

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1^o 12 September, 1901

(Brought in by the Hon. A. Deakin for the Minister of State for Trade and Customs, the Right Hon. C. C. Kingston, P.C.)

A BILL

Relating to Excise.

BE 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.

- 5 1. This Act may be cited as *The Excise Act 1901*. Short title
2. This Act shall commence on a day to be fixed by proclama- Commencement.
tion.
3. This Act is divided in parts as follows :— Parts.
- 10 Part I.—Introductory.
 Part II.—Administration.
 Part III.—Producers and Dealers.
 Part IV.—Licensing of Manufacturers.
 Part V.—Excise Supervision, Manufacturers' Books and
 Regulation of Factories generally.
- 15 Part VI.—Payment of Duty, Removal of Excisable
 Goods from Factories and Excise Control.
 Part VII.—Special Provisions relating to Tobacco.
 Part VIII.—Drawbacks.
 Part IX.—Officers.
- 20 Division 1.—Powers of Officers.
 Division 2.—Protection to Officers.
- Part X.—Penal Provisions.
- Part XI.—Excise Prosecutions.
- Part XII.—Disputes as to Duty.
- 25 Part XIII.—Settlement of Cases by the Minister.
- Part XIV.—Miscellaneous.

Definitions

4. In this Act except where otherwise clearly intended—

- “By authority” means by the authority of an officer doing duty in the matter in relation to which the expression is used.
- “Collector” means the Collector of Customs for a State. 5
- “Comptroller” means the Comptroller-General of Customs.
- “Dealer” means a person registered under this Act as a dealer in material.
- “Excise Acts” includes this Act and all other Acts relating to Excise. 10
- “Excisable goods” means goods in respect of which excise duty is imposed by the Parliament.
- “Factory” means the premises on which any person is licensed to manufacture excisable goods, and includes all adjoining premises used in connexion therewith or with the business of the manufacturer. 15
- “*Gazette* notice” means a notice signed by the Minister and published in the *Gazette*.
- “Justice” means any Justice of the Peace having jurisdiction in the place. 20
- “Licence” means a licence to manufacture excisable goods.
- “Manufacture” includes all processes in the manufacture of excisable goods.
- “Manufacturer” means a person licensed under this Act to manufacture excisable goods. 25
- “Material” includes all material used in the manufacture of excisable goods and declared by proclamation to be material within the meaning of this Act.
- “Officer” includes all persons employed in the service of the Customs. 30
- “Permission” means the written permission of the Collector.
- “Prescribed” means prescribed by this Act.
- “Producer” means a person registered under this Act as a producer of material.
- “The Customs” means the Department of Trade and Customs. 35
- “This Act” includes all Excise Acts incorporated therewith and all regulations made under this Act or any such Excise Act.

Penalty at foot of sections.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission is an offence against this Act punishable on conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned. 40

Application of Act

6. Except so far as inconsistent therewith this Act shall be incorporated and read as one with all other Excise Acts, but so that only Parts II., VIII., IX, X., XI., XII., XIII., and XIV. shall apply to beer and spirits which are dealt with or are intended to be dealt with by other Acts of the Parliament. 45

PART II.

PART II.—ADMINISTRATION.

7. Until it is otherwise lawfully determined the Excise Acts shall be administered by the Minister of State for the Commonwealth administering the Customs. Minister.
- 5 8. The Comptroller-General of Customs shall under the Minister have chief control of Excise throughout the Commonwealth. Comptroller-General.
- 10 9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Excise Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation. Delegation by Minister.
- 15 10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Excise Act. Delegation by Comptroller.
11. Every delegation, whether by the Minister or Comptroller, shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller. Revocation of delegation.
- 20 12. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs under any Excise Act. General power of Collector.
13. All officers of Customs shall be officers of Excise and all officers of Excise shall be officers of Customs. Customs officers to be Excise officers.
- 25 14. No fees shall be charged for the registration of producers or dealers under this Act, but licence-fees shall be as prescribed. Fees.
- 30 15. In the event of any Excise being hereafter imposed in relation to any manufacture previously free there shall be allowed two months from the commencement of the Act imposing the Excise for compliance with the provisions of this Act relating to registration and licences. Time for compliance with this Act.
- 35 16. The Customs shall have the right to require and take securities for compliance with the Excise Acts and generally for the protection of the revenue and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry relating thereto. Right to require security.
17. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector. Security.

18. When

General security
may be given.

18. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

Cancellation of
bonds.

19. All Customs securities may after the expiration of three years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller. 5

New sureties.

20. If the Collector is not at any time satisfied with the sufficiency of any security he may require a fresh security and a fresh security shall be given accordingly. 10

Form of Customs
security.

21. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under any Excise Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount. 15

Effect of Customs
security.

22. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed it unless the defendants shall prove compliance with the condition or that the security was not executed by them or release or satisfaction. 20

PART III.—PRODUCERS AND DEALERS.

Producers to be
registered.

23. No person shall produce material for the purpose of sale or manufacture unless he is registered as a producer. 25
Penalty : Twenty pounds.

How registration
effected.

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

(a) The producer shall send to the Collector a request for registration as a producer in the form in Schedule II. hereto. 30

(b) The Collector shall register the producer's name and the place where he produces material in a book, and shall furnish to the producer a certificate of registration in the form of the Schedule III. hereto.

Dealers to be
registered.

25. No person shall deal in material unless he is registered as a dealer, but this shall not apply to producers who deal only in material of their own production. 35
Penalty : Twenty pounds.

26. Registration

26. Registration of dealers shall be effected as follows :—

(a) The dealer shall send to the Collector a request for registration in the form in Schedule IV. to this Act.

5 (b) The Collector shall register the name and place of business of the dealer in a book, and shall furnish to the dealer a certificate of registration in the form in Schedule V. to this Act.

27. Except by permission no producer or dealer shall keep or store material at any place other than the premises in respect of which he is registered. Storage of material.

Penalty: Twenty pounds.

28. No producer shall produce material except at the premises in respect of which he is registered and no dealer shall carry on business as a dealer except at the premises in respect of which he is registered. Unregistered premises.

Penalty: Twenty pounds.

29. Any producer or dealer may be severally registered in respect of any number of separate and distinct premises. Registration of separate premises.

30. Every producer who ceases to produce material and every dealer who ceases to carry on business as a dealer shall forthwith give notice to the Collector that he has ceased to produce material or to carry on business, as the case may be, and the Collector shall thereupon cancel his registration. Notice of ceasing to produce or deal in material.

31. Producers and dealers shall as prescribed keep accounts and furnish returns of all materials produced or dealt in by them. Accounts and returns.

Penalty: Twenty pounds.

PART IV.—LICENSING OF MANUFACTURERS.

32. Licences to manufacture may be granted by the Collector, and may licence manufacture without limitation or subject to any specified limitation. Granting of licences.

33. No person shall manufacture except pursuant to this Act and a licence granted thereunder. Manufacturers to be licenced.

Penalty: One hundred pounds.

34. Every licence to manufacture in force under any State Act at the commencement of this Act shall unless previously cancelled continue in force as a licence under this Act until the expiration of the period for which the last payment of licence fee was made prior to commencement of this Act. Saving existing licences.

35. Any person may by application in the form in Schedule VI. apply to the Collector for a licence. Application for licence.

