



Spirits Act 1906

Act No. 21 of 1906 as amended

This compilation was prepared on 24 May 2001
taking into account amendments up to Act No. 25 of 2001

The text of any of those amendments not in force
on that date is appended in the Notes section

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An Act relating to Spirits

1 Short title [see Note 1]

This Act may be cited as the *Spirits Act 1906*.

2 Commencement [see Note 1]

This Act shall commence on a day to be fixed by proclamation.

2A General administration of Act

The CEO has the general administration of this Act.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

Alcohol means ethyl alcohol.

Article of food or drink includes every article used for food or drink by humans, 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.

Brandy means a spirit distilled from wine in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to brandy, being a spirit that contains not less than 25% of spirit distilled at a strength of not more than 83% by volume of alcohol.

CEO means the Commissioner of Taxation.

Collector has the same meaning as in the *Excise Act 1901*.

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 CEO's control) which are in any respect below the standards prescribed for industrial spirits or mineralized spirits.

Medicines includes medicines for internal or external application, other than such veterinary medicines, liniments and medicines for external application as may from time to time be prescribed under by-laws.

Methylating substance means any substance required by any regulation to be mixed with spirits in order to make methylated spirits, and includes any fractional part or ingredient of any such substance, and particularly any such fractional part or ingredient as may serve to aid detection by means of chemical analysis of the presence in any article of food or drink or any medicines of a methylating substance.

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 fractional part or ingredient 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.

officer means a person employed or engaged under the *Public Service Act 1999* who is:

- (a) exercising powers; or
- (b) performing functions;

under, pursuant to or in relation to a taxation law (as defined by the *Taxation Administration Act 1953*).

Rum means a spirit obtained by the distillation of a fermented liquor derived from the products of sugar cane, being distillation carried out in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to rum.

Whisky means a spirit obtained by the distillation of a fermented liquor of a mash of cereal grain in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to whisky.

- (2) For the purposes of this Act:
- (a) the volume of alcohol contained in spirits shall be taken to be the volume that would be the volume of that alcohol if the alcohol were measured at a temperature of twenty degrees Celsius; and
 - (b) a calculation made for the purpose of ascertaining the volume of alcohol by reference to the specific gravity of alcohol shall be made on the basis that, at a temperature of twenty degrees Celsius and in vacuum, the specific gravity of alcohol in relation to water is 0.79067.

4 Incorporation of Parts of *Excise Act 1901*

The provisions of Parts II, V, VI, VIII, IX, X, XI, XII and XIV of the *Excise Act 1901* shall, so far as applicable, be incorporated with this Act.

6 Amendments of the *Distillation Act 1901*

Note:

The amendments made by this section are incorporated in the compilation on SCALEPlus of the *Distillation Act 1901*.

For access to the wording of the amendments made by this section, [click here](#) [*Spirits Act 1906* No. 21, 1906].

7 Certificates in relation to spirits

- (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 brandy, whisky or rum, as the case requires.

9 Penalty for describing spirits contrary to Act

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

- (a) describe any spirits as brandy, as whisky, or as rum unless the spirits are brandy, whisky or rum;

- (b) describe as brandy any spirit not distilled wholly from wine that has been produced from:
 - (i) grapes;
 - (ii) products derived solely from grapes; or
 - (iii) both grapes and such products.
- (c) describe any spirits as “Old”, or in a way which could reasonably lead to the belief that the spirits had been matured for a period of not less than five years, unless the spirits have been matured by storage in wood for a period of not less than five years; or
- (d) describe any spirits as “Very Old”, or in a way which could reasonably lead to the belief that the spirits had been matured for a period of not less than ten years, unless the spirits have been matured by storage in wood for a period of not less than ten years.

Penalty: 10 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

10 Brandy delivered for human consumption

No spirit described as brandy shall 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:

- (a) grapes;
- (b) products derived solely from grapes; or
- (c) both grapes and such products.

