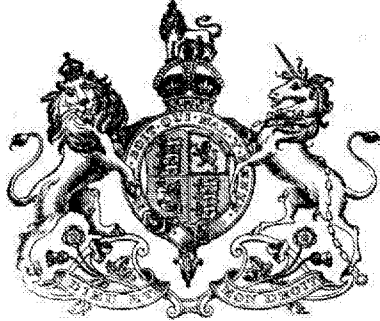


New Zealand.

## TOBACCO.

1908, No. 192.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Manufacture of Tobacco and the Payment of Duty thereon.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) The Short Title of this Act is "The Tobacco Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All Orders in Council, orders, regulations, licenses, securities, warrants, registers, registrations, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(3.) This Act shall be read with the Customs Acts.

2. In this Act, if not inconsistent with the context,—

"Customs Acts" includes "The Customs Law Act, 1908," and every other Act relating to the Customs or Excise, and all orders and regulations made under any such Act:

"Manufacture," "manufacturing," or "manufactured" includes the processes of cutting, pressing, grinding, crushing,

Act to be read with the Customs Acts. 1896, No. 58, sec. 1 Interpretation. 1879, No. 16, secs. 2, 3 1896, No. 58, secs. 5 (1), 13

or rubbing any raw or leaf tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco, and of making cigarettes by machinery, whether from duty-paid or from non-duty-paid tobacco, and of putting up for use or consumption in any way any scraps, waste, chippings, stems, or deposits of tobacco resulting from any process of handling tobacco: but does not include the making of cigarettes by hand from duty-paid manufactured tobacco, outside a bonded tobacco factory, by any person duly authorised by warrant in that behalf as hereinafter provided:

“Manufactured tobacco” means tobacco that has been manufactured or prepared by any means or in any shape for smoking or for any other purpose:

“Minister” means the Minister of Customs:

“Raw tobacco” means unmanufactured tobacco, or the leaves and stems of the tobacco-plant before they have passed through any process of manufacture:

“Tobacco” includes cigars, snuff, and cigarettes:

“Tobacco-manufacturer” includes any person who by himself or his agent carries on any business or process of manufacturing, or in any way preparing, tobacco in any shape for smoking or for any other purpose.

3. (1.) There shall be levied, collected, and paid upon tobacco manufactured in New Zealand, at the time of making entry for home consumption thereof, the following excise duties, that is to say:—

On tobacco .....	One shilling the pound.
On cigars and snuff .....	One shilling and sixpence the pound.
On cigarettes,—	

If manufactured by machinery .....	Two shillings and sixpence the pound.
If made by hand .....	One shilling the pound.

Duty on tobacco  
manufactured in  
New Zealand.  
1896, No. 59, secs.  
2, 3

Exemption.

(2.) For the purposes of this section cigarettes made by hand from duty-paid manufactured tobacco outside a bonded tobacco-factory, by any person duly authorised in that behalf, shall not be deemed to be tobacco manufactured in New Zealand.

Powers of Minister.  
1879, No. 16, sec. 26

(3.) The duties imposed by this Act shall be under the management of the Minister, and shall be levied, collected, and paid under the provisions of the Customs Acts in like manner, *mutatis mutandis*, as if the duties imposed by this Act were imposed by those Acts.

No compensation if  
duty altered.  
1891, No. 19, sec. 4

(4.) No claim for compensation shall be entertained and no sum of money shall be paid out of the public moneys to any tobacco-manufacturer, or to any person in any way interested in the growth, manufacture, or sale of tobacco, by reason of the passing of any Act affecting the excise duty on New-Zealand grown and manufactured tobacco, or the laws or regulations relating to the manufacture of tobacco.

Minister may  
approve premises  
for manufacture of  
tobacco.  
1879, No. 16, sec. 3

4. The Minister may at such ports and places, and subject to such regulations and conditions as are from time to time made by him, approve and appoint buildings or premises in which, under the provisions hereinafter contained, tobacco may be manufactured prior to the payment of duty thereon.

