized to supply them,

he shall be liable to a penalty not exceeding five hundred dollars, and the spirits with respect to which the offence is committed shall be forfeited.

Preparation, etc., of methylated spirits as for beverage or medicine.

86.—(1) If any person—

- (a) Prepares or attempts to prepare any methylated spirits for use as or for a beverage or as a mixture with a beverage; or
- (b) Sells any methylated spirits, whether so prepared or not, as or for a beverage or mixed with a beverage; or
- (c) Uses any methylated spirits or derivative thereof in the preparation of any article capable of being used wholly or partially as a beverage or internally as a medicine; or
- (d) Sells or has in his possession any such article in the preparation of which methylated spirits or any derivative thereof have or has been used,

he shall be liable to a penalty not exceeding five hundred dollars, and the spirits with respect to which the offence is committed shall be forfeited.

(2) Nothing in this section shall apply to the use of methylated spirits, or any derivative thereof, in the preparation of sulphuric ether or chloroform for use as a medicine or in any art or manufacture, or prevent the sale or possession of any sulphuric ether or chloroform for such use.

Power to suspend licence, etc.

87. The Chief Commissary may at any time suspend or revoke any licence to methylate, authority, or approval granted under this Part.

PART VII.

MISCELLANEOUS PROVISIONS.

Seizures.

Seizure of thing forfeited.

88.—(1) Where anything is forfeited under any Excise Law, it may be seized by any officer.

(2) Where any spirits or materials for the manufacture of spirits are forfeited under any Excise Law, all packages of whatever description containing the same shall also be forfeited.

Provisions relating to seizures.

89.—(1) Everything seized as forfeited shall be deemed to be condemned.

(2) The owner of the thing seized may, within fourteen days after the seizure, claim such thing.

(3) The claim shall be in writing, and shall set forth the claimant's name, residence, and occupation, and be addressed to the Comptroller or Chief Commissary.

(4) The ownership of the thing claimed must be established upon oath by the claimant.

(5) If the thing claimed is of the value of two hundred dollars or more, security to that amount shall be given, to the satisfaction of the Comptroller or Chief Commissary within fourteen days after the seizure, to meet the costs of the proceedings in the event of a decision adverse to the claim, and, in default of such security being given, the thing claimed shall be absolutely forfeited.

(6) The Comptroller or Chief Commissary may order the delivery of anything seized, on a bond being given to answer double the value of the thing seized. If the thing seized is condemned, the value thereof shall be paid to the Comptroller or Chief Commissary, who shall thereupon cancel and deliver up the bond.

(7) The onus of proving the illegality of any seizure shall be on the owner or claimant of the thing seized.

(8) If a question arises whether any person is authorized to detain or seize anything under this Ordinance, evidence by such person of his authority to detain or seize such thing shall, unless the contrary is proved, be deemed sufficient without the production of any commission or warrant.

(9) The claim may be heard and determined by any Stipendiary Magistrate.

90. Anything detained or seized under any Excise Law may be restored by the Governor on such terms as he may think fit to direct, and if the owner accepts the terms directed by the Governor, he shall not have or maintain any action for damage on account of such detention or seizure.

Restoration
of thing
detained or
seized.

91. If, in any proceeding brought on account of any detention or seizure made under any Excise Law, sentence or judgment is given for the plaintiff, and the Judge or Stipendiary Magistrate by whom the cause is tried certifies that there was a reasonable cause of detention or seizure, the plaintiff shall not be entitled to any costs of suit, nor shall the person who made such detention or seizure be liable to any action, suit, indictment, or other prosecution on account of such detention or seizure.

Costs in action
relating to
detention or
seizure.

92.—(1) All sales of things seized under any Excise Law, for whatever cause they may be sold, shall be conducted by the Chief Commissary, or by any person appointed by him for that purpose.

Mode of
conducting
sale of thing
seized.

(2) Spirits so offered for sale shall not be sold for less than the amount of the duty for the time being payable thereon.

