

1929-30-31.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 9th October, 1931.

*(Brought in by the Minister for Trade and Customs, the Honorable  
F. M. Forde.)*

## A BILL

FOR

## AN ACT

Relating to Excise on Wine.

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

## PART I.—INTRODUCTORY.

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|----|--|---------------------|
| 5  | 1. This Act may be cited as the <i>Wine Excise Act</i> 1931.             | Short title.        |
|    | 2. This Act shall commence on a date to be fixed by Proclamation.        | Commencement.       |
|    | 3. This Act shall apply to any excise on wine imposed by the Parliament. | Application of Act. |
|    | 4. This Act is divided into Parts, as follows :—                         | Parts.              |
| 10 | Part I.—Introductory.  |                     |
|    | Part II.—Producers.  |                     |
|    | Part III.—Licences.  |                     |
|    | Part IV.—Supervision.  |                     |
|    | Part V.—Payment of Duty, Removals and Refunds.                           |                     |
| 15 | Part VI.—Powers of Officers.   |                     |
|    | Part VII.—Miscellaneous.   |                     |

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## Definitions.

5. In this Act, unless the contrary intention appears—

“ Approved place ” means a place approved by the Collector ;  
 “ By authority ” means by the authority of an officer doing  
 duty in the matter in relation to which the expression is  
 used ;

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“ Licence ” means a licence granted pursuant to this Act ;

“ Officer ” includes any person employed in the service of the  
 Customs ;

“ Producer ” means any person who produces grapes for use in  
 the manufacture of wine ;

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“ the Collector ” includes the Comptroller and any Collector of  
 Customs for the State and any principal officer of Customs  
 doing duty at the time and place, and any officer doing  
 duty in the matter in relation to which the expression is  
 used ;

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“ the Comptroller ” means the Comptroller-General of Customs ;

“ Vessel ” means any container or receptacle used in, or in  
 connexion with, a winery or wine export warehouse for  
 the purpose of holding wine, including wine in any stage  
 of making ;

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“ Wine ” means the fermented juice of the grape, and includes  
 lees of wine ;

“ Wine export warehouse ” means any premises which are  
 specified in a wine export warehouse licence granted  
 under this Act ;

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“ Wine-maker ” means a person licensed under this Act to make  
 wine ; and

“ Winery ” means the premises specified in a wine-maker’s  
 licence and includes all adjacent premises used in connexion  
 therewith or with the business of the wine-maker.

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Act relates  
to Excise

6. Parts II., VIII., IX., X., XI., XII., XIII. and XIV., and  
 section sixty-one of the *Excise Act* 1901-1923 shall, except so  
 far as inconsistent with this Act, be incorporated and read as one  
 with this Act and the application of those Parts and that section  
 shall, so far as applicable, extend as if they formed part of this Act.

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## PART II.—PRODUCERS.

Producers to  
be registered

7. No person shall produce grapes for use in the manufacture of  
 wine unless he is registered pursuant to this Part.

Penalty : Twenty pounds.

How  
registration  
effected.

8. Registration of producers shall be effected as follows :—

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(a) The producer shall send to the Collector an application in  
 the prescribed form for registration as a producer ;

(b) The Collector shall register in a book to be kept for that  
 purpose the producer’s name and the place where he  
 produces grapes, and shall furnish to the producer a  
 certificate of registration in the prescribed form.

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9. A registered

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9. A registered producer shall not produce grapes except at the premises in respect of which he is registered. Unregistered premises.

Penalty : Twenty pounds.

10. A producer may be severally registered in respect of any number of separate and distinct premises. Registration of separate premises.

11. A registered producer who ceases to produce grapes at any premises in respect of which he is registered shall forthwith give notice to the Collector and the Collector shall thereupon cancel his registration in respect of these premises. Notice of ceasing to produce grapes.

12. Every registered producer shall as prescribed keep accounts and furnish to the Collector returns of all grapes produced by him. Accounts and returns.

Penalty : Twenty pounds.

#### PART III.—LICENCES.

13.—(1.) Any person desiring to make wine may make application in accordance with the prescribed form, accompanied by the prescribed particulars, to the Collector for a wine-maker's licence. Applications for licences

(2.) Any person desiring to receive and store wine under the control of the Customs, and to prepare and deliver such wine for export, may make application in the prescribed form, accompanied by the prescribed particulars, to the Collector for a wine export warehouse licence. 20

14. Upon receipt of an application under the last preceding section, the Collector may grant a wine-maker's licence, or a wine export warehouse licence (as the case may be) and each licence shall specify the premises in respect of which it is issued. Grant of licences.