5. (1.) The Minister is hereby authorised to grant, in accordance with this Act, licenses to manufacture tobacco (hereinafter called "tobacco licenses"); and every license so granted shall specify the premises, to be called a "bonded tobacco-factory," in which such manufacture shall be carried on.

Tobacco licenses.  
1879, No. 16, sec. 4

(2.) Such license shall not authorise the person obtaining the same to carry on the business of a tobacco-manufacturer in any place other than that mentioned in the license.

(3.) All such licenses shall continue in force until the thirty-first day of December next following the granting thereof, but may be renewed from year to year in the prescribed manner.

Duration of license.  
Ibid, sec. 5  
1896, No. 58, sec. 6

(4.) In respect of every license so granted or renewed there shall be paid to the Minister, or other person appointed by him to receive the same, by the person obtaining the license, such sum as is from time to time prescribed by regulations, being in no case less than twenty-five nor more than one hundred and fifty pounds:

Fee for license.

Provided that where a license is issued after the end of January in any year, the sum to be paid for it shall be proportionate to the unexpired portion of the year.

6. Every person who desires to obtain a tobacco license shall make application in writing addressed to the Minister, and such application shall contain an exact and accurate description of the premises in respect of which the license is applied for, and of the locality in which they are situate, in such form and with such particulars as the Minister requires.

Application for license to be in writing, and to contain description of premises.  
1879, No. 16, sec. 6

7. (1.) Before any such license is granted, the person applying for the same, together with two sureties to be approved by the Minister, shall enter into a bond to His Majesty in such sum as the Minister thinks fit to require, being in no case less than five hundred pounds, conditioned for the due and faithful observance of all laws and regulations from time to time in force relating to the manufacture of tobacco.

Applicant to enter into bond.  
Ibid, sec. 7  
1896, No. 58, sec. 7

(2.) The provisions of the Customs Acts relating to bonds and other securities under those Acts shall, *mutatis mutandis*, apply to bonds under this Act.

8. The Minister may refuse to renew, or may suspend or annul, any tobacco license on proof to his satisfaction that the provisions of this Act, or of any regulations hereunder, have not been fulfilled, or that the licensee has evaded or assisted in evading the payment of any duty or impost leviable under this Act.

Refusal or suspension of license.  
1879, No. 16, sec. 8

9. Every holder of a tobacco license shall keep a book or books in the prescribed form, in which he shall enter or cause to be entered day by day a true account of the weight or quantity of all tobacco received into his bonded tobacco-factory, and of all materials received for sweetening or flavouring such tobacco, and of the particulars and weight of all manufactured tobacco delivered out of such factory, and such book shall be accessible at all times to any officer of Customs.

Account of tobacco received and delivered to be kept by licensee.  
Ibid, sec. 9

10. Officers of Customs may take an account of the stock of tobacco and materials remaining in any bonded tobacco-factory as often as they think proper, and may strike a balance, and if there is

Officer may take account of stock in factory.  
Ibid, sec. 10

a deficiency greater than can be accounted for to the satisfaction of the Minister, the manufacturer shall forthwith pay the duty on such deficiency.

Manufactured tobacco to be warehoused and cleared by entry at the Customhouse. 1879, No. 16, sec. 11

11. Before any manufactured tobacco is removed from a bonded tobacco-factory to any Customs bonded warehouse, an entry of the same, in the usual and proper form for warehousing goods under bond, shall be passed at the Customhouse; and such tobacco shall be forthwith removed to and deposited in such warehouse, and shall not be cleared thence except by entry at the Customhouse in the same manner as is required in respect of imported tobacco deposited in a bonded warehouse.

Manufacturing without license. *Ibid.*, sec. 13 1896, No. 58, sec. 5 (2)

12. (1.) Every person is liable to a fine of one hundred pounds, or to six months' imprisonment with or without hard labour, who, without being so licensed, or, if so licensed, then on any premises other than those mentioned in his license,—

(a.) Carries on the business of a tobacco-manufacturer, or aids, assists, or is concerned in the manufacture of tobacco; or

(b.) Has in his possession or on his premises, or uses, or aids, assists, or is otherwise concerned in using, any tobacco press or apparatus for the manufacture of tobacco.