General Offences.

93.—(1) Every person unlawfully possessing spirits shall be liable to a penalty not exceeding five hundred dollars and to a further penalty of two dollars for every gallon or part of a gallon of spirits so possessed, and such spirits shall be seized and shall be forfeited.

Unlawful
possession
of spirits.

(Sub-section (2) repealed and new sub-section enacted by Section 14 of Ordinance No. 15 of 1911.)

(3) If any officer has reasonable cause to suspect that any spirits are in the unlawful possession of any person in any house, building, or enclosed place whatsoever, then, upon oath made by such officer, before any Magistrate or Justice of the Peace of the grounds of such suspicion, such Magistrate or Justice of the Peace may issue a warrant under his hand authorizing such officer to enter by force, if necessary, such house, building or enclosed place and search for and seize any spirits unlawfully possessed therein, and either detain the same or remove it to a place of safe custody, and also a warrant to arrest the person unlawfully in possession thereof, and to bring him before the Magistrate of the district to be dealt with according to law.

(4) In any proceeding under this section it shall not be necessary to negative any of the exceptions in favour of the defendant contained in sub-section (2) hereof, but the onus of proving that any such exception applies in his case shall lie on the defendant.

(5) Every person possessing any quantity of the substance known as "bush rum" shall be deemed to be a person unlawfully possessing spirits under this section, and a report under the hand of the Government Analyst certifying that such substance in his opinion is "bush rum," shall be *prima facie* evidence of such fact, and thereupon the onus of proving that such substance is not "bush rum" shall lie on the defendant.

Unlawful
removal of
wash, etc.

94.—(1) Every person who—

(a) Removes any wash, low wines, feints, or spirits from the premises of a distiller, contrary to the provisions of this Ordinance;

(b) Knowingly buys or receives any wash, low wines, feints, or spirits so removed from the premises or a distiller;

(For new Sub-section (c), see Section 2 of Ordinance No. 32 of 1905.)

(d) Removes, throws away, or destroys or cause to be removed, thrown away or destroyed any wash, low wines, feints or spirits in order to prevent or impede any search for or seizure of the same,

shall be liable to a penalty not exceeding five hundred dollars.

(2) All such wash, low wines, feints or spirits so removed⁽¹⁾ shall be forfeited.

(3) Any officer may arrest any person found committing an offence against this section.

Tampering
with distillery
apparatus.

95. Every person who, without the sanction of the Chief Commissary, wilfully breaks, damages, or in any manner whatever tampers or interferes with any distillery apparatus shall be liable to a penalty not exceeding five hundred dollars.

Selling spirits
at a price less
than the duty.

96. Every person except a distiller who at any time sells or disposes of spirits at a price lower than the amount of the duty on such spirits, shall be liable to a penalty not exceeding fifty dollars, and shall pay treble the amount of the duty.

Sale of spirits
for unlawful
purpose.

97. Every person who knowingly sells or delivers, or causes to be sold or delivered, any spirits to the end that they may be unlawfully retailed or consumed, or carried into consumption shall in

¹ For amendment see Section 3 of Ordinance No. 23 of 1918.

addition to any other penalty or forfeiture, be liable to a penalty not exceeding one thousand dollars, and in addition to such penalty to imprisonment with or without hard labour for any term not exceeding six months, and the spirits shall be forfeited.

98. Every person who receives, buys, or procures any spirits from a person not having authority to sell or deliver the same shall be liable to a penalty not exceeding one thousand dollars, and in addition to such penalty to imprisonment with or without hard labour for any term not exceeding six months, and the spirits shall be forfeited.

Unlawful purchase of spirits.

99. If any person knowingly buys or receives, or has in his possession, any spirits after they have been removed from the place where they ought to have been charged with duty and before the duty payable thereon has been paid or secured to be paid or the spirits have been condemned as forfeited, he shall forfeit the spirits, and shall be liable to a penalty equal to treble the duty and value thereof, and also to a penalty not exceeding one thousand dollars, and in addition to imprisonment with or without hard labour for any term not exceeding six months.

