

## DISTILLATION BILL

---

### EXPLANATORY NOTE

THIS Bill consolidates and amends the Distillation Act 1908 and its amendments, in a much shorter and simplified form.

The Distillation Act 1908 was a consolidation of the Distillation Act 1868 and its amendments. The only major amendment since 1908 has been the Distillation Amendment Act 1959, which rewrote the licensing provisions of the 1908 Act and made other amendments in preparation for the establishment of the distillation industry in New Zealand.

The main changes made by this Bill are as follows:

- (a) The existing provisions for the licensing and control of stills for the distillation of any liquid or substance other than spirits are omitted:
- (b) A number of provisions setting out in minute detail the "course of distillation" (namely the sequence of the processes to be followed) are omitted. These are replaced, so far as practicable, by simpler and more flexible provisions setting out the distiller's obligations in principle, with power for the Chief Inspector to approve procedures to be adopted by the distiller. The 1959 Amendment Act had already made some provision towards this end by allowing the Chief Inspector to permit variations in the course of distillation:
- (c) A number of other detailed provisions as to procedures to be followed and equipment to be used are omitted. It is intended that these should be dealt with in regulations under the new Act:
- (d) The existing provisions for the control of and accounting for the materials used in distillation, the supervision of the process, and the control of and accounting for the product, are redrafted and simplified:
- (e) Provision is made for the Chief Inspector to permit the manufacture in a distillery of spirituous mixtures of the same kinds as those that are permitted to be manufactured in licensed warehouses under the Customs Act 1966 (for example, cocktails and liqueurs). At present, to be able to do this, a distiller must license part of his premises as a warehouse under the Customs Act. The new provision will make the duplication of licensing unnecessary:
- (f) The power of an Inspector to enter and search premises is restricted to the distillery premises. Under the 1908 Act he could also enter and search premises "near or adjacent thereto", as well as brewery premises and other premises licensed for the sale of liquor:
- (g) The provisions of the 1908 Act for minimum penalties are omitted. Some penalties have been increased:

- (h) The prohibition in the 1908 Act on the brewing or mashing of material for fermentation, and on the use of a still, by a distiller on Sundays and public holidays without the permission of an Inspector is omitted:
- (i) The present provision for an appeal to the Supreme Court against the Minister's refusal to grant a licence is retained; but such appeals will be heard by the Administrative Division of the Supreme Court:
- (j) A new right of appeal, to the Administrative Division, against the revocation or suspension of a licence by the Minister is provided in *clause 20*.

The source of each clause of the Bill is shown at the foot of the clause, in the form of a reference to the corresponding enactments repealed. At the end of this note there is a comparative table showing where the repealed enactments are dealt with in the Bill, and indicating those that have been omitted.

Where in the following notes a clause or subclause is not mentioned, it merely re-enacts the existing law, although it may have been redrafted and simplified.

*Clause 1* relates to the Short Title and commencement of the Bill, which is to come into force on 1 January 1972.

*Clause 2* is the interpretation clause. The definitions of "feints", "Inspector", "Minister", "proof", "spent wash", and "spirits" re-enact the existing law.

The definitions of "still" and "wort" have been redrafted without substantial alterations in their meaning.

The other definitions are new.

## PART I

### ADMINISTRATION

*Clause 3* is new. The Distillation Act is one of the "Customs Acts" now administered by the Department.

*Clause 4* re-enacts the existing law except for the inclusion of the reference to a person acting as Comptroller.

*Clause 6* re-enacts the substance of the existing law but has been redrafted to bring it into line with section 9 of the Customs Act 1966.

## PART II

### LICENCES

*Clause 7* describes the licences that may be granted. It omits provision for licences to distil a liquid or substance other than spirits; but otherwise it re-enacts the substance of the existing law as set out in section 2 of the Distillation Amendment Act 1959. The kinds of licences are now given names instead of their present descriptions.

*Clause 8* re-enacts the combined effect of section 116 of the 1908 Act and section 3 of the 1959 Amendment Act (as to distilling without a licence), subject to the following modifications.

In *subclause (1)* the existing reference to distilling any liquid or substance other than spirits is omitted; and the offences in *subclause (2)* are restricted to those relating to spirit stills and the distillation of spirits.

In *subclause (3)* the existing provisions of section 116 (2) of the 1908 Act for a minimum fine and a minimum term of imprisonment are omitted; and the maximum monetary penalty, instead of being \$1,000 as at present, is to be either \$1,000 or 3 times the value of the excise duty evaded on any distilled spirits, whichever penalty is the greater.

*Clause 9* re-enacts the existing law, except that the application for a licence is to be sent in the first instance to the Collector of Customs instead of to the Chief Inspector.

*Clause 10* re-enacts the existing law, except that the Minister will no longer be required to publish in the *Gazette* each year a notice of licences in force.

*Clause 11* re-enacts the existing law as to appeals to the Supreme Court against the refusal of licences; but appeals will now be heard by the Administrative Division of the Court.

*Clauses 12 and 13* re-enact the existing law as to spirit makers' and rectifiers' and compounders' licences, except that in *subclause (1)* of each clause the licence is restricted to specified spirit or any specified class or classes of spirits. The present sections 6 and 7 of the 1959 Amendment Act refer also to "spirits" generally.

*Clause 14* re-enacts the existing law as to vigneron's licences, except that the power of the Minister to exclude the holder of a licence from any provisions of the Act, and of regulations under it, is omitted. Also, the proviso to *subclause (3)* is new. It allows the addition, to spirits intended to be used for fortifying wine, of flavouring materials approved by the Chief Inspector.

*Clause 15*: The penalty in this clause is altered to a fine of up to \$200 for every day on which operations have been carried on in unlicensed premises. At present the Act provides only for the one fine of up to \$200.

*Clause 16: Subclauses (2) and (3)* are new. Their effect is that the annual licence fee is reduced proportionately for a licence that is first granted, or is revoked or expires, during the course of any year.

*Clause 18: Subclause (5)* has been rewritten. As at present, the Minister may refuse to renew a spirit maker's licence if in the preceding year the licensee has failed to distil at least 5,000 gallons of proof spirit; but a new provision authorises the Minister to fix a smaller quantity in any special case.

*Subclause (6)* is new, and gives a further discretion to the Minister to renew in certain cases not complying with *subclause (5)*.

*Clause 19*: In *subclause (1), paragraph (a)* re-enacts the existing law; but *paragraph (b)* makes conviction of an offence against the Act or regulations the alternative ground for revocation of a licence. Under the 1959 Act the Minister may revoke a licence if he is satisfied that the Act has been contravened, without proof of an actual conviction.

*Clause 20* is new. It gives a right of appeal, to the Administrative Division of the Supreme Court, against a revocation or suspension of a licence by the Minister.

*Clause 22*: The existing provision for a minimum fine of \$100 is omitted. The maximum fine remains the same.

## PART III

## DISTILLERS

*General Provisions*

*Clause 24:* Office accommodation for an Inspector is to be provided at a distillery only if the Chief Inspector so requires. At present there is a statutory requirement on all distillers to provide such accommodation.

*Clause 25* has been much simplified. The distiller is to provide locks and fastenings for securing openings into stills to the satisfaction of an Inspector.

*Clause 26* combines in a much simplified form the detailed provisions of 5 sections of the 1908 Act relating to the duties of distillers.

*Clause 27* combines in simplified form the effect of 2 sections of the 1908 Act relating to the keeping of books and records by distillers relating to operations carried on in the distillery. The details will in future be prescribed by regulations.

*Clause 28* provides for regulations to prescribe the vessels to be kept in a distillery. At present they are specified in the 1908 Act.

*Clause 29* deals, as at present, with alterations or additions to vessels or pipes in the distillery; but it is extended to include the removal of certain vessels or pipes. The maximum penalty for breach of the section is increased from \$400 to \$1,000.

*Clause 30* requires returns to be made by distillers. *Subclauses (3) and (5)* are new.

*Clause 31* replaces the detailed provisions of section 35 of the 1908 Act as to the securing of tail pipes. It sets out the requirements for every safe into which spirits, low wines, and feints are to be received in a distillery.

*Clause 32* provides for the course of wash, low wines, feints, and spirits to be approved by the Chief Inspector. It replaces the detailed provisions of section 50 of the 1908 Act as amended by section 24 of the 1959 Amendment Act. The penalty for a breach is to be up to \$1,000. The present penalty can be either \$200 or \$4 for every gallon that is run contrary to the present section.

*Clause 34* allows the Chief Inspector to authorise the keeping in a spirit store of vessels having a capacity of less than 300 gallons, which is the minimum capacity under the 1908 Act.

*Subclauses (3) and (4)* are new.

*Clause 35:* The Chief Inspector may approve the kinds of saccharometer and hydrometer for ascertaining the specific gravity of wash or wort or the strength of spirits. At present these instruments may be prescribed by the Minister in the one case and the Governor-General in Council in the other.

*Clause 36:* The method of measuring quantities of spirits will be prescribed by regulations. At present it is set out in section 86 of the 1908 Act.

*Clause 37:* The maximum fine for unlawfully mixing wort, etc., with liquor made elsewhere is increased from \$400 to \$500.

*Clause 38:* The Collector, instead of the Minister, is given the power to permit the removal of spirits from a licensed warehouse to a distillery for the purposes of flavouring the distiller's spirits.

*Clause 39* re-enacts the main provisions of the principal Act as to the addition of sugar and colouring matter, etc., to low wines, feints, or spirits. The maximum penalty is increased from \$400 to \$500.

*Clause 41:* The prohibition on holding in a distillery any spirits (except in certain vessels), or declared wort or wash, at certain times is now related to the hours between 6 p.m. on the last day of an accounting period (as defined in *clause 2*) and 6 a.m. the next day. At present the prohibited hours are between 10 p.m. on the last day of every month and 6 a.m. the next day.

The maximum penalty is also increased from \$100 to \$200.

#### *Rectifiers and Compounders*

*Clause 43:* The process of rectifying or compounding is to be completed within 12 hours of its having begun, or within such further period as an Inspector may in any particular case allow. At present, the 1908 Act requires that the process be begun not later than 12 hours after an authorised delivery of the spirits from a licensed warehouse for the purpose of rectifying or compounding, and that security be given for the payment of full duty on the quantity rectified, or for the deposit of the full quantity rectified in a licensed warehouse, within 48 hours after the process is finished; but an Inspector may extend these periods in any special case.

*Clause 44:* The maximum penalty for a false notice under this clause is increased from \$100 to \$200.

*Clause 46:* The maximum penalty for producing an excess quantity is increased from \$200 to \$500.

## PART IV

### STORAGE AND REMOVAL OF SPIRITS

*Clauses 50 to 53:* The present functions of the Minister to approve the erection on distillery premises of a distillery warehouse for the storage of spirits, to appoint other warehouses for that purpose, and to control the conditions of storage and packing, are transferred to the Chief Inspector.

*Clause 54* is new. It provides for a maturation period of not less than 3 years for brandy and whisky distilled in New Zealand. This is the same as the period fixed for imported brandy and whisky under section 49 of the Customs Act 1966 (as amended by section 18 of the Customs Amendment Act 1968 in the case of brandy, and section 4 of the Customs Amendment Act 1970 in the case of whisky).

