

Amended by Ordce. 19/43. Delivery of Spirits or Compounds to
do do 36/1944 H.M.'s Navy by C. 26+E - see R. 2
" " 8/46 1944 - P. 1035

CHAPTER 32. No. 9.

SPIRITS AND SPIRIT COMPOUNDS.

AN ORDINANCE RELATING TO THE MANUFACTURE, REMOVAL, WAREHOUSING, AND SALE OF SPIRITS AND COMPOUNDS OF SPIRITS.

Ordinances No. 30—1933. " 2—1934. " 43—1934, s. 79.

[1st January, 1934.]

Commencement.

1. This Ordinance may be cited as the Spirits and Spirit Compounds Ordinance. Short title.

2. In this Ordinance—

Interpretation.

“ Comptroller ” means the Comptroller of Customs and Excise;

Amended by Sec. 2 of Ord. 19/43

“ compounder ” means a licensed maker of compounds under this Ordinance;

“ compounds ” means compounded spirits which have been prepared in the Colony by adding any ingredient or flavouring to duty-paid spirits: Provided that the expression “ compounds ” shall not apply to rum made in the Colony which is cured or otherwise treated, but not so as to cause obscuration amounting to more than ten per centum of proof spirit, or to bay rum or perfumed spirits made in accordance with Part VIII. of this Ordinance;

See sec: 2 of Ordce: 8/1946

“ distiller ” means any person to whom a distiller’s licence has been granted under this Ordinance;

“ distillery ” means the building or premises defined in the licence issued under this Ordinance in which spirits may be distilled or rectified;

“ drawback ” means a repayment to a compounder of the Excise duty on compounded spirits on their receipt into warehouse for exportation or ship’s stores;

“Excise Ordinance” means this or any other Excise Ordinance or any rule or regulation having the force of law for the time being in force relating to intoxicating liquor;

“gallon” means an imperial gallon;

“^{“medicinal spirits”} methylated spirits” means spirits mixed with any substance or combination of substances approved for the purpose of methylation, or imported methylated spirits;

“obscuration” means the difference expressed as a percentage of proof spirit, between the true strength of any spirits or compounds, as ascertained in accordance with section 132 of this Ordinance, and the strength indicated by the direct application of Sikes’s hydrometer to such spirits or compounds;

“Officer” means the Comptroller and any person acting under the instructions of the Comptroller for the purposes of this Ordinance;

“package” means any vessel which contains or is capable of containing any spirits;

“prescribed” means prescribed by the Comptroller;

“proof” means the strength of proof as ascertained by Sikes’s hydrometer;

“proper Officer” means the officer who is assigned by lawful authority for the performance of any particular duty under this Ordinance or under the regulations, or any officer superior in matters of Customs or Excise to such officer;

“rum” means spirits distilled from cane juice, molasses, treacle, or from any mixture prepared from or containing any of these substances;

“spirits” means spirits of any description, and includes all liquors mixed with spirits, and all mixtures or preparations made with spirits, other than compounds; ^{“medicinal}

^{“spirits”} still” means and includes any part of a still, pipes, cocks, implements, receptacles, instruments, vessels, utensils, and fittings of whatever kind, used or capable of being used as a still, or with a still, for the purpose of or in connection with the distillation or rectification of spirits or spirit mixtures;

“still dealer” and “dealer in stills” mean any person licensed under this Ordinance to deal in stills;

See sec: 2 of
Orda: 8/16

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“warehouse” means a secure place approved by the Comptroller for the deposit of spirits liable to a duty of Customs or Excise without the payment of such duty, or for the deposit of compounds on drawback;

“warehoused” means deposited in a warehouse;

“warehouse-keeper” means the person who has entered into bond with the Comptroller for the due security of the duties on the spirits deposited in his warehouse;

“wash” means any liquid which has been prepared for the distillation of spirits in which fermentation may or may not have taken place, and includes spent wash.

3. (1) All members of the Police Force shall have the same powers, authorities, and privileges as are given by this Ordinance and the Liquor Licences Ordinance to any Officer, and the expression “Officer,” where used in the said Ordinances, shall extend to and include all members of the Police Force.

Powers of Police.

(2) For the purpose of carrying out the provisions of any Excise Ordinance all Officers shall have the same powers, authorities and privileges as are given by law to constables.

Powers of Officers of Customs and Excise.

PART I.

ADMINISTRATION.

4. The administration of the Customs and Excise Department of the Colony shall be under the management of the Comptroller, and, for the better carrying of this Ordinance into effect, it shall be lawful for the Governor from time to time to appoint such persons as he shall see fit to be Officers, with such remuneration by way of salary as the Governor, with the consent of the Legislative Council, may from time to time see fit to appoint.

Administration of Customs and Excise Department.

Acts may be done by any Officer appointed by the Comptroller.

5. Every act, matter, or thing required by any Excise Ordinance to be done or performed by the Comptroller, if done or performed by any Officer appointed by the Comptroller for such purpose, shall be deemed to be done or performed by the Comptroller.

Powers of Comptroller to settle disputes and enquiries.

Ord. 30-1933, s. 6.

6. (1) If any dispute shall arise between any person and any officer of excise as to the seizure or detention of any ship or

Cap. 194—1925, s. 25.

goods, or as to any apparently accidental omission, inadvertency, or non-compliance with the laws and regulations relating to Excise, the Comptroller may determine such dispute as he may deem just, and if he finds that any penalty or forfeiture has been incurred he may mitigate or remit the same.

(2) But nothing in this section shall affect any right conferred by the excise laws on any person to claim in the case of a forfeiture or to commence or require the commencement of legal proceedings.

PART II.

LICENCES TO DISTIL SPIRITS.

Distiller's
licence.

7. (1) Except as is provided for by section 20, it shall not be lawful for any person to use any still for the purpose of making or distilling spirits without having obtained a licence to be called a "distiller's licence," in respect whereof such person shall pay the sum of forty-eight dollars.

(2) Every such licence shall be signed by the Comptroller, and shall specify the name of the person to whom, and the situation, description, and name, if any, of the premises, and the particular situation and capacity of the still in respect whereof such licence shall be granted; and every such licence shall commence and take effect upon and from a day to be named in such licence, and shall continue in force until the 31st of December next after the day of the commencement of such licence and no longer: Provided that the co-owners of any premises, or persons in partnership, carrying on any one trade or business as distillers of spirits in any one premises, shall not be obliged to take out more than one such licence in any one year; and no one licence which shall be granted under the authority of this Ordinance shall empower any person to whom the same shall be granted, to use any still or to make or distil any spirits in or upon any still or premises other than the still or premises mentioned in such licence.

(3) Any person who shall use any still or make or distil any spirits in contravention of the provisions of this section shall, for every such offence, incur a penalty of nine hundred and sixty dollars, and such still, and all apparatus used or for use therewith, together with the contents thereof, and all

spirits, or materials for distilling spirits found therewith, or on the premises, shall be forfeited, and may be seized by any Officer.

(4) It shall be lawful for the Comptroller, with the approval of the Governor, to refuse to issue any licence in respect of a new distillery without assigning a cause.

8. A distiller's licence shall only be granted to the person who is in actual possession as owner, trustee, or lessee of the premises on which such still is situate, or if such owner, trustee, or lessee shall be absent from the Colony, to the attorney or agent of such owner, trustee, or lessee, in which case such attorney or agent shall be deemed and taken to be the owner of such premises within the meaning of this Ordinance, and shall be subject to all the regulations, penalties and forfeitures made under or imposed by this Ordinance.

To whom distiller's licence may be granted.

9. A distiller's licence shall not be granted to any person to use a still within the limits of the City of Port-of-Spain or the suburbs thereof, or within the limits of the Boroughs of San Fernando or Arima.

Distiller's licence not to be granted in Port-of-Spain, San Fernando or Arima.

10. A distiller's licence shall not be granted to any person to use any still, unless the body of such still without the head thereof shall be of the capacity or content of four hundred gallons or upwards, or, if a continuous still, unless such still shall be capable of producing in twenty-four hours five hundred proof gallons of spirits.

Capacity of still.

11. No distiller's licence, and no permit or authority by the Governor or the Comptroller granted under this Ordinance, shall be assignable or transferable.

Licence not transferable.

12. It shall be lawful for any person to whom any distiller's licence or permit shall have been granted under this Ordinance to surrender the same to the Comptroller.

Licence may be surrendered.

13. It shall not be lawful for any person at any time after the expiration of the time for which a distiller's licence or a permit under section 20 shall be granted, or after the revocation or surrender of such licence or permit, to continue to use any

Still not to be used after licence or permit expires.

still, or make any wash, or distil any spirits, unless such person shall have obtained a new licence or permit, as the case may be; and if any person shall continue to use any still, or shall make any wash, or shall distil any spirits, contrary to this Ordinance, every such person shall, for every such offence, incur a penalty of nine hundred and sixty dollars, and all such wash and spirits, and such still, and all apparatus used or for use therewith, together with the contents thereof, and all spirits, or materials for distilling spirits found therewith, or in the premises, shall be forfeited, and may be seized by any Officer.

Authority to keep still after licence expires.

14. Except as provided in section 39, it shall not be lawful for any person to keep or have in his possession any still the licence or permit for which shall have expired or been revoked, or surrendered, unless he shall first have obtained authority for so doing in writing under the hand of the Comptroller. Such authority shall be issued for such period and under such conditions as the Comptroller may think fit; and if any such person shall continue to keep in his possession any still the licence or permit for which shall have expired or been revoked or surrendered, without obtaining such authority, or in contravention of any of the conditions on which such authority was issued, he shall, for every such offence, incur a penalty of nine hundred and sixty dollars, and such still, and all apparatus used or for use therewith, together with the contents thereof, and all spirits, or materials for distilling spirits found therewith or in the premises, shall be forfeited, and may be seized by any Officer.

Re- passed and referred by Sec. 2 of Order 36/1944

Distiller or holder of authority or permit not to be retailer of spirits. Ord. 2—1934, s. 2.

Distiller not to permit servant, tenant or licensee to keep spirit shop near distillery.