Purchase, etc. of spirits on which duty has not been paid.

100. Every person who—

- (1) Counterfeits or falsifies, or wilfully uses when counterfeited or falsified, any permit or certificate or other document required for the removal or shipping of spirits; or
- (2) By any false statement, procures any document to be made for any such purpose; or
- (3) Forges or counterfeits any certificate, declaration, or other document required to be made by this Ordinance or by the Regulations; or
- (4) Knowingly utters or publishes any forged or counterfeited certificate, declaration or other document,

Counterfeiting permit, etc.

shall be deemed guilty of a misdemeanour.

101. Every person who—

- (1) Assaults any person acting under any Excise Law, or any person acting in his aid; or
- (2) Assaults any person who has discovered or given, or is about to discover or give, information or evidence against, or has seized or is bringing to justice, any offender against any Excise Law; or
- (3) Assaults any person who has seized, or is about to seize or examine, anything as forfeited under any Excise Law; or
- (4) Forcibly opposes, or offers or threatens to oppose, the execution of any of the powers given by any Excise Law; or
- (5) Being armed with any offensive weapon, or, in a violent manner, rescues any offender arrested or thing seized under any Excise Law, or prevents the arrest of any such offender or the seizure of any such thing,

Forcibly opposing execution of Excise Law.

shall be liable to a penalty not exceeding one thousand dollars or to imprisonment, with or without hard labour, for any term not exceeding six months.

Corruption
of officer.

102.—(1) Every person who, in or with reference to any matter under any Excise Law,—

- (a) Not being authorized to do so, gives or promises, directly or indirectly, any reward to any officer or person employed in the execution of any Excise Law in respect of the performance or non-performance by any such officer or person of his duty or employment; or
- (b) Agrees with or proposes to any such officer or person to do or permit to be done anything in contravention or evasion of any Excise Law or of his duty; or
- (c) Being such an officer or person,—
 - (i) Demands or receives, except from or through the proper channel, any reward in respect of the performance or non-performance of his duty or employment; or
 - (ii) By any wilful act, neglect, or default, does or permits, or agrees to do or permit, anything in contravention or evasion of any Excise Law or of his duty,

shall be liable to a penalty not exceeding one thousand dollars.

(2) If any such officer or person is convicted of either of the two last mentioned offences in this section, he shall be thereafter disqualified from serving His Majesty in any office or employment in this Colony.

Obstruction
of officer.

103. If any person, by himself or by any person in his employment, obstructs, hinders, or molests any officer in the execution of his duty under any Excise Law, or any person acting in his aid, he shall be liable to a penalty not exceeding one thousand dollars, and, if the offender is a distiller, the Comptroller may, subject to the approval of the Governor, suspend or revoke his licence.

Penalty on
peace officer
not aiding.

104. If any peace officer wilfully refuses or neglects to aid in the execution of any Excise Law, he shall be liable to a penalty not exceeding one hundred dollars.

Contravention
of Excise Law
not specially
provided for.

105. Every person who contravenes any provision of an Excise Law with respect to the contravention of which no penalty or other punishment is expressly provided shall be liable to a penalty not exceeding five hundred dollars.

Powers of Officers.

Power of
entry and
examination
by officer.

106. Any officer may at any time, either by day or by night, enter any part of the premises of, or house or place whatsoever belonging to or made use of by a distiller, and search for, examine, gauge, and take an account of any distillery apparatus therein, and also any spirits or materials for the manufacture of spirits therein.

Power to
search for
pipe, etc.

107. The Chief Commissary, any officer of Customs, or any Commissary or member of the Police Force may, at any time, either by day or by night, search for any pipe, cock, conveyance, or utensil on the premises of any distiller, and may break up or cut away any such pipe or conveyance, and turn any such cock, and examine whether any such pipe or conveyance conveys or conceals any spirits or any materials for the manufacture of spirits, so as to prevent a true account thereof from being taken.