36. The

- Particulars.** **36.** The applicant shall furnish the Collector with the prescribed drawings and particulars.
- Payment of licence-fee and security.** **37.** The applicant for a licence shall—
 (a) Pay to the Collector the licence-fee as prescribed.
 (b) Give security to the Collector for compliance with this Act 5
- Collector to grant licence.** **38.** The Collector if satisfied with the security given may grant to the applicant a licence in the form in Schedule VII., but if the application is refused the licence-fee shall be returned to the applicant.
- Currency of licences.** **39.** Licences shall, unless cancelled, continue in force so long as 10
the licence fees payable in respect thereof are duly paid.
- Transfer or cancellation.** **40.** Licences may be transferred with the written permission of the Collector on security being given by the transferee, and may be cancelled by the Minister by *Gazette* notice if the holder is convicted of any offence against this Act. 15
- Fresh security may be required.** **41.** The Collector may at any time require any manufacturer to give fresh security, and fresh security shall be given accordingly and in default the licence may be cancelled by the Minister by *Gazette* notice.
- Tobacco to be made in licensed factories.** **42.** No manufacturer shall manufacture excisable goods at any 20
place other than the factory specified in his licence, or shall manufacture in his factory excisable goods to a greater quantity than allowed by his licence.
Penalty : One hundred pounds.
- PART V.—EXCISE SUPERVISION, MANUFACTURERS' BOOKS, AND 25
REGULATION OF FACTORIES GENERALLY.**
- Supervision by officers.** **43.** The manufacture of excisable goods shall for the protection of the revenue be subject to the right of supervision by officers.
- Office accommodation for officers.** **44.** Every manufacturer shall if required by the Collector provide in connexion with his factory reasonable office accommodation 30
and reasonable board and lodging for the supervising officer in each case to the satisfaction of the Collector.
Penalty : Fifty pounds.
- Payment for board and lodging.** **45.** Every manufacturer providing board and lodging for an officer pursuant to the request of the Collector shall be entitled to 35
fair remuneration therefor at such rates as shall be agreed or prescribed.
- Facilities to officers** **46.** Every manufacturer shall provide all reasonable facilities for enabling officers to exercise their powers under this Act.
Penalty : Fifty pounds. **47.** For 40

47. For the information of officers every manufacturer shall keep books and prepare and render accounts as prescribed and shall also as prescribed verify such books and accounts.

Books.

Penalty: Fifty pounds.

5 **48.** The Collector may give directions in writing to any manufacturer directing—

Collector may give directions.

(a) In what parts of the factory any process in the manufacture is to be carried on.

10 (b) In what parts of the factory material and other matters used in the manufacture and excisable goods manufactured are respectively to be kept.

And every manufacturer shall comply with such directions.

Penalty: Fifty pounds.

15 **49.** Every manufacturer shall at his own expense provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into and all excisable goods manufactured in his factory, and for taking stock of all material and excisable goods contained in his factory.

Weights and scales.

Penalty: Fifty pounds.

20 PART VI.—PAYMENT OF DUTY, REMOVAL OF EXCISABLE GOODS FROM FACTORIES, AND EXCISE CONTROL.

50. The manufacturer shall be liable to pay to the Collector the Excise duties on all excisable goods manufactured by him.

Liability to pay duty.

25 **51.** Partly manufactured excisable goods may by authority and subject to the prescribed conditions be transferred from one factory to another for the purpose of completing the manufacture.

Transfer of partly made goods.

52. No excisable goods shall be removed from a factory without an entry made and passed authorizing their removal.

Removal.

Penalty: One hundred pounds.

30 **53.** Excisable goods shall only be removed from a factory in packages of such sizes and marked in such manner as may be prescribed.

Size of packages.

54. Entries may be made by the manufacturer and passed by an officer and may authorize the removal of excisable goods for

Purposes of removal.

35 (a) Home consumption.

(b) Removal to a licensed Customs warehouse.

(c) Exportation.

55. The excise duty shall be paid before the entry for home consumption is passed.

When duty to be paid.

40 **56.** The manufacturer shall give security for the due removal or exportation of the excisable goods before any entry is passed for the removal of excisable goods to a licensed Customs warehouse or for exportation.

Security on removal.

57. All

Customs control.

57. All excisable goods manufactured shall until delivery for home consumption or exportation to parts beyond the seas whichever shall first happen be subject to the control of the Customs, and shall not be moved altered or interfered with except by authority and in accordance with this Act.

5

Penalty : One hundred pounds.

Deficiency in duty.

58. Whenever, in relation to any factory, it appears, on taking stock of excisable goods manufactured and material by an officer, that duty has not been paid on the full quantity of excisable goods on which duty ought to have been paid, the manufacturer shall forthwith pay to the Collector the amount of the deficiency unless such deficiency is accounted for to the satisfaction of the Collector.

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Power to prescribe scales for calculating quantities of excisable goods produced.

59. For the purpose of calculating the full quantity of excisable goods which have been produced in a factory scales may be prescribed showing the quantity of excisable goods which shall be deemed to have been produced from a given quantity of material, and the quantity of fully manufactured excisable goods which shall be deemed to have been produced from a given quantity of partly manufactured excisable goods.

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PART VII.—SPECIAL PROVISIONS RELATING TO TOBACCO.

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Annual licence-fees.

60. The annual licence-fee for a licence to manufacture tobacco cigars cigarettes or snuff shall be according to the scale set out in Schedule VIII. hereto, and shall be paid by the licensee by equal quarterly instalments in advance on the first days of January April July and October in each year.

25

Payment of first quarter's fee.

61. The applicant for a licence shall pay to the Collector a quarterly instalment of the licence or a proportionate part thereof not being less than one-third of such quarterly fee according to the length of time which will elapse before the next quarterly fee will become due.

30

Amount of security.

62. The sum in which security is to be given by the applicant for a licence shall be according to the scale set out in Schedule IX. hereto.

Exemption.

63. No person shall be deemed to manufacture merely because he cures tobacco leaf as stripped from the plant so as to convert it into leaf tobacco.

35

Size of packages.

64. All tobacco cigars cigarettes and snuff manufactured in a factory shall be put up in packages of the prescribed weights and sizes.

Marking of packages.

65. The manufacturer shall mark upon every package of manufactured tobacco cigars cigarettes or snuff his name and address a consecutive number the gross weight of the package and the net weight of the contents before it is removed from the factory.

40

Penalty : Twenty pounds.

66. Manufactured

- 66.** Manufactured tobacco may by authority be received into a factory for renovation or for cutting or for any other prescribed purpose but for no other purpose.
Penalty : Twenty pounds. Receipt of manufactured tobacco in factory.
- 5 **67.** Manufactured tobacco received into a factory shall be dealt with in the manner prescribed and shall be treated separately and kept separate from tobacco manufactured in the factory.
Penalty : Twenty pounds. Manufactured tobacco received in factory to be treated separately.
- 10 **68.** A refund of the Customs duty paid on the importation of leaf tobacco may be made in respect of all stalks refuse clippings or waste arising from the operations in any factory and destroyed in the manner prescribed. Refund of duty on waste.
- 15 **69.** No manufacturer shall have in his factory any manufactured tobacco containing more than thirty per centum of moisture.
Penalty : Fifty pounds. Limitation of amount of moisture in tobacco.
- 20 **70.** Any manufactured tobacco which on being dried at a temperature of two hundred and twelve degrees as indicated by Fahrenheit's thermometer is decreased in weight by more than thirty per centum shall be deemed to have contained more than thirty per centum of moisture. How moisture determined.
- 71.** Until otherwise prescribed the regulations in Schedule X. hereto shall have force as the regulations relating to the manufacture of tobacco cigars cigarettes and snuff. Tobacco regulations.
- PART VIII.—DRAWBACKS.**
- 25 **72.** Drawbacks of Excise duty may be allowed on exportation in respect of such excisable goods in such cases to such amount and in such manner as may be prescribed. Drawbacks allowed.
- 30 **73.** If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on excisable goods passing into that State then whilst such duties are so imposed drawback may be allowed in the State in which the Excise duty has been paid in respect of such goods as if exported. Drawback on goods passing into Western Australia.
- 35 **74.** No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the Excise duty paid did not amount to One pound. Limit of value.
- 75.** All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly. Examination of goods under drawback.
- 40 **76.** For the purpose of claiming drawback a drawback debenture shall be presented to the Collector who shall as soon as the goods have been exported cause the debenture to be passed for payment. Debenture to be passed.
- B **77.** The

Declaration on
debenture.