*Clause 55* is new. Its purpose is to enable a distiller to make liqueurs and other spirituous mixtures in his distillery without having to obtain a separate licence for a manufacturing warehouse under section 80 (1) (c) of the Customs Act 1966.

*Clause 57: Paragraph (b)* extends the present law to allow the removal of spirits from the distillery or warehouse, with the permission of the Collector of Customs, after they have been entered for home consumption, as an alternative to getting a permit for their removal.

*Clause 60:* The present power of an authorised officer to stop and detain any person “found removing spirits” from a distillery, and to require the production of the necessary permit, is altered so as to apply only where the person is carrying packages and the officer has reasonable grounds to suspect that the packages contain spirits removed from a spirit store or the distillery warehouse of a distiller.

## PART V

### EXCISE DUTY

*Clause 63: Subclause (2)* is new. It allows different rates of duty to be fixed for different kinds of spirits.

*Clause 64* is new. It makes the duty on spirits made or distilled in New Zealand a Crown debt. It is based on the similar provisions of section 152 of the Customs Act 1966.

*Clause 70* is new. Where a person who has possession of spirits that are still subject to the control of the Customs does not account for them to the satisfaction of the Collector, the person is liable for the duty.

*Clause 71* replaces the detailed provisions of 3 sections of the 1908 Act as to the ascertaining of and accounting for any deficiency between the quantity of spirits produced and the quantity that should have been produced.

## PART VI

### POWERS OF INSPECTORS AND OTHER OFFICERS

*Clause 73* gives a general power to an Inspector to enter premises licensed under the Act, to require the production of books and records kept by the distiller in relation to the distillery and the making and sale of spirits, to examine plant and materials in the premises, and to inquire whether the Act is being complied with.

*Clause 79* is new. Where a distiller is required under the Act to provide a place of security, or locks and fastenings, the keys are to be held by an authorised officer.

*Clause 81* replaces the provisions of section 114 of the 1908 Act, as to the issue of search warrants, in a modified form. The power given by the 1908 Act to seize all goods of every kind found on the premises is not repeated in this clause, which is limited to seizure of the things mentioned in *subclause (1)*. Also, the clause has been redrafted to bring it into line with the provisions of section 198 of the Summary Proceedings Act 1957 as to the manner of obtaining a search warrant and the authority it confers.

## PART VII

### SECURITIES

*Clause 84* is new. It is in similar terms to section 230 of the Customs Act 1966.

## PART VIII

### OFFENCES

*Clause 86* re-enacts the combined effect of three separate provisions of the 1908 Act as to unlawful dealings with spirits. In *subclause (3) (a)* an alternative fine is provided for, not exceeding 3 times the value of any duty evaded on the spirits concerned.

Section 119 (2) of the 1908 Act (which provides for the cancellation of any licence for the sale of liquor held by a person convicted of an offence of the kind described in *clause 86 (1) (c)*, and for his disqualification for 5 years) is not re-enacted. Instead the *First* Schedule amends section 213 of the Sale of Liquor Act 1962 to enable his licence to be cancelled or suspended.

*Clause 87: Paragraph (a)* is new. The penalty is increased from \$400 to \$500.

*Clauses 88 to 92* are new. They deal with penalties and procedure, and are in terms similar to those of sections 258 to 263 and 265 of the Customs Act 1966.

## PART IX

### FORFEITURES

*Clause 93* collects in one place a number of provisions of separate sections of the 1908 Act, and is redrafted.

*Clause 94* also brings into one place various provisions of the 1908 Act as to seizure of forfeited goods. It is redrafted to follow the form of section 275 of the Customs Act 1968, with a restriction of 2 years on the period during which forfeited goods may be seized.

*Clause 95* replaces the present provisions of the 1908 Act by applying Part XII of the Customs Act 1966 as to the procedure to be followed after seizure and forfeiture.

## PART X

### MISCELLANEOUS PROVISIONS

*Clause 97:* The present provisions of the 1908 Act as to the burden of proof are redrafted so as to follow the similar provisions of section 299 of the Customs Act 1966 in cases to which that section is not applicable.

*Clause 98* deals with regulations. It is redrafted to cover a number of sections of the 1908 Act which set out in detail the various steps to be taken and procedures followed in the course of distillation, etc. The intention is that these matters will be covered by regulations.

*Clause 99* consequentially amends the enactments specified in the *First* Schedule.

*Clause 100* repeals the enactments set out in the *Second* Schedule.

The *First* Schedule sets out the amendments made by *clause 99*.

The *Second* Schedule contains the repeals.

---

TABLE OF CORRESPONDING SECTIONS  
OF ENACTMENTS REPEALED

THE DISTILLATION ACT 1908 (1957 REPRINT, VOL. 4, p. 157)

Section of Act	Clause of Bill
1 (1) .. ..	Short Title and commencement
1 (2) .. ..	.. ..
2 .. ..	2
2A .. ..	.. ..
3 .. ..	2, 4
3A .. ..	5
4 .. ..	Repealed 1959
5 .. ..	Repealed 1959
6 .. ..	Repealed 1959
7 .. ..	Repealed 1959
8 .. ..	Repealed 1934
9 .. ..	Repealed 1959
10 .. ..	Repealed 1959
11 .. ..	Repealed 1959
12 .. ..	Repealed 1959
13 .. ..	Repealed 1959
14 .. ..	Repealed 1959
15 .. ..	Repealed 1959
16 .. ..	Repealed 1959
17 .. ..	Repealed 1959
18 .. ..	23
19 .. ..	.. ..
20 .. ..	26 (1)
21 .. ..	.. ..
22 (1) .. ..	24
22 (2) .. ..	.. ..
22 (3), (4) .. ..	Repealed 1959
23 (1)-(4) .. ..	33
23 (5) .. ..	85, 93
24 .. ..	.. ..
25 .. ..	28
26-32 .. ..	.. ..
33 .. ..	30
34 .. ..	.. ..
35 .. ..	31
36, 37 .. ..	.. ..
38 .. ..	25, 26 (2)
39 .. ..	.. ..
40 .. ..	29
41 .. ..	27
42 .. ..	.. ..
43 .. ..	42
44-49 .. ..	.. ..
50 .. ..	32
51 .. ..	.. ..
52 .. ..	40
53 .. ..	26 (2)
54 .. ..	.. ..



THE DISTILLATION ACT 1908 (1957 REPRINT, VOL. 4, p. 157)—*continued*

Section of Act	Clause of Bill
55 .. ..	78
56 .. ..	26 (2)
57 .. ..	77
58 .. ..	75
58A .. ..	69
59 .. ..	76
60 .. ..	74
61 .. ..	..
62 .. ..	37
63, 64 .. ..	35
65 .. ..	..
66 (1), (2) .. ..	63
66 (3) .. ..	65
67, 68, 69 .. ..	71
70 .. ..	41
71 .. ..	..
72 .. ..	34
73 .. ..	28
74 .. ..	39
75-78 .. ..	..
79 .. ..	72
80 .. ..	Repealed 1959
81 .. ..	..
82 .. ..	57, 93
83 .. ..	60
84 .. ..	61
85 .. ..	Repealed 1959
86 .. ..	36
87 .. ..	26 (2)
88 .. ..	38
89 .. ..	50, 52, 62
90 .. ..	51
91 .. ..	53
92 .. ..	57, 59
92A .. ..	96
93 .. ..	..
94 (1), (3) .. ..	56
94 (2) .. ..	68
95 .. ..	..
96 .. ..	..
97 .. ..	57, 59
98 .. ..	66
99, 100 .. ..	..
101 .. ..	39, 43, 47, 58
102 .. ..	25, 87
103 .. ..	..
104 .. ..	44
105 .. ..	..
106 .. ..	45
107 .. ..	46
108 .. ..	27

THE DISTILLATION ACT 1908 (1957 REPRINT, VOL. 4, p. 157)—*continued*

Section of Act	Clause of Bill
109 .. ..	48, 93
110 .. ..	67
111 .. ..	Repealed 1959
112, 113.. ..	93, 94
114 .. ..	81
115 .. ..	82
116 .. ..	8, 86
117 .. ..	..
118 .. ..	Repealed 1959
119 (1) .. ..	86
119 (2) .. ..	99
120 .. ..	80
121 .. ..	73, 94
122 .. ..	Repealed 1959
123 .. ..	..
124 .. ..	22
125 .. ..	93
126 .. ..	86
127-130.. ..	..
131 .. ..	95
132, 133.. ..	97
134 .. ..	Repealed 1913
135 .. ..	..
136 .. ..	6
137 .. ..	98
First Schedule .. ..	..
Second Schedule .. ..	..
Third Schedule .. ..	Repealed 1934
Fourth Schedule .. ..	..

## THE CUSTOMS ACTS AMENDMENT ACT 1934 (1957 REPRINT, VOL. 4, p. 224)

Section of Act	Clause of Bill
32 .. ..	98

## THE DISTILLATION AMENDMENT ACT 1959 (No. 97)

Section of Act	Clause of Bill
1 .. ..	Short Title
2 .. ..	7
3 .. ..	8
4 .. ..	9
5 .. ..	10, 11
6 .. ..	12
7 .. ..	13
8 (1), (2), (3) .. ..	14
8 (4) .. ..	49
8 (5) .. ..	67
8 (6) .. ..	..
9 .. ..	..

THE DISTILLATION AMENDMENT ACT 1959 No. 97—*continued*

Section of Act	Clause of Bill
10 .. .. .	15
11 .. .. .	16
12 .. .. .	17
13 .. .. .	18
14 .. .. .	19
15 .. .. .	21
16 .. .. .	..
17 .. .. .	..
18 .. .. .	83
19 .. .. .	..
20 .. .. .	2
21 .. .. .	..
22 .. .. .	2, 4
23 .. .. .	5
24 .. .. .	32
25 .. .. .	75, 77
26 .. .. .	63, 65
27 .. .. .	56, 68
28 .. .. .	43
29 .. .. .	22
30 .. .. .	27
31 .. .. .	..

