

Distillation (No. 2)

No. 106 of 1968

An Act relating to Distillation.

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

[Assented to 2 December 1968]

Short title
and citation.

1.—(1.) This Act may be cited as the *Distillation Act (No. 2) 1968*.

(2.) The *Distillation Act 1901–1966*,* as amended by the *Distillation Act 1968*,† is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Distillation Act 1968* is amended by omitting sub-section (2.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Distillation Act 1901–1968*.

Commence-
ment.

2.—(1.) Sections 1, 2, 8 and 24 of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2.) The remaining provisions of this Act shall come into operation on the date fixed under sub-section (3.) of section 2 of the *Customs Act (No. 2) 1968*.

3. Section 3 of the Principal Act is repealed and the following section inserted in its stead:—

Parts.

“ 3. This Act is divided into Parts, as follows:—

Part I.—Introductory (Sections 1–9).

Part II.—Stills (Sections 10–11A).

Part III.—Licences (Sections 12–24).

Part IV.—Regulation of Distilleries (Sections 30–38).

Part V.—Removal of Spirits, and Computation and Payment of Duty (Sections 40–52).

Part VI.—Vignerons (Sections 53–57).

Part VIA.—Fortification of Australian Wines (Sections 57A–59).

Part VII.—Powers of Officers (Sections 60–72).

Part VIII.—Penal Provisions (Sections 73–80).

Part IX.—Miscellaneous (Sections 81–83).”

* Act No. 8, 1901, as amended by No. 21, 1906; No. 34, 1918; No. 9, 1923; No. 13, 1925; No. 3, 1931; No. 8, 1934; No. 86, 1947; No. 80, 1950; No. 54, 1952; No. 55, 1954; No. 74, 1956; and No. 93, 1966.
† No. 16, 1968.

4. Section 6 of the Principal Act is amended—

Definitions.

- (a) by omitting the definition of “ Illicit still ” and inserting in its stead the following definition:—

“ ‘ Illicit still ’ means a still made, removed, set up, erected, sold or otherwise disposed of, purchased or otherwise acquired, imported, or in the possession or custody, or under the control, of a person, in contravention of this Act.”; and

- (b) by omitting the definition of “ Spirits ” and inserting in its stead the following definition:—

“ ‘ Spirits ’ includes any liquor on which, under the name of spirits, any duty of Excise is imposed by the Parliament, whether the liquor is distilled or made or in any stage of distillation or making.”.

5. Section 8 of the Principal Act is repealed and the following section inserted in its stead:—

“ 8.—(1.) Parts II., V., VI., VIII., IX., X., XI., XII., XIII. and XIV. (other than sections one hundred and sixty-two A and one hundred and sixty-two B) of the *Excise Act* 1901–1968, except so far as they are inconsistent with this Act, are incorporated and shall be read as one with this Act.

Incorporation of provisions of the Excise Act.

“ (2.) For the purposes of this section—

- (a) a reference in the *Excise Act* 1901–1968 to a manufacturer shall be read as a reference to a distiller and to a vigneron;
- (b) a reference in that Act to a factory shall be read as a reference to a distillery and to premises in respect of which a vigneron’s licence is in force under this Act; and
- (c) a reference in that Act to excisable goods shall be read as a reference to spirits.”.

6. Section 10 of the Principal Act is amended by omitting from paragraph (c) the words “ Sell or purchase ” and inserting in their stead the words “ Sell or otherwise dispose of, or purchase or otherwise acquire,”.

Making, selling or importing stills.

7. Section 15 of the Principal Act is repealed.

Persons incapable of holding licences.

8.—(1.) Section 19 of the Principal Act is repealed and the following section inserted in its stead:—

“ 19. A security shall be given in a manner and form approved by the Collector and may, subject to that approval, be by bond, guarantee, cash deposit or any other method, or by two or more different methods.”.

Form of security.

(2.) The amendment made by the last preceding sub-section does not affect the force or effect of any security given before the commencement of this section under the section repealed by this section.

Repeal. 9. Sections 25, 26 and 27 of the Principal Act are repealed.

Heading to Part IV. 10. The heading to Part IV. of the Principal Act is omitted and the following heading inserted in its stead:—

“PART IV.—REGULATION OF DISTILLERIES.”.

Repeal. 11. Sections 28 and 29 of the Principal Act are repealed.

Duties of distiller.

12. Section 31 of the Principal Act is amended—

- (a) by omitting from paragraph (b) the words “the officer” and inserting in their stead the words “any officers doing duty in the distillery”;
- (b) by omitting from paragraph (c) the words “the officer” and inserting in their stead the word “officers”;
- (c) by omitting from paragraph (f) the words “the officers” and inserting in their stead the word “officers”; and
- (d) by omitting from paragraph (j) the words “the officer” and inserting in their stead the word “officers”.

Repeal. 13. Sections 32, 39, 41, 42, 45, 48 and 49 of the Principal Act are repealed.

Recovery of amounts payable under section 50.

14. Section 50A of the Principal Act is amended by omitting from sub-section (1.) the words “sub-section (1.) of section forty-nine of this Act or”.

Loss during distillation.

15. Section 51 of the Principal Act is amended by omitting the words “the officer” and inserting in their stead the words “an officer”.

Customs control.

16. Section 57 of the Principal Act is amended by omitting the words “Two hundred dollars” and inserting in their stead the words “One thousand dollars”.

Strength of spirits for fortifying.

17. Section 58 of the Principal Act is amended by omitting the words “the officer” and inserting in their stead the words “an officer”.

Vessels to be emptied and cleaned.

18. Section 62 of the Principal Act is amended by omitting the words “the officer” (first occurring) and inserting in their stead the words “an officer”.

Forfeiture.

19. Section 73 of the Principal Act is amended by adding at the end of paragraph (i.) the words “, and other stills in which spirits have been distilled in contravention of this Act”.

20. After section 73 of the Principal Act the following section is inserted:—

Unlawful possession of still.

“73A.—(1.) A person, not being a distiller or a vigneron, shall not, without permission, have any still in his possession or custody or under his control.

Penalty: One thousand dollars.

“ (2.) A distiller or a vigneron shall not, without permission, have any still in his possession or custody or under his control elsewhere than at his distillery or the premises to which his vigneron’s licence relates, as the case may be.

Penalty: One thousand dollars.

“ (3.) This section does not apply to or in relation to a still of a capacity not exceeding one gallon.”.

21. Section 74 of the Principal Act is amended by omitting paragraph (1) and inserting in its stead the following paragraph:—

Offences as to illicit stills.

“ (1) Use an illicit still;”.

22. Section 77A of the Principal Act is amended by omitting the words “ has, by virtue of section fifteen of this Act, ceased to be in force or ”.

Removal of spirits when licence ceases to be in force.

23. Section 82 of the Principal Act is amended by omitting from sub-section (1.) the words “ has, by virtue of section fifteen of this Act, ceased to be in force or ”.

Removal of spirits on cancellation, &c., of licence.

24. At any time after this Act receives the Royal Assent and before the date referred to in sub-section (2.) of section 2 of this Act, regulations may be made under the Principal Act as amended by this Act as if the provisions of this Act referred to in that sub-section had come into operation on the date on which this Act receives the Royal Assent, but regulations so made shall not come into operation before the date fixed under that sub-section.

Making of regulations.