77. The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported, and have not to his knowledge been re-landed and are not intended to be re-landed, and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback. 5

Payment of draw-
back debentures.

78. No drawback debenture shall be paid except with the consent of the Minister— 10

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Minister may

(b) Prohibit the payment in whole or in part of any drawback debenture, but so as not to deprive the person entitled thereto of any remedy he may have for such drawback. 15

PART IX.—OFFICERS.

Division 1.—Powers of Officers.

Access to factory
and books.

79. Officers shall at all times have complete access to every part of any factory, and may examine, take account of, and note all vessels utensils material and excisable goods in the factory and every stage of process in the making of excisable goods, and may examine and take copies of or extracts from, all books and accounts required to be kept by the manufacturer in relation to the factory or the making or sale of excisable goods. 20 25

Power to enter
premises of
producers and
dealers.

80. Any officer may at any time between sunrise and sunset enter and search the premises of any producer or dealer or person who sells excisable goods, or any land upon which material is produced, or any premises where he has reasonable cause to suspect that excisable goods are made, or not having paid duty are kept or stored. 30

Power under writ
of assistance.

81. 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 into any house, premises or place, and may break open and search the same and any chests, trunks, or packages in which excisable goods are supposed to be. 35

Power to take
assistants.

82. Any officer acting under a writ of assistance or Customs warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary. 40

Power to search
vehicles.

83. Any officer upon reasonable suspicion may stop and search any vehicle or boat for the purpose of ascertaining whether any excisable goods upon which duty has not been paid are thereon, and the 40

the driver of any vehicle or the person in charge of any boat shall stop and permit an officer to search his vehicle or boat when required by an officer so to do.

Penalty: Fifty pounds.

- 5 **84.** Any officer may open packages and examine weigh mark and seal any excisable goods subject to the control of the Customs and may lock up seal mark or fasten any plant in or on a factory, and the expense of the examination of the goods including the cost of their removal to the place of examination shall be borne by the
10 owner. Examine all goods;
- 85.** No fastening, lock, mark, or seal placed by an officer upon any goods or upon any plant in a factory shall be opened, altered, broken, or erased, except by authority. Seals, &c. not to be broken.
Penalty: Fifty pounds.
- 15 **86.** Any officer may seize any forfeited goods or any goods which he has reasonable cause to believe are forfeited. Power to seize goods.
- 87.** Any officer lawfully making any seizure under any Excise Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly. Power to call for aid.
20 Penalty: Twenty pounds.
- 88.** All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct. Seized goods to be secured.
- 25 **89.** When any goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the owner of the goods (unless such owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of
30 abode or business and all the goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom the goods were seized or the owner shall within one month from the date of seizure give notice in writing to the Collector that he claims them; but if any goods so seized are of a perishable
35 nature or are live animals they may be forthwith sold by the Collector.
- 90.** The Comptroller or the Collector may authorize any goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation. Seized goods may be returned on security.
- 40 **91.** Whenever any goods have been seized by an officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him
for

Collector may retain goods and require owner to proceed for restoration.

for the recovery of the goods, and if the claimant does not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Disposal of forfeited
ships and goods.

92. All forfeited goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct. 5

Power of arrest.

93. Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe is guilty of—

- (a) Unlawfully manufacturing any excisable goods :
- (b) Unlawfully receiving carrying conveying or having upon his premises or in his custody or under his control any excisable goods : 10
- (c) Being found without lawful excuse upon any premises where excisable goods are being illegally manufactured :

Reasons for arrest.

94. Any officer arresting any person shall as soon as practicable after arrest give him a statement in writing of the reason for his arrest. 15

Arrested persons to
go before Justices.

95. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.

Powers of Justices
with offenders.

96. Any Justice before whom any person is brought under this Act may— 20

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; (or)
- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge. 25

Power to detain
and search
suspected persons.

97. If any officer of Customs or police has reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him the following consequences shall ensue :— 30

- (a) The officer may detain and search the suspected person ;
- (b) Before the suspected person is searched he may require to be taken before a Justice or the Collector ;
- (c) The Justice or Collector may order the suspected person to be searched or may discharge him without search. 35

But females shall only be searched by a female searcher appointed by the Justice or Collector.

Stock may be
checked.

98. An officer may at any time check the stock of material of any producer or dealer, and if any deficiency is found which cannot be accounted for to the satisfaction of the Collector the producer or dealer shall pay duty on the amount of material found to be deficient as if it had been manufactured into excisable goods. 40

99. Samples

99. Samples of material and of partly manufactured excisable goods and of excisable goods subject to the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. Samples.

5 100. Any officer may purchase samples of excisable goods from any person being the owner or in possession of excisable goods. Power to purchase samples.

101. No person being the owner of or in possession of any excisable goods shall refuse to deliver to an officer samples of such excisable goods on tender of a reasonable price for such samples.

10 Penalty : Twenty pounds.

Division 2.—Protection to Officers.

102. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. Reasonable cause for seizure a bar to action.

103. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent unless a Justice of the High Court of Australia or a Judge of the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave such Justice or Judge may grant on such terms as he may think just. Notice of action to be given.

104. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence. Defect in notice not to invalidate.

105. Upon any proceeding instituted in pursuance of such notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served. No evidence to be produced but that contained in notice.

106. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent Officer may tender amends.
and

and in case such amends be not accepted to plead such tender in defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence. 5

Commencement of proceedings against officers.

107. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence. 10

Time for commencing action.

108. No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed. 15

Security may be required.

109. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding. 20

PART X.—PENAL PROVISIONS.

Forfeiture.

110. All excisable goods manufactured or partly manufactured by any person not licensed under this Act, all material found on any premises where the manufacture of excisable goods is unlawfully carried on, and all excisable goods which being subject to the control of the Customs are 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 excisable goods so moved are forfeited to the King together with the packages in which the goods are contained. 25 30

Unlawful possession of excisable goods.

111. No person other than a manufacturer shall, except by authority, have in his possession custody or control any manufactured or partly manufactured excisable goods upon which Excise duty has not been paid, and no person other than a manufacturer, producer, or dealer shall except by authority keep or store any material. 35

Penalty : Fifty pounds.

Illegal prevention of seizures.

112. All persons to the number of two or more assembled for the purpose of preventing the seizure of, or for rescuing after seizure any forfeited goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding five years. 40

113. No

113. No person shall unlawfully convey any excisable goods upon which Excise duty has not been paid and no master of a ship shall use or suffer his ship to be used in the unlawful conveyance of any such goods.

Unlawfully convey-
ing excisable
goods.