(2.) This section shall not apply to any person growing tobacco on his own land and manufacturing the same for the use of himself and the members of his own family residing with him, and not for disposal to any other person by sale, barter, or otherwise.

Officers may enter and search premises. *Ibid.*, sec. 12

13. Any officer of Customs having a writ of assistance issued or in force under the Customs Acts, or any other person duly authorised in writing by the Minister or by warrant signed by a Justice, may at any time enter any land, factory, shop, store, shed, house, building, or premises or place of any kind, whether or not approved or licensed under this Act, and may search for and seize and take away any tobacco there found (whether raw or manufactured or in process of manufacture or not) upon which the duty properly chargeable has not been paid, or which is there unlawfully stored, or is in the unlawful possession of any person; and all tobacco so seized shall be forfeited to the Crown.

What may be seized, and by whom. 1879, No. 16, sec. 14

14. (1.) All engines, machinery, presses, or other apparatus or appliances, and all tobacco (whether raw or manufactured or in process of manufacture or not) found in any building, premises, or place, used for the purpose of manufacturing tobacco, but not approved or licensed under this Act, may be seized, and when seized shall be forfeited to the Crown.

*Ibid.*, sec. 15

(2.) Any goods or things by this section declared to be forfeited or liable to forfeiture may be seized by any officer of Customs or constable, or by any person having authority from the Minister to seize goods liable to forfeiture under the Customs Acts, or employed thereunder for the prevention of smuggling.

Delivery and disposal thereof. *Ibid.*, secs. 15, 16

15. All goods and things seized under this Act shall forthwith be delivered to the Collector or other proper officer of Customs at the nearest Customhouse, and shall be disposed of in such manner as the Minister directs.

16. (1.) All raw tobacco grown in New Zealand shall, when it passes out of the possession of the occupant of the place or premises upon which it was grown, be carried by the shortest or usual route directly to and be deposited in either a duly licensed bonded tobacco-factory or a Customs bonded warehouse.

New-Zealand-grown tobacco to be removed to factory or bonded warehouse.  
1879, No. 16, sec. 17

(2.) All such tobacco shall, if deposited in any such factory, be entered in the stock-book of the manufacturer, and if deposited in any such warehouse, be duly warehoused in the manner and under the conditions provided by the Customs Acts in respect of imported tobacco.

(3.) All such tobacco not deposited in a factory or in a warehouse as by this section required shall, if removed from the place or premises whereon it was grown and in the possession of any person other than a licensed tobacco-manufacturer, be seized and forfeited to the Crown:

Ibid, sec. 18

Provided that such tobacco shall not be liable to forfeiture if the person having possession thereof proves that it was so removed only for conveyance to such factory or warehouse.

17. Any person, other than a person growing and manufacturing tobacco for his own use as herein provided, who has in his possession or on his premises any raw or partially manufactured tobacco is liable to a fine of fifty pounds, and all such tobacco shall be seized and forfeited to the Crown.

Having raw tobacco on premises.

Ibid, sec. 19

18. (1.) It shall not be lawful for any person being a manufacturer of tobacco or a dealer therein to cut, colour, manufacture, or prepare, or have in his possession, any leaves, wood, herb, vegetable, or other material, or any harmful thing, to imitate or to be mixed with tobacco.

Manufacturers, &c., having adulterants on premises.

Ibid, sec. 20

(2.) If any tobacco having any such material or thing mixed therewith is found on the premises or in the possession of any such person, such tobacco and all such materials and things may be seized and shall be forfeited to the Crown, and such person is liable to a fine of fifty pounds.

19. (1.) No tobacco-manufacturer shall permit any package containing manufactured tobacco, manufactured or put up for sale by him or on his behalf, to leave his bonded tobacco-factory unless his name and address are clearly and legibly printed on such package.

Packages of manufactured tobacco to be labelled.  
1896, No. 58, sec. 2

(2.) Every person who commits any breach of this section is liable to a fine of not less than one pound nor more than five pounds.

