

CHAPTER 319.

SPIRITS.

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CHAPTER 319.

SPIRITS.

[2ND OCTOBER, 1905.]

1. This Ordinance may be cited as the Spirits Ordinance.
2. In this Ordinance, unless the context otherwise requires—
“ the Comptroller ” means the Comptroller of Customs and Excise and includes any officer of the Department of Customs and Excise, any warden or sub-warden of a mining district

1929 Ed.
c. 110.
34 of 1930.
22 of 1931.
15 of 1935.
10 of 1936.
26 of 1937.
15 of 1940.
21 of 1952.
33 of 1952.
66 of 1952.
Short title.

Interpreta-
tion.
66 of 1952,
s. 2.

and any district commissioner authorised in writing by the Comptroller of Customs and Excise to perform any of the functions and duties conferred on the Comptroller of Customs and Excise by this Ordinance;

“proper officer” means the officer assigned by lawful authority for the performance of any particular duty under this Ordinance or under the regulations;

“officer” means the Comptroller or any officer of the customs, any member of the police force or rural constabulary, and includes anyone employed on any duty or service relating to the excise law by the order or with the consent of the Comptroller;

“distiller” means anyone 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;

“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 that distillation;

“distilling period” means the period between the time when the notice required by section 19 of this Ordinance is given that distilling operations will begin and the time at which the notice required by the same section is given that those operations will cease;

15 of 1935,
s. 2.

“still” means any pot, cauldron, boiler, copper or other vessel or receptacle whatever used, or capable of being used, for the heating of wash in order to distil spirits;

“wash” means any liquid wherefrom spirits can be distilled 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;

“owner” means the owner, tenant, or other occupier, of any place in which a distillery is situate;

“receiver” includes vat;

“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”;

10 of 1936,
s. 2.
66 of 1952,
s. 3.

“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 Comptroller;

“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 a vessel;

“spirits warehouse” includes any colonial bonded warehouse appointed under customs law;

10 of 1936,
s. 2.
66 of 1952,
s. 3.

“prescribed” and “approved” mean respectively prescribed and approved by the Comptroller;

“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 Legislative Council under this Ordinance;

Cap. 144.

“the Government Analyst” includes any assistant analyst appointed under the Sale of Foods and Drugs Ordinance;

33 of 1952,
s. 2.
Cap. 316.

“dealer” means the holder of an off-licence granted under the authority of the Intoxicating Liquor Licensing Ordinance;

“retailer” means the holder of a retail spirit shop licence granted under the authority of the last above-mentioned Ordinance.

Liability of
person
keeping or
using
certain
articles.

3. Everyone 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.

PART I.—ADMINISTRATION.

4. The Comptroller 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 Comptroller.

10 of 1936, s. 2.
66 of 1952, s. 3.

5. No officer, nor officer of the Government Analyst's department, shall permit anyone 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, and if he contravenes the provisions of this section he shall be liable to a penalty not exceeding four hundred dollars.

Prohibition of officer being interested in sale of spirits.

PART II.—LICENCES FOR DISTILLATION.

6. (1) No one may 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, but persons in partnership, carrying on any one trade or business of the kind in one house or premises only, shall not be obliged to take out more than one licence.

Licence to be obtained for distillery apparatus.

(2) No one licence shall authorise or empower any person or persons to whom it is 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 the licence.

7. (1) Before a licence is granted for any distillery apparatus the applicant for it shall furnish the Comptroller with a full description of the still, setting forth the kind, shape, dimensions, and proportions of the still, and of the premises in which it is erected, or in which it is intended to work it, 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 trade or business is intended to be carried on, and setting forth further that the applicant is the owner of the still, or that he is the duly authorised representative or agent of the owner or occupier of the premises upon or in which it is to be worked.

Application for licence and particulars.

10 of 1936, ss. 2 and 3.
66 of 1952, s. 3.

(2) If at any time while the 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 the trade or business, a further statement thereof shall be forthwith made in like manner.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(3) The statement shall be signed by the person making it, and registered by the Comptroller in a book to be kept for that purpose.

Penalty for
false
description.

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

Issue of
licence.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

8. (1) The licence shall be issued by the Comptroller to the applicant therefor within fourteen days from the receipt of the application, and shall come into force on the day specified therein.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(2) The Comptroller may refuse to issue a licence to an applicant, and if he so refuses shall deliver to the applicant a statement in writing of his reasons for refusing; and the applicant may, within fourteen days after receiving that statement, appeal to the Governor in Council against the refusal, and the decision of the Governor in Council on the appeal shall be final.

Duration of
licence.

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

Register of
licences for
distillation
to be kept.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

10. A register shall be kept by the Comptroller of all licences for distillation issued by him in each year, and the 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 the register, or a certificate of the absence purporting to be under the hand of the Comptroller, shall be evidence, until the contrary is made to appear, that that person is not duly licensed as a distiller.

Distilling
spirits
without
licence.

11. Everyone 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 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.

Erection of
distillery on
premises not
licensed.

12. Everyone who, being a distiller or the manager or superintendent of a licensed distillery, erects, places, or uses distillery apparatus upon any premises other than those mentioned in the licence granted therefor, 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 proved to have been so distilled, and in

addition to that penalty to imprisonment with or without hard labour for any term not exceeding six months; and the distillery apparatus and all the spirits shall be forfeited.

13. (1) If a distiller is convicted of felony his licence *ipso facto* shall 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 any time the Governor thinks fit.

14. (1) The Governor in Council may, in his discretion, grant a special licence to distil spirits for the purpose of scientific research to anyone, 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 that person shall not be deemed to be a distiller, and shall be exempt from the provisions of Parts II and III of this Ordinance.

Power to grant special licence for purposes of scientific research.

(2) A special licence shall expire on the last day of the financial year in which it is granted.

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

15. (1) No one, except a distiller, or the holder of a licence granted under the last preceding section, and no distiller, nor 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) Everyone 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.

16. (1) No one 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 Comptroller, and the licence shall expire on the last day of the financial year in which it comes into force.

No one to keep, make, or repair stills without a licence. 10 of 1936, s. 2. 66 of 1952, s. 3.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(3) The Comptroller may refuse to issue the licence without assigning any reason for refusing.

