

Amended by Ord 19/48
" " " 21/49

CHAPTER 32. No. 8.

EXCISE (GENERAL PROVISIONS).

AN ORDINANCE RELATING TO THE EXCISE REVENUES.

Ordinances
No. 43—1934.
„ 15—1937.

[1st January, 1935.]

Commencement.

1. This Ordinance may be cited as the Excise (General Provisions) Ordinance. Short title.

PART I.

PRELIMINARY.

2. This Ordinance shall be construed as one with all other Excise Ordinances: Provided that nothing in this Ordinance shall be deemed to repeal any provision of any other Excise Ordinance unless specifically stated herein. Construction.

3. In this Ordinance—

“ approved ” means approved by the Comptroller;

“ carriage ” includes every description of conveyance for the transport by land of human beings or property;

“ Comptroller ” means the Comptroller of Customs and Excise;

“ drawback ” means a refund of all or part of any excise duty authorised by law in respect of goods exported or used in any particular manner;

“ excisable goods ” means goods of a description liable to excise duty if delivered for consumption in the Colony;

“ excise duty ” includes any duty other than an export duty of customs imposed on any articles manufactured in the Colony;

Interpreta-
tion.
Ord. 15—1937,
s. 2.

“Excise Ordinance” means the Brewery Ordinance, the Copra Products Control Ordinance, the Spirits and Spirit Compounds Ordinance, the Liquor Licences Ordinance, and any other Ordinance, regulation, order or resolution having the force of law relating to excisable goods;

“factory” means any premises or place used for the manufacture of excisable goods;

“I.P.T. Test K.7” and “I.P.T. Test G.3” mean the standard methods of test of the Serial Designations K.7 and G.3 respectively adopted by the Institution of Petroleum Technologists and published by such Institution in the 3rd Edition (1935) of the publication “Standard Methods for Testing Petroleum and its Products”;

“manufacturer” means any person who shall by any means make or produce or cause to be made or produced any excisable goods; and “manufacture” shall have a corresponding meaning;

“materials” includes any materials from which excisable goods are capable of being manufactured and any residue from any process of manufacture;

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

“other petroleum products” means derivatives of crude oil, whether manufactured by refining or otherwise, which have a distillation end point exceeding 330° Centigrade by I.P.T. Test G.3 and of which less than ten per centum by volume distils at a temperature not exceeding 200° Centigrade by I.P.T. Test G.3 and also any blended product which from its nature the ~~Inspector of Mines and~~ Petroleum Technologist is satisfied is unsuitable for use as a petroleum spirit or petroleum oil;

“petroleum oil” means a derivative of crude oil, whether manufactured by refining or otherwise, which having a flashpoint of 95° Fahrenheit or more by I.P.T. Test K.7 either has a distillation end point not exceeding 330° Centigrade by I.P.T. Test G.3 or of which ten per centum by volume or more distils at a temperature not exceeding 200° Centigrade by I.P.T. Test G.3 and also any petroleum product of a description to which the definitions “petroleum spirit” and “other petroleum products” do not apply;

Omitted (19/48)

“petroleum spirit” means a derivative of crude oil, whether manufactured by refining or otherwise, which has a flashpoint below 95° Fahrenheit by I.P.T. Test K.7 and includes casing head petroleum spirit;

“ship” includes any ship, boat, lighter or other floating craft of any description, and any aircraft;

“warehouse” means any place appointed by the Comptroller to be a warehouse for the security of any excisable goods and of the duty thereon;

“warehouse keeper” means the owner or occupier of a warehouse.