THE CUSTOMS ACTS AMENDMENT ACT 1963 (No. 37)

Section of Act	Clause of Bill
13 .. .. .	96
14 .. .. .	12, 13

THE CUSTOMS ACTS AMENDMENT ACT 1964 (No. 62)

Section of Act	Clause of Bill
11 .. .. .	96

THE CUSTOMS ACTS AMENDMENT ACT 1965 (No. 123)

Section of Act	Clause of Bill
8 .. .. .	..
9 (1) .. .. .	69
9 (2) .. .. .	53

THE CUSTOMS ACTS AMENDMENT ACT 1967 (No. 2)

Section of Act	Clause of Bill
8 .. .. .	63

---

*Hon. Mr Adams-Schneider*

## DISTILLATION

---

### ANALYSIS

- | Title  |   |
|--|---|
| 1. Short Title and commencement                        | 21. Licensee not to hold licence under, Sale of Liquor Act 1962             |
| 2. Interpretation                                      | 22. Erection of still, etc.   |
| <b>PART I</b>  |   |
| <b>ADMINISTRATION</b>                                  |   |
| 3. Act to be administered by Customs Department        | 23. Securing of premises  |
| 4. Chief Inspector of Distilleries                     | 24. Office accommodation  |
| 5. Inspectors of Distilleries                          | 25. Distiller to provide locks  |
| 6. Delegation of powers                                | 26. Distiller to provide facilities for inspection                          |
| <b>PART II</b>   |   |
| <b>LICENCES</b>  |   |
| 7. Classes of licences                                 | 27. Books to be kept  |
| 8. Unlawful to distil without a licence                | 28. Vessels to be kept by distillers  |
| 9. Application for licence                             | 29. Alterations to or removal of vessels                                    |
| 10. Grant or refusal of licence                        | 30. Returns by distillers   |
| 11. Appeal against refusal of licence                  | 31. Safes   |
| 12. Spirit maker's licence                             | 32. Course of wash, low wines, feints, and spirits                          |
| 13. Rectifier's and compounder's licence               | 33. Spirit stores   |
| 14. Vigneron's licence                                 | 34. How spirits to be kept in store   |
| 15. Premises of licensed business                      | 35. Specific gravity of wash and strength of spirits                        |
| 16. Licence fees                                       | 36. Measuring quantity of spirits   |
| 17. Duration of licence                                | 37. Wort, etc., made on premises not to be mixed with liquor made elsewhere |
| 18. Renewal of licence                                 | 38. Spirits for flavouring  |
| 19. Revocation and suspension of licences              | 39. Mixing of sugar, colouring matter, etc., with spirits                   |
| 20. Appeal against revocation or suspension of licence | 40. Redistillation of faulty spirits  |
|  | 41. Provisions to facilitate periodical accounting                          |

*Spirit Makers*

42. Materials for making wort

*Rectifiers and Compounders*

43. Rectifying and compounding

44. Quantity and strength of spirits in still

45. Inspector may secure still

46. Quantity produced not to exceed quantity put into still

47. Deficiency in rectified spirit

*Vignerons*

48. Spirits to be kept in storeroom

49. Wines above strength to be forfeited

## PART IV

## STORAGE AND REMOVAL OF SPIRITS

50. Distillery warehouse

51. Appointment of other warehouses

52. Storage in warehouse

53. Dealing with spirits in distillery warehouse

54. Maturation period of brandy and whisky

55. Manufacture of spirituous mixtures in distillery

56. Denaturing of spirits

57. Removal of spirits

58. Removal to another distillery

59. Entry of spirits

60. Unlawful removal of spirits

61. Unlawful permits

62. Duty on spirits warehoused

## PART V

## EXCISE DUTY

63. Excise duty payable

64. Duty on spirits a Crown debt

65. Duty payable in accordance with law in force when spirits entered for home consumption

66. Payment of duty

67. Spirits for fortifying wine

68. Denatured spirits

69. Delivery of samples to distiller, etc.

70. Duty payable where spirits not accounted for

71. Duty in respect of deficiency

72. Allowance where spirits lost by accident

## PART VI

## POWERS OF INSPECTORS AND OTHER OFFICERS

73. General powers of Inspectors

74. Inspection of wash

75. Inspector may take samples and make trials

76. Chief Inspector may erect a still

77. Inspector may distil

78. Authorised officer may lock coverings

79. Authorised officer to hold keys

80. Search of distiller's premises

81. Search warrants

82. Arrest of offenders

## PART VII

## SECURITIES

83. Securities

84. New securities may be required

## PART VIII

## OFFENCES

85. Spirits in unauthorised place in distillery

86. Unlawfully dealing with spirits

87. Offences in relation to locks and fastenings

88. General penalty

89. Penalties independent of forfeiture

90. Imprisonment for second offence

91. Offences punishable summarily

92. Procedure

## PART IX

## FORFEITURES

93. Goods forfeited

94. Seizure of forfeited goods

95. Application of Part XII of Customs Act

## PART X

## MISCELLANEOUS PROVISIONS

96. Application of Customs Act 1966 to spirits produced in New Zealand

97. Evidence in respect of licences, etc.

98. Regulations

99. Consequential amendments

100. Repeals Schedules

## A BILL INTITULED

## An Act to consolidate and amend the Distillation Act 1908 and its amendments

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

**1. Short Title and commencement**—(1) This Act may be cited as the Distillation Act 1971.

(2) This Act shall come into force on the 1st day of January 1972.

5 **2. Interpretation**—In this Act, unless the context otherwise requires,—

“Accounting period” means such period, not exceeding 1 year, as may in any case be determined by the Collector for the purposes of this Act:

10 “Authorised officer” means an Inspector, an officer of Customs within the meaning of section 2 of the Customs Act 1966, or a member of the Police:

“Back” means any vessel in which wort is deposited for the purpose of fermentation:

15 “Chief Inspector” means the Chief Inspector of Distilleries under this Act:

“Collector” has the same meaning as in section 2 of the Customs Act 1966:

20 “Compounding” means the manufacture of spirituous liquor, other than perfumery, culinary essences, or medicinal or toilet preparations, by the imparting of any flavour to, or the mixing of any material or ingredient with, spirits by any method of which the process of distillation is a part; and “to compound” and “compounder” have corresponding meanings:

25 “Comptroller” has the same meaning as in section 2 of the Customs Act 1966:

30 “Distiller” means a person who holds a spirit maker’s licence or a rectifier’s and compounder’s licence or a vigneron’s licence:

“Distillery” means the premises in which a distiller carries on any business in respect of which he is licensed under this Act:

35 “Distillery warehouse” means a warehouse approved by the Chief Inspector under section 50 of this Act:

“Feints” means any spirits that have been received into a feints receiver:

“Inspector” means an Inspector of Distilleries appointed under this Act; and includes the Chief Inspector:

40 “Lees of wine” includes grape-skins and other residue from winemaking:

- “Licence” means any licence under this Act:
- “Low wines” means all spirits of the first extraction that have been received into a low-wines receiver:
- “Minister” means the Minister of Customs:
- “Permission” means permission in writing: 5
- “Prescribed” means prescribed by regulations for the time being in force under this Act:
- “Proof”, in relation to spirits, means the ordinary and conventional degree of strength indicated as such by the instrument called Sikes’s hydrometer: 10
- “Rectifier” means a person who holds a rectifier’s and compounder’s licence:
- “Rectifying” means the purifying of spirits by a process of redistillation:
- “Spent wash” means liquor remaining after spirits have been extracted by distillation: 15
- “Spirit maker” means a person who holds a spirit maker’s licence:
- “Spirits” includes alcohol, brandy, rum, gin, whisky, low wines, feints, and every other description of spirituous liquor: 20
- “Spirit store” means a store provided by a distiller in accordance with section 33 of this Act:
- “Still” means any apparatus for or capable of distilling spirits; and includes any part of a still and any apparatus connected or used in connection with a still: 25
- “Vessel” means any vat, tank, back, charger, receiver, or other container or utensil suited for the holding or storage of wort, wash, low wines, feints, or spirits: 30
- “Vigneron” means a person who holds a vigneron’s licence:
- “Wash” means the liquor obtained from wort after fermentation has begun and before the liquor has been distilled; and includes wine and the lees of wine used for distillation: 35
- “Worm” means any pipe, condenser, or other equipment used or capable of being used for the condensation of the vapour of spirits:
- “Wort” means the liquor obtained from the mashing of material before fermentation has begun. 40

Cf. 1908, No. 46, ss. 2, 3 (2); 1959, No. 97, ss. 20, 22

PART I

ADMINISTRATION

**3. Act to be administered by Customs Department**—This Act shall be administered by the Customs Department.

5 **4. Chief Inspector of Distilleries**—There shall be a Chief Inspector of Distilleries, who shall be the person for the time being holding office or acting as Comptroller of Customs under the Customs Act 1966.

Cf. 1908, No. 46, s. 3 (1); 1959, No. 97, s. 22

10 **5. Inspectors of Distilleries**—(1) There may from time to time be appointed, under the State Services Act 1962, such number of fit persons as may be considered necessary to be Inspectors of Distilleries.

(2) Every Inspector shall be furnished with a certificate of  
15 his appointment issued under the authority of the State Services Act 1962; and on entering any place or premises for the purposes of this Act he shall, if required, produce the certificate to the person in charge of the place or premises.

(3) Every person commits an offence against this Act who  
20 forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any certificate, or falsely pretends to be an Inspector.

Cf. 1908, No. 46, s. 3A; 1959, No. 97, s. 23

25 **6. Delegation of powers**—(1) The Minister may from time to time by writing under his hand delegate to any officer of Customs all or any of the powers or functions conferred or imposed on the Minister under this Act, except this power of delegation.

30 (2) The Chief Inspector may with the written consent of the Minister from time to time similarly delegate to any person under his control all or any of the powers, functions, or duties conferred or imposed on the Chief Inspector under this Act, except this power of delegation.

35 (3) Subject to any general or special directions given or conditions attached by the Minister or the Chief Inspector, as the case may be, the person to whom any powers, functions, or duties are delegated under this section may exercise those powers or functions and carry out those duties in the same  
40 manner and with the same effect as if they had been conferred or imposed on him directly by this Act and not by delegation.



(4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation. 5

(6) Every such delegation, whether by the Minister or the Chief Inspector, shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister or the Chief Inspector. 10

(7) Every delegation made under this section shall, until it is revoked, continue in force according to its tenor, notwithstanding that the Minister or the Chief Inspector by whom it was made has ceased to hold office, and shall continue to have effect as if made by his successor in office. 15

Cf. 1908, No. 46, s. 136

## PART II

### LICENCES

7. **Classes of licences**—Licences of the following descriptions may be granted under this Act: 20

(a) Spirit makers' licences:

(b) Rectifiers' and compounders' licences:

(c) Vignerons' licences. 25

Cf. 1959, No. 97, s. 2

8. **Unlawful to distil without a licence**—(1) Subject to the provisions of this Act, it shall not be lawful in any part of New Zealand to—

(a) Distil spirits; or 30

(b) Rectify or compound spirits; or

(c) Distil spirits for fortifying New Zealand wine—  
otherwise than pursuant to the authority of and in conformity with the terms and conditions of the appropriate licence granted under this Act. 35

(2) Subject to the provisions of this Act, every person commits an offence—

(a) Who has in his possession or on his premises or makes use of any still, vessel, or apparatus for distilling, rectifying, or compounding spirits, unless he is the holder of the appropriate licence issued to him under this Act; or 40

- (b) Who carries on any operation authorised by a licence issued to him under this Act contrary to the terms of the licence; or
- 5 (c) On whose house, building, premises, or place is found any still, vessel, or other apparatus which he knows, or has reasonable ground to believe, is used or intended to be used in or in connection with the distilling of spirits, or for any process of distillation of spirits, and which is not authorised to be kept
- 10 there; or
- (d) Who unlawfully makes or is otherwise concerned in unlawfully making spirits; or
- (e) Who supplies any still, vessel, or other apparatus as aforesaid, knowing that it is intended to be used
- 15 in or in connection with the unlawful distilling, rectifying, or compounding of spirits; or
- (f) Who is found in any house, building, premises, or place where distillation is carried on in breach of the provisions of this Act, unless he satisfies the Court
- 20 that his presence was for a lawful purpose and that he neither took part nor intended to take part in any unlawful distillation of spirits or any act connected therewith.
- (3) Every person who commits an offence against subsection
- 25 (2) of this section shall be liable—
- (a) To a fine not exceeding \$1,000, or 3 times the value of the excise duty evaded on any spirits distilled during the commission of the offence, whichever is the greater; or
- 30 (b) To imprisonment for a term not exceeding 2 years; or
- (c) To both such fine and imprisonment.
- (4) If any body corporate carries on any operation contrary to the provisions of this section, every director or other person acting in the management of the operation shall, in addition to
- 35 any penalty to which the body corporate may be liable, be liable to a fine not exceeding \$100 for every day on which the operation has been carried on.
- (5) Every still, vessel, or other apparatus, and all spirits, in respect of which any offence against this section is com-
- 40 mitted shall be forfeited.

