

SPIRITS.

No. 21 of 1906.

An Act relating to Spirits.

[Assented to 12th October, 1906.]

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

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| 1. This Act may be cited as the <i>Spirits Act</i> 1906. | Short title. |
| 2. This Act shall commence on a day to be fixed by proclamation.* | Commencement. |
| 3. In this Act, unless the contrary intention appears— | Interpretation. |
| “Article of food or drink” includes every article used for food or drink by man, and any article that enters into or is used in the composition or preparation of food or drink, and also includes confectionery, spices, condiments, and flavouring substances ; | |
| “Medicines” includes medicines for internal or external application, other than liniments and veterinary medicines ; | |
| “Methylating substance” means any substance required by any regulation to be added to spirits in order to make methylated spirits ; | |
| “Methylated” means mixed with any prescribed methylating substance in the prescribed quantity, and in the prescribed manner ; | |
| “Methylated Spirits” means any spirits, whether imported or made in Australia, which have been methylated either before or after the commencement of this Act, and whether the methylating substance or any part thereof has afterwards been removed from the spirit or not, and includes all spirit, whether imported or made in Australia, which has been entered for home consumption as methylated spirit ; | |

* Proclaimed to commence 1st January, 1907. See *Gazette*, 2nd January, 1907.

“ Illicit Methylated Spirits ” means methylated spirits from which any methylating substance has been abstracted, or which has been refined, distilled, treated or dealt with in contravention of this Act or the regulations, and subject to this Act, includes any methylated spirits (not subject to the control of the Customs) which are in any respect below the standards prescribed for industrial spirits or mineralized spirits ;

“ Officer ” means an officer of Customs ;

“ Scents ” includes all liquid preparations of perfumery and liquid preparations for toilet purposes ;

“ Pure Australian Standard Brandy ” means brandy which complies with the following requisites :—

- (a) It must have been distilled wholly from grape wine by a pot still or similar process at a strength not exceeding forty per cent. over proof ;
- (b) It must have been matured, while subject to the control of the Customs, by storage in wood for a period of not less than two years ; and
- (c) It must have been certified by an officer to be pure brandy containing all the essential elements of brandy ;

“ Australian Blended Brandy ” means brandy which complies with the following requisites :—

- (a) It must have been distilled wholly from grape wine, and must contain not less than twenty-five per cent. of pure grape wine spirit which has been separately distilled by a pot still or similar process at a strength not exceeding forty per cent. over proof ;
- (b) It must have been matured, while subject to the control of the Customs, by storage in wood for a period not less than two years ; and
- (c) It must have been certified by an officer to be brandy blended and matured in accordance with this definition ;

“ Australian Standard Malt Whisky ” means whisky which complies with the following requisites :—

- (a) It must have been distilled wholly from barley malt by a pot still or similar process at a strength not exceeding thirty-five per cent. over proof ;
- (b) It must have been matured, while subject to the control of the Customs, by storage in wood for a period of not less than two years ; and
- (c) It must have been certified by an officer to be pure whisky containing all the essential elements of pure malt whisky ;

“Australian Blended Whisky” means whisky which complies with the following requisites:—

- (a) It must have been distilled partly from barley malt and partly from grain, and must consist of not less than twenty-five per cent. of pure malt whisky which has been separately distilled by a pot still or similar process at a strength not exceeding thirty-five per cent. over proof;
- (b) It must have been matured, while subject to the control of the Customs, by storage in wood for at least two years; and
- (c) It must have been certified by an officer to be whisky blended and matured in accordance with this definition;

“Australian Standard Rum” means rum which complies with the following requisites:—

- (a) It must have been distilled wholly from sugar, sugar syrup, molasses, or the refuse of sugar cane, by a pot still or similar process at a strength not exceeding forty-five per cent. over proof;
- (b) It must have been matured, while subject to the control of the Customs, by storage in wood for a period of not less than two years; and
- (c) It must have been certified by an officer to be pure rum containing all the essential elements of rum.

4. The provisions of Parts XII., XIII., XIV. and XV. of the *Customs Act* 1901 shall, so far as applicable, be incorporated with this Act. Incorporation of Parts of *Customs Act* 1901.

5. Sections ninety and ninety-one and paragraph (s) of section two hundred and twenty-nine of the *Customs Act* 1901 are repealed. Repeal.

6. The *Distillation Act* 1901 is amended as follows—

- (a) by omitting from section fifty-eight the words “and of a strength of at least thirty degrees above proof in the case of wine spirit and of at least sixty degrees above proof in the case of any other spirit”.
- (b) by omitting from section fifty-nine the word “thirty-five” and inserting the word “forty” in lieu thereof; and
- (c) by omitting from section seventy-six paragraph (ii.) the word “thirty-five” and inserting the word “forty” in lieu thereof.