15. An applicant for a licence shall pay to the Collector the prescribed licence fee and shall give security, to the satisfaction of the Collector, for compliance with this Act in such amount as is prescribed. Payment of licence fee and security.

16. A licence granted or renewed under this Part shall, unless previously cancelled, remain in force until the thirty-first day of December next after the granting or renewal of the licence. Period of licences.

17. A licence may be renewed by the Collector upon an application for renewal before the expiry of the licence and on payment of the prescribed licence fee : Renewal of licences.

Provided that the Collector may in special circumstances extend, for a period not exceeding seven days, the time within which application for renewal of licence may be made.

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Licence fees.	18. The fee for a licence or for a renewal of a licence shall be— (a) for a wine-maker's licence— (i) in respect of any premises on which the quantity of wine stored at the date when the licence is issued or renewed does not exceed fifty thousand gallons—One pound ; (ii) in respect of any premises on which the quantity of wine stored at the date when the licence is issued or renewed exceeds fifty thousand gallons—Five pounds; and (b) for a wine export warehouse licence—Five pounds : Provided that when by reason of the licence having been granted after the first day of January in any year, it will not continue for a full year, the amount of the fee shall be proportionately reduced.	5 10
How security given	19. Any security required to be given in accordance with this Part may, at the discretion of the Collector, be by bond, guarantee or cash deposit, or all or any of those methods.	15
Refund of licence fees.	20. Where the Collector refuses to grant a licence or the renewal of a licence applied for under this Part, the licence fee paid by the applicant shall be refunded to him.	20
Continuance of liability under security.	21. The liability of the subscribers to the security given in respect of the original licence shall, in the absence of any notice of termination on the part of the subscribers, remain in force for any period for which the licence is renewed.	
Fresh security on renewal of licence.	22. The Collector may require the applicant for the renewal of a licence to give fresh security, and if fresh security is not given accordingly may refuse to renew the licence.	25
Fresh security may be required.	23. The Collector may at any time require any holder of a licence to give fresh security and fresh security shall be given accordingly and in default the Minister may cancel the licence by notice in the <i>Gazette</i> .	30
Cancellation of licences.	24. Licences may be cancelled by the Minister by notice in the <i>Gazette</i> if the licensee is convicted of any offence against this Act or any other Act relating to Excise.	
Transfer of licences.	25. Licences may be transferred with the written permission of the Collector on security being given by the transferee.	35
Person may be severally licensed.	26. Any person may be severally licensed under this Act in respect of any number of separate and distinct premises.	
Wine-makers to be licensed.	27. No person shall make wine except pursuant to this Act nor unless he is licensed to do so under this Act. Penalty : Five hundred pounds.	40
Wine to be made at winery.	28. No person shall make wine at any place other than a winery. Penalty : Two hundred pounds.	

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## PART IV.—SUPERVISION.

29. All operations relating to wine carried on in any winery, or wine export warehouse, shall for the protection of the revenue be subject to the right of supervision by officers. Supervision by officer.
- 5 30. Every holder of a licence shall if required by the Collector provide in connexion with the premises specified in his licence reasonable office accommodation for the supervising officer. Office accommodation for officer.
- Penalty : Fifty pounds.
- 10 31. Every holder of a licence shall provide all reasonable facilities for enabling officers to exercise their powers under this Act. Facilities to officer.
- Penalty : Fifty pounds.
- 15 32. In particular and without limiting the effect of the last preceding section, every wine-maker and every holder of a wine export warehouse licence shall, in the premises specified in any licence granted to him under this Act, for the purpose of enabling any officer to exercise his powers under this Act— Assistance to officers.
- (a) provide sufficient light when requested by the officer ;
- (b) place every vessel in a convenient place so as to be easy of access to the officer ;
- 20 (c) provide assistance when requested by the officer for carrying out any duties requiring assistance ;
- (d) provide and place strong safe and sufficient ladders so as to enable any officer to examine any vessel and the contents thereof ;
- 25 (e) keep every vessel in a secure and clean condition and free from leakage ;
- (f) empty and gauge or re-gauge any vessel whenever required by the Collector ; and
- 30 (g) keep and maintain correct weights, scales and measures available for the use of the officer, as required by, and to the satisfaction of, the Collector.
- Penalty : Fifty pounds.
33. Every holder of a licence shall as prescribed keep books, and prepare and render accounts, and verify such books and accounts. Books.
- 35 Penalty : Fifty pounds.
34. Every person licensed under this Act shall be responsible for the safe custody of all wine on his licensed premises which is subject to Excise duty and for the observance of this Act within his licensed premises. Responsibility of licensees.