Cf. 1908, No. 46, s. 116 (1), (2) (a)–(c), (f); 1959, No. 97, s. 3

**9. Application for licence—**(1) Every application for a licence shall be made to the Minister, but shall be forwarded in the first instance to a Collector.

(2) The application shall be accompanied by the prescribed fee and by such plans and particulars as the Minister may require. 5

Cf. 1959, No. 97, s. 4

**10. Grant or refusal of licence—**(1) In considering any application for a spirit maker's licence or a rectifier's and compounder's licence, the Minister shall take into consideration— 10

(a) The output at that time, and the possible future output, of every holder of any such licence for the time being in force; and

(b) The economic circumstances of the industry or the branch of the industry to which the application relates; and 15

(c) The public interest.

(2) No person shall be granted a licence of any description if in the opinion of the Minister he is not a fit and proper person to hold the licence on the grounds that he is not of good character and reputation. 20

(3) Subject to the provisions of this section, the Minister may, in his discretion, grant or refuse any application for a licence. 25

(4) Every licence shall be subject to such terms and conditions as may be prescribed or as the Minister thinks fit to impose.

(5) Before any licence is granted, the Minister may require the applicant to give security to the satisfaction of the Chief Inspector for the due and faithful observance of this Act. 30

(6) Subject to section 11 of this Act, any decision of the Minister under this section shall be final and conclusive.

Cf. 1959, No. 97, s. 5 (1)–(7)

**11. Appeal against refusal of licence—**(1) Any person who is refused a licence under section 10 of this Act may appeal from the Minister's decision to the Supreme Court. 35

(2) Every such appeal shall be heard and determined by the Administrative Division of the Court.

(3) Every such appeal shall be made by giving notice of appeal within 14 days after the date on which the Minister's decision has been communicated to the appellant. It shall not be necessary to state in the notice the grounds of the appeal. 40

(4) On hearing the appeal the Court may confirm or reverse the decision appealed against. If the decision is reversed it shall be referred back to the Minister who shall grant the application subject to such terms and conditions as he thinks fit and as he is authorised to impose under this Act.

(5) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with rules of Court.

Cf. 1959, No. 97, s. 5 (7)–(11)

10 **12. Spirit maker's licence**—(1) A spirit maker's licence shall authorise the holder to distil any specified spirit or any specified class or classes of spirits.

(2) Any such licence may relate to spirits intended for consumption in New Zealand, or to spirits intended for export, or to both.

(3) Notwithstanding anything in the Sale of Liquor Act 1962, but subject to the provisions of this Act and to any conditions or restrictions specified in the licence, every such licence shall authorise the holder—

20 (a) In the case of a licence to distil spirits intended for consumption in New Zealand, to sell spirits distilled pursuant to the licence to holders, or persons deemed to be holders, of wholesale licences for the time being in force under the Sale of Liquor Act 1962, or to other distillers, or to persons authorised to produce goods in a manufacturing warehouse under the Customs Act 1966, and to remove any such spirits to a warehouse licensed under the Customs Act 1966, there to be dealt with under the provisions of that Act:

(b) In the case of a licence to distil spirits for the purposes of export, to export spirits distilled pursuant to the licence.

Cf. 1959, No. 97, s. 6; 1963, No. 37, s. 14 (a)

35 **13. Rectifier's and compounder's licence**—(1) A rectifier's and compounder's licence shall authorise the holder to rectify and compound any specified spirit or any specified class or classes of spirits:

40 Provided that the authority conferred by any such licence may be limited to the rectification or to the compounding of spirits.

(2) Any such licence may relate to spirits intended for consumption in New Zealand, or to spirits intended for export, or to both.

(3) Notwithstanding anything in the Sale of Liquor Act 1962, but subject to the provisions of this Act and to any conditions or restrictions specified in the licence, every such licence shall authorise the holder— 5

(a) In the case of a licence to rectify and compound spirits intended for consumption in New Zealand, to sell spirits rectified and compounded pursuant to the licence to holders, or persons deemed to be holders, of wholesale licences for the time being in force under the Sale of Liquor Act 1962, or to other distillers, or to the holders of limited wholesale licences under the Second Schedule to the Sale of Liquor Act 1962, or to persons authorised to produce goods in a manufacturing warehouse under the Customs Act 1966, and to remove any such spirits to a warehouse licensed under the Customs Act 1966, there to be dealt with under the provisions of that Act: 10 15 20

(b) In the case of a licence to rectify and compound spirits for the purposes of export, to export spirits rectified and compounded pursuant to the licence.

Cf. 1959, No. 97, s. 7; 1962, No. 139, s. 300; 1963, No. 37, s. 14 (b) 25

**14. Vigneron's licence**—(1) A vigneron's licence shall authorise the holder to distil spirits from wine produced in New Zealand from grapes grown in New Zealand or from the lees of that wine.

(2) No vigneron's licence shall be granted to any person other than the holder of a grape wine licence issued under the Sale of Liquor Act 1962: 30

Provided that a vigneron's licence may be granted to a combination of persons each of whom is the holder of a grape wine licence. 35

(3) Subject to the provisions of section 67 of this Act, no spirits distilled under a vigneron's licence shall be used for any purpose other than to fortify wine produced from fruit (including grapes) or vegetables grown in New Zealand; and no wine shall be so fortified to such an extent as to make the wine of a strength exceeding 40 percent proof spirit: 40

Provided that, before such spirits are used for fortifying wine, any flavour may be imparted to the spirits by the addition of such flavouring materials as may be approved by the Chief Inspector.

5 Cf. 1959, No. 97, s. 8 (1)–(3)

**15. Premises of licensed business—**(1) Every licence shall specify the premises in which the operations authorised by the licence shall be carried on.

10 (2) Every person who carries on any operations authorised by a licence in premises other than those specified in the licence commits an offence and shall be liable to a fine not exceeding \$200 for every day on which he has so carried on such operations.

Cf. 1959, No. 97, s. 10

15 **16. Licence fees—**(1) There shall be paid by the holder of any licence, in accordance with regulations made under this Act, an annual licence fee of such amount as may be prescribed.

20 (2) On the first grant of any licence a proportionate part of the proper annual licence fee, for the period elapsing between the time at which the licence takes effect and the next succeeding 1st day of January, shall be due and payable by the licensee.

25 (3) On the revocation or expiry of any licence the Chief Inspector may allow a refund or remission to the licensee of a proportionate part of the licence fee for the current year of the licence, calculated from the date of such revocation or expiry to the end of that year.

Cf. 1959, No. 97, s. 11

30 **17. Duration of licence—**Subject to the provisions of this Act, every licence shall remain in force until the close of the 31st day of December in the year in respect of which it was granted or renewed, as the case may be.

Cf. 1959, No. 97, s. 12

35 **18. Renewal of licence—**(1) Every application for the renewal of a licence shall be made to the Minister in the prescribed form before the 1st day of December in the year in which the licence expires, and shall be forwarded in the first instance to the Collector:

Provided that where the Minister is satisfied that failure to make any such application before that date is due to justifiable mistake or other reasonable cause, he may accept an application made at any time before the expiry of the licence.

(2) Subject to the following provisions of this section, the Minister, unless he is satisfied that the licence should be revoked under section 19 of this Act, shall grant a renewal subject to such conditions as he thinks fit and as he is authorised to impose when granting a new licence.

(3) Every such renewal shall commence with the 1st day of January in the year next following the year in which the application for renewal is made, but the renewal may be granted at any time before that date.

(4) In granting any renewal the Minister may either endorse the existing licence or issue a new licence, but any such licence shall show on its face that it is in renewal of a licence.

(5) The Minister may refuse to renew any spirit maker's licence if, in the year immediately preceding the year in respect of which the application for renewal is made, the spirit maker fails to distil at least 5,000 gallons of proof spirit, or such smaller quantity as the Minister may from time to time determine in any special case:

Provided that, if the spirit maker's licence has been in force for less than 1 year before the year in respect of which the application is made, the quantity of proof spirit referred to in this subsection shall be proportionately reduced.

(6) Notwithstanding the provisions of subsection (5) of this section, the Minister may in his discretion renew any such licence in any case where, having regard to the considerations set out in subsection (1) of section 10 of this Act, he would have granted a licence on first application.

Cf. 1959, No. 97, s. 13

**19. Revocation and suspension of licences—**(1) The Minister may at any time revoke any licence if—

- (a) He is satisfied that the holder of the licence has not carried on any operation authorised by the licence in all respects in conformity with the terms and conditions of the licence; or
- (b) The holder of the licence has been convicted of any offence against this Act or any regulation made under this Act.

(2) Instead of revoking a licence, the Minister may suspend it for such period as he thinks fit.

Cf. 1959, No. 97, s. 14

**20. Appeal against revocation or suspension of licence—**

5 (1) If the Minister revokes or suspends a licence under section 19 of this Act, the holder of the licence may appeal to the Supreme Court against the revocation or suspension.

(2) Every such appeal shall be heard and determined by the Administrative Division of the Court.

10 (3) Every such appeal shall be made by giving notice of appeal within 14 days after the date on which the Minister's decision to revoke or suspend the licence has been communicated to the appellant. It shall not be necessary to state in the notice the grounds of the appeal.

15 (4) The decision to revoke or suspend the licence shall not take effect until the expiry of the said period of 14 days, and if within that period an appeal is made the operation of the decision shall be suspended until the final determination of the appeal.

20 (5) If the appeal is not finally determined on or before the expiry of the licence by effluxion of time, the licence shall be deemed to be extended until the final determination of the appeal.

25 (6) On hearing the appeal the Court may confirm or reverse the decision appealed against or, in the case of a suspension, may vary the period of the suspension.

(7) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with rules of Court.

30 **21. Licensee not to hold licence under Sale of Liquor Act 1962—**

(1) Subject to the provisions of this section, no person who is the holder of a licence under this Act, whether alone or in partnership, or who owns the whole or any part of any business in respect of which a licence has been granted under  
35 this Act, shall be the holder of a licence under the Sale of Liquor Act 1962:

Provided that the holder of a licence under this Act shall not be disqualified by this subsection for holding a licence under the Sale of Liquor Act 1962 if he has the permission of  
40 the Minister and complies with any terms and conditions prescribed by the Minister in the permission.



(2) Nothing in this section shall apply to the holder of a licence under the Sale of Liquor Act 1962 who owns shares in any company owning any business in respect of which a licence has been granted under this Act.