(4) Everyone licensed as aforesaid shall keep a book, which shall be open at all reasonable times to the inspection of any officer, and in which shall be entered the following particulars, namely—

(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 the still or part thereof has been sold, made or repaired;

(c) the time at which the still or part thereof was delivered to the person to or for whom it was made or repaired; and

(d) the capacity of the still.

(5) Anyone 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 anyone employed by a distiller to make any alteration or repairs to any still, or to anyone who sells a still or any part thereof to a distiller.

PART III.—REGULATION OF DISTILLERIES. CONSTRUCTION OF STILLS.

Description
of still.
10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.
Schedule.

17. (1) Every still used by a distiller shall be constructed and worked in the manner set out in the schedule hereto, and shall be so constructed that the spirit distilled shall be received in a locked receiver to which access cannot be obtained except in the presence of the Comptroller.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

(3) Except with the permission of the Comptroller, no spirit run into the spirit receiver may be removed therefrom. 10 of 1936, s. 3.
66 of 1952, s. 3.

(4) Except in the presence of the Comptroller, 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 Comptroller. 10 of 1936, s. 3.
66 of 1952, s. 3.

(5) The key of every test case and spirit receiver shall be kept by the Comptroller, who alone shall open the test case and receiver, and the Comptroller shall enter in the distillery charge and stock book the quantity of spirits at proof contained in the receiver, and after that entry, subject to the provisions of this Ordinance, the spirits shall be at the disposal of the distiller. 10 of 1936, s. 3.
66 of 1952, s. 3.

FORM OF ENTRY.

18. (1) Every distiller, when applying for a licence to distil spirits, shall make entry of the premises, vessels, utensils, fittings, and places intended to be used by him, by signing and delivering to the Comptroller, an account in the prescribed form, setting forth, with the prescribed particulars— Making entry of premises and vessels.
10 of 1936, ss. 2 and 3.
66 of 1952, s. 3.

(a) his name and abode, and the situation of the premises intended to be entered; Particulars.

(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 of the vessels and utensils 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 of those houses, rooms, or places is intended to be used.

(2) In the event of any disagreement under this or any other section between a distiller and the Comptroller as to the capacity of any vessel, the actual capacity shall be ascertained by filling 10 of 1936, ss. 2 and 3.
66 of 1952, s. 3.

the vessel and measuring off the contents by imperial gallon measure, or by any other method authorised by the Comptroller.

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

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

(5) 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 each vessel, utensil, or fitting, with its contents, and all spirits or materials for distilling spirits found in the house, room, or place, shall be forfeited.

(6) Where any change is intended to be made in the level of any spirits receiver or vat, or when any repairs or alterations are intended to be made to any spirits receiver or vat, the distiller shall give written notice thereof to the Comptroller at least seven days before the change is made:

Provided that the notice shall not be necessary in order to effect the repair of any spirits receiver, vat, or other vessel or utensil, damaged by unavoidable accident, or found defective in circumstances that could not be foreseen, but the Comptroller is to be notified forthwith of any of those repairs that are made; and any distiller making default in complying with the requirement of this subsection shall be liable to a penalty not exceeding one hundred dollars.

(7) Where any change takes place in respect of any matter or thing mentioned in the account, a memorandum thereof shall be delivered to the Comptroller 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 the default continues.

Penalty for
incorrect
particulars.

10 of 1936,
s. 3.
66 of 1952,
s. 3.

10 of 1936,
s. 3.
66 of 1952,
s. 3.

DISTILLING.

19. Every distiller shall give two clear days' notice in writing to the Comptroller of the date when distilling operations shall commence and when they shall cease during each distilling period:

Notice by distiller of distilling operation.
15 of 1935, s. 2.
10 of 1936, ss. 2 and 3.
66 of 1952, s. 3.

Provided that the Comptroller may, on application in writing by a distiller, give to him permission in writing to cease distilling operations for a stated period not exceeding four weeks:

Provided further that a distiller may give to the Comptroller on his visit to the distillery oral notice of a cessation for a period less than one week.

20. The Comptroller may at any time take an account of all wash in any licensed distillery and take any samples of wash, low wines, feints, or spirits from any vessel he thinks proper, and test the gravity thereof, or submit those samples for analysis to the Government Analyst.

Taking samples of wash.
10 of 1936, ss. 2 and 3.
66 of 1952, s. 3.

21. (1) If at any time it appears to the Comptroller that the quantity of spirits produced by a 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 inquiry 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.

Checking quantity of spirits produced from wash.
10 of 1936, s. 2.
66 of 1952, s. 3.

(2) All expenses incurred by causing an 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.

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

Prohibition of mixing spirits or low wines with other matters.
10 of 1936, s. 3.
66 of 1952, s. 3.

(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 any other necessary substance.

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

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(4) If, upon analysis by the Government Analyst, who shall from time to time determine by analysis the obscuration in any sample of low wines, feints, or spirits from a distillery, any sample submitted by the Comptroller for the purpose is found to be obscured to a greater extent than four degrees of strength as indicated by Sikes' hydrometer, those low wines, feints, or spirits shall be deemed to have been fraudulently dealt with, and the distiller shall be liable to a penalty not exceeding two hundred dollars:

Cap. 318.

Provided that compounds prepared by a distiller holding a licence under the Bitters and Cordials Ordinance shall not be subject to the provisions of this subsection.

DISTILLERY CHARGE BOOK.

Charge book.
10 of 1936,
s. 3.
66 of 1952,
s. 3.

23. (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—

PERIOD FROM						TO									
WASH ACCOUNT.						SPIRIT ACCOUNT.									
Wash set up.				Wash attenuated.		Spirit manufactured.									
Date.	Number of vats.	Number of gallons.	Density before fermentation.	Temperature of wash.	Density after fermentation.	Temperature of wash.	Number of degrees attenuated.	Date.	Number 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 Comptroller when delivering spirit from receiver to distiller.

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

10 of 1936,
s. 3.
66 of 1952,
s. 3.

(3) The Comptroller shall enter the quantity of spirits found in the receiver and delivered by him to the distiller, and the distiller or his authorised agent shall countersign the entry

as an acknowledgment of the delivery of that 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 the 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) Any distiller who—

Penalty for default.

(a) fails to keep the charge book, or to produce it when required by an officer to do so; or

(b) fails to make therein any entry required to be made therein; or

(c) fraudulently makes an entry therein; 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 line through it, and the correct entry made; and if this subsection is contravened, the distiller shall be liable to a penalty not exceeding fifty dollars.