~~15. Save as provided in section 17, no person to whom a distiller's licence shall be granted, and no person authorised or permitted to keep or use a still under section 14 or section 20, shall be a retailer of spirits, or be in any manner interested or concerned in the trade or business of a retailer of spirits; and if any such person shall retail or knowingly suffer or permit any servant or other person in his employ to retail spirits, or be in any manner interested or concerned in the trade or business of a retailer of spirits, such person shall, for every such offence, incur a penalty of four hundred and eighty dollars.~~

16. Any distiller who shall knowingly suffer or permit any person, being his servant, tenant or licensee, to keep or use

for the sale of spirits, any shop, house, or building being within one quarter of a mile in a direct line from any still in respect of which a licence shall have been granted, shall in each and every case incur a penalty of two hundred and forty dollars, together with a further penalty of twenty-four dollars for every day that any such shop, house, or building shall be so kept or used.

17. (1) Except with the written permission of the Governor in Council and subject to such conditions as may be contained in such permission, no retailer of spirits shall be a distiller, or have any part or share in any distillery, or be in any manner interested or concerned in the trade or business of a distiller.

Restrictions on retailers of spirits being distillers. Ord. 2—1934, s. 3.

(2) Any such permission may be revoked, or the conditions contained therein be varied or altered at any time in the discretion of the Governor in Council, and if any retailer contravenes the provisions of this section or fails to observe or perform the conditions contained in any such permission he shall for every such contravention or failure incur a penalty of four hundred and eighty dollars.

18. Every person applying for a distiller's licence shall, before receiving such licence, enter into a bond with a sufficient surety or sureties to the satisfaction of the Comptroller in the sum of two thousand four hundred dollars, conditioned for the payment by such person and his surety of any penalty or sum of money which may be imposed upon such person for any offence against this Ordinance.

Licensees to give security.

19. It shall be lawful for the Comptroller to refuse to grant a distiller's licence, or to revoke and cancel any distiller's licence, whenever the person holding or applying for any such licence is convicted of any offence under any Excise Ordinance.

Refusal and revocation of distiller's licence.

20. (1) It shall be lawful for the Governor,* subject to such conditions as he may think fit, to permit, by writing under his hand, the keeping and using of any still or stills, of any capacity and in any place, for experimental purposes; and the Comptroller may, subject to such conditions as he may think fit, permit, by writing under his hand, the keeping and using

Stills for experimental purposes or for commercial purposes other than manufacture of spirits. *Amended by Sec. 39 of 1914*

* Power delegated to Col. Sec.

of any still or stills of any capacity and in any place, by persons carrying on trade or otherwise, for the manufacture of any articles other than spirits or spirit mixtures.

(2) The conditions shall be set out on the permit, and any person doing any act or making any omission in contravention of any such condition shall, for every such offence, incur a penalty of four hundred and eighty dollars; and such still, and all apparatus used or for use therewith, together with the contents thereof, and all spirits, or materials for distilling spirits found therewith, or in the premises, shall be forfeited, and may be seized by any Officer.

PART III.

REGULATIONS FOR DISTILLERS.

General rules.

Regulations
for distilleries.

21. Every distiller shall observe such regulations as may be from time to time prescribed by the Comptroller, with the approval of the Governor in Council.

Infringement
of regulations.

22. For any contravention of the aforesaid regulations, the distiller shall incur a penalty of four hundred and eighty dollars, and an additional penalty of ninety-six dollars for every day during which the contravention continues; and any spirits made in contravention of such regulations shall be deemed to be spirits unlawfully made.

Entry of
premises, etc.,
to be made by
distillers.

23. (1) Every distiller must, before he begins to make any wash, make entry of the premises, vessels, utensils, pipes and places intended to be used by him, by signing and delivering to the Comptroller a true and particular description thereof, and if any vessel, utensil, or pipe shall be used on the premises of a distiller for the purpose of his business without entry being made thereof as aforesaid, or for any purpose other than that specified in the entry, the distiller shall for each offence incur a penalty of four hundred and eighty dollars, and every such vessel, utensil or pipe with its contents and all spirits or materials for distilling spirits found in any such premises shall be forfeited.

Entry by
partners and
companies.

(2) Any entry required by any Excise Ordinance shall in the case of a partnership, be signed by the partners, but where

the number of partners exceeds three, the entry shall be made and signed by at least three partners; and if the business is carried on by a company registered under the Companies Ordinance, the entry shall be under the seal of the company:

Provided that an entry signed by some person authorised on that behalf by any such company under its seal shall be treated as being under the seal of the company.

(3) Any person signing such an entry, and also the company under whose seal the entry is made shall be liable to all duties of excise charged, and to all fines, penalties, and forfeitures incurred in respect of the trade or business to which the entry relates.

24. (1) A distiller shall not, except with the written permission of the Comptroller, alter or move any vessel, utensil, pipe, or fitting, or add a new vessel, utensil, pipe, or fitting, used or to be used in the distillation or rectifying of spirits. This Ordinance shall apply to any such permitted vessel, utensil, pipe, or fitting as if its use were required by this Ordinance or by regulations made thereunder.

Notice to alter vessels, etc.

(2) For any contravention of this section the distiller shall incur a penalty of four hundred and eighty dollars.

25. In every distillery the capacity of every package shall be calculated by reference to the weight and hydrometer indication of the spirits contained therein by means of the tables prepared for use with Sikes's hydrometer for the purpose.

Mode of ascertaining capacity of packages containing spirits at a distillery.

26. Every distiller shall provide sufficient and just scales and weights for the purpose of weighing spirits in his store, stock, or possession, and any package used for the purpose of containing any such spirits.

Distiller to provide scales and weights.

27. The scales shall be ordinary beam scales capable of weighing twelve hundredweight, and the weights shall be a complete set of the Imperial Standard weights capable of weighing to the nearest pound any weight up to twelve hundredweight.

Description of scales and weights.

28. Every distiller shall maintain and keep the scales and weights aforesaid in such proper and convenient place in

Custody of scales and weights.

his spirit store as the Comptroller may direct, and so that the same shall be at all times ready for the inspection and use of the proper Officer.

Officer to use scales and weights.

29. Every distiller shall permit any Officer to use the scales and weights for the purpose aforesaid, and shall, with his servants and workmen, whenever required by any Officer, weigh and assist in weighing and in taking account of any such spirits as aforesaid.

Offences in regard to scales and weights.

30. (1) If any distiller refuses or neglects to comply with any of the provisions of the four last preceding sections of this Ordinance, he shall incur a penalty of ninety-six dollars.

(2) If any distiller—

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

(b) practises any device or contrivance by which any Officer may be prevented from or hindered or deceived in taking the just and true quantity or weight of any spirits or of any package, puncheon, cask, or vessel,

he shall incur a penalty of nine hundred and sixty dollars and all such false or unjust scales and weights shall be forfeited to the Crown.

Books to be kept by distiller.

31. Every distiller shall keep at his distillery books in the prescribed forms in which he shall make the prescribed entries at the prescribed times. Every such entry shall be made legibly in ink, and no entry once made shall be altered in any manner: Provided that a notification of the incorrectness of any entry which may be made inadvertently may be inserted in the column headed "Remarks."

Books open for inspection.

32. Such books shall be open for the inspection of all Officers, and the distiller shall allow any Officer to take any extract therefrom at any time.

Penalties in foregoing cases.

33. If any distiller—

(a) fails to keep such books or to produce the same when required by any Officer to do so, or

(b) fails to make in such books legibly in ink at the proper time any entry required to be made therein, or

(c) fraudulently or in any manner contrary to the requirements of this Ordinance makes any entry, obliteration, cancellation, or erasure in any such book,

he shall incur a penalty of nine hundred and sixty dollars.

34. It shall be lawful for any Officer at any time to take an account of all spirits or materials for distilling spirits in any distillery, and to take such samples of spirits or materials for distilling spirits from any vessel as he may think proper, and to cause the same to be examined by the Government Chemist.

Officer may take account and samples.

35. If any refuse matter containing spirits is left in any spirit store vat at the end of any distilling period, or if at any time any distiller requires to have any vat cleansed, an allowance for such spirit contained in such refuse matter, computed as the Comptroller shall direct, shall be made and credited to the stock account of spirits manufactured, if the quantity of spirits conveyed into such vat shall have been debited in such stock account.

Allowance for refuse matter in vats.

36. Every person to whom a licence to use a still shall be granted under this Ordinance shall, on the third day of each month, make or cause to be made a true return in writing to the proper Officer of the quantity and strength of all spirits made or distilled within the month immediately preceding in or upon the premises in respect whereof such licence shall have been granted, and also of all spirits removed from the distillery, or otherwise disposed of, within such month, with the number and date of the permit for such removal or disposal and such return shall be signed by the person to whom such licence shall have been granted, or some person as his agent and on his behalf, being the manager of the distillery; and the Officer shall cause all such returns to be forthwith delivered to the Comptroller; and if any person to whom any such licence shall be granted shall neglect to make or cause to be made such return as aforesaid, or if any return so made by such person or by any other person as his agent and on his behalf shall be false in any respect, the person to whom such licence shall have been granted shall, for every such offence, incur a penalty of two thousand four hundred dollars.

Distiller to make return of spirits made.

Use of spirits for fortifying colouring matter.

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

(a) spirits shall not be used in the making of the colouring matter;

(b) when made, the colouring matter shall be conveyed into the spirit store, and there fortified with spirits;

(c) the spirits to be used for fortifying colouring matter shall be issued by the proper Officer on a permit to the distiller, who shall enter the quantity and strength of such spirits in his stock account;

(d) the permit shall state that the spirits permitted are for the purpose of fortifying colouring matter, and shall also state the number of gallons of colouring matter fortified;

(e) all packages containing colouring matter shall be so marked.

(2) If any distiller contravenes this section he shall incur a penalty of four hundred and eighty dollars.

Officer may take sample of colouring matter for testing.

38. (1) Any Officer may take a sample of colouring matter from any package for the purpose of ascertaining the quantity of spirits contained therein.

(2) The quantity of spirits contained in such sample shall be ascertained by the Government Chemist, whose certificate shall be conclusive proof of such quantity.

(3) If the quantity of spirits found in the sample exceeds by more than five per centum the quantity shown by the permit to have been used, the distiller shall incur a penalty of four hundred and eighty dollars.

PART IV.

DEALERS IN STILLs.

Still dealers' licences and possession of stills.