## PART V.—PAYMENT OF DUTY, REMOVALS AND REFUNDS.

Liability to  
pay duty.

35. Every person licensed under this Act shall be liable to pay the Excise duties on all wine subject to Excise duty, made on, or removed to, his licensed premises, if such wine is not accounted for to the satisfaction of the Collector. 5

Authority to  
remove.

36.—(1.) Any person holding a licence under this Act may submit to an officer an entry which upon being passed by the officer shall be authority for the removal of the wine specified in the entry to an approved place or for the exportation of that wine.

(2.) Wine may be entered for home consumption by the passing of an entry in accordance with the last preceding sub-section and upon the passing of such entry may be removed from a winery for home consumption. 10

(3.) Excise duty shall within such time and in such manner as are prescribed be paid upon any wine removed for home consumption in accordance with the last preceding sub-section. 15

(4.) No person shall remove wine from a winery or wine export warehouse except in accordance with this section.

Penalty : Five hundred pounds.

Wine unsuitable  
for exportation.

37. Where the Collector is satisfied that any wine which is stored in a wine export warehouse is unsuitable for exportation, he may permit the removal of such wine for any purpose for which wine may be removed from a winery : 20

Provided that the Excise duty, if payable, shall be paid, prior to removal, on any such wine removed for home consumption. 25

Security for  
payment of  
duty.

38. The holder of a licence under this Act shall give security as prescribed for the payment of the Excise duty on any wine removed from a winery for home consumption.

Security for  
due removal  
and exportation.

39. The holder of a licence under this Act shall give security to the satisfaction of the Collector for the due removal or exportation of the wine before any entry is passed for the removal of wine to an approved place or for exportation. 30

Removal under  
permit.

40. The holder of a wine-maker's licence may, under permit in writing from the Collector and subject to the prescribed conditions—

(a) transfer wine from one winery to another winery in the same State, both wineries being occupied by and carried on by him ; and 35

(b) transfer wine from his winery to a distillery or a vinegar factory in the same State, the distillery and vinegar factory being occupied and carried on by him. 40

Payment of  
duty on  
deficiency in  
removals.

41. Any wine shown in any entry or permit for removal from a winery or wine export warehouse, may, upon or after the arrival of the wine at the destination shown in that entry or permit, be re-gauged

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re-gauged, re-weighed or re-tested by an officer and if the officer finds that there is a deficiency in the quantity or strength as compared with the quantity or strength shown in the entry or permit, the wine-maker or the holder of the wine export warehouse licence, as the case  
5 may be, shall pay the duty on the deficiency unless the deficiency is accounted for to the satisfaction of the Collector.

42.—(1.) The dutiable contents of the vessels in which wine is removed shall be as follows :—

10 Bottles—the actual contents, or where the reputed contents are greater than the actual contents, then, the reputed contents.

Vessels other than bottles—the actual contents.

(2.) The contents of vessels may, at the discretion of the Collector, be ascertained by measure, gauging or weighing.

15 43. Whenever upon an account being taken by an officer in any winery or wine export warehouse it appears—

(a) that the quantity of wine produced is less than that which should have been produced from the quantity of grapes received ; or

20 (b) the quantity of wine in stock after allowing for the quantity of wine received into, and the quantity of wine removed from, the winery or wine export warehouse is less than the quantity of wine which should be in stock,

25 duty shall be paid on the deficiency unless the deficiency is accounted for to the satisfaction of the Collector.

44. No person shall remove any wine from any premises specified in any licence granted under this Act except as provided in this Act.  
Penalty : Five hundred pounds.

30 45. No wine shall be removed from any winery for home consumption unless it is accompanied by a cart-note issued in the form, and dealt with in the manner prescribed.

Penalty : One hundred pounds.

35 46. No wine shall be removed from any winery in any vessel or case unless the vessel or case is marked in the prescribed manner.

Penalty : Fifty pounds.

47. All marking required by this Act shall be plain and clear and in distinct characters and shall be effected by cutting or burning or by the use of oil paint or as approved by the Comptroller.

40 48.—(1.) Fortified wine containing spirit on which Excise duty has been paid, which is stored in a winery may, by permission of the Collector, be blended with wine subject to Excise duty and Excise duty at the rate in force when the blended wine is removed for home consumption shall be payable on the total quantity of the wine so blended.