5 Penalty : One hundred pounds.

114. No person shall—

Offences.

(I.) Sell except by authority any excisable goods unlawfully removed from a factory ;

10 (II.) Buy material from any person who is not a manufacturer producer or dealer ;

(III.) Sell material to any person who is not a manufacturer or dealer ;

(IV.) Evade payment of any duty which is payable ;

(V.) Obtain any drawback which is not payable ;

15 (VI.) Make any entry which is false in any particular ;

(VII.) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;

20 (VIII.) Mislead any officer in any particular likely to affect the discharge of his duty ;

(IX.) Sell or offer for sale any excisable goods upon the pretence that such goods are excisable goods upon which Excise duty has not been paid.

25 Penalty : One hundred pounds.

115. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be liable to imprisonment with hard labour for any period not exceeding four years.

False oath or
affirmation.

30 **116.** Whoever falsely represents himself to be an officer shall be guilty of an indictable offence, and shall be liable to imprisonment with or without hard labour for any term not exceeding two years.

Personating officers.

117. No person shall obstruct, molest, resist, or hinder any officer in the performance of his duty under this Act.

Obstructing officers.

35 Penalty : Fifty pounds.

118. Whoever

(a) Being an officer makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any goods liable to forfeiture or conspires or connives with any person to neglect his duty or do any act whereby the provisions of any Excise Act may be evaded ;

Collusive seizures
penalty.

40

(b) Gives,

- Bribe offered to officer penalty. (b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty ; 5
- Rescuing goods. (c) Rescues any goods which have been seized or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence ; 10
- Persons assaulting or obstructing officers. (d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties, shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years. 15
- Penalty in cases not provided for. 119. Any person by act or omission guilty of any contravention of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds. 20
- Aiders and abettors. 120. Whoever aids, abets, counsels, or procures, or by act or omission is directly or indirectly concerned in the commission of any offence against this Act, shall be deemed to have committed such offence and shall be punishable accordingly.
- Attempted offences. 121. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed. 25
- Penalties in addition to forfeitures. 122. All penalties shall be in addition to any forfeiture.
- Maximum penalty in certain cases. 123. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been committed the maximum penalty shall be thrice the value of the goods. 30
- Maximum penalty in case of intent to defraud. 124. Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum penalty shall be double that otherwise provided. 35
- If previous conviction defendant may be imprisoned. 125. When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty. 40
126. The

126. The minimum penalty for any offence against this Act shall be one-twentieth of the prescribed maximum. Minimum penalty.

PART XI.—EXCISE PROSECUTIONS.

127. Proceedings by the Customs for the recovery of penalties under any Excise Act or for the condemnation of goods seized as forfeited are herein referred to as Excise Prosecutions. Interpretation.

128. Excise prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding— How instituted.

- (a) In the High Court of Australia ; or
 (b) In the Supreme Court of any State

and when the penalty does not exceed Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector or of an officer acting under the direction of the Collector in

- (c) Any Court of summary jurisdiction.

129. Every Excise prosecution in the High Court of Australia or the Supreme Court of any State may be commenced and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge. Prosecution in accordance with practice rules.

130. Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Excise prosecutions before a Court of summary jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal. State Court practice.

131. Excise prosecutions may be instituted at any time within five years after the cause thereof. Commencement of prosecutions.

132. All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act. Information &c. to be valid &c. if in words of Act.

133. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable. No objection for informality.

Conviction not to
be quashed.

134. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Excise Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect. 5

Protection to
witnesses.

135. No witness on behalf of the Minister Collector or officer in any Excise prosecution shall be compelled to disclose the fact that he received or gave any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information. 10

Defendant a
competent witness.

136. (1) In every Excise prosecution the defendant shall be competent to give evidence. 15

(2) In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution. 20

Averment of
prosecution
sufficient.

137. In every Excise prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and— 25

(b) In all proceedings for an indictable offence the guilt of the defendant must be established by evidence.

Proof of
proclamations &c.

138. The production of the *Gazette* containing any proclamation *Gazette* notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or the Collector to be a true copy of or extract from any such proclamation, *Gazette* notice, or regulation issued or made under this Act shall be *prima facie* evidence of the issue or making of such proclamation, *Gazette* notice, or regulation, and that the same is in force. 30 35

Minimum penalties.

139. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court. 40

Treatment of
convicted
offenders.

140. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court may—

- (1) commit the offender to gaol until the penalty is paid; or
(2) may release the offender upon his giving security for the payment of the penalty; or (3) may 45

(3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.

5 **141.** When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs. Collector may levy on goods in his possession.

10 **142.** The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person— Release of offenders.

- (I.) on payment to him of the penalty adjudged ;
- (II.) on a certificate by the Collector that the penalty has been paid or realized ;
- 15 (III.) if the penalty adjudged to be paid is not paid or realized according to the following table :—

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.
£2 or under	Seven days.
Over £2 and not more than £5	Fourteen days.
Over £5 and not more than £20	One month.
20 Over £20 and not more than £50	Two months.
Over £50 and not more than £100	Three months.
Over £100 and not more than £200	Six months.
Over £200	One year.

25 **143.** No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted. Imprisonment not to release penalty.

30 **144.** Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed. Conviction to operate as a condemnation.

35 **145.** In all Excise prosecutions the Court may award costs against any party or claimant, and all provisions relating to the recovery of penalties shall extend to the recovery of any costs adjudged to be paid. Parties may recover costs.

146. All penalties and forfeitures recovered under any Excise Act shall be applied to such purposes and in such proportions as the Minister may direct. Application of penalties.

PART XII.—DISPUTES AS TO DUTY.

Deposit of duty

147. If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue :— 5

- (1) The owner upon making proper entry shall be entitled to delivery of the goods.
- (2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added. 10

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted. 15

PART XIII.—SETTLEMENT OF CASES BY THE MINISTER.

Settlement of disputes by Minister.

148. If any dispute shall arise between any officer and any person with reference to any non-compliance with or contravention of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred. 20 25

Orders to be final

149. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Powers of Ministers at inquiries.

150. The Minister in holding any inquiry under this Part of this Act may— 30

- (a) Summon the parties and any witnesses before him.
- (b) Take evidence on oath.
- (c) Require the production of documents.
- (d) Allow reasonable expenses to witnesses and costs to successful parties. 35

151. No person being summoned as a witness at any inquiry under this Act shall—

- (a) Disobey such summons ;
- (b) Refuse to be sworn as such witness ; 40
- (c) Refuse or fail to produce any document he may be required to produce ;
- (d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty : Twenty pounds.

152. Any 45

152. Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister shall in such
5 manner as he shall think fit inform his mind of the circumstances, and finally decide the difference.

Minister may determine differences.

PART XIV.—MISCELLANEOUS.

153. If after any agreement is made for the sale or delivery of excisable goods duty paid any alteration takes place in the duty
10 collected affecting such goods before they are entered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

Alteration of agreements where duty altered.

(a) In the event of the alteration being a new or increased duty the seller after payment of the new or increased
15 duty may add the difference caused by the alteration to the agreed price.

(b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.

(c) Any refund or payment of increased duty resulting from
20 the alteration not being finally adopted shall be allowed between the parties as the case may require.

154. All Excise duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable
25 by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

155. Any declaration prescribed may be made before any Justice of the Peace in any State or before any officer.

Declarations.

156. The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are
30 required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Excise.

Regulations.

157. All regulations so made shall—

(I.) Be published in the *Gazette*.