Amendments of *Distillation Act* 1901.

7.—(1) An officer may at the request of the distiller or blender of any spirits give a certificate in the prescribed form certifying that the spirits are “Pure Australian Standard Brandy” or “Australian Blended Brandy” or “Australian Standard Malt Whisky” or “Australian Blended Whisky” or “Australian Standard Rum,” as the case requires. Certificates and marking in relation to spirits.

(2.) When an officer has given a certificate that any spirits are "Pure Australian Standard Brandy" or "Australian Blended Brandy" or "Australian Standard Malt Whisky" or "Australian Blended Whisky" or "Australian Standard Rum," he may, at the request of the owner of the spirits, mark or cause to be marked the description of the spirits on the cask or vessel containing them together with a prescribed stamp or seal, or, if the spirits are in bottles, place a label or seal thereon in the prescribed manner.

Forging or
falsely applying
spirit marks.

8.—(1.) A person shall not—

- (a) forge any prescribed stamp seal or label, or
- (b) falsely apply any prescribed stamp seal or label to any spirits, or
- (c) represent any stamp seal or label to be a prescribed stamp seal or label.

Penalty : One hundred pounds.

(2.) A person shall be deemed to forge a prescribed stamp seal or label if he, without authority of the Comptroller-General of Customs, makes a fac-simile of it, or makes any stamp seal or label so nearly resembling it as to be likely to deceive.

(3.) A person shall be deemed to falsely apply a prescribed stamp seal or label if he, without the authority of an officer, applies it, or any stamp seal or label so nearly resembling it as to be likely to deceive, to any spirits.

(4.) A stamp seal or label shall be deemed to be applied to spirits if it is on the vessel or bottle in which the spirits are contained.

Penalty for
describing
spirits contrary
to Act.

9. In relation to trade and commerce with other countries and among the States, no person shall—

- (a) describe any spirits as "Pure Australian Standard Brandy" or "Australian Blended Brandy" or "Australian Standard Malt Whisky" or "Australian Blended Whisky" or "Australian Standard Rum," unless the spirits are respectively "Pure Australian Standard Brandy" or "Australian Blended Brandy" or "Australian Standard Malt Whisky" or "Australian Blended Whisky" or "Australian Standard Rum" as defined by this Act; or
- (b) describe as brandy any spirit not distilled wholly from grape wine.

Penalty : Fifty pounds.

Brandy
delivered
for human
consumption to
be distilled from
grape wine.

10. No spirit described as brandy shall, after the first day of March One thousand nine hundred and seven, be delivered for human consumption until the Collector is satisfied by the production of an official certificate given in the country of origin that the spirit is distilled wholly from grape wine.

Imported spirits
to be matured.

11. After the first day of January, One thousand nine hundred and eight, no imported spirits (other than gin, Geneva, Hollands, schnapps, or liqueurs) shall be delivered from the control of the Customs for human consumption unless the Collector of Customs for the State is satisfied that the spirits have been matured by storage in wood for a period of not less than two years.

12. Spirits (other than gin, Geneva, Hollands, schnapps or liqueurs) distilled in Australia shall not be delivered from the control of the Customs for human consumption unless they have been matured by storage in wood for a period of not less than two years.

Australian spirits to be matured.

Provided that this section shall not come into operation till the first day of January, One thousand nine hundred and eight.

Provided further that this section shall not apply to spirit for fortifying Australian wine.

13. If, after examining a sample of any spirits subject to the control of the Customs, a Commonwealth analyst certifies that the spirits are of bad or inferior quality and unsuitable for human consumption, the Minister may order that the spirits shall not be delivered until they have been methylated, and thereupon the spirits shall be methylated accordingly before they are delivered, or, in the case of imported spirits, the Minister may permit the spirits to be exported or to be redistilled in Australia.

Inferior spirits.

14.—(1.) Spirits distilled in Australia and imported spirits may be methylated in accordance with this Act and the regulations.

Methylated spirits and their use.

(2.) There shall be four classes of methylated spirits as follows:—

- (a) Industrial spirits for use in the arts and manufactures (other than the manufacture of articles of food or drink, scents, essences, tinctures, or medicines);
- (b) Mineralized spirits for lighting, heating and power purposes;
- (c) Spirits for special manufactures;
- (d) Spirits to be used for purposes of scientific investigation in connection with Universities or Public Institutions.

(3.) The prescribed standards for industrial spirits and mineralized spirits shall, until altered by regulation, be as set out in the Schedule.

(4.) Spirits for special manufacture shall be methylated as prescribed and shall only be used under the control of the Customs and in accordance with the regulations.

(5.) Spirits for use in scientific investigation shall be treated and dealt with in manner prescribed.

(6.) No methylated spirits shall be used in the manufacture or preparation of any articles of food or drink, or of any scents, essences, tinctures, or medicines.