Penalty for erasing error.

24. (1) Every distiller shall provide at his distillery a stock book, which shall be in the following form and shall contain the following particulars—

Stock book.

Date	Balance from last account.	Quantity from spirit receiver.			Delivered.				
		Liquid gallons.	Strength.	Proof gallons.	Date.	Liquid gallons.	Strength.	Proof gallons.	To whom sent or for what purpose used.

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

10 of 1936.
s. 3.
66 of 1952,
s. 3.

Transmission
of certified
copy of
entries in
record book.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

25. Every distiller shall, on or before the sixth day of each month, transmit to the Comptroller an abstract, certified by him, or by his agent duly authorised by him in writing for that purpose, of the particulars for the month immediately preceding contained in his records by subsection (1) of section 23 and by section 24 directed to be kept.

Warehousing
spirits.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

26. (1) All spirits manufactured by a distiller, except as hereinafter provided in subsection (4) of this section, shall be warehoused in a spirit warehouse provided under this Ordinance, within six weeks from the time when the spirits are passed by the Comptroller to the distiller, unless permission to the contrary be given by the Comptroller:

Provided that at the end of a distilling period a balance of spirits, insufficient in quantity to fill a puncheon of the ordinary capacity, may be retained by a distiller in his spirit store.

(2) No further distilling period shall be commenced until all spirits from the previous distilling period have been drawn off into casks and the weighing account taken.

(3) If any distiller fails to comply with the requirements of this section, he shall forthwith pay or cause to be paid to the Financial Secretary the duty on the 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 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 twenty-five gallons direct from the distillery, provided that the Comptroller has full knowledge of the transaction and is 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.

Spirit store
and storing
of spirits.

27. (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 they are removed to a spirit warehouse or sold to a licensed retailer.

(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, and it shall be a secure place approved by the Comptroller.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(3) In the event of any difference between the Comptroller 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.

10 of 1936,
s. 2.
66 of 1953,
s. 3.

(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) Any spirits 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, shall be forfeited and the distiller shall be liable to a penalty not exceeding five hundred dollars.

28. (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 Comptroller.

Locks and
fastening of
store.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

Receivers
in store.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(2) Each 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 Comptroller.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(3) The cover of each receiver shall have in it a hole faced with metal, and be secured to the satisfaction of the Comptroller, 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 Comptroller for each receiver.

10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.

(4) Whenever the hoops of the receivers are driven, or the receivers are repaired, the receivers shall be re-gauged by the distiller, and he shall report the result of the re-gauging to the Comptroller, who shall himself gauge the receivers and certify to the correctness of the re-gauging.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

New
distilleries.

30. The provisions in the last preceding section 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 that receiver shall be in accordance with the requirements of the schedule hereto.

Schedule.

Furniture
of store.

31. (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 of those spirits.

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(2) The scales shall be scales approved by the Comptroller and capable of weighing twelve hundredweight, and the weights shall be a complete set of the imperial standard, and not less than twelve hundredweight.

(3) The distiller shall maintain and keep the scales, weights, and measure in that proper and convenient place in his spirit store which the Comptroller directs, and so that they 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) Any distiller who—

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

(b) practises any device or contrivance by which an 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;

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

32. (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.

Marking packages.

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

10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

33. The Comptroller may grant relief to any distiller who proves actual loss of spirits by reason of accident or malicious destruction of property:

Grant of relief in case of loss in certain cases.

Provided that the relief shall not be granted unless the distiller has at the time of the loss entered the particulars thereof in his stock book, and has also, within twenty-four hours of the discovery of the loss, given notice thereof to the Comptroller.

10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.

COLOURING MATTER.

34. (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;

10 of 1936,
s. 3.
66 of 1952,
s. 3.

(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 the 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 the 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 Comptroller, and 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 that colouring matter;

(f) duty shall be payable on the quantity of spirit at proof contained in the 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 the 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 Comptroller as in the removal of spirits; and

(i) all packages containing colour shall be so marked.

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

Testing
colouring
matter.

10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.

35. (1) The Comptroller 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 the 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 centum*, 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
spirits.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

36. (1) Except with the permission in writing of the Comptroller, 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,

(2) Spirits which have been removed from the store may be brought back into the store for re-distillation, or for such other purpose and under such conditions as the Comptroller approves.

10 o f1936,
s. 2.
66 o f1952,
s. 3.

(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 package with the spirits contained therein, and the tables prepared, signed and issued by the Comptroller for that 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.

10 o f1936,
s. 2.
66 o f1952,
s. 3.

(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.

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

Removal o f
spirits from
sto re.

10 o f1936,
s. 2.
66 o f1952,
s. 3.
10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.

(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 Comptroller after the excise duty thereon has been paid:

Provided that the Comptroller, on the application in writing of the distiller, may permit him to remove spirits from the store for his private consumption on payment of the duty for the time being fixed by the Legislative Council; but the permission shall not authorise 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 Comptroller not less than twenty-four hours' notice in writing, specifying the time of the intended removal and the quantity to be removed.

10 of 1936,
s. 3.
66 of 1952,
s. 3.

(4) The Comptroller 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.

10 o f1936,
s. 3.
66 o f1952,
s. 3.

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

10 o f1936,
ss. 2 and 3.
66 o f1952,
s. 3.

(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.

10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.

(8) Every distiller shall provide accommodation at his spirit store, to the satisfaction of the Comptroller, for the Comptroller, 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.

Taking stock
of spirits in
store.

10 of 1936,
s. 3.
66 of 1952,
s. 3.
10 of 1936,
s. 3.
66 of 1952,
s. 3.

38. (1) The Comptroller shall from time to time take an account in the prescribed manner of the quantity of spirits in a distiller's spirit store.

(2) Each time the stock of a distiller is taken as aforesaid, the Comptroller shall take a sample of spirits from any receiver, vat, or other vessel containing coloured spirits he thinks fit and shall submit all the samples taken at one time from a distillery, mixed together, to the Government Analyst, in order that he may determine by analysis and certify the apparent and the true quantity of spirits at proof in the mixed sample.

26 of 1937,
s. 2.