(II.) Take effect from the date of publication or from a later
35 date to be specified in such regulations; and

(III.) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if
40 not then within seven days after the commencement of the next session.

Regulations to be confirmed.

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation
45 shall thereupon cease to have effect.

SCHEDULES.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this security the Subscribers are, pursuant to the *Excise Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—*[here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition]*—subject only to this condition that if—*[here insert the condition of the security]*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* **NOTE.**—If liability is not intended to be joint and several and for the full amount, here state what is intended, as, for example, thus—“The liability of the subscribers is joint only,” or “the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit).”

SCHEDULE II.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

Request for Registration as producer.

To the Collector of Customs, State of

I HEREBY request you to register me as a producer under the above Act.

Full name—

Address—

Occupation—

Kind of material to be produced—

Place and description of area on which material is to be produced—

Dated the day of 190 .

(Signature of producer).

Witness—

SCHEDULE III.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

CERTIFICATE OF REGISTRATION OF PRODUCER.

I CERTIFY that A.B. of *[address and occupation]* has, pursuant to the above Act, this day been registered as a producer of *[here set out kind of material]* at *[here set out place and description of area on which material is to be produced]*.

This Certificate of Registration will remain in force until cancelled.

Dated the day of 190 .

Collector of Customs for the State of

SCHEDULE.

SCHEDULE IV.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

REQUEST FOR REGISTRATION AS A DEALER.

I HEREBY request you to register me, pursuant to the above Act, as a Dealer in
[here set out kind of material].

Full name—

Address—

Occupation—

Situation of premises on which business is to be carried on—

Dated the day of 190 §

(Signature of Dealer).

Witness—

SCHEDULE V

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

CERTIFICATE OF REGISTRATION AS A DEALER.

I CERTIFY that A. B., of [address and occupation] has this day been registered, pursuant to the above Act, as a Dealer in [here set out kind of material] in the premises [here describe premises sufficiently to identify them].

This Certificate of Registration will remain in force until cancelled

Dated the day of 190

Collector of Customs for the State of

SCHEDULE VI.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

APPLICATION FOR A LICENCE TO MANUFACTURE.

I HEREBY apply for a Licence to Manufacture [here set out kind of excisable goods to be manufactured] in the factory described in the drawings and particulars furnished herewith [here set out in quantities not exceeding in any one year the weight of or in any quantity].

Name in full—

Address—

Occupation—

Situation of premises—

(Signature of applicant.)

Witness—

SCHEDULE

SCHEDULE VII.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

MANUFACTURER'S LICENCE.

A.B. of [*here state place of residence and occupation*] is hereby licensed, pursuant to *The Excise Act 1901*, to manufacture [*here set out kind of excisable article and add in quantities not exceeding in any one year or in any quantity*] in the factory situate at [*here give name of place or town and street*], drawings and particulars of which have been furnished to me as prescribed.

This licence commences on the _____ day of _____ and will unless cancelled, continue in force so long as the licence-fee is duly paid as prescribed.

Dated the _____ day of _____ 190 .

Collector of Customs for the State of _____

SCHEDULE VIII.

SCALE OF FEES FOR FACTORY LICENCE.

The scale of fees payable by a manufacturer for every licence granted to him in respect of a factory shall be as follows:—

For every factory wherein tobacco, cigars, cigarettes, and snuff may be manufactured in quantities the weight of which, in the whole, manufactured in one year, shall—

- (a) Not exceed 5,000 lbs., £5 per annum.
- (b) Exceed 5,000 lbs., but not 10,000 lbs., £10 per annum.
- (c) Exceed 10,000 lbs., but not 20,000 lbs., £20 per annum.
- (d) Exceed 20,000 lbs., but not 50,000 lbs., £50 per annum.
- (e) Exceed 50,000 lbs., but not 100,000 lbs., £100 per annum.
- (f) Exceed 100,000 lbs., but not 200,000 lbs., £150 per annum.
- (g) Exceed 200,000 lbs., but not 350,000 lbs., £200 per annum.
- (h) Exceed 350,000 lbs., £250 per annum.

SCHEDULE IX.

SCALE OF AMOUNTS IN WHICH SECURITY IS TO BE GIVEN BY MANUFACTURERS.

For every manufacturer paying a licence-fee of	£5 per annum	...	£200
" " " "	10	"	300
" " " "	20	"	400
" " " "	50	"	500
" " " "	100	"	1,000
" " " "	150	"	1,500
" " " "	200	"	2,000
" " " "	250	"	3,000

SCHEDULE X.

TOBACCO REGULATIONS.

Book to be kept by Producer.

1. Every producer of tobacco shall keep an account of the number of acres on which he grows tobacco, the quantity of tobacco leaf harvested, the quantity of tobacco leaf cured, and all sales of tobacco leaf.

Producer's

Producer's Return.

2. Every producer shall, not later than the fifteenth day of January in each year, furnish to the Collector a return, verified by declaration, in or to the effect of the form hereto, stating all particulars with respect to the matters specified in the several heads of such form, so far as relates to the year ending on the 31st December immediately preceding:—

TOBACCO PRODUCER'S RETURN.

Name of Tobacco Producer.		Place of Abode.	Place of Cultivation.	Number of Acres under Cultivation.	Quantity of Tobacco Leaf Cured.	Number of Acres proposed to be Cultivated.	Where Crop of Tobacco Leaf is Stored.	Sales of Leaf.			Remarks.
Sur-name.	Christian Name.							Date.	Quantity.	To whom	
				A. R. P.	lbs.	A. R. P.					

I, _____, hereby declare that the above return contains a true statement of the particulars mentioned therein for the year ending the 31st December last past.

Declared before me this _____ day of _____, 19 _____

(Signed)
(Signed)

J.P. or Officer.

Book to be kept by Dealer.

3. Every dealer in leaf tobacco shall keep an account of all tobacco leaf purchased and sold by him distinguishing between Australian grown tobacco leaf and imported tobacco leaf.

Dealer's Return.

4. Every dealer shall not later than the fifteenth day of January, April, July, and October in each year furnish to the Collector a return verified by declaration in the form following; stating all particulars with respect to the matters specified in the several heads of such form as far as relates to the immediately preceding quarter of the year:—

TOBACCO LEAF DEALER'S RETURN.

Quantity of Leaf Tobacco Bought.		From whom.	Quantity of Leaf Tobacco Sold.		To whom.	Quantity of Leaf Tobacco in hand.	
Australian.	Imported.		Australian.	Imported.		Australian.	Imported.

_____, hereby declare that the above return contains a true statement of the particulars mentioned therein for the quarter ended _____ day of _____ last past.

Declared before me this _____ day of _____, 19 _____

(Signed)
(Signed)

J.P., or Officer.

Plan

Plan and particulars to accompany application for licence.

5. The drawings and particulars to accompany applications for licences to manufacture tobacco, cigars, cigarettes, and snuffs shall be as follows:—

- (1) A plan and sectional elevation of the factory buildings;
- (2) The name and situation of the factory;
- (3) The material of which the factory is constructed;
- (4) The number of flats or stories in the building or buildings;
- (5) The number of rooms in each story, and for what purpose each room or story is intended to be used;
- (6) The number and position, with relation to the principal building of a factory, of any detached buildings used or to be used as part of the factory, together with number of rooms therein; and
- (7) Such other particulars as the Collector may require.

Factory fastenings, &c.

6. Every factory shall be secured in such a manner and by such fastenings as shall be approved by the Collector, and shall be opened and visited at such times and in the presence of such officers as the Collector shall direct.