4. Every act, matter or thing required by any Excise Ordinance to be done or performed by, with, to or before the Comptroller if done or performed by, with, to or before any Officer appointed by the Comptroller for such purpose shall be deemed to be done or performed by, with, to or before the Comptroller; and every person employed on any duty or service relating to the excise revenue by the orders or with the concurrence of the Comptroller (whether previously or subsequently expressed) shall be deemed to be the Officer for that duty or service; and every act required by law at any time to be done by, with, to or before any particular Officer nominated for such purpose if done by, with, to or before any person appointed by the Comptroller to act for such particular Officer shall be deemed to be done by, with, to or before such particular Officer; and every act required by law to be done at any particular place if done at any place appointed by the Comptroller for such purpose shall be deemed to be done at the particular place so required by law.

What shall be deemed acts of Comptroller, etc.

5. 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 and all members of the Police Force shall have the same powers, authorities and privileges as are given by law to Officers; and the expression “Officer” where used in any Excise Ordinance shall extend to and include all members of the Police Force.

Officers to have powers of constables.

6. (1) Whenever any person shall make application to any Officer to transact any business relating to the excise revenue

Authority to be produced by person acting for another.

on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such application is made and in default of the production of such authority may refuse to transact such business; and any document required by any Excise Ordinance to be signed by any particular person if signed by any person authorised as aforesaid on behalf of the person required to sign the same shall be deemed for all purposes to be signed by the person required to sign the same: Provided that the Comptroller may in his discretion refuse to allow any such application as aforesaid.

(2) Where any document or declaration is required by any Excise Ordinance to be signed in the presence of the Comptroller or any particular Officer, if such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Comptroller or the Officer who receives the same, then in such case such document or declaration shall be as valid as if it had been signed in the presence of the Comptroller or the Officer in whose presence it is required to be signed.

Goods to be handled, etc., by owner.

7. (1) The removal and shipment of excisable goods and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until delivered or shipped shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile or otherwise prepare any such goods in such manner as the Officer shall require to enable him to examine or take account of the same.

Samples for owner.

(2) The Comptroller may direct what excisable goods may be bulked, sorted, lotted, packed and repacked in a factory or warehouse and the manner thereof, and direct in what manner and subject to what conditions the owner of any such goods may take samples thereof.

Rewards.

8. The Comptroller may with the approval of the Governor reward any person who informs him of any offence against any Excise Ordinance or assists in the recovery of any fine or penalty.

9. The Comptroller may with the approval of the Governor mitigate or remit any penalty or forfeiture incurred under any Excise Ordinance; and the Governor may give general directions to the Comptroller for the purposes of this section: Provided that nothing in this section shall affect any right conferred by any Excise Ordinance on any person to claim in the case of a forfeiture or to commence or require the commencement of legal proceedings, unless such mitigated penalty shall already have been paid.

Comptroller may mitigate penalty.

10. When any seizure shall have been made or any fine or penalty incurred or inflicted or any person committed to prison for any offence against any Excise Ordinance, the Governor may direct restoration of such seizure (whether condemnation shall have taken place or not) or waive proceedings or mitigate or remit such fine or penalty or release such person from confinement either before or after conviction on any terms and conditions, as he shall see fit.

Governor may restore seizures, etc.

11. All bonds and other securities entered into by any person or persons for the performance of any condition, order or matter relative to the excise revenue or incident thereto shall be valid in law and upon breach of any of the conditions thereof may be sued and proceeded upon; and all bonds relating to the excise revenue or for the performance of any condition or matter incident thereto shall be taken to or for the use of His Majesty; and all such bonds (except such as are given for securing the due shipment as stores or exportation of warehoused goods or payment of duty on such goods) may after the expiration of three years from the date thereof or from the time (if any) limited therein for the performance of the condition thereof be cancelled by or by the order of the Comptroller; and all bonds given under the provisions of any Excise Ordinance by persons under twenty-one years of age shall be valid; and it shall not be necessary for the validity of any of such bonds or securities that they shall be sealed or that they shall be signed or delivered in the presence of a witness or that they shall be prepared by a barrister or certificated conveyancer or that they shall be delivered as a specialty.

All bonds and securities entered into, valid.