108.—(1) If any officer makes oath that there is good cause to suspect that any distillery apparatus, spirits, or materials for the manufacture of spirits is, or are unlawfully kept or deposited in any house or place, and states the grounds of suspicion, any Justice of the Peace may, if he thinks fit, issue a warrant authorizing the officer to search the house or place.

Power to enter and search for illicit distillery apparatus and spirits.

(2) Any person so authorized may at any time, either by day or by night, but at night only in the presence of a police officer or constable, if such person is not a member of the Police Force, break open and forcibly enter any such house or place, and seize any distillery apparatus, spirits, or materials for the manufacture of spirits found therein, and either detain the same or remove them to a place of safe custody.

(3) All distillery apparatus, spirits, and materials for the manufacture of spirits so seized shall be absolutely forfeited, and the owner of any such distillery apparatus, spirits or materials for the manufacture of spirits, or the person in whose custody the same is found, shall for every house or place in which the same is found, and also for such distillery apparatus, spirits or materials for the manufacture of spirits, be liable to a penalty not exceeding one thousand dollars, and, in addition to such penalty, to imprisonment, with or without hard labour, for any term not exceeding six months.

(4) If any damage is done by such forcible entry, and the search is unsuccessful, the damage shall be made good.

(5) Any officer may seize any such distillery apparatus, spirits or materials for the manufacture of spirits without a warrant.

(6) Any person found in any house or place where any such distillery apparatus, spirits or materials for the manufacture of spirits are found, or in the vicinity thereof, shall, unless he prove the contrary to the satisfaction of the Magistrate, be deemed to be the owner or person in charge of such distillery apparatus, spirits or materials for the manufacture of spirits.

109.—(1) Any officer may at any time, either by day or by night, go on board any vessel in any port, river, or creek of the Colony, or within three miles of the coast thereof, and take an account of any spirits found on board such vessel, and demand and examine the permit or certificate for the removal of the same, and if any spirits are found to have been shipped without a permit or certificate, or not to correspond with the particulars set forth in a permit or certificate, the same shall be forfeited, and the master of the vessel shall be liable to a penalty not exceeding five hundred dollars.

Power to enter vessel and take account of spirits.

(2) Any such officer may also in like manner go on board any such vessel and search for any distillery apparatus, and if any such distillery apparatus is found, otherwise than in course of lawful conveyance the same shall be forfeited, and the master of the vessel shall be liable to a penalty not exceeding five hundred dollars.

110. Any officer may, in case he suspects any person of conveying spirits from or to any place without a permit or certificate, stop such person and examine the package which he suspects to contain spirits, and, if he discovers that such package contains more than one reputed pint of spirits then, in the event of such

Power to detain suspected person.

person not being able or refusing or neglecting to produce a permit he shall seize such spirits, and the package containing the same together with the cart, vessel, conveyance, and all animals employed in removing the same and may arrest any person carrying or removing such spirits, or concerned in the carrying or removing of such spirits, and detain such person until he can be brought before a Stipendiary Magistrate and dealt with according to law.

Power to enter premises of Railway Company and examine spirits, etc.

111.—(1) Any officer may at any time, either by day or by night, enter any portion of the premises of any Railway or Steamship Company for the purpose of examining any spirits in transit; and may detain and examine any cart, wagon, truck, or other vehicle for this purpose.

(2) Every person driving, conducting, or being in charge of any such cart, wagon, truck or other vehicle who refuses to stop when requested by any such officer to do so shall be liable to a penalty not exceeding one hundred dollars.

Power to enter premises of dealer and inspect spirits, etc.

112. The Chief Commissary or any Commissary or member of the Police Force may at any time, either by day or by night, enter the premises of any dealer, and inspect, examine, and take an account of the spirits in his stock or possession, and take samples of any such spirits, paying a reasonable price for each sample.