Manufacturer to provide a special store-room.

7. Every manufacturer shall provide, when directed by the Collector so to do, a secure store-room in his factory, in which all tobacco, cigars, cigarettes, or snuff manufactured in his factory shall be stored and every door of such store shall be provided by the manufacturer with an approved lock the key of which shall be kept by him, and with a lock supplied by the Collector at the expense of the manufacturer the key of which shall be kept by an officer so that both the keys will be required to open the door.

Manufacturers' Books.

8. Every manufacturer shall keep a book in a form approved by the Collector, in which he shall enter—

- (a) The weight of all tobacco leaf received into the factory, distinguishing Australian grown leaf from imported leaf.
- (b) The weight in pounds of all tobacco, cigars, cigarettes, or snuff made in the factory.
- (c) The weight in pounds of all tobacco, cigars, cigarettes, or snuff removed from his factory.
- (d) The amount of refuse, waste, and clippings arising from the operations in the factory, distinguishing Australian grown leaf from imported leaf.
- (e) The amount of duty paid.

Manufacturers' Returns.

9. Every manufacturer shall furnish to the Collector a return showing—

- (a) The weight in pounds of all leaf tobacco received into his factory, distinguishing Australian grown leaf from imported leaf.
- (b) The weight of all leaf tobacco used in manufacturing tobacco, cigars, cigarettes, or snuff.
- (c) The weight of all tobacco, cigars, cigarettes, or snuff manufactured in the factory.
- (d) The weight of all tobacco, cigars, cigarettes, and snuff removed from the factory.
- (e) The weight of tobacco, cigars, cigarettes, and snuff in the factory at the close of the day on which the return is made up to.
- (f) The weight of tobacco, cigars, cigarettes, and snuff in course of manufacture at the close of the day on which the return is made up to.

When

When Returns to be made up to.

10. In the case of factories at which a supervising officer is stationed the above, return shall be made up to the close of the last days of the months of March, June, September, and December in each year; and in the case of other factories up to the close of the last day of each month.

When Returns to be sent in.

11. Manufacturers' returns shall be made up and sent to the Collector forthwith after the close of the day up to which they are made.

Labels subject to approval.

12. No labels shall be fixed on any package containing tobacco, cigars, cigarettes, or snuff manufactured in Australia unless it has been approved by the Collector.

Manufacturer to give notice of removal of goods.

13. Every manufacturer at whose factory a supervising officer is not permanently stationed shall give at least twenty-four hours' notice in writing to the Collector when he wishes to remove tobacco, cigars, cigarettes, or snuff.

Security on removal.

14. Before any manufactured tobacco is removed from a factory without payment of duty the manufacturer shall give security in a sum equal to twice the amount of the excise duty payable on the tobacco.

Different kinds of refuse to be kept separate.

15. The stalks, refuse, clippings, and waste from imported leaf tobacco shall be kept separate from the stalks, refuse, clippings, and waste from Australian leaf tobacco.

Refuse to be destroyed under supervision after notice.

16. All stalks, refuse, clippings, and waste accumulated in any factory shall be destroyed in such manner as the Collector shall direct, and under the personal supervision of an officer; and every manufacturer shall give forty-eight hours' notice in writing to the Collector of his intention to destroy any stalks, refuse, clippings, or waste.

Importer to give notice before removing tobacco for renovation.

17. Any person who desires to remove manufactured tobacco from a Customs warehouse to a factory for the purpose of renovation shall give one day's notice in writing to the Collector of the time at which he proposes to so remove the same, and with such notice shall furnish in writing the following particulars with respect to such tobacco, that is to say:—The number of packages, the bond marks and numbers of each package, the Customs warehouse in which such tobacco is deposited, and the factory to which it is to be removed.

Collector to give order for delivery.

18. The Collector may upon security being given authorize the delivery of the tobacco which may then be removed direct to the factory under the supervision of an officer.

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 12 September, 1901.

*(As reported from Committee of the Whole, 20th September, 1901.)**(Brought in by the Hon. A. Deakin for the Minister of State for Trade and Customs, the Right Hon. C. C. Kingston, P.C.)*

A BILL

Relating to Excise.

BE 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.

- 5 **1.** This Act may be cited as *The Excise Act 1901.* Short title.
- 2.** This Act shall commence on a day to be fixed by proclama- Commencement.
tion.
- 3.** This Act is divided in parts as follows :— Parts.
- 10 Part I.—Introductory.
 Part II.—Administration.
 Part III.—Producers and Dealers.
 Part IV.—Licensing of Manufacturers.
 Part V.—Excise Supervision, Manufacturers' Books and
 Regulation of Factories generally.
- 15 Part VI.—Payment of Duty, Removal of Excisable
 Goods from Factories and Excise Control.
 Part VII.—Special Provisions relating to Tobacco.
 Part VIII.—Drawbacks.
 Part IX.—Officers.
- 20 Division 1.—Powers of Officers.
 Division 2.—Protection to Officers.
- Part X.—Penal Provisions.
 Part XI.—Excise Prosecutions.
 Part XII.—Disputes as to Duty.
- 25 Part XIII.—Settlement of Cases by the Minister.
 Part XIV.—Miscellaneous.

Definitions.

4. In this Act except where otherwise clearly intended—

- “By authority” means by the authority of an officer doing duty in the matter in relation to which the expression is used.
- “Collector” means the Collector of Customs for a State. 5
- “Comptroller” means the Comptroller-General of Customs.
- “Dealer” means a person registered under this Act as a dealer in material.
- “Excise Acts” includes this Act and all other Acts relating to Excise. 10
- “Excisable goods” means goods in respect of which excise duty is imposed by the Parliament.
- “Factory” means the premises on which any person is licensed to manufacture excisable goods, and includes all adjoining premises used in connexion therewith or with the business of the manufacturer. 15
- “Gazette notice” means a notice signed by the Minister and published in the *Gazette*.
- “Justice” means any Justice of the Peace having jurisdiction in the place. 20
- “Licence” means a licence to manufacture excisable goods.
- “Manufacture” includes all processes in the manufacture of excisable goods.
- “Manufacturer” means a person licensed under this Act to manufacture excisable goods. 25
- “Material” includes all material used in the manufacture of excisable goods and declared by proclamation to be material within the meaning of this Act.
- “Officer” includes all persons employed in the service of the Customs. 30
- “Permission” means the written permission of the Collector.
- “Prescribed” means prescribed by this Act.
- “Producer” means a person registered under this Act as a producer of material.
- “The Customs” means the Department of Trade and Customs. 35
- “This Act” includes all Excise Acts incorporated therewith and all regulations made under this Act or any such Excise Act.

Penalty at foot of sections.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission is an offence against this Act punishable on conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned. 40

Application of Act.

6. Except so far as inconsistent therewith this Act shall be incorporated and read as one with all other Excise Acts, but so that only Parts II., VIII., IX, X., XI., XII., XIII., and XIV. shall apply to beer and spirits which are dealt with by other Acts of the Parliament. 45

PART II.—ADMINISTRATION.