(3) Nothing in this section shall apply to the holder of a grape wine licence under the Sale of Liquor Act 1962, whether or not that licence is held in conjunction with any other licence under that Act. 5

Cf. 1959, No. 97, s. 15

**22. Erection of still, etc.**—Any person who erects or sets up in any brewery, vineyard, or vinegar factory any still, vessel, or other apparatus intended or suited for any process of distillation, or for heating or cooling purposes, without first giving to the Chief Inspector notice in writing stating the number of gallons that the still is capable of containing, the name and address of the owner of it, the place in which it is intended to erect and set up the still, vessel, or other apparatus, and the purpose for which it is to be used, commits an offence and shall be liable to a fine not exceeding \$1,000. 10 15

Cf. 1908, No. 46, s. 124; 1959, No. 97, s. 29 20

### PART III

#### DISTILLERS

##### *General Provisions*

**23. Securing of premises**—Every distiller shall cause his distillery to be fenced, walled, or otherwise secured to the satisfaction of the Chief Inspector. 25

Cf. 1908, No. 46, s. 18

**24. Office accommodation**—Every distiller shall, if required to do so by the Chief Inspector, provide and maintain at his distillery, to the satisfaction of the Chief Inspector, office accommodation for the exclusive use of any Inspector who may at any time be on duty at the distillery. 30

Cf. 1908, No. 46, s. 22 (1)

**25. Distiller to provide locks**—(1) Every distiller shall provide and maintain to the satisfaction of an Inspector sufficient fastenings and locks for properly securing the openings into any still in his distillery so that, when the locks or fastenings are on, the still cannot be worked. 35

(2) Every distiller commits an offence against this Act who refuses or fails to provide and maintain such locks and fastenings, or prevents or hinders an authorised officer from affixing any such lock or fastening.

5 Cf. 1908, No. 46, ss. 38, 102

**26. Distiller to provide facilities for inspection**—(1) Every distiller shall provide all reasonable facilities and assistance to enable Inspectors to exercise their powers and functions under this Act.

10 (2) Without limiting the generality of subsection (1) of this section, every distiller shall in his distillery—

(a) Keep and maintain correct weights, scales, and measures, to the satisfaction of the Chief Inspector, available at all times for the use of Inspectors:

15 (b) In respect of every vessel authorised by this Act, provide to the satisfaction of the Chief Inspector suitable means whereby the quantity at any time contained by every such vessel may be ascertained:

20 (c) Keep all vessels and equipment, including such locks and fastenings as may be required under this Act, in a secure and clean condition to the satisfaction of the Chief Inspector:

(d) Where required by the Chief Inspector, keep numbered and suitably identified every fixed vessel in the distillery and each door of any place or store in which distilling operations are carried on or in which materials for distilling or any spirits are kept or stored:

30 (e) Draw off the water in any worm-tub and clean the tub and worm when required to do so by an Inspector, and keep the worm-tub free from water for such time, not exceeding 2 hours, as will enable the Inspector to examine the tub and worm. Any requirement of an Inspector under this paragraph shall not relate to any time when the still is being worked:

(f) Thoroughly clean out the wash chargers when required to do so by an Inspector.

40 (3) Every person who contravenes or fails to comply with any provision of this section, or any requirement of an Inspector under this section, commits an offence against this Act.

Cf. 1908, No. 46, ss. 20, 38, 53, 56, 87

**27. Books to be kept**—Every distiller shall keep such books and records relating to operations carried on in the distillery, and render to the Inspector such transcripts thereof, as may be prescribed.

Cf. 1908, No. 46, ss. 41, 108; 1959, No. 97, s. 30

5

**28. Vessels to be kept by distillers**—(1) Every distiller shall erect and keep in his distillery to the satisfaction of the Chief Inspector such vessels and pipes as may be prescribed.

(2) Except with the authority of the Chief Inspector, no distiller shall erect or keep any vessel or pipe other than those prescribed.

(3) Any vessel or pipe authorised by the Chief Inspector under subsection (2) of this section shall be deemed to be authorised by and subject to the provisions of this Act.

Cf. 1908, No. 46, ss. 25, 73

15

**29. Alterations to or removal of vessels**—(1) Where at any time any distiller wishes to alter the size, situation, or position of any vessel in respect of which a return is required under section 30 of this Act, or any pipe in his distillery, or to erect or set up any such new vessel or pipe therein, or to remove any such vessel or pipe from his distillery, he shall give notice in writing to the Chief Inspector specifying the alteration or addition or removal required.

(2) Every distiller who, without the permission of the Chief Inspector, carries out any operation in respect of which a notice is required under subsection (1) of this section commits an offence and shall be liable to a fine not exceeding \$1,000.

Cf. 1908, No. 46, s. 40

**30. Returns by distillers**—(1) Every distiller shall, within 7 days after the date of the coming into force of his licence or of its renewal, furnish to the Chief Inspector a return in writing signed by him showing—

(a) Every vessel in the distillery;

(b) The capacity of each such vessel.

(2) Where any such return is made following the first issue of a licence, the return shall be verified by an Inspector and countersigned by him.

35

(3) Where any vessel is erected with the authority of the Chief Inspector given under subsection (2) of section 28 of this Act, the distiller shall furnish to the Chief Inspector a return in writing of the vessel and its capacity.

5 (4) The Chief Inspector may permit any vessel to be regauged; and the result of any such regauging, on being verified as aforesaid, shall be entered on the appropriate return.

10 (5) Every distiller shall, if required by the Chief Inspector, empty and regauge any vessel in respect of which a return is required under this section.

(6) Any distiller who neglects or fails to make the return required by this section, or to comply with any requirement of the Chief Inspector under this section, commits an offence  
15 against this Act.

(7) Any distiller who begins to make or brew worts, or to rectify or compound any spirits, before the provisions of this section have been complied with commits an offence against  
20 this Act.

(8) If any vessel found in the distillery is not included in any such return, the vessel shall be forfeited.

Cf. 1908, No. 46, s. 33

**31. Safes**—Every safe required under this Act shall be a suitable apparatus in which the strength of the spirits, low  
25 wines, or feints running from the worm or still may be approximately ascertained by the inspection of a hydrometer or other suitable instrument contained in the safe, and shall be of a design approved by the Chief Inspector and sealed in such manner as he may require.

30 Cf. 1908, No. 46, s. 35

**32. Course of wash, low wines, feints, and spirits**—(1) In any distillery, the course of wash, low wines, feints, and spirits shall be such as the Chief Inspector may by writing under his hand approve.

35 (2) If any distiller follows any course other than that approved by the Chief Inspector in accordance with subsection (1) of this section, he commits an offence and shall be liable to a fine not exceeding \$1,000.

(3) All wash, low wines, feints, or spirits, together with any vessel used in connection therewith, in respect of which an offence against this section has been committed, shall be forfeited.

Cf. 1908, No. 46, s. 50; 1959, No. 97, s. 24

5

**33. Spirit stores—**(1) Every distiller except a vigneron shall provide and maintain at his distillery, to the satisfaction of the Chief Inspector, a spirit store, being a place of security for storing the spirits distilled in the distillery.

(2) Every such distiller shall provide sufficient fastenings and locks, to the satisfaction of the Chief Inspector, for properly securing the spirit store. 10

(3) The Minister may refuse to grant to any person a spirit maker's licence or a rectifier's and compounder's licence until the person has provided in his distillery a spirit store approved by the Chief Inspector, and may also suspend or revoke the licence already granted to any distiller, except a vigneron, until he has provided or properly maintained such a store. 15

Cf. 1908, No. 46, s. 23 (1)–(4)

**34. How spirits to be kept in store—**(1) Spirits shall be kept in the spirit store only in vessels approved by the Chief Inspector. 20

(2) Each such vessel shall be of a capacity of not less than 300 gallons, or such other capacity as may be permitted in any particular case by an Inspector. 25

(3) No substance other than spirits in authorised vessels shall be kept in a spirit store.

(4) No spirits shall be taken from the spirit store except in the presence of an Inspector.

Cf. 1908, No. 46, s. 72

30

**35. Specific gravity of wash and strength of spirits—**

(1) The specific gravity of wort or wash shall be that indicated by a saccharometer approved by the Chief Inspector:

Provided that an Inspector may ascertain the specific gravity of any wort or wash by any other means approved by the Chief Inspector. 35

(2) The strength of spirits shall be ascertained for the purposes of duty by means of a hydrometer approved by the Chief Inspector:

Provided that if in his opinion the strength of any spirits cannot immediately be accurately ascertained by means of a hydrometer, the strength may be ascertained in any prescribed manner.

5 Cf. 1908, No. 46, ss. 63, 64

**36. Measuring quantity of spirits**—Where it is desired to measure the quantity of spirits contained in any cask or vessel, the method of measurement shall be that prescribed by regulations under this Act.

10 Cf. 1908, No. 46, s. 86

**37. Wort, etc., made on premises not to be mixed with liquor made elsewhere**—(1) Subject to the provisions of this Act, no distiller shall, except with the permission of an Inspector, mix any wort or wash made or fermented in his distillery, or any low wines, feints, or spirits produced therefrom, with any wine, ale, or beer, or with any fermented liquor not fermented or made in his distillery, or with any low wines, feints, or spirits produced therefrom.

15  
20 (2) Every distiller who acts in contravention of this section commits an offence and shall be liable to a fine not exceeding \$500.

(3) Nothing in this section shall prevent a distiller from adding any spirits lawfully obtained by him for the purpose of imparting a flavour to any spirits made by him.

25 Cf. 1908, No. 46, s. 62

**38. Spirits for flavouring**—(1) The Collector may, subject to any regulations made under this Act, grant permission for the removal of imported spirits from any warehouse licensed under the Customs Act 1966 to the spirit store of any distiller, for flavouring spirits distilled by the distiller; and the spirits so received and used for flavouring shall be subject to the like allowance for natural waste as if they had been distilled in the distillery.

30  
35 (2) If the spirits to be so removed from any such warehouse are intended for flavouring spirits distilled and vatted for export, no duty shall be chargeable on the spirits so removed; but if they are intended for flavouring spirits distilled and vatted for home consumption, then, if the duty on imported spirits is for the time being greater than that payable on spirits  
40 distilled in New Zealand, the difference between those rates

of duty shall be paid on every proof gallon and fraction of a gallon of the imported spirits before removal from the warehouse to the spirit store.

Cf. 1908, No. 48, s. 88

**39. Mixing of sugar, colouring matter, etc., with spirits—** 5

(1) Except with the permission of an Inspector and subject to such conditions as he may impose, no sugar, syrup, colouring matter, or other matter whatsoever, whereby the gravity of any low wines, feints, or spirits in a distillery may be increased so as to prevent their true strength from being ascertained by means of the hydrometer or other prescribed instrument, shall be mixed with or added to any such low wines, feints, or spirits until the quantity of proof gallons thereof is ascertained. 10

(2) If any provision of this section is contravened, the distiller commits an offence and shall be liable to a fine not exceeding \$500, and the goods shall be forfeited. 15

Cf. 1908, No. 46, ss. 74 (1), (2), 101 (3)

**40. Redistillation of faulty spirits—**Whenever the Chief Inspector is satisfied that any spirits distilled under this Act have been found— 20

(a) Before their delivery from any distillery; or

(b) Before their delivery from the control of the Customs under the Customs Act 1966; or

(c) Within such period after such delivery in either case as may be prescribed— 25

to be of faulty manufacture, he may permit their redistillation, and may make in respect of any loss arising from their redistillation an allowance not exceeding 2 percent of the quantity of proof spirits so redistilled.