12. (1) Without prejudice to any rights of a surety under any bond required by any Excise Ordinance against the person

Surety to be deemed a principal debtor.

for whom he is surety, a surety shall under the bond executed by him be deemed a principal debtor and not merely a surety and accordingly shall not be discharged nor shall his liability be affected by any giving of time for payment or by any omission to enforce the bond or by any other act or omission or means whereby the liability of the surety would not have been discharged if he had been a principal debtor.

(2) Whenever any person bound under a bond required by any Excise Ordinance pays the whole or any part of the sum for which he is bound or, being a surety—

(a) dies; or

(b) becomes a bankrupt or enters into any arrangement or composition with or for the benefit of his creditors; or

(c) departs from the Colony without leaving sufficient property therein to satisfy the whole amount for which he is bound; or

(d) for any other reason is in the opinion of the Comptroller unable or likely to be unable to satisfy the bond if called upon,

the Comptroller may if he thinks fit require a new bond to be executed in the same amount as the original bond.

PART II.

DUTIES AND DRAWBACKS.

Imposition
and variation
of duties.

13. (1) It shall be lawful for the Legislative Council from time to time by resolution to impose excise duties and to revoke, reduce, increase or alter any such duties and to provide for exemptions therefrom: Provided that all excise duties in force at the commencement of this Ordinance shall continue in force until revoked, reduced, increased or altered, by resolution under this section.

(2) It shall be lawful for the Governor in Council by order to impose any new excise duty or to increase any excise duty and from the date of publication of such order in the *Royal Gazette* and until the expiry of such order the duties specified in such order shall be payable in lieu of the duties payable prior thereto: Provided that every order issued under this subsection shall after four days and within twenty-one

days from the date of its first publication be submitted to the Legislative Council and the Legislative Council may by resolution confirm, amend or revoke such order and upon publication of the resolution of the Legislative Council in the *Royal Gazette* the resolution shall have effect and the order shall then expire. If the order be not submitted within such period of twenty-one days to the Legislative Council for confirmation it shall *ipso facto* expire. So much of the duties as shall have been paid under the order as may be in excess of the duties payable immediately after the expiry thereof shall be repaid to the persons who paid the same.

(3) It shall be lawful for the Governor in Council upon application to remit or refund in whole or in part any excise duty whenever he shall deem it expedient so to do.

14. Where any obligation has been incurred for the payment of any excise duty, such obligation shall be deemed to be an obligation to pay all duties which may become legally payable or which are made payable or recoverable under any Excise Ordinance and to pay the same as the same become payable.

Effect of obligation to pay duty.

15. All goods made or deposited in any factory or warehouse without payment of duty shall upon being delivered therefrom for consumption in the Colony or upon being used in such factory or warehouse be subject to the rate of duty in force at the time when the same are delivered or used as aforesaid save in any case where special provision shall otherwise be made by law.

Duty to be paid at rate in force on delivery.

16. If any dispute shall arise as to the proper rate or amount of any excise duty or drawback payable or allowable on any goods, the owner of such goods shall deposit in the hands of the Comptroller the duty demanded of him or receive from the Comptroller the drawback allowed by him (as the case may be) and the amount so paid or allowed shall be deemed and taken to be the proper duty or drawback unless the Governor in Council upon application by the owner of such goods within three months after such deposit or receipt shall otherwise decide; and any decision made under this section by the Governor in Council shall be conclusive.

Disputes as to duty payable.

Duty to be proportionate to quantity, etc.

17. All duties, rates, charges and drawbacks imposed or allowed by any Excise Ordinance according to any specified weight, measure or strength or any specified value or any particular description of package shall be deemed to apply in the same proportion to any greater or less weight, measure, strength or value or any other description of package and shall be paid and received in any currency being legal tender in the Colony and according to imperial weights and measures.

Goods used contrary to purpose for which delivered.