(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) a distiller shall not be liable to any penalty under this section if the deficiency does not exceed, in the case of spirits which are distilled at a strength not exceeding sixty *per centum* overproof, one and one-half *per centum*, in the case of spirits which are distilled at a strength exceeding sixty *per centum* overproof, two *per centum*, and in either case in respect of any spirits which have been coloured by the addition of colouring matter, an additional one-half *per centum*, of 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 19 of this Ordinance, less any spirits delivered to the distiller for methylation; and

(b) the allowance may be increased up to a further additional one-half *per centum* by the Governor in Council if it

is proved to his satisfaction that the additional loss was unavoidable and that none of the spirit has entered into local consumption.

39. (1) A distiller may re-distil or destroy any refuse matter or sediment removed by him from his spirit store receivers and vats, and the Comptroller shall enter in the distillery stock book the quantity of spirits computed at proof contained in that refuse matter or sediment at the time of removal from the receivers or vats.

Distilling bottoms of receiver.
10 of 1936, s. 3.
66 of 1952, s. 3.

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

10 of 1936, s. 3.
66 of 1952, s. 3.

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

Re-distilling spoiled spirits.
10 of 1936, s. 3.
66 of 1952, s. 3.

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

10 of 1936, s. 3.
66 of 1952, s. 3.

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

10 of 1936, s. 3.
66 of 1952, s. 3.

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

10 of 1936, s. 3.
66 of 1952, s. 3.

PART IV.—SPIRIT WAREHOUSES.

41. The Governor in Council, from time to time by notice in the Gazette, may 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 each warehouse shall be under the charge of the Comptroller; and goods warehoused in those warehouses shall be subject to the same rules and regulations governing goods warehoused in a warehouse approved under the Customs Ordinance or any Ordinance amending it.

Power to appoint spirit warehouses.

Cap. 309.

Payment
of duty.

42. (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) Everyone who—

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

(b) knowingly causes or permits them 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 spirits so delivered shall be forfeited, together with any conveyance and animals employed in the delivery.

Taking
account of
spirits on
arrival at
warehouse.

43. (1) On the arrival at a spirit warehouse of spirits required to be warehoused under the provisions of this Ordinance, the officer in charge of that warehouse may take an account of the quantity (by weight or gauge) and strength of the spirits, and may enter the 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 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 the spirits were warehoused, the date and number of the certificate under which the 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 that deficiency at the rate of duty for the time being fixed by the Legislative Council on spirits taken out of bond for private consumption:

Provided that the distiller shall not be liable for that 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—

For periods not exceeding	Ordinary loss.	Special loss.
one week	1 <i>per centum.</i>	1 <i>per centum.</i>
three weeks	1½ " "	1 " "
one month	2 " "	1 " "
two months	2½ " "	1½ " "
three months	3 " "	2 " "
four months	3½ " "	2½ " "
five months	4 " "	3 " "
six months	4½ " "	3½ " "
seven months	5 " "	4 " "
eight months	5½ " "	4½ " "
nine months	6 " "	5 " "
ten months	6½ " "	5½ " "
eleven months	7 " "	6 " "
twelve months	7½ " "	6½ " "

(4) The duty shall be payable on demand made by the Comptroller.

(5) If any of the duty remains unpaid for six days after the demand has been made, the distiller shall become liable to a penalty not exceeding one hundred dollars, and all the spirits warehoused in the name of that distiller may be detained by the Comptroller in satisfaction of the duty and penalty.

44. All spirits stored in a spirit warehouse shall be, while in the warehouse, at the sole risk of the person warehousing them:

Conditions under which spirits are held in warehouse.

Provided that, if at any time it 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 that embezzlement, waste, spoil, leakage, or destruction of the spirits shall be made good to the person warehousing them by the Financial Secretary, in manner approved by the Governor.

45. There shall be charged upon all spirits stored in a spirit warehouse, over and above any duty which may be due thereon, storage at the rates from time to time fixed by the Legislative Council, and the storage shall be paid before the removal of spirits from the warehouse.

Storage rates payable upon spirits in warehouse.

46. If any spirits stored in a spirit warehouse are not removed within two years from the date on which they were first deposited therein, the Comptroller may, after one month's

Limitation of period for storage in warehouse.

notice in the Gazette, sell them by public auction, and deduct from the proceeds of sale the amount of storage due for them, and the balance of the proceeds, after payment of the duty due upon the spirits, shall be paid to the owner thereof on his application:

Provided that—

(a) that action shall not be taken if the spirits that have been two years in a spirit warehouse are re-warehoused by the proprietor of the goods at the termination of each biennial period; and

(b) any duties due on excessive deficiencies, rent, or other charges demanded by the Comptroller or other proper officer, are duly paid at the time of the re-warehousing.

Power to permit dealing with spirits in warehouse.
21 of 1952,
s. 2.

Ascertaining liquid quantity.
21 of 1952,
s. 3.
66 of 1952,
s. 3.

47. The Comptroller may, subject to the regulations, permit the owner of spirits stored in a spirit warehouse to strengthen, reduce, colour, skip, or shift into larger or smaller packages, and to bottle, mix, or blend those spirits.

48. (1) All spirits removed from a spirit warehouse for consumption in the Colony shall be tested, and the liquid quantity in each package or container ascertained, at the time of removal, by such method and in such manner as may be approved by the Comptroller.

(2) Spirits removed from a spirit warehouse for exportation may be tested, and an account of the quantity thereof taken, at the time of removal, by an officer in the manner prescribed in the preceding subsection.

(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.

Payment of duty on spirits for consumption.

49. Any duty at any time payable by law upon spirits intended for consumption in the Colony shall be paid before the removal of the spirits from a spirit warehouse or distillery spirit store, as the case may be.

Procedure on removal of spirits from warehouse.
10 of 1936,
s. 3.
66 of 1952,
s. 3.

50 (1) The officer in charge of the warehouse or the Comptroller, on the application of anyone wishing to remove spirits from a spirit warehouse or from a distillery store for consumption in the Colony, shall deliver to that 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) The person shall thereupon pay to the Financial Secretary or Comptroller, as the case may be, the amount so stated to be due, and obtain his receipt for the payment; and the officer, on the production to him of the receipt, shall issue a permit in the prescribed form.

10 of 1936,
s. 3.
66 of 1952,
s. 3.

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

51. Spirit bonded in a spirits warehouse may be issued for ships' stores in the quantities and under the restrictions prescribed by any statute for the time being in force relating to customs and by the regulations.

Spirits for
ships' stores.