39. (1) Except as is provided for by sections 7, 14 and 20, no person shall have in his possession or under his control in any manner or in any place, or shall make, or repair, or keep for sale or sell any still or part of a still without first obtaining a licence from the Comptroller, to be called a "still dealer's

licence," for which an annual duty of \$4.80 shall be paid. Such licence shall expire on the 31st of December of the year during which it was issued, and shall be granted in respect of premises, to be named in the licence, on which the still dealer's business shall be carried on, and shall not be assigned without the consent in writing of the Comptroller.

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

(a) the capacity and description of every still in the possession of such still dealer;

(b) the name and address of the person or persons to or for whom any still or part of a still has been sold, made, or repaired by him;

(c) the place or places where such still or part thereof has been sold, made, or repaired;

(d) the time at which such still or part thereof was delivered to the person to or for whom it was made or repaired.

Such book shall be open at all times to the inspection of all Officers.

(3) Any person committing a breach of any of the provisions of this section shall incur a penalty of nine hundred and sixty dollars.

(4) This section shall not apply to any distiller, or to any person authorised or permitted to keep or use a still under sections 14 or 20, or to any person employed by a distiller or person to whom an authority or permit has been granted under sections 14 or 20 to make any alterations or repairs to a still or any part thereof on the premises for which the distiller's licence, authority, or permit is held, or to any person employed by a still dealer while making any such alterations or repairs on the premises on which the still dealer is licensed to carry on his business or on the premises on which a still is licensed, authorised, or permitted to be used or kept.

40. (1) Every still dealer shall keep a counterfoil certificate book in the prescribed form, and no still or part of a still shall be removed or sent out by any such still dealer from the premises on which he is licensed to carry on his business unless accompanied by a certificate in such form signed by him.

Counterfoil
certificate
book to be
kept by
still dealer.

Still not to be removed by distiller without certificate.

(2) It shall not be lawful for any distiller or any person authorised or permitted to use or keep a still under sections 14 or 20 to remove any still or part of a still from the place or premises mentioned in his licence or permit to any other place or premises, without first obtaining a certificate from the nearest Officer in the prescribed form.

Still not to be removed by any person without certificate.

(3) Except as is provided for by subsections (1) and (2) of this section, it shall not be lawful for any person to remove or take any part in removing any still or part of a still from any one place to any other place in the Colony without first obtaining a certificate from an Officer in the prescribed form.

(4) Any person committing a breach of any of the provisions of this section shall incur a penalty of four hundred and eighty dollars.

Power to search and arrest persons conveying stills, etc.

41. It shall be lawful for any Officer to stop and detain any person whom he shall reasonably suspect to be removing or carrying any still or part of a still, and to search any article of whatever description which he shall reasonably suppose to contain a still or part of a still, and to demand the production of the certificate authorising the removal of the said still or part of a still, and on being satisfied that the said still or part of a still is the same as described in the certificate, such Officer shall endorse on such certificate the day, hour, and place of such examination and shall sign his name thereto; and if any person who shall be found removing or carrying any still or part of a still shall refuse to produce such certificate immediately on being required so to do by any Officer, or shall be found removing or carrying a still or part of a still without a certificate, every such person shall, for every such offence, incur a penalty of nine hundred and sixty dollars, and shall forfeit such still or part of a still together with all animals, vehicles, vessels or boats made use of in carrying or conveying the same; and it shall be lawful for such Officer and he is hereby authorised and empowered to stop, arrest, and detain any such person without warrant, and to convey every such person, together with the still or parts thereof so being removed or carried by him, before any Magistrate to be dealt with by him according to law.

Still dealer not to be concerned in sale of spirits.

42. No person to whom a still dealer's licence shall be granted shall be in any manner interested or concerned in the sale of

spirits or compounds; and if such person shall sell any spirits or compounds or be in any manner interested or concerned in the sale of spirits or compounds, such person shall, for every such offence, incur a penalty of four hundred and eighty dollars.

43. It shall be lawful for the Comptroller to refuse to grant a still dealer's licence or to revoke and cancel any still dealer's licence whenever the person holding or applying for any such licence shall have been convicted of any offence under any Excise Ordinance.

Refusal or revocation of still dealer's licence.

44. Every person applying for a still dealer's licence under this Ordinance shall, before receiving such licence, enter into a bond with sufficient surety or sureties to the satisfaction of the Comptroller in the sum of nine hundred and sixty dollars, conditioned for the payment by such person or his surety or sureties of any penalty or sum of money that may be imposed upon such person for any offence against this Ordinance.

Bond to be given by still dealer.

PART V.

WAREHOUSES.

45. (1) Spirits, the produce of the Colony, shall be warehoused within fourteen days of distillation, or such further period as the Comptroller shall allow. All such spirits, and any compounds while in any warehouse shall be subject to such rules and regulations, and to the payment by the owner of such spirits or compounds, at the prescribed times, of such rent and other charges as the Governor shall from time to time direct by notice in the *Royal Gazette*; and if any such spirits are not warehoused as hereby required, the same shall be forfeited, and may be seized by any Officer.

Warehouses for storing spirits.

(2) Before any building may be used as a private warehouse, a bond, in such sum as may from time to time in each case be required by the Comptroller, shall be given by the warehouse-keeper, with one or more sufficient sureties, conditioned on due payment of all duties and the due observance

of the provisions of this Ordinance and of any regulations hereunder:

Provided that—

(a) no action shall be brought against the Government or any of its Officers for loss or damage occasioned to goods while in such warehouse, or for any wrong or improper delivery of goods therefrom;

(b) no warehouse-keeper shall by himself or by any person in his employ open or gain access to any warehouse except in the presence of an Officer acting in the execution of his duty;

(c) the Comptroller may, with the approval of the Governor in Council, at any time revoke his approval of such warehouse, and upon such revocation all spirits and compounds must be removed therefrom as he directs, and unless within such time as the Comptroller shall allow all such spirits and compounds shall be so removed either upon payment of duty or to be immediately re-warehoused in another warehouse, or exported or shipped as ship's stores, then such spirits or compounds shall be forfeited, and may be seized by any Officer.

(3) If at any time any rent or other charges shall not be paid when due and payable on any spirits or compounds in any warehouse, such spirits or compounds may, without prejudice to any other lawful method of recovery, be sold, and the proceeds of the sale applied in the manner provided in section 55 for the sale of goods due to be re-warehoused.

Spirits or
compounds
at owner's
risk in
Government
warehouse.

46. All spirits and compounds shall, while in any warehouse provided by the Government, be and continue to be at the sole risk of the owner or person warehousing the same, and no compensation shall be made by the Government to any owner of spirits or compounds or other goods by reason of any damage occasioned thereto in such warehouse by fire or other inevitable accident.

Account of
spirits
warehoused.

47. Immediately on the arrival of any spirits or compounds which may be warehoused under the provisions of this Ordinance, the proper Officer having the charge of the warehouse shall take an account of the contents of every package by gauge, and the strength of the spirits or compounds contained therein, and

shall enter an account thereof, with the marks and number of each such package, in a book to be by him kept for that purpose.

48. The Officer having the charge of the warehouse, after taking such account as aforesaid, shall deliver to the party warehousing such spirits or compounds, or any person requiring the same on his behalf, a certificate specifying the marks and number of each of the several packages, and the several particulars so found by him as aforesaid, with the day of the month and year when such spirits or compounds were warehoused as aforesaid, and the date and number of the permit under which such spirits shall have been received.

Certificate of receipt into warehouse.

49. It shall be lawful for the Comptroller, after such notice given by the respective owners of spirits or compounds, and at such times and under such regulations and restrictions as the Comptroller from time to time may require and direct, to allow racking, bottling or blending operations of spirits or compounds in warehouse: Provided that where such spirits or compounds are racked into casks, the contents of the casks shall not be less than twenty-four liquid gallons, and where such spirits or compounds are bottled, such bottles shall be packed in cases, each case containing not less than two liquid gallons: Provided also that all such casks and cases shall be marked in the prescribed manner.

Spirits and compounds may be racked, etc., in bond.

50. Any spirits or compounds warehoused under this Ordinance in any warehouse may from time to time, as often as may be required, with the permission of the proper Officer, be removed by land or sea to any other warehouse to be re-warehoused in the prescribed manner, and with such security as the Comptroller may direct, and on the delivery by the person requiring such removal to the proper Officer of a request note stating the number, marks, and contents of every package in which such spirits or compounds shall be contained, and the name or situation of the warehouse from which and of the warehouse to which the same are intended to be removed.

Removal for re-warehousing.

51. The description, quantity, and strength of the spirits or compounds contained in each package shall, previously to the delivery of the same for removal, be ascertained by the

Rules as to re-warehousing of spirits or compounds removed from one warehouse to another.

Officer in whose custody the same shall be, and the particulars thereof shall be transmitted by him at the time of the removal to the Officer of the place of destination, and the person requiring the removal thereof shall enter into a bond with one sufficient surety in a sum equal at least to the duty chargeable on such spirits or compounds for the due arrival and re-warehousing thereof at the place of destination within such time as the Officer who issues the permit may direct. Such bond shall be taken by the proper Officer either at the place of removal or the place of destination as shall best suit the residence or convenience of the parties interested in such removal; and if such bond shall have been given at the intended place of destination, a certificate thereof under the hand of the proper Officer at such place shall, at the time of the removal of such spirits or compounds, be produced to the proper Officer at the place of removal, and such bond shall not be discharged unless such spirits or compounds, together with the permit for the same, shall have been produced to the proper Officer and such spirits and compounds duly re-warehoused at the place of destination within the time allowed for such removal, or shall have been otherwise accounted for to the satisfaction of the Comptroller, nor until the full duties due upon any deficiency of such spirits or compounds not so accounted for shall have been paid.

Spirits not re-warehoused upon removal for re-warehousing to be forfeited.

52. If any spirits or compounds, for the removal of which a permit shall have been granted under this Ordinance, shall not be re-warehoused at the warehouse mentioned in such permit within the time allowed by such permit for re-warehousing the same, such spirits or compounds may be seized by any Officer, and shall be forfeited, unless the Comptroller, upon proof that the failure to warehouse or deliver the same has been occasioned by unavoidable accident or necessity, shall order the same to be restored to the owner or claimant thereof: Provided that if, upon the arrival of spirits or compounds removed as aforesaid at a warehouse, the parties desire forthwith to export the same, or pay duty thereon for consumption in the Colony, without actually lodging the same in the warehouse for which they have been entered and examined to be warehoused, the proper Officer at such place may, after all the formalities of entering and examining such spirits or compounds for warehousing have been duly performed, permit the same to be entered and shipped for exportation,

or to be entered and delivered for use in the Colony, upon payment of the duties due thereon, as if such spirits or compounds had been actually lodged in such warehouse, and all spirits or compounds so exported or for which the duties have been so paid shall be deemed to have been duly cleared from the warehouse.