18. (1) If any goods which are ordinarily liable to duty at a given rate are allowed by law to be delivered at a lower rate of duty or free of duty on any special conditions or for use for some special purpose or because they are the property of or intended for use by some particular person or functionary and if such conditions are not observed or the goods are at any time within three years of the date of delivery thereof used for any other than the specified purpose or, being delivered as aforesaid because they are the property of or intended for use by some particular person or functionary, are sold or transferred to any other person, such goods shall be forfeited and the person obtaining delivery of the same and any person who shall be knowingly concerned in the use of such goods contrary to such conditions or for some purpose other than that specified or in anyway contrary to this section shall for each such offence each incur a penalty equal to treble the value of such goods or four hundred and eighty dollars, whichever shall be the greater, unless full duties on such goods shall have been paid with the prior consent of the Comptroller.

(2) The person to whom any such goods shall have been delivered shall on demand produce them to any Officer or otherwise account for them to the satisfaction of the Comptroller within such period of three years aforesaid and if he shall fail to produce such goods or otherwise account for the same as aforesaid he shall incur a penalty equal to treble the value of such goods or four hundred and eighty dollars, whichever shall be the greater.

(3) This section shall not apply to goods delivered for the use of the Government and sold or transferred by Government order.

Contract prices of goods may be adjusted to meet change in excise duty.

19. (1) Where any new excise duty is imposed or where any excise duty is increased and any goods in respect of which

the duty is payable are delivered on or after the day on which the new or increased duty takes effect in pursuance of a contract made before that day, the seller of the goods may in the absence of agreement to the contrary recover as an addition to the contract price a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any excise duty is repealed or decreased and any goods affected by the duty are delivered on or after the day on which the duty ceases or the decrease in the duty takes effect in pursuance of a contract made before that day, the purchaser of the goods, in the absence of agreement to the contrary may if the seller of the goods has had in respect of those goods the benefit of the repeal or decrease of the duty deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.

(3) Where any addition to or deduction from the contract price may be made under this section on account of any new, increased, repealed or reduced duty, such sum as may be agreed upon or in default of agreement determined by the Comptroller as representing in the case of a new or increased duty any new expenses incurred and in the case of a repealed or reduced duty any expenses saved may be included in the addition to or deduction from the contract price and may be recovered or deducted accordingly.

20. It shall be lawful for the Governor in Council from time to time to direct on what goods a drawback of the whole or any part of any excise duties paid may be granted and the conditions under which such drawback shall be allowed: Provided that all drawbacks of duties of excise allowable under any former Ordinance shall be allowed under this Ordinance until cancelled by direction of the Governor in Council under this section.

Governor in Council may direct granting of drawbacks.

21. (1) Every sum of money which shall be due upon any debenture, certificate or other instrument for the payment of money out of the duties of excise shall be paid by the Treasurer on the proper debenture certified by the Comptroller: Provided that the owner of any goods entitled to drawback shall make and subscribe a declaration on the debenture that

Certification of debenture.

the conditions under which drawback is allowed have been fulfilled and that such owner at the time of delivery or using of such goods was and continues to be entitled to the drawback thereon and, in the case of goods exported, that such goods have been actually exported and have not been re-landed and are not intended to be re-landed in the Colony: Provided further that the Comptroller may require the owner to produce satisfactory evidence of the landing or disposal of any such goods exported before certifying any such debenture: Provided also that no debenture for any drawback shall be paid after the expiration of one year from the date of entry or use of any goods for drawback or, in the case of goods exported, from the date of shipment thereof.

Refund of duties paid in error.

(2) The Treasurer shall return any money which shall have been overpaid as duties of excise at any time within two years after such overpayment on the proper document for such overpayment being certified by the Comptroller.

No duty payable on goods exported, shipped as stores, etc.

22. (1) No excise duty shall be payable on any goods manufactured in the Colony and shipped as stores or exported by the manufacturer thereof: Provided that no goods shall be deemed to have been shipped as stores or exported unless the same shall have been shipped as stores or exported in accordance with the provisions of the customs laws and within seven days or such further period as the Comptroller may by notice in writing allow of the date of delivery thereof from a factory or warehouse.