15. A person shall not—

- (a) abstract any methylating substance from any methylated spirits; or
- (b) except as allowed by the regulations, refine or distil any methylated spirits; or
- (c) treat, deal with or use any methylated spirits in contravention of this Act or the regulations.

Penalty for refining, &c., methylated spirits

Penalty: Five hundred pounds.

Penalty for
selling, &c.,
illicit methy-
lated spirits.

16. A person shall not—

(a) sell or have in his possession any illicit methylated spirits ;
or

(b) after the first day of January, One thousand nine hundred and seven, sell or have in his possession any article of food or drink, or any scent essence tincture or medicine, containing any methylated spirits.

It shall be a defence to a prosecution under sub-section (b) of this section if the defendant proves that he did not knowingly sell or have in his possession the goods forming the subject of the prosecution.

Penalty : One hundred pounds.

Forfeiture of
illicit methy-
lated spirits.

17. All illicit methylated spirits, and all articles of food or drink scents essences tinctures and medicines containing methylated spirits, shall be forfeited to the King.

Spirits &c.,
containing
methylating
substances.

18. Any spirits containing any methylating substance, and any articles of food or drink scents essences tinctures or medicines containing spirits and any methylating substance, shall, until the contrary is proved, be deemed to be methylated spirits or to contain methylated spirits as the case requires.

Spirits
methylated
before Act.

19. Spirits which have been lawfully methylated in accordance with any Act or regulation in force at the time they were so methylated, and which have not been refined distilled or treated, shall not be deemed to be illicit methylated spirits.

Licences to
make and sell
methylated
spirits.

20. The Collector of Customs for a State may, subject to the regulations, grant licences to persons to make or sell methylated spirits.

Provided that a distiller holding a spirit maker's general licence under the *Distillation Act* 1901 may, subject to the regulations, make and sell methylated spirits without any further licence.

Sale or
possession of
methylated
spirits in
quantity.

21. Except as allowed by the regulations, no person shall—

(a) sell, at any one time, a greater quantity of methylated spirits than the prescribed quantity, or

(b) have in his possession, at any one time, a greater quantity of methylated spirits than the prescribed quantity.

Penalty : Fifty pounds.

Power to enter
and take
samples.

22.—(1.) Any officer may, at any time in the day during ordinary business hours, enter any shop, factory, warehouse, business premises, or building, and examine and take samples of any spirits, or any article of food or drink, or any scent, essence, tincture, or medicine.

(2.) The officer shall pay or tender a reasonable price for the samples taken by him.

(3.) Samples taken by an officer shall be dealt with as prescribed.

Penalty for
refusing to
supply samples.

23. A person being the owner of or in possession of any spirits or any article of food or drink, or any scent, essence, tincture, or medicine, shall not refuse to deliver to an officer such samples thereof as the officer requires, on tender by the officer of a reasonable price therefor.

Penalty : Twenty pounds.

24. Any officer, having with him a writ of assistance or a customs warrant under the *Customs Act* 1901, may, at any time in the day or night, enter and search any house, premises, or place for the purpose of ascertaining whether any methylated spirits are used therein in contravention of this Act or the regulations, or whether any goods forfeited under this Act are to be found therein. Power to enter and search.

25. Any officer may seize any methylated spirits, or any article of food or drink, or any scents, essences, tinctures, or medicines which are forfeited, or which he has reasonable cause to believe are forfeited. Power to seize.

26. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular— Power to make regulations.

- (a) for prescribing standards for industrial spirits and for mineralized spirits ;
- (b) for prescribing the purposes for and the conditions under which methylated spirits for special manufacture may be used ;
- (c) for licensing persons to make or sell methylated spirits or any class of methylated spirits ;
- (d) for prescribing the fees to be paid for licences and for the services of officers supervising any manufacture in which methylated spirits for special manufactures are used ;
- (e) for requiring persons desiring to use spirits methylated for any special manufacture to give security that the methylated spirits shall be used for that manufacture only ;
- (f) for requiring packages containing methylated spirits to be marked in the prescribed manner with the prescribed words or marks ; and
- (g) for prescribing penalties, not exceeding Fifty pounds for any one offence, for breaches of the regulations.

THE SCHEDULE.

STANDARD FOR INDUSTRIAL SPIRITS.

The spirit before methylation to be of a strength not less than sixty-five degrees over proof, and to be methylated by the addition of two per cent. of wood naphtha and one-half per cent. of pyridine liquid.

STANDARD FOR MINERALIZED SPIRITS.

The spirit before methylation to be of a strength not less than sixty-five degrees over proof, and to be methylated by the addition of one per cent. of wood naphtha, one-quarter per cent. of pyridine, two to twenty per cent. of benzine, and one-quarter per cent. of a solution of aniline violet or blue dye.