53. No spirits or compounds which shall have been warehoused under the provisions of this Ordinance shall be delivered out of any such warehouse for consumption in the Colony until the owner intending to remove the same shall have paid to the Comptroller the full duties payable in respect of all such spirits or compounds intended to be so removed, according to the quantity of the same and the rate of excise duty in force at the time of such removal, together with any rent and other charges that may be due and unpaid; and the Comptroller shall thereupon sign and give to such owner a warrant for the delivery of such spirits, specifying in such warrant the numbers and marks of the packages in respect whereof such duty, rent and other charges shall be paid; and the Officer having the charge of such warehouse shall, upon the owner of such spirits or compounds, or some person on behalf of such owner, producing such warrant and a request note, issue a permit for the removal of the same, and deliver up such spirits or compounds as shall be mentioned in such warrant: Provided that the payment of duty in respect of spirits made in the Colony and removed from any warehouse for the manufacture of compounds may, at the discretion of the Comptroller, be deferred for a period not exceeding eight months from the date of such removal, if the owner of such spirits shall secure the payment of such duty by a bond with one or more sufficient sureties in a sum equal at least to the duty chargeable in respect of such spirits, or by a general bond in such sum as may be required by the Comptroller: Provided also that before any compounds which have been deposited on drawback in any warehouse shall be delivered for consumption in the Colony, there shall be paid, in addition to the current rate of excise duty thereon, a further sum calculated at the same rate as the allowance for the time being in force under section 72.

Duties, etc., to be paid before spirits can be delivered for consumption in the Colony.

54. All spirits or compounds warehoused in a warehouse provided by the Government shall be cleared either for use in the Colony or for exportation within two years from the

Spirits and compounds in Government warehouse to be cleared within two years, or else re-warehoused.

day on which the same were warehoused, unless the owner of such spirits or compounds is desirous of re-warehousing the same, in which case, at the expiration of two years from the date of warehousing, the same shall be examined by the proper Officer and the quantity so found shall be re-warehoused in the name of the then owner in the same manner as on first warehousing. Any warehouse rent and charges due and unpaid up to the time for re-warehousing shall be paid before the goods shall be re-warehoused.

Spirits and compounds not re-warehoused at end of two years may be sold.

55. If any such spirits or compounds are not duly cleared for use in the Colony or exported or re-warehoused, and any outstanding warehouse rent or charges due thereon paid as provided at the expiration of two years from the previous entry and warehousing thereof, the same shall, after one month's notice by advertisement in the *Royal Gazette*, signed by the Comptroller or other Officer thereunto authorised by him, giving the numbers and marks on the packages, and the owner's name, be sold, and the proceeds thereof be appropriated in the first instance for the payment of any warehouse rent and charges due and owing thereon, after which the balance of the proceeds of the sale, if any, shall be paid to the owner of the spirits or compounds sold, on a claim being made for it in the regular manner. If such claim is not made within six months of the date of sale thereof, such balance of proceeds of sale shall be carried to the credit of the general revenue of the Colony.

PART VI.

REMOVAL AND EXPORTATION OF SPIRITS.

Removal of spirits.

Permits.

56. (1) No spirits may be sent out or delivered from a distillery unless accompanied by a permit.

(2) No spirits or compounds may be removed from any warehouse, legal quay, or other place where the same shall have been lodged prior to the payment of the duty thereon or on drawback, unless accompanied by a permit.

(3) All spirits or compounds found to have been sent out, delivered, or removed, or in course of being sent out,

delivered, or removed in contravention of this section, together with all animals, vehicles, vessels, or boats made use of in conveying the same, shall be forfeited.

(4) If any question arises as to the accuracy of the description of spirits or compounds in a permit, the proof that the spirits or compounds correspond to the description shall lie on the owner or claimant of the spirits or compounds, who shall prove the same by the oath of two credible witnesses, being skilful and experienced persons competent to decide by examination thereof.

57. (1) If any person—

(a) sends out, delivers, removes, or receives any spirits or compounds required to be accompanied by a permit without a permit, or

(b) sends out, delivers, removes, or receives any spirits or compounds differing in quantity, denomination, or strength from that expressed in the permit accompanying the same, or

(c) having obtained a permit, does not send out therewith the spirits or compounds therein described, or deliver the permit to the proper Officer within or at the time required by such permit, or

(d) requests, obtains, or uses any permit, or causes or suffers any permit to be requested, obtained, or used for any purpose other than that of accompanying the removal and delivery of the spirits or compounds therein described, or

(e) produces, or causes or suffers to be produced, to any person any permit as having been received with spirits or compounds other than those therein described, or

(f) fraudulently makes any entry, obliteration, alteration, cancellation or erasure in any permit, or knowingly uses any permit on which any entry, obliteration, alteration, cancellation, or erasure has been so made, or

(g) in any manner uses, or causes or suffers to be used, any permit so that any account of spirits or compounds kept or checked by an Officer may be frustrated or evaded,

he shall, in addition to any other penalty or forfeiture, incur a penalty of nine hundred and sixty dollars.

Penalty for
removal
without
permit.

(2) If any person licensed under any Excise Ordinance is convicted of an offence against this section, he shall forfeit his licence unless the Magistrate otherwise directs, and no new licence shall be granted to him for the remainder of the year for which such forfeited licence would have been in force.

Minimum quantities to be removed from distillery or warehouse.

58. A permit shall not be granted to a distiller for the removal from a distillery of a package containing less than twenty-four gallons of spirits manufactured in the Colony, and a permit shall not be granted for the removal from warehouse of a package containing less than twenty-four gallons of spirits or compounds manufactured in the Colony and intended for consumption in the Colony, or less than two gallons in one case, if in bottles packed in cases.

Separate permit for each package and mode of affixing permit.

59. For every package of spirits removed, delivered, or received from warehouse to the stock of any person licensed to sell spirits, a separate and distinct permit shall be granted, which permit shall, before the removal of such package, and during the time it is in transit between such warehouse and such licensed person's premises, be affixed to one of the ends of such package in such manner that the number and marks mentioned in such permit may be read and compared with the number and marks cut, painted, or branded on such package; and if any spirits shall be removed from any warehouse for the purpose of being received into the stock of any person licensed to sell spirits, or shall be received into the stock of any such person, without having such permit affixed to such package in the manner hereinbefore directed, such spirits shall be forfeited, and may be seized by any Officer, and every such licensed person so offending shall, for every such offence, incur a penalty of nine hundred and sixty dollars.

Magistrate may issue permit on emergency.

60. It shall be lawful for the Magistrate of any district, in case of the sickness or absence of any Officer, to grant a permit for the removal of any spirits for the purpose of being warehoused or shipped for exportation; and in every such case such permit shall be as good to all intents and purposes as if the same had been granted by such Officer.

Seller not to recover price of spirits removed without permit or certificate.

61. If any permit or certificate required by any Excise Ordinance for spirits or compounds shall not be sent and

delivered with such spirits or compounds unto the buyer thereof, the seller shall be rendered incapable of recovering from such buyer the value or price thereof, in any court of justice.

62. Every package in which any spirits shall be put up for removal from a distillery shall be marked and numbered on the outside and on the end thereof in letters or figures legibly cut, branded, or painted thereon, with the name of the distillery at which, or of the licensed distiller by whom, and with the year in which, such spirits shall have been made or distilled, and with the number of such package according to its order in the whole series of such packages for the year, beginning with the number one and proceeding therefrom in an ascending scale by regular arithmetical progression, the difference whereof shall in all cases be one, and with the quantity and strength of the spirits contained in, and also, if not a full package, with the full capacity of such package; and if any such spirits shall be removed from the distillery or other place wherein the same were made in any package of less capacity than twenty-four gallons, or in any package which shall not be so marked or numbered as hereinbefore directed, such spirits and the package containing the same shall be forfeited and may be seized by any Officer, and the person to whom the licence in respect of such distillery or other place shall have been granted shall, for every such offence, incur a penalty of nine hundred and sixty dollars, and any person in whose possession shall be found any package containing spirits, which package shall not be so marked and numbered, shall, for every such offence, incur a penalty of nine hundred and sixty dollars.

Packages from distillery to be numbered and marked.

63. Any spirits manufactured at any distillery in the Colony shall be removed to warehouse in like manner and under the same conditions as spirits removed from one warehouse to another.

Removal of spirits from distillery to warehouse.

64. Where the owner of any warehoused spirits or compounds shall be desirous of exporting the same from the Colony, it shall be lawful for the proper Officer, on the application of such owner, and on his giving such security by bond as the proper Officer shall require, and upon payment of the rent and any charges due thereon, to grant a permit for the removal and exportation of such spirits or compounds from the Colony,

Bond to be given for spirits cleared for exportation.

without payment of the duties imposed by this Ordinance, in packages of not less than twenty-four gallons content each, or in bottles packed in cases containing not less than two gallons in each case, or in packages of such smaller size as the Comptroller may in any particular circumstances prescribe, and such spirits or compounds shall thereupon be subject to the customs laws as if they were goods liable to duties of customs unpaid which had been warehoused under the customs laws: Provided that it shall be lawful for the Comptroller to permit the shipment of spirits or compounds as ships' stores, without payment of duty, in such quantities, and subject to such conditions as he shall think fit.

PART VII.

COMPOUNDS.

Prohibition of
compounding
without a
licence.
Ord. 30-1933,
s. 66.

65. (1) No person may, without being licensed to do so, or on any premises to which his licence does not extend, compound spirits for sale.

(2) If any person contravenes this section, he shall for each offence incur a penalty of nine hundred and sixty dollars, and all spirits, vessels, utensils, and materials for compounding spirits in his possession shall be forfeited.

By whom
licences
granted.
Ord. 30-1933,
s. 67 (1)-(3).

66. (1) Licences to compound spirits shall be granted by the Comptroller on payment of an annual licence duty of \$48, and the licence whenever granted shall expire on the 31st of December in each year.

(2) Licences may be granted for a proportional part of a year to persons who have not been licensed during the previous twelve months, upon payment of duty according to the quarter of the year in which the licence is issued.