11 Certain imported spirits to be matured

Imported brandy, whisky or rum shall not be delivered from the control of the Customs unless the Collector is satisfied that the brandy, whisky or rum, as the case may be, has been matured by storage in wood for a period of not less than 2 years.

12 Certain Australian spirits to be matured

Brandy, whisky or rum made in Australia shall not be delivered from the CEO's control unless the brandy, whisky or rum, as the case may be, has been matured by storage in wood for a period of not less than 2 years.

14 Methylated spirits and their use

- (1) Spirits distilled in Australia and imported spirits may be methylated in accordance with this Act and the regulations.
- (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, essences, tinctures, or medicines);
 - (b) Mineralized spirits for lighting, heating and power purposes;
 - (c) Spirits for special manufactures or special purposes;
 - (d) Spirits to be used for purposes of scientific investigation in connexion with Universities or Public Institutions.
- (4) Spirits for any special manufacture or for any special purpose shall be methylated as prescribed and shall only be used under the CEO's control 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 essences, tinctures, or medicines.

15 Penalty for refining etc. methylated spirits

- (1) A person shall not:
 - (a) abstract any methylating substance or any fractional part or ingredient thereof 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 or spirits containing any fractional part or ingredient of a methylating substance in contravention of this Act or the regulations.

Penalty: 50 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

16 Penalty for selling etc. illicit methylated spirits

- (1) A person shall not:
 - (a) sell or have in his or her possession any illicit methylated spirits; or
 - (b) sell or have in his or her possession any article of food or drink, or any scent, essence, tincture or medicine, containing any methylated spirits or methylating substance or any fractional part or ingredient thereof.

Penalty: 50 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

- (2) In a prosecution for an offence against paragraph (b) of subsection (1) it is a defence if the defendant proves that he or she did not knowingly sell or have in his or her possession the goods forming the subject of the prosecution.

17 Forfeiture of illicit methylated spirits

All illicit methylated spirits, and all articles of food or drink essences tinctures and medicines containing methylated spirits, or methylating substance or any fractional part or ingredient thereof shall be forfeited to the Crown.

18 Spirits containing methylating substances

Any spirits containing any methylating substance or any fractional part or ingredient thereof, and any articles of food or drink essences tinctures or medicines (other than veterinary medicines and liniments as prescribed under by-law) containing spirits and any methylating substance or any fractional part or ingredient thereof, shall, until the contrary is proved, be deemed to be

methylated spirits or to contain methylated spirits as the case requires.

20 Licences to make and sell methylated spirits

- (1) The Collector for a State or Territory 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.

- (2) A person who is dissatisfied with a decision of a Collector under subsection (1) that applies to the person may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.
- (3) In subsection (2), *decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

22 Power to enter and take samples

- (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 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.

23 Penalty for refusing to supply samples

A person being the owner of or in possession of any spirits or any article of food or drink, or any 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: 10 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

26 Power to make regulations

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:

- (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 any special manufacture or for any special purpose 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 or for any special purpose to give security that the methylated spirits shall be used for that manufacture or that purpose 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 1 penalty unit for any one offence, for breaches of the regulations.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Table of Acts**Notes to the *Spirits Act 1906*****Note 1**