(2.) Upon

(2.) Upon application being made in the prescribed form, a refund of duty may, subject to such conditions as are prescribed, be made at the rate of duty paid on the blended wine in respect of the quantity of the fortified wine mixed therewith :

Provided that no refund shall be allowed unless and until the total quantity of the blended wine is removed for home consumption. 5

Duty paid wine delivered to a distillery.

49. When any wine on which Excise duty has been paid has been removed from a winery for home consumption and is delivered to a distillery and is distilled therein, a refund of the Wine Excise duty may be allowed to such extent and subject to such conditions as are prescribed. 10

#### PART VI.—POWERS OF OFFICERS.

Access to premises and books.

50. Any officer shall at all times have complete access to every part of any winery or wine export warehouse and may examine, take account of and note all grapes or other fermentable material and wine therein, and may examine and take copies of, or extracts from, all prescribed books and accounts required to be kept by the wine-maker or the holder of a wine export warehouse licence, and of all books kept by the wine-maker or the holder of a wine export warehouse licence in relation to the purchase of grapes and other fermentable material and to the receipt and the delivery of wine and the payment of Excise duty. 15 20

Access to producers' premises and books.

51. Any officer shall at all times have complete access to the premises of any producer and may examine and take note of, or extracts from, all prescribed books and accounts required to be kept by the producer. 25

Power to enter premises.

52. Any officer may at any time between sunrise and sunset enter and search the premises of any person licensed to sell wine by retail, or any premises where he has reasonable cause to suspect that any wine is made or that any wine upon which duty has not been paid is kept or stored. 30

Power under writ of assistance.

53. Any officer having with him a writ of assistance or a Customs warrant under the *Customs Act* 1901-1930 may at any time in the day or night enter into any house, premises or place, and may break open and search the same and any depository, chests, trunks, packages or vessels in which wine on which Excise duty has not been paid is or is supposed to be. 35

Power to search vehicles.

54. Any officer upon reasonable suspicion may stop and search any vehicle or boat for the purpose of ascertaining whether any wine upon which Excise duty has not been paid is thereon, and the driver of such vehicle or the person in charge of such boat shall stop and permit an officer to search his vehicle or boat when required by an officer so to do. 40

Penalty : Twenty pounds.

55. Any



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55. Any officer may at any time seize and secure any wine which he has reasonable cause to believe is forfeited. Power to seize
56. No person shall obstruct, molest, resist or hinder any officer in the performance of his duty under this Act. Obstruction of officers
- 5 Penalty : Fifty pounds.
57. No person being the owner of or in possession of any wine, or of any liquor which an officer has reasonable ground to suspect is wine, shall refuse to deliver to an officer samples of such wine or liquor upon tender of a reasonable price for such samples. Purchase of samples.
- 10 Penalty : Five pounds.

## PART VII.—MISCELLANEOUS.

58. All wine made by any person not licensed pursuant to this Act to make wine, and all grapes found on any premises where the making of wine is unlawfully carried on and all wine which being subject to the control of the Customs is moved, altered or interfered with except by authority and in accordance with this Act and all vehicles, animals and harness used for the purpose of conveying any such wine so moved are forfeited to the King together with any case, wrapper or other receptacle in which the wine is contained. Forfeiture of wine illegally made or removed
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59. No person other than a wine-maker shall, except by authority, have in his possession, custody or control any wine upon which Excise duty has not been paid. Unlawful possession of wine
- 20 Penalty : One hundred pounds.
60. If, after examining a sample of any wine subject to the control of the Customs, a Commonwealth analyst certifies that the wine is unfit for human consumption, the Collector may order that the wine shall be destroyed or delivered only for distillation or for the manufacture of vinegar. Wine unfit for consumption.
- 25
61. No person shall add any liquid to wine after its delivery for home consumption with intent fraudulently to increase the bulk of the wine. Unlawful dilution
- 30 Penalty : One hundred pounds.
62. No person shall after any wine has been delivered for home consumption mix that wine with any wine which at the time of its delivery for home consumption was liable to a different rate of Excise duty. Mixing of wine.
- 35 Penalty : One hundred pounds.
63. Any person who by act or omission is guilty of any contravention of this Act for which no other penalty is provided shall be liable to a penalty not exceeding Ten pounds. Penalty in cases not provided for
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**Declarations.**

**64.** Any declaration prescribed may be made before any Justice of Peace in any State, a Commissioner of Declarations or any officer of Customs, postmaster or electoral officer.

**False declarations.**

**65.** No person shall wilfully make any false statement in any prescribed declaration. **5**

Penalty : One hundred pounds.

**Power to make regulations.**

**66.** 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 for prescribing penalties not exceeding Fifty pounds for breaches of the regulations. **10**