(3) No licence to compound spirits shall authorise the making of compounds wherein the characteristic flavour of the original spirits is retained, and the Comptroller may, with the consent of the Governor, by notice in writing addressed to him revoke the licence of any compounder who in the opinion of the Comptroller shall have made any compound contrary to this subsection, and may refuse to issue any new licence to any such person.

67. (1) On the death of a compounder, the licence may be transferred by endorsement by the Comptroller to the compounder's personal representative, or to the person beneficially entitled to the business, or to the Administrator General or Public Trustee, or the appointee of the Administrator General or Public Trustee.

Transfer of
licence.
Ord. 30-1933,
s. 67 (4)-(7).

(2) On the *bonâ fide* assignment or transfer of a compounder's business the licence may, at the discretion of the Comptroller, be transferred.

(3) Before a licence is transferred in accordance with subsections (1) and (2), a fee of \$2.40 shall be paid.

(4) No penalty under this Ordinance shall be incurred by the executors or administrators of the widow or child of any compounder who dies before the expiration of his licence, or by the trustee of any person who is adjudged bankrupt, or whose affairs are liquidated by arrangement, before the expiration of his licence in respect of the compounding of spirits for sale, so that such compounding be done on the premises specified in such licence, and takes place for not longer than twenty-eight days after the death of the said licensed person, or the appointment of a trustee in the case of his bankruptcy or the liquidation of his affairs by arrangement: Provided that the Comptroller may, on reasonable cause being shown, extend the period of twenty-eight days aforesaid, by notification in writing.

68. Before a compounder receives or compounds any spirits, he shall make entry in writing, with the Officer for the district, of the premises and utensils he intends to use, stating to what particular purpose each is to be applied, and the number of gallons each vessel is capable of containing; and any person who commences or carries on the trade or business of a compounder without making such entry, or uses the premises or utensils for any purpose other than that described in the entry, shall incur a penalty of nine hundred and sixty dollars.

Entry of
premises.

An entry may at any time be withdrawn or varied, but two entries cannot be in force for the same premises at the same time.

69. Every compounder shall, in relation to the receipt of spirits into stock and removal therefrom, be subject to the

Receipt and
delivery of
spirits.

same law as a spirit dealer under the Liquor Licences Ordinance: Provided that where compounds are removed from the licensed premises of a compounder to a warehouse for deposit on drawback, the same procedure shall be followed as in the case of the removal of spirits from one warehouse to another.

Officer may take stock of compounder.

70. Any Officer may at any time enter and examine the licensed premises of a compounder, and take an account of the quantity and strength of the spirits and compounds in his stock; and if any person hinders or obstructs an Officer, in the discharge of his duty, from entering such premises, or examining or taking account of the stock therein, he shall incur a penalty of nine hundred and sixty dollars, and his licence may be revoked at the discretion of the Comptroller.

Compounds for exportation or ships' stores may be warehoused on drawback.

71. A compounder may, subject to the provisions of this Ordinance and such rules and regulations as may be prescribed by the Comptroller, deposit on drawback in a warehouse, for exportation or for ships' stores, compounds which have been made by him from spirits on which duty has been paid.

Drawback to be at the rate of excise duty paid on spirits.

72. Drawback at the rate of excise duty paid thereon shall be paid on the actual quantity of spirits at proof in the compounds warehoused, together with such an allowance thereon for loss in process of manufacture as the Governor in Council may from time to time in each case approve, and the strength of such spirits shall be deemed to be that ascertained by the Government Chemist.

Delivery tax.

73. In respect of every package containing compounds removed from warehouse, there shall be paid by the manufacturer to the Comptroller for the use of the Colony a tax at the rate of two cents for every two gallons or less quantity of compounds contained in each package: Provided that where any compounds are packed otherwise than in bottles packed in cases, the quantity of such compounds, for the purpose of calculating the delivery tax payable thereon, shall be taken to be the full capacity of the packages containing the same.

See sec 3
of Ordinance
36/1944

73A

PART VIII.

BAY RUM AND PERFUMED SPIRITS.

74. (1) Notwithstanding anything to the contrary elsewhere contained in this Ordinance, it shall be lawful for the Comptroller, by writing under his hand, and subject to such conditions as he may from time to time prescribe, to permit by notice in writing any person, on payment to the Comptroller for the use of the Colony of a fee of \$48 in respect of each calendar year, to manufacture bay rum and perfumed spirits only on premises to be specified in such notice, in accordance with the provisions of the four next succeeding sections. The Comptroller may also, in like manner, subject to the approval of the Governor, cancel any such permission without assigning any reason therefor.

Permit to manufacture bay rum and perfumed spirits.

Amended by Sec. 4 of 1943

(2) No premises licensed for any other purpose under any Excise Ordinance shall be used for the manufacture of bay rum or perfumed spirits under this section.

(3) + (4) added by S. 4 of Ord. 19-1943

75. In lieu of any other duty of excise, there shall be charged, collected, and paid for the use of the Colony, for and upon every gallon of spirits distilled in the Colony, and taken out of warehouse for use in the manufacture of bay rum or perfumed spirits under this Ordinance, of the strength of proof, as ascertained by Sikes's hydrometer, a duty of \$1.20, and so in proportion for any greater or less degree of strength, or any greater or less quantity: Provided that the person removing such spirits shall add to any such spirits, before the same are removed from warehouse, bay oil and/or any denaturant required by the Comptroller, in such proportions as the proper Officer shall require, and thereupon, after payment of duty, and upon the issue by the proper Officer of a permit, such person shall remove such spirits to the premises specified as aforesaid, there to complete the process of manufacture of the bay rum or perfumed spirits.

Excise duty on spirits used in manufacturing bay rum and perfumed spirits.

76. If any person to whom any spirits shall have been delivered for the manufacture of bay rum or perfumed spirits as herein provided, shall use such spirits, save for the manufacture of bay rum or perfumed spirits in accordance with the provisions of this Ordinance, and save with the knowledge and consent of the Comptroller or other proper Officer, or contrary

Offences and penalties.

to any conditions laid down under section 74, he shall incur a penalty of one thousand two hundred dollars, and all such spirits shall be forfeited, and may be seized by any Officer.

Drawback
when ware-
housed for
exportation.

77. Bay rum or perfumed spirits manufactured under this Ordinance may, subject to such conditions as the Comptroller may prescribe, be warehoused for exportation only, and it shall be lawful for the Comptroller thereupon to refund any duties paid upon spirits contained in any bay rum or perfumed spirits so warehoused. All such bay rum or perfumed spirits, upon being so warehoused, shall be subject to the customs laws as if they were goods liable to duties of customs unpaid which had been warehoused under the customs laws.

Standards of
quality.

78. No person shall sell, or keep or expose for sale, or attempt to sell, any bay rum or perfumed spirits, whether imported or manufactured in the Colony, unless such bay rum or perfumed spirits shall conform to such standards as the Governor in Council may from time to time prescribe. Any person who shall contravene the provisions of this section shall incur a penalty of two hundred and forty dollars.

See sec. 3
of Ord. 8/46

Part VIII A.

78A - 780 inclusive.

PART IX.

DUTY ON LOCAL SPIRITS.

Excise duty
on spirits.

79. Except as otherwise provided in this Ordinance, there shall be charged, collected and paid to the Comptroller for the use of the Colony, for and upon every gallon of spirits distilled in the Colony, of the strength of proof as ascertained by Sikes's hydrometer, a duty of \$3.12, and so in proportion for any part of a gallon and for any greater or less strength.

PART X.

METHYLATED SPIRITS.

Application.

80. Parts II, III, V, VI and VII of this Ordinance shall not apply to methylated spirits.

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

Exempt from excise duty.

82. (1) The following persons, and no others, are authorised to methylate,—

Persons authorised to methylate.

(a) licensed distillers, if so authorised by the Comptroller; and

(b) persons licensed by the Comptroller to methylate.

(2) Such persons are referred to in this Ordinance as “authorised methylators”: Provided that no person holding a licence to sell spirits by retail shall be licensed to methylate.

83. Every authorised methylator, unless he be a licensed distiller, shall take out an annual licence to carry on the business of a methylator of spirits, for which licence he shall pay the sum of \$48. Every such licence shall expire on the 31st of December next after the date on which such licence is issued.

Licence for authorised methylator.

84. The following persons, and no others, are authorised to supply methylated spirits, whether imported or made in the Colony,—

Persons authorised to supply methylated spirits.

(a) authorised methylators; and

(b) persons licensed by the Comptroller to retail methylated spirits, in this Ordinance called “retailers of methylated spirits”:

Provided that no person holding a licence to sell spirits by retail shall be licensed to sell by retail or supply methylated spirits.

85. Every such retailer of methylated spirits shall take out an annual licence to carry on the business of a retailer of methylated spirits, for which licence he shall pay the sum of \$9.60. Every such licence shall expire on the 31st of December next after the date on which such licence is issued.

Licence for retailer of methylated spirits.

86. (1) Spirits may be methylated in the following places, and no other,—

Where spirits may be methylated.

(a) any licensed distillery if approved by the Comptroller for that purpose; and

Pages 769-784 inclusive not bound in this volume.

and pages 721-736 inclusive, duplicated and inserted between pages 768-785

(b) any warehouse provided for the purpose by the Government.

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

Repealed +
applied Mode of
methylation.
by Sec. 4 of 2/46.

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

(2) The quantity of spirits used for methylation in the Colony at one time shall not be less than twenty-four gallons at a strength of not less than thirty-five per centum overproof.

(3) The substance mixed with spirits for the purpose of methylation in the Colony shall be wood naphtha or methylic alcohol in the proportion of not less than one-ninth of the bulk of the spirits, and/or some other substance approved by the Government Chemist.

(4) With respect to the removal of spirits and substances for methylation, and the time and mode of methylation, the regulations made under section 96 shall be observed, and the security required by such regulations shall be given.

Receipt and
supply of
methylated
spirits.

88. (1) An authorised methylator shall not supply, and no person shall import any methylated spirits, except in vessels containing not less than five gallons.

(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.

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

(4) Every retailer of methylated spirits, and every person authorised under section 92 by the Comptroller to receive methylated spirits from an authorised methylator or to import methylated spirits shall, on ordering or before entering the same, as the case may be, correctly fill up the prescribed form of requisition and counterfoil with the prescribed particulars.