(3.) If any such package is found anywhere outside such factory, not having such name and address printed thereon as aforesaid, such package and the contents thereof shall be seized and forfeited to the Crown.

(4.) "Package" in this section includes every cask, case, box, tin, jar, canister, bag, packet, or other receptacle containing manufactured tobacco; and, with respect to cigarettes, includes as well the cigarette packets as also the packages containing such packets.

20. Every package of tobacco imported into New Zealand, and every package, box, case, jar, canister, or parcel of tobacco manufactured in New Zealand, shall, after the duty has been paid thereon, and before being delivered from any place appointed for the exami-

All packages of tobacco to be stamped by officer.  
1879, No. 16, sec. 21

nation of goods or from any bonded warehouse, be stamped or marked by an officer of Customs or other person appointed for the purpose in the manner prescribed by any regulations made by the Minister.

Having unstamped tobacco in possession.  
1879, No. 16, sec. 23

21. Every person who sells or offers for sale, or has in his possession, any package of manufactured tobacco not stamped or marked as required by this Act, or who knowingly acquires possession of or harbours, keeps, or conceals, or is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any way dealing with any manufactured tobacco with intent to defraud His Majesty of any duties due thereon, is liable for each such offence, at the option of the Minister, to forfeit either treble the value of such tobacco (including the duty payable thereon) or one hundred pounds, and the offender may be detained and dealt with in the manner provided by the Customs Acts in respect of persons detained for offences against those Acts.

Making or using counterfeit stamps.  
Ibid, sec. 24

22. Every person who has in his possession, or who makes or uses, or knowingly aids, abets, assists, or is in any way concerned in making, procuring, or using, any counterfeit stamp or mark in imitation of or colourably resembling the stamps or marks used under the directions of the Minister for stamping or marking packages of manufactured tobacco, or who deals in any manner with any package of tobacco, knowing the same to be marked with a counterfeit stamp or mark, with intent to defraud His Majesty of the duty payable thereon, is liable to imprisonment with or without hard labour for any term not exceeding four years.

Tobacco manufactured in New Zealand to be subject to same restrictions as imported tobacco.  
Ibid, sec. 25

23. Tobacco prepared or manufactured in any bonded tobacco-factory shall be subject to the same regulations, restrictions, and conditions, so far as applicable, as tobacco imported into New Zealand is subject to under the Customs Acts.

Power of Minister as to goods used in manufacture of tobacco.  
1896, No. 58, sec. 3

24. (1.) Subject to such conditions as he thinks fit to prescribe, the Minister may permit—

(a.) Any dutiable goods used for sweetening or flavouring tobacco to be used for that purpose in any bonded tobacco-factory without payment of import duty; and

(b.) All materials (including uncut tobacco) used in the manufacture of tobacco to be stored in a bonded tobacco-factory.

(2.) In and by such conditions the Minister may direct in what parts or divisions of the factory the several materials shall be stored, and also in what parts or divisions thereof the various processes of manufacture shall be carried on.

(3.) Every person who fails faithfully to observe any such conditions commits an offence.

General penalty.  
Ibid, sec. 9

25. Every person who commits an offence against this Act for which no specific penalty is provided elsewhere in this Act is liable to a fine not exceeding ten pounds and not less than two pounds.

Manufactured tobacco may be exported.  
1888, No. 29, sec. 3

26. Subject to any regulations made by the Minister, tobacco manufactured in New Zealand may be exported under bond without payment of duty thereon:

Provided that, before removal from the bonded warehouse or bonded tobacco-factory for shipment or export, a permit supplied by

the Minister shall be affixed in the prescribed manner to every package of tobacco so removed.

27. (1.) The Minister may, under such conditions and restrictions as he thinks fit, allow scraps, waste chippings, stems, or deposits of tobacco, and other waste products resulting from any process of handling tobacco in a bonded tobacco-factory, to be delivered from the factory, without payment of duty, for manufacture into sheep-dip or insecticide or any other commodity he thinks proper.

Waste products may be manufactured into sheep-dip, &c., without paying duty.  
1896, No. 58, sec. 4

(2.) All such waste products shall, before delivery from the factory, be rendered unfit for human use or consumption to the satisfaction of the Minister and in such manner as he directs.