Cf. 1908, No. 46, s. 52 30

**41. Provisions to facilitate periodical accounting—**(1) No distiller shall, between the hours of 6 o'clock in the evening of the last day of any accounting period on which the distillery is operating and 6 o'clock in the following morning,—

(a) Have or keep any spirits in any vessel in his distillery, except in the chargers and receivers in the distillery or in approved vessels in the spirit store or in containers in the distillery warehouse; or 35

(b) Have or keep in the distillery any wort or wash in respect of which the lowest specific gravity has been entered in the books of the distillery pursuant to regulations made under this Act. 40

(2) Every distiller who acts in contravention of any provision of this section commits an offence against this Act.

Cf. 1908, No. 46, s. 70

*Spirit Makers*

5     **42. Materials for making wort**—Subject to the provisions of any regulations made under this Act, in the brewing or making of wort or wash for the distillation of spirits a spirit maker may use such materials as may be prescribed, so long  
10 as the specific gravity of the wort or wash produced therefrom can be ascertained by any saccharometer approved under this Act.

Cf. 1908, No. 46, s. 43

*Rectifiers and Compounders*

15     **43. Rectifying and compounding**—The process of rectifying or compounding any spirits shall be completed within 12 hours of its having been begun, or within such further period as an Inspector may in any particular case allow.

Cf. 1908, No. 46, s. 101 (1); 1959, No. 97, s. 28

20     **44. Quantity and strength of spirits in still**—(1) Any Inspector may at any time ascertain the quantity and strength of the spirits contained in any rectifier's or compounder's still, and take an account thereof.

25     (2) If at the time specified in any notice of intention to rectify or compound required by regulations made under this Act the quantity and strength of any such spirits so ascertained and taken account of by the Inspector is found not to agree with the quantity and strength as set forth in the notice, the rectifier or compounder commits an offence against this Act.

Cf. 1908, No. 46, s. 104

30     **45. Inspector may secure still**—As soon as any rectifying still or distilling apparatus on the premises of a rectifier or compounder ceases to run spirits, the Inspector may secure and lock the furnace door, steam pipes, and other openings connected therewith, and any other vessel attached thereto,  
35 and secure all other vessels, tubs, pipes, and openings in such manner as may be required for the protection of the revenue.

Cf. 1908, No. 46, s. 106



**46. Quantity produced not to exceed quantity put into still—**(1) Any Inspector may at any time ascertain and take an account of the quantity and strength of the spirits rectified or compounded by any rectifier or compounder, in respect of which any notice is required by regulations made under this Act. 5

(2) If—

(a) The number of gallons of proof spirit produced by the process of rectifying or compounding is found to exceed in any case the number of gallons previously ascertained to be in the rectifier's or compounder's still, charger, or other vessel; or 10

(b) The Inspector is prevented by any means (not being means beyond the control of the rectifier or compounder) from ascertaining and taking a true account of the quantity and strength of any such spirit— 15

the rectifier or compounder commits an offence and shall be liable to a fine not exceeding \$500.

Cf. 1908, No. 46, s. 107

20

**47. Deficiency in rectified spirit—**If, after making an allowance of not more than 2 percent on the quantity of spirits delivered to be rectified or compounded, it is found that the quantity rectified or compounded, when computed at proof, is less than the quantity delivered, the full duty on the deficiency so found shall immediately be paid by the rectifier or compounder to the Collector. 25

Cf. 1908, No. 46, s. 101 (2)

*Vignerons*

**48. Spirits to be kept in storeroom—**(1) Every vigneron shall provide and maintain at his distillery, to the satisfaction of the Chief Inspector, a storeroom built of permanent materials and approved by an Inspector for the purpose. 30

(2) All spirits produced or manufactured by the vigneron shall be conveyed by closed metal pipe directly from the still into receivers in the storeroom and kept securely locked therein until they are required for the purpose of fortifying wine pursuant to his licence. 35

(3) Every person who enters the storeroom except in the presence or with the permission of an authorised officer commits an offence and shall be liable to a fine not exceeding \$500.

5 Cf. 1908, No. 46, s. 109

**49. Wines above strength to be forfeited**—All wines fortified with spirits distilled by a vigneron pursuant to his licence that are found to be of an alcoholic strength greater than 40 percent proof shall be forfeited.

10 Cf. 1959, No. 97, s. 8 (4)

## PART IV

### STORAGE AND REMOVAL OF SPIRITS

**50. Distillery warehouse**—Any distiller other than a vigneron may with the permission of the Chief Inspector erect on his premises a warehouse approved by the Chief Inspector as a distillery warehouse for the purpose of storing without payment of duty spirits from the spirit store of his distillery.

15  
20 Cf. 1908, No. 46, s. 89 (1)

**51. Appointment of other warehouses**—(1) The Chief Inspector may, subject to such conditions as he may impose, appoint any other warehouse for the purpose of lodging without payment of duty any spirits distilled in accordance with this Act.

25 (2) Every such warehouse shall in all respects be deemed for the purposes of this Act to be a distillery warehouse.

Cf. 1908, No. 46, s. 90

**52. Storage in warehouse**—(1) With the permission of the Chief Inspector and subject to any regulations made under this Act, any distiller may, without payment of duty, deposit in the distillery warehouse, or in a warehouse appointed under section 51 of this Act, spirits from the spirit store of his distillery and any other spirits or wines approved by the Chief Inspector; and any such spirits or wines, but no other, shall be secured in the warehouse to the satisfaction of an Inspector.

30  
35

(2) Such abatement and allowance of duty as may be allowed by the Chief Inspector shall be made in respect of deficiencies in spirits warehoused in accordance with this section.

Cf. 1908, No. 46, s. 89 (1)

5

**53. Dealing with spirits in distillery warehouse**—With the permission of an Inspector and subject to any conditions he may impose, any distiller may in his distillery warehouse reduce in strength, blend, sort, separate, bottle, pack, and repack any spirits distilled under this Act, and such other spirits and such wines as the Chief Inspector may approve, and may make in them such lawful alterations as may be necessary for their preservation, sale, shipment, or legal disposal.

10

Cf. 1908, No. 46, s. 91; 1965, No. 123, s. 9 (2)

15

**54. Maturation period of brandy and whisky**—No brandy or whisky distilled in New Zealand shall be delivered from the control of the Customs unless the Chief Inspector is satisfied that it has been matured by storage in wood for not less than 3 years.

20

**55. Manufacture of spirituous mixtures in distillery**—  
(1) With the permission of the Chief Inspector and subject to such terms and conditions as he thinks fit, a distiller may manufacture in his distillery such spirituous mixtures as are permitted to be manufactured in a manufacturing warehouse licensed under the Customs Act 1966.

25

(2) On their removal from the distillery, all such spirituous mixtures shall be subject to duty or otherwise as provided for goods of the same kind by the Customs Act 1966.

**56. Denaturing of spirits**—A distiller may, in the manner and subject to the conditions prescribed under the Customs Act 1966, denature spirits in his distillery.

30

Cf. 1908, No. 46, s. 94 (1), (3); 1959, No. 97, s. 27

**57. Removal of spirits**—No person shall remove any spirits from any distillery, or from any warehouse appointed under section 51 of this Act, except—

35

(a) Pursuant to a permit granted by an Inspector in respect thereof; or

(b) With the permission of the Collector after entry has been made in accordance with section 59 of this Act.

Cf. 1908, No. 46, ss. 82, 92, 97

5 **58. Removal to another distillery**—(1) Subject to the provisions of this Act, and to any regulations made under this Act, spirits may be delivered without payment of duty from any distillery or from any warehouse appointed under this Act to any other distillery for any purpose approved by the Chief Inspector.

10 (2) The distiller shall give such security as the Inspector requires for the due transmission of and payment of duty on such spirits.

Cf. 1908, No. 46, s. 101 (1)

15 **59. Entry of spirits**—Before any spirits are taken out of any distillery for home consumption, for removal to any warehouse licensed under the Customs Act 1966, or for export, entry therefor shall be made, and the excise duty on the spirits paid or secured, in the like manner and subject to the like conditions as if they were goods warehoused under the  
20 Customs Act 1966.

Cf. 1908, No. 46, ss. 92, 97

**60. Unlawful removal of spirits**—(1) Any authorised officer may stop and detain any person or vehicle carrying packages of any kind suspected by him, on reasonable grounds, to  
25 contain spirits removed from a spirit store or the distillery warehouse of a distiller, and may examine any such packages, and require the production of the permit or entry authorising the removal of the spirits.

30 (2) If no such permit or entry is produced, and any such packages are found to contain spirits, the packages may, with their contents, be detained until evidence is produced to the satisfaction of the authorised officer that the spirits were being lawfully removed.

Cf. 1908, No. 46, s. 83

35 **61. Unlawful permits**—Every permit or entry used for any purpose other than that for which it was granted or made, or used otherwise than in accordance with its terms and conditions, shall be taken to be an unlawful permit or entry.

Cf. 1908, No. 46, s. 84

**62. Duty on spirits warehoused**—(1) All spirits warehoused in accordance with section 52 of this Act, if not removed from the warehouse within 3 years after the date of deposit, shall, at the expiry of that period, or within such further time as may be allowed by the Chief Inspector, be examined by an officer of Customs; and the duty on any difference or deficiency between the quantity ascertained on their being first warehoused and the quantity found to exist at the examination shall be paid, subject to any allowance made under that section.

(2) The quantity of spirits found to exist at the examination shall either be rewarehoused in the same manner as at first, or the duty shall be paid thereon and the spirits removed from the warehouse.

Cf. 1908, No. 46, s. 89 (2)

## PART V

### EXCISE DUTY

**63. Excise duty payable**—(1) Except as otherwise provided in this Act, there shall be levied, collected, and paid on every gallon of spirits made or distilled in New Zealand, from whatever material the spirits may have been made or distilled, an excise duty at a rate, not exceeding \$18 the proof gallon, to be fixed from time to time by the Governor-General by Order in Council:

Provided that until a rate of duty is so fixed in respect of any spirits of any kind or class or description the duty thereon shall be at the rate of \$18 the proof gallon.

(2) Any such Order in Council may fix a rate of duty—

(a) On all such spirits; or

(b) On any specified kind or class or description of such spirits or on spirits of such kind or class or description as may be approved by the Minister—

and may fix different rates for different kinds or classes or descriptions of any such spirits as aforesaid.

(3) The duty payable under this section on any spirits shall be paid in respect of the gallon standard measure of spirits of the strength of proof, and so in proportion for any greater or less strength than proof or on any quantity less than a gallon, and shall also be payable in respect of any deficiencies occurring in any distillery.

Cf. 1908, No. 46, s. 66 (1), (2); 1959, No. 97, s. 26; 1967, No. 2, s. 8

**64. Duty on spirits a Crown debt—**(1) The duty on any spirits made or distilled in New Zealand shall, immediately on their making or distillation, constitute a debt due to the Crown.