33. No action shall be brought against the Government or any of its Officers for any loss or damage sustained by any excisable goods while in any warehouse or in course of being received into or delivered therefrom, or by any warehouse or any of its contents.

Government not liable for loss, etc., in warehouse.

34. Any goods warehoused under this Ordinance may be removed to any other warehouse or, with the written permission of the Comptroller, returned to the factory of the manufacturer thereof subject to the same regulations and provisions as govern the removal of excisable goods from a factory to a warehouse, so far as the same are or can be made applicable; and any excisable goods with the like permission may be removed in like manner and subject to the same conditions from one factory to another: Provided always that notwithstanding any such removal to a warehouse or factory, the manufacturer of any excisable goods so removed shall be and continue liable to pay the duty thereon when the same shall become due unless express provision is made by law to the contrary.

Removal to and from warehouse.

35. (1) The Comptroller may with the approval of the Governor revoke the appointment of any warehouse on giving to the warehouse keeper notice in writing of such revocation and any such notice addressed to the warehouse keeper at such warehouse shall be deemed to be notice to all persons interested in any excisable goods therein or any other contents of such warehouse.

Revocation of appointment of warehouse.

(2) If within three months from the date of any such notice any excisable goods in such warehouse shall not have been removed to another warehouse or returned to the factory of the manufacturer thereof or shipped as stores or exported or delivered for use within the Colony, the warehouse keeper shall forthwith pay to the Comptroller the duties thereon.

PART IV.

REMOVAL.

36. (1) For the purposes of this Part of this Ordinance any goods which shall have been put into or on to any ship or carriage shall be deemed to have been delivered and taken

Goods loaded deemed delivered.

out from any factory or warehouse unless the manufacturer shall satisfy the Comptroller or unless in any prosecution under this Ordinance the defendant shall prove that such goods were not put into or on to such ship or carriage with intent to deliver the same from such factory or warehouse.

(2) This Part of this Ordinance shall not affect any special provisions relating to the removal of excisable goods which are contained in any other Excise Ordinance.

Certificates.

37. (1) Except in accordance with any regulations made under an Excise Ordinance or except with the written permission of the Comptroller no excisable goods may be delivered from any factory or warehouse for any purpose whatsoever unless accompanied by a certificate in the prescribed form signed by the manufacturer or warehouse keeper and stating the quantity of goods delivered, the time and date of removal, the person to whom and the place where sent, the purpose for which delivered and such other particulars as may be prescribed nor unless a duplicate of such certificate is made on the counterfoil thereof; and every such duplicate shall be kept on the premises from which the goods shall have been delivered and shall be produced by the manufacturer or warehouse keeper, as the case may be, to any Officer on demand made at any time within one year of the date thereof.

(2) Where any excisable goods are by law permitted to be used in any factory or warehouse for any purpose whatsoever, the manufacturer or warehouse keeper, as the case may be, shall upon any such goods being taken at any time from stock to be so used make out a certificate for the same in duplicate in like manner as if such excisable goods had been delivered from the factory or warehouse; and the originals of such certificates shall be filed by the manufacturer or warehouse keeper and produced to any Officer on demand made within one year of the date thereof, and the duplicates dealt with as hereinbefore provided.

Offences in regard to certificates.

38. If any manufacturer or warehouse keeper shall deliver any excisable goods contrary to the preceding section or accompanied by an inaccurate certificate or without filling in the particulars on the counterfoil or shall not deliver the certificate along with the goods unto the person and at the place named

therein or shall not keep on his premises and produce the duplicate of any certificate to an Officer as aforesaid or shall contravene any of the provisions of subsection (2) of the preceding section he shall incur a penalty equal to treble the value of any goods in respect of which the offence is committed or four hundred and eighty dollars, whichever shall be the greater; and all goods delivered or used in contravention of this or the preceding section shall be forfeited.

39. Any person who shall take out any excisable goods required to be accompanied by a certificate from any factory or warehouse unless accompanied by a certificate as aforesaid or shall aid, assist, or be concerned therein shall incur a penalty of four hundred and eighty dollars; and any person who shall take out any excisable goods from any factory or warehouse without the knowledge and consent of the manufacturer or the warehouse keeper, as the case may be, shall incur a penalty of treble the value of such goods, or nine hundred and sixty dollars, whichever shall be the greater.

Illegal
removal.

40. (1) If any person shall receive any excisable goods required to be accompanied by a certificate without such certificate or shall not produce any certificate in respect of any such goods received by him and required to be accompanied by a certificate upon the demand of any Officer at any time within fourteen days of the date of receipt thereof or shall produce or cause or suffer to be produced to any person any certificate as having been received with any excisable goods other than the goods therein described or if any person whatsoever shall fraudulently make any entry, obliteration, alteration, cancellation or erasure in any certificate or shall knowingly use any certificate on which any entry, obliteration, alteration, cancellation or erasure has been so made, he shall incur a penalty of four hundred and eighty dollars.

Receiving
without
certificate.

(2) If any person shall knowingly buy or receive or have in his possession or under his control in any manner or in any place any excisable goods which shall have been unlawfully removed or abstracted from a factory or warehouse without the knowledge and consent of the manufacturer or of the warehouse keeper, as the case may be, he shall incur a penalty of treble the value of the goods or nine hundred and sixty dollars whichever shall be the greater.

PART V.

OBLIGATIONS OF MANUFACTURERS AND WAREHOUSE
KEEPERS.

Manufacturer
to obtain
permission of
Comptroller
to manu-
facture.

41. No person unless authorised by a licence issued by the Comptroller under an Excise Ordinance shall commence to manufacture any excisable goods without the written permission of the Comptroller; and every such permission shall expire on the 31st of December in each year.

Books to be
kept by
manufacturer
or warehouse
keeper.

42. (1) Every manufacturer and warehouse keeper shall keep at his factory and warehouse respectively in the approved form and manner such books and forms relating to the manufacture, storing and delivery of excisable goods as the Comptroller may direct, in which he shall make the approved entries at the approved times. Every such entry shall be made legibly in ink and no entry once made shall be altered in any manner; but any entry may be cancelled by drawing a single line in ink through the incorrect entry so as to allow the same to remain legible and a correcting entry may be made immediately above the entry so cancelled or in any other approved place.

(2) Such books shall be open at all times for the inspection of all Officers and the manufacturer or warehouse keeper shall allow any Officer to take any abstract therefrom at any time.

Offences in
regard to
books.

(3) If any manufacturer or warehouse keeper—

(a) fails to keep such books or to produce the same when required by any Officer to do so, or

(b) fails to make in such books legibly in ink at the approved times and in the approved manner any entry required to be made therein, or

(c) fraudulently or in any manner contrary to the requirements of this Ordinance makes any entry, obliteration, alteration or erasure in any such book,

he shall for every such offence incur a penalty of nine hundred and sixty dollars.

Manufacturer
to produce
books,
invoices, etc.

43. In addition to complying with the requirements of the two immediately preceding sections every manufacturer shall on the request of the Comptroller produce for the inspection

of the Comptroller such invoices and other books or documents in his possession relating to any excisable goods manufactured by him during the preceding twelve months as the Comptroller shall require and shall answer such questions regarding the description, manufacture, quantity, selling price, consignee, destination and any other matter relating to such goods as shall be put to him by the Comptroller and shall produce such evidence as the Comptroller may consider necessary in support of any information so furnished; and if such manufacturer shall neglect or refuse to carry out any of the provisions of this section or shall untruly answer any question put to him as aforesaid he shall incur a penalty of four hundred and eighty dollars.

44. Every manufacturer shall before commencing to manufacture and also at any later time on request therefor being made by the Comptroller deliver to the Comptroller in the approved form and manner such written description and plans of his factory and of every still, machine, apparatus, utensil or vessel contained therein as the Comptroller may require and no manufacturer shall use any new or substantially alter any existing still, machine, apparatus, utensil or vessel without delivering to the Comptroller at least two days' previous notice thereof in writing; and if any manufacturer shall not deliver such written description and plans to the Comptroller before commencing to manufacture or within one month of the date of any request made therefor by the Comptroller in writing and addressed to him at his factory or shall not give any such notice as aforesaid, he shall for every such neglect incur a penalty of ninety-six dollars together with a further penalty of five dollars for every day during which such neglect shall continue: Provided that this section shall not affect the special provisions relating to distillers which are contained in the Spirits and Spirit Compounds Ordinance.

Description of premises, etc., to be delivered to Comptroller.

45. (1) Every manufacturer or warehouse keeper shall keep in his factory or warehouse such reasonable and necessary instruments for measuring and testing any excisable goods and materials therefor and any packages, vats or utensils therein as the Comptroller shall require and shall permit any Officer to use the same for the purpose of measuring or taking an account of any excisable goods and materials therefor or of any package, vat or utensil in such factory or warehouse;

Instruments, etc., to be kept by manufacturer.

and if any manufacturer or warehouse keeper shall contravene the provisions of this section or shall use or cause or procure or suffer to be used any false, unjust or insufficient instrument or measure or shall practise or suffer to be practised any art, device or contrivance by which any Officer may be hindered or prevented from taking a just and true measure or account as aforesaid, he shall for every such offence incur a penalty of nine hundred and sixty dollars and all such false and unjust measures shall be forfeited.

Measuring
instruments.

(2) The Comptroller may require that an approved measuring instrument shall be fixed to any still or apparatus used for the production of any excisable spirit or oil in such manner that any spirit or oil produced shall run into and through such instrument.

Comptroller
may station
Officer
on licensed
premises.

46. It shall be lawful for the Comptroller to station any Officer in or upon any factory for the purpose of watching the process of manufacture therein and of enforcing compliance with the provisions of this Ordinance. And every manufacturer shall provide accommodation at or adjacent to his factory to the satisfaction of the Comptroller for such Officer and in default of so doing he shall incur a penalty of forty-eight dollars for every week or part of a week during which the default continues.

Assistance to
be afforded
to Officers.

47. If on demand of any Officer safe and convenient ladders shall not be provided and conveniently and firmly placed and of length sufficient to enable such Officer to ascend to and examine any vessel or utensil in any factory or warehouse or to gauge or ascertain the contents or capacity of any vessel or utensil therein or if any such ladder shall not be fixed at or in any part of such vessel or utensil where such Officer shall require or if sufficient lights and sufficient aid and assistance shall not be supplied on demand of any Officer for the purpose of his gauging or ascertaining the contents or capacity of any vessel or utensil or of searching for or gauging and taking an account of all excisable goods and materials therefor in any such factory or warehouse, as well by night as by day, the manufacturer or warehouse keeper in whose factory or warehouse such Officer shall not be assisted as aforesaid shall for each and every such offence incur a penalty of two hundred and forty dollars.