Exemptions from duty; Petroleum used on works, etc.

(19/1948)
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and 21/49

(2) No excise duty shall be paid on any petroleum spirit or petroleum oil—

(a) which in the opinion of the ^{Petroleum Technologist} ~~Inspector of Mines~~ is used by the manufacturer thereof or is used by any allied company or companies for the usual and customary purposes of his or their works and borings; or

(b) which is manufactured and delivered in the Colony for the use of His Majesty's Naval or Air Forces: Provided that in respect of each such delivery a certificate signed by the officer for the time being in command of such Forces in the Colony is produced to the Comptroller to the effect that such petroleum spirit or petroleum oil is for the use of His Majesty's Naval or Air Forces.

(3) "Allied company or companies" means any company or companies which, in the opinion of the ~~Inspector of Mines~~, forms or form, in combination with a manufacturing company, a group of companies which are substantially worked and controlled together.

Pet. Technologist
Deleted by
10/2/19
Pet. Dept.

(4) The opinion of the ~~Inspector of Mines~~ expressed by writing under his hand in respect of any of the matters so referred to him as aforesaid shall be final and conclusive.

23. If any goods liable to excise duty shall be lost or destroyed before the same shall have been delivered from a factory or warehouse or in removing the same from such factory or warehouse or in shipping the same for exportation or for use as stores or in the course of delivery from or receiving into any factory or warehouse, the Comptroller if satisfied that the same have not been and will not be used or consumed in the Colony may remit any duties due thereon; and if any manufacturer shall desire to destroy any goods liable to excise duty before the same shall have been delivered from his factory or from a warehouse, the same may be destroyed subject to any directions in that respect which may be given by the Comptroller and upon their destruction in accordance with such directions the duty thereon shall be remitted.

Duty on goods lost may be remitted.

24. (1) Save and except in the case of goods delivered for shipment as stores or exportation and duly shipped and of goods permitted to be used free of duty and duly so used in accordance with the provisions of any Excise Ordinance, the excise duty on any goods shall become due and payable to the Comptroller by the manufacturer of such goods before the same are delivered from the factory of the manufacturer or from a warehouse, if the same are goods permitted by the Comptroller to be warehoused without payment of duties thereon, or before any such goods are used by the manufacturer in his factory or in a warehouse for any purpose, or otherwise as specially provided by law: Provided that the Comptroller may upon the manufacturer giving such security by bond or otherwise as he may require defer the payment of duty upon such terms as he may allow: Provided also that in such case all duties which shall have become due within any month or any other period that may be prescribed shall be paid to the Comptroller within

When duty payable.

ten days of the last day of such month or other prescribed period.

(2) Save and except in cases where other provision is made by law for periodical returns by manufacturers, every manufacturer shall within ten days of the close of each month or any other period that may be prescribed deliver to the Comptroller in the approved form an account of all materials in or received into his factory, of all excisable goods manufactured, delivered, used, removed to or from another factory or to or from a warehouse, lost by evaporation, leakage or other cause or otherwise disposed of and of any duties which shall have become due or shall have been paid during that month or other prescribed period on any goods manufactured by him and shall subscribe a declaration at the foot of such account that all the particulars contained therein are true.

**Comptroller
may distrain
for duties.**

25. (1) Where any excise duty remains unpaid after the time within which the same is payable, the Comptroller may authorise the levying of a distress—

(a) upon the goods, chattels and effects of the manufacturer of the goods in respect of which the duty remains unpaid; and

(b) upon all machinery, plant, tools, ships, vehicles, animals, goods and effects used within the Colony in the manufacture, sale or distribution of excisable goods found in any premises or on any lands in the use or possession of such manufacturer or of any person on his behalf or in trust for him.

Schedule.