52. If, on the arrival of any spirits at a spirit warehouse, the owner of them is desirous of forthwith exporting them or of paying duty thereon for consumption in the Colony without actually lodging them in the warehouse for which they have been entered and examined to be warehoused, the proper officer at the warehouse, after compliance with all the formalities of entering and examining the spirits for warehousing, may permit them 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 they 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.

Shipping or
clearing for
consumption
spirits with-
out bonding.

53. (1) A book to be called the receipt and delivery book shall be kept at every spirit warehouse, in the following form—

Books to be
kept at
warehouse.

ACCOUNT FOR RECEIPT.						ACCOUNT FOR DELIVERY.						
Date of receipt.	Number and mark on cask.	Capacity.	Wet inch.	Liquor gallons.	Strength.	Gallons at proof.	Date of delivery.	Liquor gallons.	Strength.	Gallons at proof.	Deficiencies.	
											Allowed.	Charged with duty.

(2) 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 numbers.	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.

Minimum quantity of spirits to be sold by distiller.

54. (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.

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

Explanation of sale by retail.

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

REMOVAL OF SPIRITS.

General provisions relating to permits and certificates. 10 of 1936, s. 3. 66 of 1952, s. 3.

56. (1) A permit for the removal of spirits shall be issued only by the Comptroller.

(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 them, shall be forfeited, and everyone who is concerned in the sending out, delivering or removal of them, or in whose possession they are found, shall be liable to a penalty not exceeding five hundred dollars, or, at the election of the Comptroller, to a penalty equal to treble their value 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.

57. (1) The Comptroller shall cause certificates to be prepared in duplicate, and the certificates shall be furnished to each district and be distributed to the several distillers and dealers carrying on business therein.

Issue and
particulars of
certificate.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

(3) A permit or certificate shall be limited to the time sufficient for conveying 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 conveyance is 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 them in the prescribed form.

(6) Certificates shall be used in the order in which they are numbered.

Dealing with spirits without permit or certificate, or improperly using permit or certificate.

58. (1) Everyone 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 spirits; 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 a permit or certificate, or causes or suffers a 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 anyone a 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, a permit or certificate so that any account of spirits kept or checked by an officer may be frustrated or evaded; shall be liable, in addition to any other penalty or forfeiture, 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 anyone for using a false permit or certificate.

Forfeiture.

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

59. (1) Any spirits manufactured in a distillery in the Colony may be removed to any place in which they may be warehoused, under the regulations and with the security directed by the Comptroller.

Security for removal of spirits from distillery to warehouse. 10 of 1936, s. 2. 66 of 1952, s. 3.

(2) The 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 they are intended to be removed, and the certificate shall contain any other information and be in the form directed and required by the Comptroller.

10 of 1936, s. 2. 66 of 1952, s. 3.

60. Previous to the delivery of the spirits for removal, the person requiring their removal shall enter into a bond with one sufficient surety, in a sum equal at least to the duty payable on the 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 the time directed by the Comptroller, and the bond shall not be discharged unless the spirits have been duly warehoused at the place of destination within the time allowed for their removal, or have been otherwise accounted for to the satisfaction of the Comptroller, as the case may be, nor until the full duties payable on any deficiency of the spirits not so accounted for have been paid, but the person may enter into a general bond, with the sureties, in an amount, and under the conditions approved by the Comptroller for the removal from time to time of any spirits from the distillery to a spirit warehouse, and for the due arrival and warehousing thereof at the place of destination within the time or times directed by the Comptroller.

Giving bond to cover removal of spirits from distillery to warehouse. 10 of 1936, s. 2. 66 of 1952, s. 3.

EXPORTATION OF SPIRITS.

61. (1) A distiller in the case of spirits in his spirit store, and the owner of the spirits in a spirit warehouse for the storage of spirits intended for exportation, on giving due notice and executing a bond, may remove the spirits for exportation without payment of duty thereon, and they shall be removed in accordance with the provisions of any law or regulation for the time being in force relating to customs.

Removal and shipping of spirits for exportation.

(2) The notice must be delivered to the proper officer before the time when the spirits are to be removed, and must specify the number of packages intended to be shipped, the gross

number of gallons and the average strength of the spirits contained in the packages, in order that those particulars may be verified by the record of the spirits bonded, the time and place of the intended shipment, and the name, description and destination of the vessel.

(3) Nothing in this Ordinance contained shall prevent the Governor in Council from appointing stations for the re-examination of spirits in transit from a distillery to an exporting ship under any regulations made from time to time for that purpose.

DEALERS AND RETAILERS.

Making entry of room and utensils used by dealer or retailer.

62. 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 packages used for spirits.

63. (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 the default to a penalty not exceeding two hundred dollars.

Marking quantity of spirits in package in certain cases.

64. (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 those 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, so to 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.

65. (1) The Comptroller may at any time take an account of the quantity of spirits in the stock or possession of a dealer or retailer.

Taking account of spirits in stock of dealer or retailer. 10 of 1936, ss. 2 and 3. 66 of 1952, s. 3.

(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.

Penalty for excess.

66. The proper officer may at any time take a sample of spirits from the stock of a dealer or retailer and submit the sample to the Government Analyst, who shall analyse it and certify the quantity of spirit at proof therein.

Taking sample for analysis. 33 of 1952, s. 4.

STOCK BOOK.

67. (1) Every dealer and retailer shall provide himself with and keep a stock book according to the form prescribed by the Comptroller and, on receiving any spirits and also on sending out or delivering any spirits required to be accompanied by a permit or certificate, shall 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. 10 of 1936, s. 2. 66 of 1952, s. 3.

(2) He shall make those 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 allow any officer to make any entry therein, or take any extract therefrom.

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

68. Any dealer or retailer who—

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

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

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

Offences by dealer or retailer.

(d) makes a false entry in a permit, or a certificate book or stock book; or

(e) 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; shall be liable to a penalty not exceeding five hundred dollars.

Correction
of error in
stock book.

69. (1) If a dealer or retailer, or anyone employed by him, commits an error in making any entry required to be made in the stock book, or in any 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.

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

PART VI.—METHYLATED SPIRITS.

Saving as to
methylated
spirits.

70. Parts II, III, IV and V of this Ordinance shall not apply to methylated spirits.

Exemption of
methylated
spirits from
duty.