PART VI.

POWERS OF OFFICERS.

48. (1) Any Officer when on duty may patrol upon and pass freely along and over any part of the Colony and any such Officer so patrolling shall not be liable to any indictment, action or suit for so doing. Officer may patrol freely

(2) The Officer in charge of any ship employed for the protection of the excise revenue may haul any such ship upon any part of the coasts of the Colony or the shores, banks or beaches of any river, creek or inlet of the same which shall be deemed most convenient for that purpose and moor any such ship on such part of the aforesaid coasts, shores, banks or beaches above or below high-water mark and continue such ship so moored as aforesaid for such time as he shall deem necessary and proper; and such Officer shall not be liable to any indictment, action or suit for so doing.

49. It shall be lawful for any Officer at all times, by night or by day, to enter into any part of any factory or warehouse and to gauge, measure and take an account of every still or other vessel or utensil of any kind and of any excisable goods or materials therefor in such factory or warehouse and to take such samples of such goods or materials as he shall require; and if any Officer after having demanded admittance into any such factory or warehouse shall not be immediately admitted, the manufacturer or warehouse keeper, as the case may be, shall for every such offence incur a penalty of nine hundred and sixty dollars; and if such Officer shall not be immediately and without delay admitted as aforesaid, it shall be lawful for him or any person acting in his aid or assistance at all times, as well by night as by day, to break open by force any of the doors or windows or break through any of the walls of any part of such factory or warehouse as shall in his opinion be necessary to enter such factory or warehouse. Officer may enter factory.

50. Any Officer may during the daytime enter into any premises made use of by any person selling or offering for sale any excisable goods upon such premises and take an account of any excisable goods which shall be in the custody or possession of such person and take at any time samples of any such Officer may examine stock of vendor.

excisable goods, paying for the same the usual price thereof, if demanded; and if any person selling or offering for sale any excisable goods on any premises shall not with a sufficient number of his servants aid and assist to the utmost of his power such Officer in measuring and taking an account of all excisable goods in or upon such premises, he shall for every such offence incur a penalty of ninety-six dollars.

Officer may
search
house, etc.

51. If any Officer shall have reasonable cause to suspect that any goods on which the excise duties have not been paid or secured by certificate or otherwise as required by law are harboured, kept or concealed in any house, building, yard or other place in the Colony, it shall be lawful for such Officer without a warrant to enter and search such house, building, yard or other place, by day or by night, and to seize and carry away any such goods on which the excise duties have not been paid or secured by certificate or otherwise as required by law as may be found therein; and such Officer may arrest and detain any person in whose possession or under whose control any such goods shall be found and convey him before a Magistrate to be dealt with according to law; and it shall be lawful for such Officer and he is hereby authorised, in case of resistance, to break open any door and to force and remove any other impediment or obstruction to such entry, search or seizure as aforesaid.

Officer may
stop
carriage.

52. Any Officer may upon reasonable suspicion stop and examine any ship or carriage to ascertain whether any goods on which excise duties have not been paid or secured by certificate or otherwise as required by law are contained therein; and, if none shall be found, the Officer shall not on account of such stoppage and examination be liable to any prosecution or action at law on account thereof; and the master of any such ship and any person driving or conducting such carriage refusing to stop or allow such examination when required by any Officer shall incur a penalty of four hundred and eighty dollars; and if such Officer shall find any such goods or any goods which he shall reasonably suppose ought to be accompanied by a certificate and the master or person in charge of such ship or carriage shall not produce the same on demand, such Officer may seize such ship or carriage and its contents and may arrest and detain any person found in or upon or

accompanying such ship or carriage at the time of such stoppage and convey him before a Magistrate; and if such person shall fail to satisfy the Magistrate that such goods were legally in his custody or possession for removal he shall incur a penalty of treble the value of such goods or four hundred and eighty dollars, whichever shall be the greater, and such goods shall be forfeited.

53. If any person liable to arrest under any Excise Ordinance shall escape from any Officer attempting to arrest him or if any Officer is for any reason whatever unable or fails to arrest any such person, such person may afterwards be arrested and detained by any Officer at any place in the Colony within seven years from the time such offence was committed and dealt with as if he had been arrested at the time of committing such offence. Power of arrest.

PART VII.

OFFENCES.

54. Save as otherwise provided in the next succeeding section, any person who shall be convicted of any offence against any Excise Ordinance for which no specific penalty is provided shall incur a penalty of two hundred and forty dollars. General penalty.

55. Where any goods become liable to forfeiture under any Excise Ordinance, any person who shall be knowingly concerned in the act or omission which renders such goods liable to forfeiture shall be guilty of an offence, and shall incur the penalty provided by such Ordinance in respect of such offence or, where no such penalty is provided, shall incur a penalty equal to treble the value of such goods or four hundred and eighty dollars, whichever shall be the greater. Penalty where goods forfeited.

56. If any person shall in any matter relating to the excise revenue or under the control or management of the Comptroller make and subscribe or cause to be made and subscribed any false declaration or make or sign or cause to be made or signed any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular, or if any person shall make or sign any declaration Penalty for false declaration.

made for the consideration of the Comptroller on any application presented to him, the same being untrue in any particular, or if any person shall answer untruly any questions put to him by any Officer acting in the execution of his duty or if any person shall counterfeit, falsify or wilfully use when counterfeited or falsified any document required by any Excise Ordinance or by or under the directions of the Comptroller or any instrument used in the transaction of any business or matter relating to the excise revenue or shall alter any document or instrument after the same has been officially issued or counterfeit the seal, signature, initials or other mark of or used by any Officer for the verification of any such document or instrument or for the security of goods or any other purpose in the conduct of business relating to the excise revenue or under the control or management of the Comptroller or shall on any document or instrument required for the purposes of any Excise Ordinance counterfeit or imitate the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of such person, every person so offending shall incur a penalty of two thousand four hundred dollars.

Penalty for evading excise laws generally.

57. If any person with intent to defraud His Majesty of any duties due on any excisable goods shall knowingly harbour, keep or conceal or knowingly permit or suffer or cause or procure to be harboured, kept or concealed any such goods or with like intent shall knowingly acquire possession of or be in any way knowingly concerned in carrying, removing, depositing, concealing or in any manner dealing with any such goods or shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any excise duties or of the provisions of any Excise Ordinance, he shall for each such offence incur a penalty equal to treble the value of the goods or four hundred and eighty dollars, whichever shall be the greater; and all goods in respect of which any such offence shall be committed shall be forfeited.

Obstructing Officer.

58. If any person shall stave, break or destroy any goods to prevent seizure thereof by an Officer or other person authorised to seize the same or shall rescue or stave, break or destroy to prevent the securing thereof any goods seized by an Officer or other person authorised to seize the same

or rescue any person apprehended for any offence punishable under any Excise Ordinance or prevent the apprehension of any such person or obstruct any Officer in seizing any goods liable to forfeiture or otherwise acting in the execution of his duty or attempt or endeavour to commit or aid, abet or assist in the commission of any such offence, he shall for each such offence incur a penalty of four hundred and eighty dollars.

59. If any person, not being an Officer, shall take or assume the name, designation, appearance or character of an Officer for the purpose of thereby obtaining admission into any house or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority or for any other unlawful purpose, he shall in addition to any other punishment to which he may be liable for the offence be liable, on summary conviction, to be imprisoned for three months.

Personation
of Officer.

60. (1) No person shall make or cause to be made or aid or assist in making any signal in or on board or from any ship or on or from any place in the Colony or the waters thereof, or shall shout or use a telephone or other device for the purpose of giving warning to any person engaged in the commission of an offence against any Excise Ordinance or attempting to commit any such offence, whether any person be or not within distance to notice any such signal or take advantage of any other action as aforesaid; and if any person shall make or do or cause to be made or done or aid or assist in making or doing any such signal or act as aforesaid, he shall be liable, on summary conviction, to be imprisoned for twelve months.

Penalty for
signalling to
offender.

(2) If any person be charged with having made or done or caused to be made or done or with aiding or assisting in making or doing any such signal or act as aforesaid, the burden of proof that such signal or act so charged as having been made or done with intent and for the purpose of giving such warning as aforesaid was not made or done with such intent and for such purpose shall be upon the defendant against whom such charge is made.

(3) Any person whatsoever may prevent any signal or other warning being made as aforesaid and may go upon any lands for that purpose without being liable to any indictment, suit or action for the same.

Offering goods for sale under pretence that the duties are not paid.

61. If any person shall offer for sale any excisable goods under pretence that the duties due thereon have not been paid or that the same have not been legally made, all such goods (although not liable to any duties or although legally made) shall be forfeited.

Officer taking unauthorised fee, etc.

62. (1) If any Officer shall demand or accept any fee, perquisite or reward whether pecuniary or otherwise directly or indirectly from any person on account of anything done or to be done by him or omitted to be done by him in or in any way relating to his office or employment, except such as he shall receive with the approval of the Governor or Comptroller, such Officer so offending shall on proof thereof to the satisfaction of the Governor be dismissed from his office; and if any person shall give, offer or promise to give any such fee, perquisite or reward, such person shall for every such offence incur a penalty of four hundred and eighty dollars.

Collusive seizure, bribery, etc.

(2) If any Officer shall make any collusive seizure or deliver up or make any agreement to deliver up or not to seize anything liable to forfeiture or shall demand or take any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty or conspire or connive with any person for the purpose of seizing anything and obtaining any reward for such seizure or otherwise, every such Officer or other person and every person who shall give or offer or promise to give or procure to be given any bribe, recompense or reward to, or shall make any collusive agreement with any such Officer to induce him in any way to neglect his duty or to conceal or connive at any act whereby any provision of any Excise Ordinance may be evaded, shall incur a penalty of two thousand four hundred dollars.

PART VIII.

SEIZURES.

General provision as to forfeiture.