The *Spirits Act 1906* as shown in this compilation comprises Act No. 21, 1906 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Spirits Act 1906</i>	21, 1906	12 Oct 1906	1 Jan 1907 (see <i>Gazette</i> 1907, p. 1)	
<i>Spirits Act 1915</i>	14, 1915	19 June 1915	19 June 1915	—
<i>Spirits Act 1918</i>	35, 1918	12 Dec 1918	12 Dec 1918	—
<i>Spirits Act 1923</i>	6, 1923	11 Aug 1923	11 Aug 1923	—
<i>Spirits Act 1932</i>	12, 1932	16 May 1932	Ss. 3-5: 1 Oct 1993 Remainder: Royal Assent	—
as amended by				
<i>Spirits Act 1933</i>	23, 1933	24 Nov 1933	24 Nov 1933	S. 2
<i>Spirits Act 1935</i>	24, 1935	13 Apr 1935	13 Apr 1935	—
<i>Spirits Act 1947</i>	87, 1947	11 Dec 1947	8 Jan 1948	—
<i>Spirits Act 1952</i>	10, 1952	30 May 1952	27 June 1952	—
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	93, 1966	29 Oct 1966	1 Dec 1966	—
<i>Spirits Act 1968</i>	110, 1968	2 Dec 1968	30 Dec 1968	—
<i>Spirits Act 1969</i>	6, 1969	8 Apr 1969	8 Apr 1969	—
<i>Spirits Act 1972</i>	25, 1972	17 May 1972	1 July 1972	—
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
<i>Statute Law Revision Act 1981</i>	61, 1981	12 June 1981	Part XX (ss. 91 and 92): Royal Assent (a)	S. 92(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1984</i>	72, 1984	25 June 1984	S. 3: 17 June 1985 (see <i>Gazette</i> 1985, No. S207) (b)	Ss. 2(24) and 5(1)
<i>Customs Administration (Transitional Provisions and Consequential Amendments) Act 1985</i>	39, 1985	29 May 1985	10 June 1985 (see s. 2 and <i>Gazette</i> 1985, No. S194)	S. 4
<i>Customs and Excise Legislation Amendment Act 1985</i>	40, 1985	30 May 1985	Ss. 53 and 54: 27 June 1985 (c)	S. 54 (2)
<i>Customs Administration (Transitional Provisions and Consequential Amendments) Act 1986</i>	10, 1986	13 May 1986	13 May 1986	Ss. 2(2) and 4
<i>Customs, Excise and Bounty Legislation Amendment Act 1995</i>	85, 1995	1 July 1995	S. 10 (items 1, 2): 1 July 1995 (d) Ss. 11 (item 86), 18 and 20: Royal Assent (d)	Ss. 18 and 20
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1-3 and Schedule 1 (items 1, 4, 6, 7, 9-11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Taxation Laws Amendment (Excise Arrangements) Act 2001</i>	25, 2001	6 Apr 2001	Schedule 5 (items 1-25, 27-32): 4 May 2001 (e) Schedule 5 (item 26): [see (e) and Note 2]	Sch. 5 (items 8, 25) [see Table A]

Act Notes

- (a) The *Spirits Act 1906* was amended by Part XX (sections 91 and 92) only of the *Statute Law Revision Act 1981*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (b) The *Spirits Act 1906* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1984*, subsection 2(20) of which provides as follows:
- (20) The amendments of the *Spirits Act 1906* made by this Act shall come into operation on a day to be fixed by Proclamation.
- (c) The *Spirits Act 1906* was amended by sections 53 and 54 only of the *Customs and Excise Legislation Amendment Act 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (d) The *Spirits Act 1906* was amended by the *Customs, Excise and Bounty Legislation Amendment Act 1995*, subsections 2(1) and (5) of which provide as follows:
- (1) Subject to subsections (2), (3), (4), (5) and (6), this Act commences on the day on which it receives the Royal Assent.
 - (5) Schedules 2 and 3, items 1, 26 to 45, 49 to 53 and 56 and 67 of Schedule 4, Schedule 6, items 6 to 11 of Schedule 7 and Schedules 8 and 10 commence on 1 July 1995.
- (e) The *Spirits Act 1906* was amended by Schedule 5 only of the *Taxation Laws Amendment (Excise Arrangements) Act 2001*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the earlier of:
 - (a) 1 July 2001; and
 - (b) 28 days after the day on which this Act receives the Royal Assent.
 - (2) Items 69, 106 and 109 of Schedule 2, items 83 and 103 of Schedule 3, item 53 of Schedule 4, item 26 of Schedule 5 and item 22 of Schedule 6 commence:
 - (a) if Parts 4 to 10 of the *Administrative Review Tribunal Act 2001* have not commenced when the other provisions of this Act commence under subsection (1)—immediately after the commencement of those Parts; [see Note 2].