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

Persons
authorised to
methylate.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

72. The following persons (in this Ordinance called authorised methylators) and no others, are authorised to methylate, namely—

- (a) distillers, if so authorised by the Comptroller; and
- (b) persons licensed by the Comptroller to methylate.

Persons
authorised
to supply
methylated
spirits.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

73. The following persons, and no others, are authorised to supply methylated spirits, namely—

- (a) authorised methylators; and
- (b) persons licensed by the Comptroller to retail methylated spirits, whether they are imported or made in the Colony, in this Ordinance called retailers of methylated spirits.

Places of
methylation.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

- (a) any building or room in the City of Georgetown or in the town of New Amsterdam, approved by the Comptroller, and entered for the purpose by the methylator in the prescribed manner;

(b) any spirit store in a licensed distillery, if approved by the Comptroller 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 the rate for the time being fixed by the Governor in Council.

75. (1) Only spirits manufactured in the Colony shall be used for the purpose of methylation.

Materials and mode 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 forty *per centum* above proof.

(3) The substances mixed with spirits for the purpose of methylation shall be those fixed from time to time by order of the Governor in Council for that purpose, and the substances shall be mixed with the spirits in the proportion and in the manner provided by that order, and the substances shall be examined and approved by the Government Analyst.

(4) Substances examined and approved by the Government Analyst other than those fixed by any order of the Governor in Council may be added to the methylated spirits at the discretion of the authorised methylator.

(5) Everyone authorised to receive spirits for methylation shall on ordering them 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.

76. (1) An authorised methylator shall not supply methylated spirits except in vessels containing not less than five gallons.

Supply and receipt of methylated spirits.

(2) Each vessel shall be distinctly labelled with the words "methylated spirits," and shall be accompanied by a permit or such document in the nature of a permit as the Comptroller may prescribe.

10 of 1936, s. 2.
66 of 1952, s. 3.

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

Stock
account of
methylated
spirits.

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

(2) If the quantity of methylated spirits in the possession of an authorised methylator exceeds by more than one *per centum* 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 authorised methylator is less by more than one and a half *per centum* 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.

Rules to be
observed by
retailer of
methylated
spirits.

78. (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 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 authorised 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.

(2) (a) The Governor in Council may grant permission in writing to a retailer of methylated spirits to have in his possession a greater quantity of methylated spirits than fifty gallons and to sell for his use to a person to whom permission in writing has been granted by the Governor in Council a quantity of methylated spirits more than five gallons at a time:

Provided that the possession for sale, the sale, the purchase and use shall be for such purposes only as are specified in the permission.

Circum-
stances in
which more
than 50 gals.
of methylated
spirits may
be sold or
bought.
34 of 1930,
s. 2.

(b) The Governor in Council may in his discretion revoke a permission at any time.

(c) The provisions of subsection (1) of this section apply to this subsection subject to the modifications herein contained.

(3) If a retailer or a purchaser 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. 34 of 1930, s. 2.

79. (1) The Comptroller or any member of the police force may, in the daytime, enter and inspect the premises of an authorised 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. 10 of 1936, ss. 2 and 3. 66 of 1952, s. 3.

(2) Anyone who refuses to allow any of those officers to exercise any of those powers, or prevents them from so doing, shall be liable to a penalty not exceeding two hundred dollars.

80. (1) Anyone who supplies, removes, or receives, methylated spirits in contravention of this Ordinance, shall be liable to a penalty not exceeding two hundred and fifty dollars. Unlawful supply of methylated spirits.

(2) Any authorised methylator who 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 authorised to receive them, 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.

81. Anyone who—

(a) being an authorised methylator, has in his possession any methylated spirits in any place where he is not authorised to keep them; or Unlawful possession of methylated spirits.

(b) not being an authorised methylator, has in his possession any methylated spirits not obtained from a person authorised to supply them;

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.

82. (1) Any person who—

(a) prepares or attempts to prepare any methylated spirits for use as or for a beverage or as a mixture with a beverage; or Preparation or sale of methylated spirits as or for beverage or medicine.

(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 that article in the preparation of which methylated spirits or any derivative thereof have or has been used;

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 sulphuric ether or chloroform for that use.

Suspension or
revocation
of licence.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

83. The Comptroller 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.

84. (1) Anything forfeited under an excise law may be seized by any officer.

(2) Where spirits or materials for the manufacture of spirits are forfeited under an excise law, all packages of whatever description containing them shall also be forfeited.

Provisions
relating to
seizures.

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

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

10 of 1936,
s. 2.
66 of 1952,
s. 3.

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

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

10 of 1936,
s. 2.
66 of 1952,
s. 3.

(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, 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 the security being given the thing claimed shall be absolutely forfeited.

(6) The Comptroller may order the delivery of anything seized on a bond being given to answer double the value thereof, and if the thing seized is condemned, the value thereof shall be paid to the Comptroller, who shall thereupon cancel and deliver up the bond. 10 of 1936,
s. 2.
66 of 1952,
s. 3.

(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 anyone is authorised to detain or seize anything under this Ordinance, evidence by the person of his authority to detain or seize the thing shall be deemed, unless the contrary is proved, sufficient without the production of any commission or warrant.

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

86. Anything detained or seized under an excise law may be restored by the Governor on any terms he thinks 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 the detention or seizure. Restoration
of thing
detained or
seized.

87. If, in any proceeding brought on account of a detention or seizure made under an excise law, sentence or judgment is given for the plaintiff, and the judge or 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 he who made the detention or seizure be liable to any action, suit, indictment, or other prosecution for doing so. Costs in
action
relating to
detention or
seizure.

88. (1) All sales of things seized under any excise law (for whatever cause they are sold) shall be conducted by the Comptroller, or by anyone 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.

89. (1) Every person who is in unlawful possession of spirits 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 and the spirits shall be forfeited. Penalty for
unlawful
possession of
spirits.

(2) Everyone possessing spirits exceeding in quantity a pint shall be deemed, for the purposes of this section, to be in unlawful possession thereof, unless—

(a) he is a distiller, compounder, or authorised methylator or retailer, and they have come legally into his possession in that capacity; or

(b) he is in possession under permit for their removal, or having been legally empowered to remove them, is in possession thereof for the purpose of the removal; or

Cap. 316. (c) the spirits have been legally sold, delivered, or disposed of to him under section 62 of the Intoxicating Liquor Licensing Ordinance, or under subsection (2) of section 37 of this Ordinance; and, if the spirits have been obtained in separate quarts from a retailer at separate times and not under a permit, the purchaser has obtained a receipt in writing for the purchase money paid for them, and showing the quantity of spirits for which, and the time when, it was paid; or

(d) he is the holder of a special licence from the Governor in Council to distil spirits in accordance with section 14 of this Ordinance.