63. All ships and carriages together with all animals and things made use of in the removal or conveyance of any goods liable to forfeiture under any Excise Ordinance shall be forfeited; and all ships, goods and carriages together with all animals and things liable to forfeiture and all persons liable

to be detained for any offence under any Excise Ordinance shall or may be seized or detained in any place, either upon land or water, by any Officer; and all ships, goods and carriages together with all animals and things so seized shall forthwith be delivered into the care of the Comptroller; and the forfeiture of any ship, carriage, animal or thing shall be deemed to include the tackle, apparel and furniture thereof and the forfeiture of any goods shall be deemed to include the package in which the same are found and all the contents thereof.

64. (1) Whenever any seizure shall be made, unless in the possession of or in the presence of the offender or owner, as forfeited under any Excise Ordinance, the seizing Officer shall give notice in writing of such seizure and of the grounds thereof to the owner of the things seized, if known, either by delivering the same to him personally, or by letter addressed to him, and transmitted by post to or delivered at his place of abode or business, if known; and all seizures made under any Excise Ordinance shall be deemed and taken to be condemned and may be sold or otherwise disposed of in such manner as the Governor may direct unless the person from whom such seizure shall have been made or the owner thereof or some person authorised by him shall within one calendar month from the day of seizure give notice in writing of his claim to a Magistrate, who is hereby empowered to hear and determine such claim and for such purpose may require before him the attendance of all interested parties and their witnesses; but if any things so seized shall be of a perishable nature or consist of animals the same may by direction of the Comptroller be sold and the proceeds thereof retained to abide the result of any claim that may legally be made in respect thereof.

Procedure on seizure.

(2) Where any claim shall be made as aforesaid, the Magistrate may order delivery of the things seized on security being given for the payment to the Comptroller of the value thereof in case of condemnation.

65. All seizures whatsoever which shall have been made and condemned under any Excise Ordinance shall be disposed of in such manner as the Governor may direct.

Disposal of seizure.

66. (1) No claim or appearance shall be heard or permitted for the restoration of any animal, carriage, ship or goods seized

Claim to seized goods to be in name of owner.

for any cause of forfeiture in any court unless such claim or appearance be made by or in the real name of the owner or proprietor thereof, describing his place of residence and occupation; and if such claimant shall reside in the Colony, oath shall be made by him before the court that the said animal, carriage, ship or goods were his property at the time of seizure; but if such person shall reside outside of the Colony, then oath shall be made by his agent by whom such claim or appearance shall be entered that he has full authority from such claimant to make or enter the same and that to the best of his knowledge and belief the same were at the time of seizure the *bonâ fide* property of the claimant; and on failure of making such proof of ownership such animal, carriage, ship or goods shall be condemned as if no claim or appearance had been made; and if such animal, carriage, ship or goods shall at the time of the seizure thereof be the *bonâ fide* property of any number of proprietors exceeding five, it shall not be necessary for more than two of them to enter such claim or appearance on the part of themselves and their co-proprietors or to make such oath as aforesaid; and if any such animal, carriage, ship or goods shall at the time of seizure be the property of a company, such claim and appearance may be entered and oath made by the secretary or a director of such company.

(2) For the purposes of this section a company means a limited company registered in the Colony under the provisions of the Companies Ordinance but does not include any company or association of persons calling themselves a company not so registered.

PART IX.

LEGAL PROCEEDINGS.

Recovery of penalties.

67. (1) Subject to the express provisions of any Excise Ordinance, any offences under any such Ordinance may be prosecuted and any penalty or forfeiture imposed thereby may be sued for, prosecuted and recovered summarily and all rents, charges, expenses and duties and all other sums of money whatsoever payable under any Excise Ordinance may be recovered and enforced summarily in the manner provided by the Summary Courts Ordinance, on the complaint of any Officer.

(2) Any action, information or other proceeding under any Excise Ordinance in the Supreme Court shall be tried without a jury.

(3) Proceedings under any Excise Ordinance may be commenced at any time within seven years after the date of the offence.

(4) Where any court has imposed a penalty for any offence against any Excise Ordinance and such penalty is not paid, the court may order the defendant who is convicted of such offence, in default of payment of the penalty adjudged to be paid, to be imprisoned for six months where the penalty does not exceed four hundred and eighty dollars or for twelve months where the penalty exceeds four hundred and eighty dollars: Provided that where a penalty of four hundred and eighty dollars or upwards has been incurred under any Excise Ordinance and the defendant has previously been convicted for an offence against any Ordinance relating to the revenues of customs or excise or has previously incurred a pecuniary penalty or forfeiture under any Ordinance relating to the revenues of customs or excise which has been enforced in any court, the court may, if it thinks fit, in lieu of ordering payment of a pecuniary penalty, order the defendant to be imprisoned for twelve months.

(5) The fact that any duties have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any proceedings under any Excise Ordinance.

(6) Every offence under any Excise Ordinance shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which it actually was committed or arose or in any place on land where the offender or person prosecuted may be or be brought.

(7) Any Officer may prosecute and conduct any information or other proceeding under any Excise Ordinance in respect of any offence or penalty.

68. In case any information or suit shall be commenced or brought to trial on account of the seizure of any animal, carriage, ship or goods or pursuant to any act done by any Officer in the execution or intended execution of his duty under any Excise Ordinance and such information or suit be dismissed

Certificate of probable cause of seizure or act of Officer.

and it shall appear to the court before whom the same shall have been tried that there was probable cause for such seizure or act, the Judge or Magistrate, as the case may be, shall certify on the record that there was such probable cause and in such case the person who made such seizure or performed such act shall not be liable to any action, indictment or other suit or prosecution on account of such seizure or act; and a copy of such certificate verified by the signature of the officer of the court shall at the request of the Officer concerned be given to him and the same shall for all purposes be sufficient evidence of such certificate; and in case any action, indictment or other suit or prosecution shall be commenced and brought to trial against any person on account of any seizure or act as aforesaid (whether any information be brought to trial in respect of the same or not or having been brought to trial the Judge or Magistrate shall not have certified that there was a probable cause for such seizure or act), wherein a verdict shall be given against the defendant, if the court shall be satisfied that there was probable cause for such seizure or act, then the plaintiff shall recover any things seized or the value thereof without costs of suit but no conviction shall be recorded against the defendant.

PART X.

PROOFS IN PROCEEDINGS.

Onus of proof
on defendant
in certain
cases.

Ord. 15-1937,
s. 3.

69. (1) In any proceeding under any Excise Ordinance the proof that the proper duties have been paid in respect of any excisable goods or that any such goods have been lawfully made, imported, removed, delivered or exported or concerning the place whence any goods shall have been brought, or that any goods have been illegally seized shall lie on the defendant or the person claiming anything seized.

(2) The averment that any goods were or are of a stated weight, measure or strength or that any goods stayed or destroyed to prevent seizure shall be deemed sufficient unless the defendant in any such case shall prove the contrary.

Evidence of
Officers.

70. If upon any trial a question shall arise whether any person is an Officer, his own evidence thereof shall be deemed sufficient and every such Officer shall be deemed a competent

witness upon the trial of any suit or information on account of any seizure or penalty notwithstanding such Officer may be entitled to any reward upon the conviction of the party charged in such suit or information.

71. (1) In all cases where any penalty or forfeiture the amount of which is to be determined by the value of any goods is incurred under any Excise Ordinance, such value shall mean the value of such goods duty-paid and shall be determined by order of the Comptroller in every case, subject to appeal to the Governor; and no goods shall be deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with the same by any person offending or endeavouring to offend against any Excise Ordinance.

Comptroller
to certify
value.

(2) The order of the Comptroller as to the value shall be conclusive, subject to appeal to the Governor, and shall not be liable to be questioned in any court.

72. In any proceedings under any Excise Ordinance the production of a certificate purporting to be signed by the Government Chemist shall be sufficient evidence of all the matters therein stated unless the contrary be proved.

Chemist's
certificate
sufficient
evidence.

73. A copy of any entry in any book or document required to be kept under the provisions of any Excise Ordinance shall, if purporting to be certified under the hand of the Comptroller as a true copy, be received in all courts as *primâ facie* evidence of such entry and of the matters, transactions and accounts therein recorded; and certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs and Excise in the United Kingdom or of any Comptroller of colonial revenue in any British possession or of any British Consul or Vice-Consul in a foreign country shall be received as *primâ facie* evidence of the matters therein contained.

Admissibility
of copies of
documents.

74. If upon the trial of any issue touching any seizure, penalty or forfeiture or other proceedings under any Excise Ordinance or incident thereto it may be necessary to give proof of any order issued by the Governor, Comptroller or any person in the employment of the Government, the order or

Proof of
order of
Governor, etc.

any letter or instructions referring thereto shall be admitted and taken as sufficient evidence of such order if any such document purports to be signed by any such functionary or shall appear to have been officially printed or issued unless the contrary be proved.

Certificate of
condemna-
tion.

75. Condemnation by any court under any Excise Ordinance may be proved in any court or before any competent tribunal by the production of a certificate of such condemnation purporting to be signed by the officer of such court.

PART XI.

SUPPLEMENTARY.

Regulations.

76. The Governor in Council may make regulations for the better carrying out of the provisions of any Excise Ordinance and may in such regulations prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

Forms.

77. The Comptroller may from time to time prescribe forms required to be used for the purposes of any Excise Ordinance.

Removal and
delivery in
special
circum-
stances.

78. The Comptroller may in any special circumstances permit the removal and delivery of goods in such form and manner as he may direct to meet the exigencies of any case to which any Excise Ordinance may not be conveniently applicable.

(Section 25.)

SCHEDULE.

FORM OF WARRANT OF DISTRESS.

To

I, _____, Comptroller of Customs and Excise by virtue of the powers vested in me by section 25 of the Excise (General Provisions) Ordinance do hereby authorise you to collect and recover the sum of _____ due for excise duty from _____, manufacturer, having his factory at _____; and for the recovery thereof I further authorise that you, with the aid (if necessary) of your assistants and calling to your assistance any constable (if necessary), which assistance they are hereby required to give, do forthwith levy by distress the said sum together with the costs and charges of and incident to the taking and keeping of such distress, on the goods chattels or other distrainable things of the said manufacturer wherever the same may be found and on all machinery, plant, tools, ships, vehicles, animals, goods and effects used within the Colony in the manufacture, sale or distribution of excisable goods which you may find in any premises or on any lands in the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

Given under my hand at _____ this _____ day of _____, 19 _____.

Comptroller of Customs and Excise.