5 (2) Such debt shall be owing by the person who is the maker or distiller of the spirits and by every person who, at any time before the debt has been fully paid, is or becomes the owner of or entitled to the possession of or beneficially interested in the spirits; and all such persons shall be jointly and severally liable for the duty.

10 (3) Subject to any special provisions made by this Act in that behalf, such debt shall become due and payable as soon as entry of the spirits for home consumption has been made, or the spirits have been wrongfully dealt with without having been entered for home consumption, or any other offence  
15 against this Act has been committed in respect of them.

(4) Such debt shall be recoverable by action at the suit of a Collector of Customs on behalf of the Crown.

20 (5) The right to recover duty as a debt due to the Crown shall not be affected by the fact that the spirits have ceased to be subject to the control of the Customs, or that a bond or other security has been given for the payment of duty, or that no proper assessment of duty has been made in due course under this Act, or that a deficient assessment has been made.

**65. Duty payable in accordance with law in force when  
25 spirits entered for home consumption—**The liability to duty of any spirits made or distilled in New Zealand and the rate of duty to which any such spirits are liable shall be determined in accordance with the law in force at the time when the spirits are entered for home consumption.

30 Cf. 1908, No. 46, s. 66 (3); 1959, No. 97, s. 26

**66. Payment of duty—**All duties on spirits made or distilled in New Zealand shall be paid to the Collector.

Cf. 1908, No. 46, s. 98

**67. Spirits for fortifying wine—**Spirits of wine distilled  
35 under the authority of a vigneron's licence and used for fortifying wines in accordance with this Act shall not be liable to any excise duty under this Act:

Provided that if at any time a vigneron has in his possession more spirits than he requires for fortifying wines in accordance with this Act, the Chief Inspector may permit him to sell or dispose of any such spirits in one lot, on payment of the excise duty at the time payable on the like spirits; or may permit or require him to remove the spirits to a warehouse licensed under the Customs Act 1966, there to be dealt with under that Act. 5

Cf. 1908, No. 46, s. 110; 1959, No. 97, s. 8 (5)

**68. Denatured spirits**—Spirits denatured in accordance with this Act may be delivered out of the spirit store or the distillery warehouse in accordance with section 57 of this Act, without payment of duty. 10

Cf. 1908, No. 46, s. 94 (2); 1959, No. 97, s. 27

**69. Delivery of samples to distiller, etc.**—Samples of spirits distilled, rectified, compounded, blended, flavoured, or reduced in strength in accordance with any provision of this Act may be delivered to the distiller, without payment of duty, in such quantities and subject to such conditions as to their disposal as the Chief Inspector may determine. 15 20

Cf. 1908, No. 46, s. 58A; 1965, No. 123, s. 9 (1)

**70. Duty payable where spirits not accounted for**—  
(1) Where a person who has, or has been entrusted with, the possession or custody of spirits made or distilled in New Zealand and subject to the control of the Customs does not account for those spirits to the satisfaction of the Collector, that person shall, on demand in writing made by the Collector, pay the duty that would have been payable on the spirits if they had been entered for home consumption on the day on which the Collector made the demand. 25 30

(2) Nothing in this section shall affect the liability of a person arising under or because of any other provision of this Act or any security given under this Act.

**71. Duty in respect of deficiency**—(1) If a Collector is satisfied that, having regard to the quantity and alcoholic strength of the materials prepared for distillation, the quantity of spirits produced in the distillery is less than the quantity that should have been produced, he shall serve on the distiller an account showing the amount of the deficiency. 35

(2) The deficiency shall be calculated in such manner as is prescribed.

(3) The distiller shall, unless he accounts for the deficiency to the satisfaction of the Collector, pay the duty that would  
5 have been payable on a quantity of spirits equal to the amount of the deficiency, as if that quantity had been entered for home consumption by the distiller on the day on which the account was served.

Cf. 1908, No. 46, ss. 67, 68, 69

10 **72. Allowance where spirits lost by accident**—(1) Where an Inspector is satisfied that any spirits, wort, or wash have been destroyed by fire or other inevitable accident, or lost by the leakage or bilging of any vessel, without the wilful act or negligence of the distiller, no duty shall be demanded from  
15 or paid by the distiller on any spirits, wort, or wash so destroyed or lost.

(2) In case of any such loss it shall not be lawful for a distiller to maintain any action against any officer or person acting under the authority of this Act for any compensation or  
20 damage for or on account of that loss.

Cf. 1908, No. 46, s. 79

## PART VI

### POWERS OF INSPECTORS AND OTHER OFFICERS

25 **73. General powers of Inspectors**—Every Inspector may—  
(a) At any time by day or by night enter any premises licensed under this Act; and shall have complete access to every part of such premises:  
(b) Require the production of any book, record, notice, or  
30 other document that any person is by this Act or any regulations made thereunder required to keep, or any other document kept by the distiller in relation to the distillery and the making, distillation, or sale of spirits, and examine and copy any such document or make extracts from it:  
(c) Examine, regauge, retest, take account of, and note  
35 any plant, materials, and spirits in the premises:  
(d) Make such inquiry as he thinks necessary in order to ascertain whether or not the provisions of this Act or any regulations made thereunder have been or  
40 are being complied with.

Cf. 1908, No. 46, s. 121



**74. Inspection of wash**—For the purpose of testing the quantity of spirit at proof in any wash by distillation, an authorised officer may require any charger or receiver to be emptied and cleaned and any quantity of the wash to be distilled and the produce to be conveyed into the charger or receiver. 5

Cf. 1908, No. 46, s. 60

**75. Inspector may take samples and make trials**—(1) An Inspector may at any time take a sample of any wort, wash, low wines, feints, and spirits in any still or vessel in any distillery, in order to ascertain their specific gravity or strength. 10

(2) The specific gravity or strength of any such sample shall be taken to be the true and correct specific gravity or strength of the whole contents of the still or vessel from which the sample was taken. 15

(3) Before any such sample is taken, all the liquor in the still or vessel may be stirred and mixed together by or on behalf of the distiller, if he thinks fit.

(4) Unless the Chief Inspector otherwise directs, any such sample, or the product by distillation of any such sample, shall be returned to the distiller. 20

Cf. 1908, No. 46, s. 58; 1959, No. 97, s. 25 (2)

**76. Chief Inspector may erect a still**—The Chief Inspector may erect and keep a still or stills in any distillery, or in any place approved by the Minister, for distilling any sample of wash, or for distilling any wash, low wines, or feints seized by any authorised officer, or for carrying on experiments. 25

Cf. 1908, No. 46, s. 59

**77. Inspector may distil**—(1) Any Inspector may cause to be distilled any wort, wash, low wines, feints, or spirits lawfully in his control, and shall gauge or measure the quantity and ascertain the strength of the product of such distillation. 30

(2) Unless the Chief Inspector otherwise directs, the product of the distillation of any sample taken in accordance with section 75 of this Act shall be returned to the distiller. 35

Cf. 1908, No. 46, s. 57; 1959, No. 97, s. 25 (1)

**78. Authorised officer may lock coverings**—An authorised officer on duty at a distillery may lock, secure, and fasten such coverings, fastenings, cocks, safes, pipes, pumps, plugs, troughs, and vessels in the distillery in such manner as an  
 5 Inspector directs, and may keep them so locked, fastened, and secured at all times except when they are opened, unfastened, or unlocked by or in the presence of an authorised officer.

Cf. 1908, No. 46, s. 55

**79. Authorised officer to hold keys**—Wherever under this Act a distiller is required to provide—  
 (a) A place of security; or  
 (b) Locks and fastenings—  
 the keys thereof shall be held by an authorised officer.

**80. Search of distiller's premises**—In order to determine whether any pipe, cock, or vessel may convey or conceal any wort, wash or other liquor fit for distillation, or low wines, feints, or spirits, so as to hinder or prevent him from taking or keeping a true account thereof, any authorised  
 20 officer, or any person acting in his aid, may by night or day break up any ground in any part of a distillery, or break through any wall or partition thereof or belonging thereto, and make such examination as he thinks fit.

Cf. 1908, No. 46, s. 120

**81. Search warrants**—(1) Any Magistrate or Justice who, on an application in writing made on oath, is satisfied that there is reasonable ground for believing that there is in any house, building, vehicle, ship, boat, premises, or place—  
 30 (a) Any still, vessel, or other apparatus used or intended for use in or in connection with the unlawful distillation, rectifying, or compounding of spirits; or  
 (b) Any vessel for making any wort or wash; or  
 (c) Any wort or wash or other material being prepared for distillation; or  
 35 (d) Any spirits in respect of which there is reasonable ground for believing that the full duty has not been paid—

may issue a search warrant in the prescribed form.

(2) Every search warrant shall be directed to an authorised  
 40 officer who shall be named in the warrant.

(3) Every search warrant shall authorise the authorised officer named in it, at any time or times within 1 month from its date, to enter and search the house, building, vehicle, ship, boat, premises, or place with such assistants as may be necessary, and if necessary to use force for making entry, whether by breaking open doors or otherwise; and shall authorise him to break open any box, receptacle, package, or place therein or thereon, by force if necessary. 5

(4) Every search warrant shall authorise the authorised officer to seize any thing referred to in any of the provisions of paragraphs (a) to (d) of subsection (1) of this section. 10

(5) In any case where it seems proper to him to do so, the Magistrate or Justice may issue a search warrant on an application made on oath orally, but in that event he shall make a note in writing of the grounds of the application. 15

(6) Every search warrant may be executed at any time by day or by night.

(7) It is the duty of every one executing any search warrant to have it with him and to produce it if required to do so.

(8) Nothing in this section shall limit or affect the provisions of the Customs Act 1966, as applied by section 96 of this Act, or the powers, under section 217 of the Customs Act 1966, of an officer of Customs having with him a Customs warrant granted to him under that Act; and in respect of any such officer of Customs the said section 217 shall extend and apply, for the purposes of this Act, to any thing referred to in any of the provisions of paragraphs (a) to (d) of subsection (1) of this section. 20 25

Cf. 1908, No. 46, s. 114

**82. Arrest of offenders**—Any authorised officer may, without warrant or other authority, arrest any person found committing any offence against section 8 or section 86 of this Act. 30

Cf. 1908, No. 46, s. 115

## PART VII

### SECURITIES

**83. Securities**—(1) An Inspector shall have the right to require and take securities for payment of duty and generally for compliance with this Act; and pending the giving of the required security he may refuse to do any act in the execution of his office in relation to any matter in respect of which the security is required. 35 40

(2) With respect to any security given under this Act the following provisions shall apply:

- 5 (a) Any such security may, as required by the Minister or an Inspector, be by bond (with or without sureties), or guarantee to Her Majesty, or by a deposit of cash, or by all or any of those methods:
- 10 (b) Without limiting the power to make regulations conferred by section 98 of this Act, regulations under this Act may prescribe forms of bonds, guarantees, and other securities; and any security may be either in the prescribed form or in such other form as the Chief Inspector in any particular case approves:
- 15 (c) Instead of a security being given in respect of a particular matter, a general bond may, at the discretion of the Minister or the Inspector, be entered into for the performance of all obligations of a kind similar to those to which the security relates.
- 20 (3) A security may be required at any time after the grant of a licence or permit under this Act, notwithstanding that the licence or permit was granted without any security being required.