(3) If an officer has reasonable cause for suspicion that spirits are in the unlawful possession of anyone in any house, building or enclosed place whatsoever, then upon oath made by that officer before a magistrate or justice of the peace of the grounds of suspicion, the magistrate or justice of the peace may issue a warrant under his hand authorising the officer to enter by force, if necessary, the house, building or enclosed place and search for and seize any spirits unlawfully possessed therein, and either detain them or remove them 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 subsection (2) of this section, but the onus of proving that any of those exceptions applies in his case shall lie on the defendant.

(5) Everyone possessing any quantity of the substance known as bush rum (or any substance containing 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 the substance in his opinion is bush rum, or contains bush rum, shall be *prima facie* evidence of that fact,

and thereupon the onus of proving that the substance is not bush rum shall lie on the defendant.

90. (1) Everyone who—

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

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

(c) subjects any cask to any process for the purpose of extracting any spirits absorbed in the wood of the cask, or has on his premises any cask which is being subjected to that process, or any spirits extracted from the wood of the cask; or

(d) removes, throws away, or destroys or causes to be removed, thrown away, or destroyed any wash, low wines, feints or spirits in order to prevent or impede search for or seizure of them;

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

(2) All the wash, low wines, feints or spirits so removed, and every cask which is being subjected to any process aforesaid, or which, being upon premises where spirits so extracted are found, has been subjected to any process aforesaid, shall be forfeited.

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

91. Everyone who, without the sanction of the Comptroller, 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.

Unlawful removal of wash, low wines, feints or spirits.

Tampering with distillery apparatus. 10 of 1936, s. 2. 66 of 1952, s. 3.

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

Selling spirits at a price less than the duty.

93. Everyone who knowingly sells or delivers spirits, or causes them to be sold or delivered, to the end that they may be unlawfully retailed or consumed or carried into consumption shall be liable, in addition to any other penalty or forfeiture, to a penalty not exceeding one thousand dollars, and, in addition to that penalty, to imprisonment with or without hard labour for any term not exceeding six months, and the spirits shall be forfeited.

Sale of spirits for unlawful purpose.

Unlawful purchase of spirits.

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

Purchase or receipt of spirits on which duty has not been paid.

95. Everyone who knowingly buys or receives spirits or has them in his possession, 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, 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.

Counterfeiting documents.

96. Everyone who—

(a) 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

(b) by any false statement, procures any document to be made for the removal or shipping of spirits; or

(c) forges or counterfeits any certificate, declaration, or other document required to be made by this Ordinance or by the regulations; or

(d) knowingly utters or publishes any forged or counterfeited certificate, declaration, or other document;

shall be deemed guilty of a misdemeanour.

Forcibly opposing execution of excise law.

97. Everyone who—

(a) assaults anyone acting under an excise law, or any person acting in his aid; or

(b) assaults anyone 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 an excise law; or

(c) assaults anyone who has seized, or is about to seize or examine, anything as forfeited under an excise law; or

(d) forcibly opposes, or offers or threatens to oppose, the execution of any of the powers given by an excise law; or

(e) being armed with an offensive weapon, or in a violent manner, rescues any offender arrested or thing seized under

an excise law, or prevents the arrest of the offender or the seizure of the thing;

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.

98. (1) Everyone who, in or with reference to any matter under an excise law—

Corruption of and by officer.

(a) not being authorised to do so, gives or promises, directly or indirectly, any reward to any officer or person employed in the execution of an excise law in respect of the performance or non-performance by that officer or person of his duty or employment; or

(b) agrees with or proposes to that 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 that 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 an excise law or of his duty;

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

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

99. Anyone who, by himself or by anyone in his employment, obstructs, hinders, or molests any officer in the execution of his duty under an excise law, or anyone acting in his aid, shall be liable to a penalty not exceeding one thousand dollars, and if the offender is a distiller, the Comptroller, subject to the approval of the Governor, may suspend or revoke his licence.

Obstruction of officer.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

100. Any peace officer who wilfully refuses or neglects to aid in the execution of an excise law shall be liable to a penalty not exceeding one hundred dollars.

Peace officer not aiding.

101. Everyone 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.

Contravention of excise law not specially provided for.

POWERS OF OFFICERS.

Power of
entry and
examination
by officer.

102. 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
apparatus.
10 of 1936,
ss. 2 and 3.
66 of 1952,
s. 3.

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

Entry and
search for
illicit
distillery
apparatus
and spirits.

104. (1) If an 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, if he thinks fit, may issue a warrant authorising the officer to search the house or place.

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

15 of 1940,
s. 2.

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

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

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

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

(7) The period of imprisonment, whether with or without hard labour, which shall be imposed by the magistrate in respect of the non-payment of any pecuniary penalty imposed under this section shall be that period which in the opinion of the magistrate will satisfy the justice of the case and be according to the following scale, that is to say—

15 of 1940,
s. 2.

Where the penalty	The period shall
does not exceed \$250.00	not exceed—
exceeds \$250.00 but does not exceed \$500.00	Three months;
exceeds \$500.00 but does not exceed \$750.00	Six months;
exceeds \$750.00	Nine months;
	Twelve months.

105. (1) Any officer, at any time either by day or by night, may go on board a 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 the vessel, and demand and examine the permit or certificate for the removal of them, and if 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, they shall be forfeited, and the master of the vessel shall be liable to a penalty not exceeding five hundred dollars.

Entry upon
vessel and
taking
account of
spirits.

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

106. Any officer, if he suspects any person to be conveying spirits from or to any place without a permit or certificate, may stop the person and examine the package which he suspects to contain spirits, and, if he discovers that the package contains more than one reputed pint of spirits then, in the event of the person not being able, or refusing or neglecting, to produce a permit he shall seize the spirits, and the package containing them, together with the cart, vessel, conveyance, and all animals employed in removing them and may arrest the person

Power to
detain
suspected
person.

carrying or removing them, or concerned in their carriage or removal and detain him until he can be brought before a magistrate and dealt with according to law.

Entry upon premises of railway company and examination.