Duty of distiller, etc., to assist officer.

113. Every distiller, dealer or master of a vessel shall, when so required by an officer, assist him by a sufficient number of servants in taking an account of the spirits in his stock or possession or in taking samples of such spirits, and shall, for any refusal or neglect so to assist, be liable to a penalty not exceeding two hundred dollars.

Power to officer to employ assistants.

114. Where any power is, by or under any Excise Law, given to an officer, that power may be exercised by the officer either alone or in conjunction with such assistants as he may think fit to employ.

Arrest without warrant of offenders in certain cases.

115.—(1) Any officer may without warrant, apprehend any person whom he has reasonable grounds for suspecting to be liable to a penalty under section 12 or sections 97, 98, 99, 101, 103, 108, 109 or 111 of this Ordinance.

(2) Every person so apprehended shall be conveyed as soon as practicable before a Magistrate to be dealt with according to law.

Informers.

Discharge of informer in certain cases.

116. On the commission of any offence against any Excise Law, the offender who, before any charge or complaint is lodged against him in respect of such offence, first discovers and informs against any other offender, shall, on the conviction of the person against whom the information is given, be discharged and acquitted from all penalties or disqualifications under any Excise Law to which, at the time of giving the information, he may be liable by reason of the offence committed by him.

Rewards to informers.

117.—(1) The Governor may direct that a reward be paid to any person who shall give information with respect to any illicit still which shall lead to a conviction, or to the seizure of a still,

and such reward, which shall not exceed two hundred and fifty dollars in any one case, shall be paid out of any moneys voted by the Combined Court for the purpose.

(2) No action, suit, indictment or prosecution of any kind shall lie against any person for any information given respecting an offence against any Excise Law.

Procedure.

118.—(1) Any penalty for an offence against, or any sum of money due under any Excise Law, may be sued for and recovered, and all proceedings in respect of forfeitures under any Excise Law may be carried on by any officer before any Magistrate.

Recovery of penalties, etc.

(2) Any such Magistrate shall have full power to hear and determine in the case of any such penalty, sum of money, or forfeiture, whatever may be the amount or value thereof.

119. Where a distiller, dealer or retailer is by any Excise Law made liable to any penalty or forfeiture for any act, default, or omission, such liability shall attach to such distiller, dealer or retailer, whether such act, default, or omission is done or made by such distiller, dealer or retailer personally, or by some person employed by him for the purposes of his business: Provided that in the latter case it appears that such act, default, or omission has presumably occasioned benefit to the distiller, dealer or retailer, and it does not appear that it was done or made by such person through ill-will to the distiller, dealer or retailer.

Liability of distiller or dealer for act, default or omission of servant.

120. For the purpose of recovering any penalty or forfeiture incurred by a distiller, all distillery apparatus employed by such distiller for the purpose of his business, and all spirits and materials for the manufacture of spirits in his possession or under his control, shall be deemed to be the property of such distiller, whether the fact is so or not.

Liability to distress of distillery apparatus, etc.

121.—(1) Where an officer takes a sample of anything for analysis he shall then and there, in the presence of the owner of the thing, or his agent, divide the sample so taken into three parts, each part to be marked and sealed, or fastened up in such manner as its nature will permit.

Proceeding on taking of sample for analysis.

(2) He shall then deliver one of such parts to the owner of the thing, or his agent, shall deliver another of such parts to the Government Analyst and shall keep the third of such parts for future comparison and production in Court, if necessary.

122.—(1) In any charge or complaint that may be brought under any Excise Law, it shall not be necessary to negative any exception or proviso that there may be in favour of the defendant, but the onus of proving such exception or proviso shall lie on the defendant.

Special provisions as to complaint.

(2) In any such charge or complaint, it shall be lawful to state any number of offences not exceeding six, provided that the interval of time between the commission of the first and the last of such offences does not exceed twelve months.