(3.) Any such waste products not delivered from the factory as aforesaid shall be destroyed by fire in the presence of two officers of Customs.

*As to the Making of Cigarettes by Hand.*

28. (1.) On the application of any person the Minister may grant and issue, either by himself or by any Collector or other officer appointed by him in that behalf, the following warrants, that is to say:—

Warrants to use cutting-machine and for making cigarettes by hand.  
Ibid, sec. 8

(a.) A warrant in the prescribed form authorising such person to keep and use on his business premises, as stated in the warrant, but not elsewhere, a cutting-machine for cutting duty-paid manufactured tobacco for sale, or to be used in making cigarettes by hand under a warrant in that behalf as next hereinafter provided; and also

(b.) A warrant in the prescribed form authorising such person to make cigarettes by hand, from duty-paid manufactured tobacco, on his business premises as stated in the warrant, but not elsewhere, for sale at such premises but not elsewhere.

(2.) The fee payable in respect of such first-mentioned warrant shall be five shillings. Fees.

(3.) The fee payable in respect of such secondly mentioned warrant shall be such annual sum as is from time to time prescribed by regulations under this Act, being in no case less than one pound or more than ten pounds.

(4.) Every such warrant shall be issued and shall remain in force for the prescribed period and subject to the prescribed conditions.

(5.) Any officer of Customs or constable may at any time and from time to time enter on any such premises as aforesaid for the purpose of inspecting the same and all things therein, and ascertaining whether the conditions relating to the respective warrants aforesaid are being observed.

(6.) Every person who has at any time in his possession or on his business premises, or in any way uses, any such cutting-machine, or makes any cigarettes by hand, except pursuant to the authority of a warrant or warrants as aforesaid, is liable to a fine of not less than ten pounds nor more than fifty pounds, and in addition thereto the cutting-machine and cigarettes may be forfeited to the Crown.

Register of warrants.  
1896, No. 58, sec. 11

29. The Minister shall keep a register in the prescribed form, wherein shall be entered from time to time the name of every person holding a warrant under the last preceding section, the date of the issue, renewal, or forfeiture of the warrant, and the amount of the fee received in respect of such issue or renewal.

*General.*

Regulations.  
Ibid, sec. 14

30. The Governor in Council may from time to time make regulations concerning—

- (a.) The manner of applying for licenses and warrants under this Act:
- (b.) The form of such licenses and warrants:
- (c.) The conditions for the issue of duplicates of such licenses and warrants where the originals have been lost:
- (d.) The scale of fees to be paid for such licenses and warrants, and to whom and in what manner such fees shall be paid:

Ibid, sec. 15

and any such further or other regulations (whether general or particular) as may be deemed necessary or expedient for the purpose of giving effect to this Act, or to anything therein expressed to be prescribed; and may impose a fine not exceeding fifty pounds and not less than five pounds for the breach of any such regulation.

Application of moneys received.  
1879, No. 16, sec. 27  
1896, No. 58, sec. 16

31. All moneys received in respect of fees, fines, and forfeitures under this Act shall be applied in manner directed by the Customs Acts in the case of fees, fines, and forfeitures thereunder; and, in so far as those Acts do not apply, shall be paid into the Public Account and form part of the Consolidated Fund.

Customs Acts, if not inconsistent, to apply.  
1879, No. 16, sec. 28

32. The provisions of the Customs Acts shall in all cases not herein expressly provided for, and so far as the same are not superseded by and are consistent with the express provisions of this Act, be duly observed, applied, and put in execution as fully and effectually as if the same were repeated and re-enacted in this Act.

SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1879, No. 16.—“The Tobacco Act, 1879.”
- 1888, No. 29.—“The Tobacco Act Amendment Act, 1888.”
- 1891, No. 19.—“The Customs and Excise Duties Act, 1891.”
- 1896, No. 58.—“The Tobacco Act Amendment Act, 1896.”
- 1896, No. 59.—“The Tobacco Excise Duties Act, 1896.”