(2) The authority to distrain under this section may be according to the form contained in the Schedule hereto and such authority shall be a warrant and authority to levy by distress the amount of any duties due.

(3) For the purpose of levying any distress under this section any person expressly authorised by writing under the hand of the Comptroller may execute any warrant of distress and if necessary break open any building or place in the daytime for the purpose of levying such distress and he may call to his assistance any constable and it shall be the duty of any constable when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

(4) The distress so taken may at the cost of the owner thereof be kept for fourteen days, at the end of which time, if the amount due in respect of duty and the cost and charges of and incident to the distress are not paid, the same may be sold.

(5) Out of the proceeds of the sale there shall in the first place be paid the cost or charges of and incident to the sale and keeping of the distress and in the next place the amount due in respect of duties and the residue (if any) shall be payable on demand to the owner of the things distrained upon.

(6) In exercise of the powers of distress herein conferred it is hereby declared that it shall be lawful for the person to whom authority as aforesaid is given to distrain upon all goods, chattels and effects belonging to the manufacturer wherever the same may be found and although the same may be elsewhere and not upon any premises in his occupation or use.

26. Notwithstanding the provisions of the last preceding section, if any excise duty payable by a manufacturer shall remain unpaid after the time within which it is payable, the Governor may by notice in writing addressed to the manufacturer and delivered at his licensed premises revoke any licence or other permission to manufacture given by law to such manufacturer and thereupon if such manufacturer shall continue to manufacture any excisable goods he and every person aiding and assisting him in manufacturing the same shall be liable, on summary conviction, to imprisonment for twelve months.

Governor
may revoke
licence or
permission to
manufacture.

27. (1) If any manufacturer or warehouse keeper shall not produce to any Officer on his request any excisable goods manufactured or warehoused by him and not delivered or used in accordance with the provisions of any Excise Ordinance he shall immediately pay to the Comptroller the duties due on such goods not so produced, save and except in respect of any deficiency thereof which is shown to the satisfaction of the Comptroller to be due to evaporation, accidental leakage or other unavoidable cause; and in addition to paying the duties on such goods not produced as aforesaid the manufacturer or warehouse keeper, as the case may be, shall incur a penalty of treble the value of such goods or four hundred and eighty dollars, whichever shall be the greater.

Deficiency
in stock.

Excess in
stock.

(2) If at any time the quantity of excisable goods found in any factory or warehouse shall be greater than the quantity which ought according to the books of the manufacturer or warehouse keeper to be therein, all such quantity in excess shall be forfeited and the manufacturer or warehouse keeper, as the case may be, shall incur a penalty equal to the value of the goods so found in excess, unless he shall explain the same to the satisfaction of the Comptroller.

Saving as to
s. 27.

28. The preceding section shall not affect any special provisions relating to deficiencies and excesses in stock contained in any other Excise Ordinance.

PART III.

WAREHOUSES.

Bond may be
required of
warehouse
keeper.

29. The Comptroller may require any warehouse keeper to enter into a bond for the security of the duties on any goods that may at any time be warehoused in his warehouse.

Duty not
payable on
goods
warehoused.

30. Subject to the provisions of any Excise Ordinance or any regulations made thereunder, it shall be lawful for the Comptroller to permit any manufacturer to remove excisable goods from his factory to a warehouse and no duty shall be payable on any such goods while in any such warehouse, save in such cases where a contrary provision shall be made by law.

Further
conditions.

31. All excisable goods while in any warehouse shall be subject to such regulations and to the payment by the warehouse keeper to the Comptroller at the prescribed times of such fees and charges for the supervision thereof and taking account of the same as may be prescribed in the regulations.

Restrictions
on removal.

32. If any excisable goods shall be removed to a warehouse otherwise than in accordance with any such regulations as aforesaid or save by such ways, means and persons or at such times and within such hours as the Comptroller shall direct, the same shall be forfeited.

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 staved 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 *prima 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 *prima 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.