(3) In adjudicating on any such charge or complaint relating to a penalty, it shall not be competent for the Magistrate, if he convicts the defendant thereunder, to award a less penalty than one-fourth of that imposed by law.

Documents
to be *primâ*
facie evidence.

123. Where any document is required to be made or delivered for the purpose of any Excise Law, such document shall, in all respects in which such proof may conduce to the protection of the public revenue, be deemed *primâ facie* evidence of the truth of any matter therein stated.

Onus of proof
as to spirits.

124. In any proceeding relating to spirits under an Excise Law it shall not be necessary for the purposes of the prosecution to prove that the spirits were manufactured in the Colony, but the onus of proving the contrary shall lie on the defendant.

Procedure
and appeal.

125. Except as in this Ordinance otherwise provided, the procedure in respect of any charge or complaint brought under any Excise Law shall be in accordance with any Ordinances for the time being in force regulating procedure before Magistrates in the exercise of their summary jurisdiction and appeals from the decisions of Magistrates. ⁽¹⁾

Provided that where, by the provisions of this Ordinance or of the Regulations, a distiller, dealer or retailer is made liable to a penalty in respect of any act or omission, and a charge or complaint is brought alleging such act or omission, the following proceedings shall be lawful, that is to say—

- (1) The summons may be served in the manner now permitted by law, or by leaving the same with any person who is apparently a clerk or servant found on the premises for which a licence is granted, or if no such person can be found, by affixing the same in a conspicuous manner to the outer door or outer wall of the premises;
- (2) Where the distiller, dealer or retailer is without the Colony, his agent may appear on his behalf;
- (3) Where the distiller, dealer, or retailer is without the Colony, either at the time of the act or omission charged for at the time when the summons is served, the Magistrate, on being satisfied as to the service of the summons as hereinbefore authorized, shall proceed to investigate the matter of the charge or complaint whether any agent appears or not, and if the act or omission is proved, may order the penalty to be paid and to be levied upon the goods and chattels of the distiller, dealer, or retailer by distress, but where it is not shown that the distiller, dealer, or retailer left the Colony to avoid the service of the summons upon him personally, the Magistrate shall not make, order, or direct that he be imprisoned, either in default of sufficient goods or chattels being found or otherwise.
- (4) In this section the term "penalty" includes any sum of money due under an Excise Law, also any forfeiture under an Excise Law.

Saccharometer and Hydrometer.

Mode of
determining
gravity of
wash.

126. ⁽²⁾ For determining the gravity of wash, such saccharometer as may for the time being be approved by the Chief Commissary, and the tables, if any, constructed for use therewith, shall be used; and all wash shall, for the purposes aforesaid, be deemed to be of

¹ See Ordinances Nos. 12 and 13 of 1893 under "Courts."

² Weights and Measures referred to in this Ordinance to be standard Weights and Measures *vide* Ordinance No. 15 of 1911, s. 15. P. 175.

the gravity which the said saccharometer shall, on the application thereof, denote.

127. All spirits shall be deemed to be of the strength indicated by Sikes' Hydrometer as ascertained by the officer in accordance with the table printed under the authority of the Imperial Parliament and entitled "A Table of the Strengths of Spirits denoted by Sikes' Hydrometer," and in accordance with any certificate of corrections issued by the Government Analyst under the provisions of section 129.

Mode of ascertaining strength of spirits.

128. In any case where, by reason of the presence of colouring, sweetening, or other matter, the true strength of any spirits cannot be immediately ascertained by Sikes' Hydrometer, a sample of such spirits may be submitted for analysis by the Government Analyst so that the true strength of such spirits may be ascertained.

Testing of strength of spirits in case of obscuration by colouring matter.

129. Every hydrometer and saccharometer used for excise purposes shall be submitted from time to time, as may be directed by the Comptroller, to the Government Analyst in order that its accuracy may be tested and a certificate of corrections applicable thereto may be issued by him.

Testing of accuracy of hydrometer and saccharometer.

Regulations and Forms.