Cf. 1959, No. 97, s. 18

25 **84. New securities may be required**—If at any time the Minister or an Inspector is dissatisfied with the sufficiency of any security, he may require a new security in its place, or in addition; and if the new security is not given he may refuse to do any act in the execution of his office in relation to any matter in respect of which the new security is required.

## PART VIII

30

### OFFENCES

**85. Spirits in unauthorised place in distillery**—If any spirits are found in a distillery in any place other than—

- 35 (a) A spirit store or storeroom approved under this Act; or  
 (b) A vessel or pipe authorised under this Act; or  
 (c) Any other place authorised under this Act—  
 the distiller commits an offence and shall be liable to a fine not exceeding \$200, together with a further fine not exceeding the amount of duty payable under this Act in respect of the spirits found.

40 Cf. 1908, No. 46, s. 23 (5)

**86. Unlawfully dealing with spirits—**(1) Every person commits an offence who—

- (a) Unlawfully takes or is concerned in unlawfully taking any spirits out of any distillery or other premises appointed or authorised under this Act for the storing or deposit of spirits, or wilfully destroys any spirits deposited therein; or 5
  - (b) Knowingly carries, conveys, or conceals or is concerned in carrying, conveying, or concealing any spirits on which the full duty due and payable has not been paid; or 10
  - (c) Knowingly sells or otherwise disposes of, or permits the sale or disposal of, or purchases, any spirits on which the full duty due and payable has not been paid. 15
- (2) If any spirits on which the full duty due and payable has not been paid are found in any house, building, premises, or place occupied by any person, he shall be guilty of an offence unless he proves that he did not know, and had no reasonable cause to believe—
- (a) That the spirits were there; or 20
  - (b) That the full duty on them had not been paid.
- (3) Every person who commits an offence against this section shall be liable—
- (a) To a fine not exceeding \$1,000 or 3 times the value of any duty evaded on any such spirits, whichever is the greater; or 25
  - (b) To imprisonment for a term not exceeding 2 years; or
  - (c) To both such fine and such imprisonment.

Cf. 1908, No. 46, ss. 116 (1) (d), 119 (1), 126

**87. Offences in relation to locks and fastenings—**Every person commits an offence and shall be liable to a fine not exceeding \$500 who— 30

- (a) Without lawful excuse has in his possession any key capable of opening any lock or fastening that the distiller is required to provide under this Act; or 35
- (b) By any means, device, or contrivance opens, breaks, damages, or removes any lock, seal, or fastening at any time after it has been locked, made, or secured by an authorised officer.

Cf. 1908, No. 46, s. 102 (2)

40

88. **General penalty**—Every person who commits an offence against this Act for which no other penalty is provided shall be liable to a fine not exceeding \$200.

5 89. **Penalties independent of forfeiture**—All penalties under this Act shall be in addition to and independent of any forfeiture, and all forfeitures under this Act shall be independent of any proceedings in respect of an offence.

10 90. **Imprisonment for second offence**—Any person who is convicted of an offence against this Act that is punishable by a fine only, and who has within 2 years before the conviction been convicted of the like offence or of any other offence against this Act, may, if the convicting Court thinks fit, be sentenced to imprisonment for a term not exceeding 3 months, instead of or in addition to being sentenced to pay a fine.

15 91. **Offences punishable summarily**—Except where this Act otherwise provides, every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction.

20 92. **Procedure**—(1) Every information under the Summary Proceedings Act 1957 for an offence against this Act shall be laid by a Collector of Customs.

25 (2) Notwithstanding anything to the contrary in the Summary Proceedings Act 1957, any information for an offence against this Act may be laid at any time within 3 years after the date of the offence.

## PART IX

### FORFEITURES

30 93. **Goods forfeited**—In addition to all other goods elsewhere declared by this Act to be forfeited, the following goods shall be forfeited to the Crown:

- 35 (a) Any still, vessel, or other apparatus whatsoever used or intended for use in or in connection with the unlawful distillation, rectifying, or compounding of spirits, and found in any house, building, premises, or place:
- (b) All materials capable of fermentation, and all wort, wash, wine, and spirits found in any such house, building, premises, or place, and not authorised to be kept there:

- (c) Any spirits on which the full amount of duty due and payable has not been paid:  
 (d) Any boat or vehicle used in unlawfully conveying any dutiable or forfeited goods.

Cf. 1908, No. 46, ss. 23 (5), 82 (5), 109 (2), 112, 113, 125 5

**94. Seizure of forfeited goods—**(1) Any authorised officer may seize any forfeited goods, or any goods which he has reasonable and probable cause for suspecting to be forfeited under this Act. 10

(2) In any such case such force may be used as is reasonably necessary for effecting the seizure and securing the goods.

(3) All goods so seized shall be taken to a Crown warehouse or to such other place of security as the Chief Inspector directs. 15

(4) No goods shall be so seized at any time later than 2 years after the cause of forfeiture has arisen.

Cf. 1908, No. 46, ss. 112, 113, 121

**95. Application of Part XII of Customs Act—**Except as otherwise provided in this Part of this Act, the provisions of Part XII of the Customs Act 1966 shall apply to all forfeitures under this Act. 20

Cf. 1908, No. 46, s. 131

## PART X

### MISCELLANEOUS PROVISIONS

25

**96. Application of Customs Act 1966 to spirits produced in New Zealand—**(1) Except as otherwise provided in this Act, the provisions of the Customs Act 1966 shall apply, so far as they are applicable and with the necessary modifications, in respect of spirits distilled, rectified, or compounded pursuant to a licence under this Act as if they were spirits imported into New Zealand and as if the holder of the licence were the importer. 30

(2) Without limiting the generality of subsection (1) of this section, the provisions of section 167 of the Customs Act 1966 shall extend and apply in respect of such spirits as aforesaid as if the references in the said section 167 to goods were references to spirits. 35

Cf. 1908, No. 46, s. 92A; 1963, No. 37, s. 13; 1964, No. 62, s. 11 40

97. Evidence in respect of licences, etc.—Without limiting the application, for the purposes of this Act, of section 299 of the Customs Act 1966 (as applied by section 96 of this Act), in any proceedings for an offence against this Act, or for the  
5 recovery of fees or charges or duty payable under this Act, every allegation in any information for any such offence, or made by or on behalf of the Crown in any statement of claim, that a person is not the holder of a licence, permit, or authority under this Act, or that the fees or duty have not  
10 been paid, shall be presumed to be true unless the contrary is proved.

Cf. 1908, No. 46, ss. 132, 133

98. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any  
15 of the following purposes:

- (a) Prescribing forms for any of the purposes of this Act:
- (b) Prescribing matters in respect of which fees and charges are to be payable under this Act or under the regulations, the amounts of the fees and charges,  
20 and the persons liable to pay them:
- (c) Prescribing and regulating the provision, keeping, maintenance, alteration, use, and inspection of any buildings, plant, equipment, apparatus, vessels, or materials in distilleries and other premises for the  
25 purposes of this Act:
- (d) Prescribing and regulating procedures to be followed in any process of distillation, rectifying, compounding, flavouring, colouring, or blending of spirits; and in their bottling, packing, repacking, storage,  
30 removal, conveyance, or delivery; and in the fortification of wine under a vigneron's licence:
- (e) Providing for the keeping of records and the making of returns and declarations and the giving of notices for any of the purposes of this Act or of the  
35 regulations:
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration:
- (g) Prescribing offences against any such regulations, and  
40 prescribing fines not exceeding in respect of any such offence \$200 and, in the case of a continuing offence, \$20 for every day on which the offence has continued.

Cf. 1908, No. 46, s. 137; 1934, No. 14, s. 32



**99. Consequential amendments**—The enactments specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

**100. Repeals**—The enactments specified in the Second Schedule to this Act are hereby repealed.

---

SCHEDULES

FIRST SCHEDULE

Section 99

ENACTMENTS AMENDED

Title of Act	Amendment
1962, No. 139—The Sale of Liquor Act 1962	<p>By omitting from section 72 the words “the Distillation Act 1908”, and substituting the words “the Distillation Act 1971”.</p> <p>By adding to subsection (1) of section 213 the following paragraph:  “(g) That the licensee has been convicted of an offence against <u>paragraph (c) of subsection (1) of section 86 of the Distillation Act 1971.</u>”</p> <p>By adding to paragraph (f) of subsection (1) of section 213 the word “or”.</p> <p>By omitting from the proviso to subclause (1) of clause 2 of the Second Schedule the words “a licence to rectify and compound spirits under section 7 of the Distillation Amendment Act 1959”, and substituting the words “a rectifier’s and compounder’s licence under the Distillation Act 1971”.</p> <p>By omitting from subclause (2) of clause 2 of the Second Schedule the words “licences under sections 6 and 7 of the Distillation Amendment Act 1959”, and substituting the words “spirit makers’ licences and rectifiers’ and compounders’ licences under the Distillation Act 1971”.</p> <p>By omitting from clause 10 of the Second Schedule the words “the Distillation Act 1908”, and substituting the words “the Distillation Act 1971”.</p>
1966, No. 19—The Customs Act 1966	<p>By repealing paragraph (b) of subsection (1) of section 3, and substituting the following paragraph:  “(b) The Distillation Act 1971:”.</p> <p>By repealing paragraphs (f) and (g) of section 16, and substituting the following paragraphs:</p>

FIRST SCHEDULE—*continued*

“(f) In the case of spirits distilled, rectified, or compounded in New Zealand pursuant to a spirit maker’s licence or a rectifier’s and compounder’s licence under the Distillation Act 1971, from the time when they are removed from the spirit store or distillery warehouse of any distiller, or from any other warehouse appointed for the lodging of spirits under that Act, until delivery by the Customs for home consumption or until exportation to any country outside New Zealand, whichever first happens:

“(g) In the case of spirits distilled pursuant to a vigneron’s licence under the Distillation Act 1971, from the time when they are removed from the vigneron’s storeroom under that Act until they have been used for fortifying wine produced from fruit grown in New Zealand or have been otherwise disposed of pursuant to that Act.”

By omitting from section 309 the words “the Distillation Act 1908”, and substituting the words “the Distillation Act 1971”.

## SECOND SCHEDULE

Section 100

## ENACTMENTS REPEALED

- 1908, No. 46—The Distillation Act 1908. (1957 Reprint, Vol. 4, p. 157.)  
1934, No. 14—The Customs Acts Amendment Act 1934: Part IV, section 43, and the Third Schedule. (1957 Reprint, Vol. 3, pp. 715, 716; Vol. 4, p. 223.)  
1959, No. 97—The Distillation Amendment Act 1959.  
1962, No. 139—The Sale of Liquor Act 1962: So much of the Fifth Schedule as relates to the Distillation Amendment Act 1959.  
1963, No. 37—The Customs Acts Amendment Act 1963: Part II.  
1964, No. 62—The Customs Acts Amendment Act 1964: Part II.  
1965, No. 123—The Customs Acts Amendment Act 1965.  
1966, No. 96—The Customs Acts Amendment Act 1966: Part I.  
1967, No. 2—The Customs Acts Amendment Act 1967: Part II.
-