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 2A	ad. No. 39, 1985 am. No. 85, 1995; No. 25, 2001
S. 3.....	am. No. 14, 1915; No. 35, 1918; No. 12, 1932; No. 24, 1935; No. 87, 1947; No. 10, 1952; No. 110, 1968; No. 6, 1969; No. 25, 1972; No. 216, 1973; No. 72, 1984; No. 39, 1985; No. 25, 2001
Heading to s. 4	am. No. 25, 2001
S. 4.....	am. No. 6, 1923; No. 25, 2001
S. 5.....	rep. No. 216, 1973
Heading to s. 7	am. No. 25, 2001
S. 7.....	am. No. 72, 1984; No. 25, 2001
S. 8.....	am. No. 93, 1966; No. 40, 1985; No. 85, 1995 rep. No. 137, 2000
S. 9.....	am. No. 35, 1918; No. 10, 1952; No. 93, 1966; No. 72, 1984; No. 40, 1985; No. 25, 2001
S. 10	am. No. 216, 1973; No. 72, 1984
Ss. 11, 12.....	am. No. 12, 1932; No. 24, 1935 rs. No. 10, 1952; No. 72, 1984 am. No. 25, 2001
S. 13.....	am. No. 72, 1984; No. 10, 1986; No. 85, 1995 rep. No. 25, 2001
S. 14.....	am. No. 12, 1932; No. 110, 1968; No. 25, 2001
S. 15.....	am. No. 35, 1918; No. 93, 1966; No. 216, 1973; No. 40, 1985; No. 25, 2001
S. 16.....	am. No. 35, 1918; No. 93, 1966; No. 110, 1968 rs. No. 216, 1973 am. No. 40, 1985; No. 25, 2001
S. 17.....	am. No. 35, 1918; No. 110, 1968; No. 216, 1973
S. 18.....	am. No. 35, 1918; No. 110, 1968
S. 19.....	rep. No. 25, 2001
S. 20.....	am. No. 110, 1968; No. 216, 1973; No. 61, 1981; No. 25, 2001
S. 21.....	am. No. 93, 1966; No. 40, 1985 rep. No. 25, 2001
S. 22.....	am. No. 110, 1968; No. 85, 1995; No. 25, 2001
S. 23.....	am. No. 93, 1966; No. 110, 1968; No. 40, 1985; No. 25, 2001
S. 24.....	rep. No. 85, 1995
S. 25.....	am. No. 110, 1968 rep. No. 85, 1995
S. 26.....	am. No. 12, 1932; No. 93, 1966; No. 25, 2001
Note to s. 26.....	ad. No. 25, 2001
The Schedule	am. No. 25, 1972 rep. No. 25, 2001

Note 2

Note 2

Taxation Laws Amendment (Excise Arrangements) Act 2001 (No. 25, 2001)

The following amendment commences immediately after the commencement of Parts 4-10 of the *Administrative Review Tribunal Act 2001*:

Schedule 5

26 Subsection 20(2A)

Repeal the subsection.

As at 24 May 2001 the amendment is not incorporated in this compilation.

Table A

Table A

Application, saving or transitional provisions

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

- If:
- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.
-

Table A

Taxation Laws Amendment (Excise Arrangements) Act 2001 (No. 25, 2001)

Schedule 5

8 Transitional provision—officers of Customs

A person who, immediately before the commencement of this item:

- (a) was an officer of Customs within the meaning of the *Spirits Act 1906*; and
- (b) held a position under which he or she exercised powers or performed functions under that Act;

is taken, immediately after that commencement, to be an officer for the purposes of that Act.

25 Transitional provision—existing applications

The amendment of section 20 of the *Spirits Act 1906* made by item 24 of this Schedule does not apply to a decision in relation to which an application was made under section 20 of that Act before the commencement of this item.

Table of Amendments