130.—(1) The Governor and Court of Policy may from time to time make regulations and forms for the better carrying out of all or any of the provisions of this Ordinance.

Making of regulations and forms.

(2) There may be annexed to any breach of any such regulation such penalty, not exceeding five hundred dollars, as the Governor and Court of Policy may think fit.

(3) All such regulations and forms shall be published in *The Official Gazette* and one other newspaper of the Colony, and shall have the force of law.

131. (1) This Ordinance shall not come into operation unless and until the Governor notifies by Proclamation, that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation.

Commencement.

THE SCHEDULE.

Section 18.

The following vessels must be erected to the satisfaction of the Chief Com-missary (2) before a still is licensed and must thereafter be kept to the like satisfaction during the continuance of the licence:—

- One test case,
- One spirit receiver,
- One low wines or feints receiver,

but a distiller may provide in addition as many more receivers for spirit or for low wines or feints as he may desire to do.

The vessels must be erected in accordance with the following:—

1. The test case must be connected with the worm of the condenser of the still in such a manner that all spirit, low wines or feints, running from such worm must pass through the test case.

¹ Notified to come into operation on the 2nd October, 1905. See *Official Gazette*, 10th May, 1905, p. 1404.

² See Section 3 of Ordinance No. 11 of 1911 under "Revenue."

2. (a) The test case must be fitted with a discharge pipe connected by a two-way cock or by two separate cocks of a bore as prescribed by the Chief Commissary (1) with closed metal pipes leading to the spirit receiver and to the low wines or feints receiver.

(b) The Chief Commissary (1) may require any test case to be fitted with an overflow pipe of not less than three inches bore leading directly to the low wines or feints receiver.

(c) Samples may be allowed to be taken by means of a two-way cock attached to the test case or to the pipe leading from the worm of the still to the test case constructed in such a manner to the satisfaction of the Chief Commissary (1) that a duplicate of each sample taken is deposited in a locked vessel, the key of which shall be kept by the Commissary.

3. The spirit receiver or receivers must be of sufficient capacity to contain not less than the products of four days' distillation of spirit, but in cases where the Chief Commissary (1) considers it desirable he may require them to be of a greater capacity or permit them to be of a lesser capacity.

4. Every spirit receiver must be a close covered vessel, and except as hereafter specified must not have any opening or communication with any other vessel or utensil except any other receiver with which it must be connected with a closed metal overflow pipe.

5. Every receiver must have a hole cut in its cover and faced with metal of the form and size prescribed by the Chief Commissioner (1), and such hole must be supplied with a cover secured and kept secured to his satisfaction.

6. Every receiver may have fixed to it a graduated gauge glass; the glass and its fittings must be securely and completely enclosed in a metal or wooden case with a properly protected glass front.

7. Every test case and receiver must be made, placed and fixed to the satisfaction of the Chief Commissary. (1)

8. Every cock, valve or pump attached to any part of the still, test case or receivers or to any pipes in connection therewith, must be constructed in the manner prescribed by the Chief Commissary. (1)

9. All spirit must run through closed metal pipes directly from the test case to the spirit receiver.

10. Low wines or feints must run through closed metal pipes directly from the still or test case to the low wines or feints receiver, and from there all low wines or feints must run directly through closed metal pipes to a locked receptacle or the still for re-distillation.

11. Samples may be allowed to be taken by means of a two-way cock attached to the receiver constructed in such a manner to the satisfaction of the Chief Commissary (1) that a duplicate of each sample taken is deposited in a locked vessel the key of which shall be kept by the Commissary.

12. Every retort of any still must be fitted with a discharge pipe leading directly to the body of the still or to a locked receptacle.

13. Except as authorized by the Chief Commissary (1) in the case of every still there must be no pipe leading directly or indirectly to or from the worm of a still. Every manhole, discharge pipe, cock, or valve of any still must be constructed and secured to the satisfaction of the Chief Commissary. (1)