7. Until it is otherwise lawfully determined the Excise Acts shall be administered by the Minister of State for the Commonwealth administering the Customs. Minister.
- 5 8. The Comptroller-General of Customs shall under the Minister have chief control of Excise throughout the Commonwealth. Comptroller-General.
9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Excise Act (except
10 this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation. Delegation by Minister.
- 15 10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Excise Act. Delegation by Comptroller.
11. Every delegation, whether by the Minister or Comptroller, shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller. Revocation of delegation.
- 20 12. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs under any Excise Act. General power of Collector.
13. All officers of Customs shall be officers of Excise and all officers of Excise shall be officers of Customs. Customs officers to be Excise officers.
- 25 14. No fees shall be charged for the registration of producers or dealers under this Act, but licence-fees shall be as prescribed. Fees.
- 30 15. In the event of any Excise being hereafter imposed in relation to any manufacture previously free there shall be allowed two months from the commencement of the Act imposing the Excise for compliance with the provisions of this Act relating to registration and licences. Time for compliance with this Act.
- 35 16. The Customs shall have the right to require and take securities for compliance with the Excise Acts and generally for the protection of the revenue and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry relating thereto. Right to require security.
17. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector. Security.

18. When

General security
may be given.

18. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

Cancellation of
bonds.

19. All Customs securities may after the expiration of three 5 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller.

New sureties.

20. If the Collector is not at any time satisfied with the sufficiency of any security he may require a fresh security and a fresh 10 security shall be given accordingly.

Form of Customs
security.

21. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under any Excise Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the 15 full amount.

Effect of Customs
security.

22. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed it unless the defendants shall prove 20 compliance with the condition or that the security was not executed by them or release or satisfaction.

Surrender of
lesser licence for
larger licence.

22A. A lesser licence may at any time be surrendered for a larger licence and in such case the licensee shall receive credit for a proportionate part of the fee paid for the lesser licence against the 25 amount payable for the larger licence.

PART III.—PRODUCERS AND DEALERS.

Producers to be
registered.

23. No person shall produce material for the purpose of sale or manufacture unless he is registered as a producer.

Penalty : Twenty pounds. 30

How registration
effected.

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

(a) The producer shall send to the Collector a request for registration as a producer in the form in Schedule II. hereto.

(b) The Collector shall register the producer's name and the 35 place where he produces material in a book, and shall furnish to the producer a certificate of registration in the form of the Schedule III. hereto.

Dealers to be
registered.

25. No person shall deal in material unless he is registered as a dealer, but this shall not apply to producers who deal only in 40 material of their own production.

Penalty : Twenty pounds.

26. Registration

- 26.** Registration of dealers shall be effected as follows :—
 (a) The dealer shall send to the Collector a request for registration in the form in Schedule IV. to this Act.
 (b) The Collector shall register the name and place of business of the dealer in a book, and shall furnish to the dealer a certificate of registration in the form in Schedule V. to this Act.
- 27.** Except by permission no producer or dealer shall keep or store material at any place other than the premises in respect of which he is registered.
 Penalty: Twenty pounds.
- 28.** No producer shall produce material except at the premises in respect of which he is registered and no dealer shall carry on business as a dealer except at the premises in respect of which he is registered.
 Penalty: Twenty pounds.
- 29.** Any producer or dealer may be severally registered in respect of any number of separate and distinct premises.
- 30.** Every producer who ceases to produce material and every dealer who ceases to carry on business as a dealer shall forthwith give notice to the Collector that he has ceased to produce material or to carry on business, as the case may be, and the Collector shall thereupon cancel his registration.
- 31.** Producers and dealers shall as prescribed keep accounts and furnish returns of all materials produced or dealt in by them.
 Penalty: Twenty pounds.
- PART IV.—LICENSING OF MANUFACTURERS.**
- 32.** Licences to manufacture may be granted by the Collector, and may licence manufacture without limitation or subject to any specified limitation.
- 33.** No person shall manufacture except pursuant to this Act and a licence granted thereunder.
 Penalty: One hundred pounds.
- 34.** Every licence to manufacture in force under any State Act at the commencement of this Act shall unless previously cancelled continue in force as a licence under this Act until the expiration of the period for which the last payment of licence fee was made prior to commencement of this Act.
- 35.** **35.** Any person may by application in the form in Schedule VI. apply to the Collector for a licence.
- 36.** The

Mode of registration of dealers.

Storage of material.

Unregistered premises.

Registration of separate premises.

Notice of ceasing to produce or deal in material.

Accounts and returns.

Granting of licences.

Manufacturers to be licenced.

Saving existing licences.

Application for licence.

- Particulars. **36.** The applicant shall furnish the Collector with the prescribed drawings and particulars.
- Payment of licence-fee and security. **37.** The applicant for a licence shall—
 (a) Pay to the Collector the licence-fee as prescribed.
 (b) Give security to the Collector for compliance with this Act. 5
- Collector to grant licence. **38.** The Collector if satisfied with the security given may grant to the applicant a licence in the form in Schedule VII., but if the application is refused the licence-fee shall be returned to the applicant.
- Currency of licences. **39.** Licences shall, unless cancelled, continue in force so long as 10 the licence fees payable in respect thereof are duly paid.
- Transfer or cancellation. **40.** Licences may be transferred with the written permission of the Collector on security being given by the transferee, and may be cancelled by the Minister by *Gazette* notice if the holder is convicted of any offence against this Act. 15
- Fresh security may be required. **41.** The Collector may at any time require any manufacturer to give fresh security, and fresh security shall be given accordingly and in default the licence may be cancelled by the Minister by *Gazette* notice.
- Tobacco to be made in licensed factories. **42.** No manufacturer shall manufacture excisable goods at any 20 place other than the factory specified in his licence, or shall manufacture in his factory excisable goods to a greater quantity than allowed by his licence.
 Penalty : One hundred pounds.
- PART V.—EXCISE SUPERVISION, MANUFACTURERS' BOOKS, AND 25
 REGULATION OF FACTORIES GENERALLY.**
- Supervision by officers. **43.** The manufacture of excisable goods shall for the protection of the revenue be subject to the right of supervision by officers.
- Office accommodation for officers. **44.** Every manufacturer shall if required by the Collector provide in connexion with his factory reasonable office accommodation 30 and reasonable board and lodging for the supervising officer in each case to the satisfaction of the Collector.
 Penalty : Fifty pounds.
- Payment for board and lodging. **45.** Every manufacturer providing board and lodging for an officer pursuant to the request of the Collector shall be entitled to 35 fair remuneration therefor at such rates as shall be agreed or prescribed.
- Facilities to officers. **46.** Every manufacturer shall provide all reasonable facilities for enabling officers to exercise their powers under this Act.
 Penalty : Fifty pounds. **47.** For 40

47. For the information of officers every manufacturer shall keep books and prepare and render accounts as prescribed and shall also as prescribed verify such books and accounts. Books.

Penalty: Fifty pounds.

5 **48.** The Collector may give directions in writing to any manufacturer directing— Collector may give directions.

(a) In what parts of the factory any process in the manufacture is to be carried on.

10 (b) In what parts of the factory material and other matters used in the manufacture and excisable goods manufactured are respectively to be kept.

And every manufacturer shall comply with such directions.

Penalty: Fifty pounds.

15 **49.** Every manufacturer shall at his own expense provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into and all excisable goods manufactured in his factory, and for taking stock of all material and excisable goods contained in his factory. Weights and scales.

Penalty: Fifty pounds.

20 PART VI.—PAYMENT OF DUTY, REMOVAL OF EXCISABLE GOODS FROM FACTORIES, AND EXCISE CONTROL.

50. The manufacturer shall be liable to pay to the Collector the Excise duties on all excisable goods manufactured by him. Liability to pay duty.

25 **51.** Partly manufactured excisable goods may by authority and subject to the prescribed conditions be transferred from one factory to another for the purpose of completing the manufacture. Transfer of partly made goods.