107. (1) An officer, at any time, either by day or by night, may enter any portion of the premises of a 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 that purpose.

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

Entry upon premises of dealer and inspection of spirits. 10 of 1936, ss. 2 and 3. 66 of 1952, s. 3.

108. The Comptroller or any member of the police force, at any time, either by day or by night, may 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 them, paying a reasonable price for each sample.

Duty of distiller, dealer or master to assist officer.

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

Employment of assistants.

110. Where any power is given to an officer by or under an excise law, that power may be exercised by the officer either alone or in conjunction with any assistants he thinks fit to employ.

Arrest without warrant of offenders in certain cases.

111. (1) Any officer may without warrant apprehend anyone whom he has reasonable grounds of suspecting to be liable to a penalty under section 11, 93, 94, 95, 97, 99, 104, 105 or 107 of this Ordinance.

(2) Everyone 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.

112. On the commission of any offence against an excise law, the offender who, before any charge or complaint is lodged against him in respect of that 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.

113. The Governor may direct that a reward be paid to anyone who gives information with respect to any illicit still which leads to a conviction or to the seizure of a still, and the reward (which shall not exceed two hundred and fifty dollars in any one case) shall be paid out of any moneys voted by the Legislative Council for the purpose.

Rewards to informers.

PROCEDURE.

114. Any penalty for an offence against, or any sum of money due under, an excise law may be sued for and recovered, and all proceedings in respect of forfeitures under an excise law may be carried on, by any officer before any magistrate, and the magistrate shall have full power to hear and determine in the case of that penalty, sum of money, or forfeiture, whatever may be the amount or value thereof.

Recovery of penalty or sum of money.

115. Where a distiller, dealer, or retailer, is made liable by an excise law to any penalty or forfeiture for any act, default, or omission, the liability shall attach to the distiller, dealer, or retailer, whether the act, default, or omission is done or made by the distiller, dealer, or retailer personally, or by someone employed by him for the purposes of his business; provided, in the latter case, it appears that the 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 the employee through ill-will to the distiller, dealer or retailer.

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

116. For the purpose of recovering any penalty or forfeiture incurred by a distiller, all distillery apparatus employed by the 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 his property, whether the fact be so or not.

Liability to distress of distillery apparatus and material.

117. (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 the manner its nature permits.

Procedure on taking sample for analysis.

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

Special provisions as to complaint.

118. (1) In any charge or complaint that may be brought under an 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 that exception or proviso shall lie on the defendant.

(2) In the charge or complaint, any number of offences may be stated not exceeding six, provided the interval of time between the commission of the first and the last of the offences does not exceed twelve months.

(3) In adjudicating on any 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 *prima facie* evidence.

119. Where any document is required to be made or delivered for the purpose of an excise law, the document shall be deemed, in all respects in which that proof may conduce to the protection of the public revenue, to be *prima facie* evidence of the truth of any matter therein stated.

Onus of proof as to spirits.

120. 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.

Weights and measures.

Cap. 343.

121. In this Ordinance, all references to weights and measures shall be deemed to be references to the standard weights and measures specified in the Weights and Measures Ordinance.

Entries in indelible material.

122. Every entry required by this Ordinance to be made in any book, return, or record, shall be made in ink or other indelible material.

Procedure and appeal.

123. (1) Except as in this Ordinance otherwise provided, the procedure in respect of any charge or complaint brought under an 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:

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 an act or omission, and a charge or complaint is brought alleging an act or omission, the following proceedings shall be lawful, that is to say—

(a) the summons may be served in the manner now permitted by law, or by leaving it with anyone who is apparently a clerk or servant found on the premises for which a licence is granted, or if that person cannot be found, by affixing it in a conspicuous manner to the outer door or outer wall of the premises;

(b) where the distiller, dealer or retailer is without the Colony, his agent may appear on his behalf;

(c) where the distiller, dealer, or retailer is without the Colony, either at the time of the act or omission charged or at the time when the summons is served, the magistrate, on being satisfied as to the service of the summons as hereinbefore authorised, shall proceed to investigate the matter of the charge or complaint whether an 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.

(2) 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.

124. For determining the gravity of wash, a saccharometer which is for the time being approved by the Comptroller, and the tables, if any, constructed for use therewith, shall be used; and all wash shall be deemed for the purposes aforesaid to be of the gravity denoted by that saccharometer, on the application thereof.

Mode of
determining
gravity of
wash.
10 of 1936,
s. 2.
66 of 1952,
s. 3.

125. 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

Mode of
ascertaining
strength of
spirits.

certificate of corrections issued by the Government Analyst under the provisions of section 127 of this Ordinance.

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

126. Wherever by reason of the presence of colouring, sweetening, or other matter the true strength of spirits cannot be immediately ascertained by Sikes' hydrometer, a sample of the spirits may be submitted for analysis by the Government Analyst so that their true strength may be ascertained.

Testing accuracy of hydrometer and saccharometer.
10 of 1936, s. 2.
66 of 1952, s. 3.

127. Every hydrometer and saccharometer used for excise purposes shall be submitted from time to time, as 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.

REGULATIONS AND FORMS.

Regulations and forms.

128. (1) The Governor and Legislative Council may from time to time make regulations and forms for better carrying out all or any of the provisions of this Ordinance.

(2) There may be annexed to any breach of any of those regulations such penalty, not exceeding five hundred dollars, as the Governor and Legislative Council think fit.

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

ss. 17 and 30.

SCHEDULE.

The following vessels must be erected to the satisfaction of the Comptroller 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 desires.

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

(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 the worm must pass through the test case.

(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 Comptroller, with closed metal pipes leading to the spirit receiver and to the low wines or feints receiver.

(b) The Comptroller 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 Comptroller that a duplicate of each sample taken is deposited in a locked vessel, the key of which shall be kept by the Comptroller.

(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 Comptroller considers it desirable, he may require them to be of a greater capacity or permit them to be of a less 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 Comptroller, and the 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 Comptroller.

(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 Comptroller.

(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 Comptroller that a duplicate of each sample taken is deposited in a locked vessel, the key of which shall be kept by the Comptroller.

(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 authorised by the Comptroller, in the case of every still there must be no pipe leading directly or indirectly to or from the worm of a still. Every man-hole, discharge pipe, cock, or valve of any still must be constructed and secured to the satisfaction of the Comptroller.