52. No excisable goods shall be removed from a factory without an entry made and passed authorizing their removal. Removal.

Penalty: One hundred pounds.

30 **53.** Excisable goods shall only be removed from a factory in packages of such sizes and marked in such manner as may be prescribed. Size of packages.

54. Entries may be made by the manufacturer and passed by an officer and may authorize the removal of excisable goods for Purposes of removal.

35 (a) Home consumption.
(b) Removal to a licensed Customs warehouse.
(c) Exportation.

55. The excise duty shall be paid before the entry for home consumption is passed. When duty to be paid.

40 **56.** The manufacturer shall give security for the due removal or exportation of the excisable goods before any entry is passed for the removal of excisable goods to a licensed Customs warehouse or for exportation. Security on removal.

57. All

- 57.** All excisable goods manufactured shall until delivery for home consumption or exportation to parts beyond the seas whichever shall first happen be subject to the control of the Customs, and shall not be moved altered or interfered with except by authority and in accordance with this Act. 5
 Penalty : One hundred pounds.
- 58.** Whenever, in relation to any factory, it appears, on taking stock of excisable goods manufactured and material by an officer, that duty has not been paid on the full quantity of excisable goods on which duty ought to have been paid, the manufacturer shall forthwith pay to the Collector the amount of the deficiency unless such deficiency is accounted for to the satisfaction of the Collector. 10
- 59.** For the purpose of calculating the full quantity of excisable goods which have been produced in a factory scales may be prescribed showing the quantity of excisable goods which shall be deemed to have been produced from a given quantity of material, and the quantity of fully manufactured excisable goods which shall be deemed to have been produced from a given quantity of partly manufactured excisable goods. 15
- PART VII.—SPECIAL PROVISIONS RELATING TO TOBACCO.** 20
- 60.** The annual licence-fee for a licence to manufacture tobacco cigars cigarettes or snuff shall be according to the scale set out in Schedule VIII. hereto, and shall be paid by the licensee by equal quarterly instalments in advance on the first days of January April July and October in each year. 25
- 61.** The applicant for a licence shall pay to the Collector a quarterly instalment of the licence or a proportionate part thereof not being less than one-third of such quarterly fee according to the length of time which will elapse before the next quarterly fee will become due. 30
- 62.** The sum in which security is to be given by the applicant for a licence shall be according to the scale set out in Schedule IX. hereto.
- 63.** No person shall be deemed to manufacture merely because he cures tobacco leaf as stripped from the plant so as to convert it into leaf tobacco. 35
- 64.** All tobacco cigars cigarettes and snuff manufactured in a factory shall be put up in packages of the prescribed weights and sizes.
- 65.** The manufacturer shall mark upon every package of manufactured tobacco cigars cigarettes or snuff his name and address a consecutive number the gross weight of the package and the net weight of the contents before it is removed from the factory. 40
 Penalty : Twenty pounds. **66.** Manufactured
- Customs control.
- Deficiency in duty.
- Power to prescribe scales for calculating quantities of excisable goods produced.
- Annual licence-fees.
- Payment of first quarter's fee.
- Amount of security.
- Exemption.
- Size of packages.
- Marking of packages.

- 66.** Manufactured tobacco may by authority be received into a factory for renovation or for cutting or for any other prescribed purpose but for no other purpose. Receipt of manufactured tobacco in factory.
Penalty : Twenty pounds.
- 5 **67.** Manufactured tobacco received into a factory shall be dealt with in the manner prescribed and shall be treated separately and kept separate from tobacco manufactured in the factory. Manufactured tobacco received in factory to be treated separately.
Penalty : Twenty pounds.
- 10 **68.** A refund of the Customs duty paid on the importation of leaf tobacco may be made in respect of all stalks refuse clippings or waste arising from the operations in any factory and destroyed in the manner prescribed. Refund of duty on waste.
- 15 **69.** No manufacturer shall have in his factory any manufactured tobacco containing more than thirty per centum of moisture. Limitation of amount of moisture in tobacco.
Penalty : Fifty pounds.
- 20 **70.** Any manufactured tobacco which on being dried at a temperature of two hundred and twelve degrees as indicated by Fahrenheit's thermometer is decreased in weight by more than thirty per centum shall be deemed to have contained more than thirty per centum of moisture. How moisture determined.
- 71.** Until otherwise prescribed the regulations in Schedule X. hereto shall have force as the regulations relating to the manufacture of tobacco cigars cigarettes and snuff. Tobacco regulations.

PART VIII.—DRAWBACKS.

- 25 **72.** Drawbacks of Excise duty may be allowed on exportation in respect of such excisable goods in such cases to such amount and in such manner as may be prescribed. Drawbacks allowed.
- 30 **73.** If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on excisable goods passing into that State then whilst such duties are so imposed drawback may be allowed in the State in which the Excise duty has been paid in respect of such goods as if exported. Drawback on goods passing into Western Australia.
- 35 **74.** No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the Excise duty paid did not amount to One pound. Limit of value.
- 75.** All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly. Examination of goods under drawback.
- 40 **76.** For the purpose of claiming drawback a drawback debenture shall be presented to the Collector who shall as soon as the goods have been exported cause the debenture to be passed for payment. Debenture to be passed.
- B
- 77.** The

Declaration on
debenture.

77. The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported, and have not been re-landed and are not intended to be re-landed, and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback. 5

Payment of draw-
back debentures.

78. No drawback debenture shall be paid except with the consent of the Minister— 10

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Minister may

(b) Prohibit the payment in whole or in part of any drawback debenture, but so as not to deprive the person entitled thereto of any remedy he may have for such drawback. 15

PART IX.—OFFICERS.

Division 1.—Powers of Officers.

Access to factory
and books.

79. Officers shall at all times have complete access to every part of any factory, and may examine, take account of, and note all vessels utensils material and excisable goods in the factory and every stage of process in the making of excisable goods, and may examine and take copies of or extracts from, all books and accounts required to be kept by the manufacturer in relation to the factory or the making or sale of excisable goods. 20 25

Power to enter
premises of
producers and
dealers.

80. Any officer may at any time between sunrise and sunset enter and search the premises of any producer or dealer or person who sells excisable goods, or any land upon which material is produced, or any premises where he has reasonable cause to suspect that excisable goods are made, or not having paid duty are kept or stored. 30

Power under writ
of assistance.

81. 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 into any house, premises or place, and may break open and search the same and any chests, trunks, or packages in which excisable goods are supposed to be. 35

Power to take
assistants.

82. Any officer acting under a writ of assistance or Customs warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary. 40

Power to search
vehicles.

83. Any officer upon reasonable suspicion may stop and search any vehicle or boat for the purpose of ascertaining whether any excisable goods upon which duty has not been paid are thereon, and the

the driver of any vehicle or the person in charge of any boat shall stop and permit an officer to search his vehicle or boat when required by an officer so to do.

Penalty: Fifty pounds.

- 5 **84.** Any officer may open packages and examine weigh mark and seal any excisable goods subject to the control of the Customs and may lock up seal mark or fasten any plant in or on a factory, and the expense of the examination of the goods including the cost of their removal to the place of examination shall be borne by the
10 owner. Examine all goods.
- 85.** No fastening, lock, mark, or seal placed by an officer upon any goods or upon any plant in a factory shall be opened, altered, broken, or erased, except by authority. Seals, &c. not to be broken.
 Penalty : Fifty pounds.
- 15 **86.** Any officer may seize any forfeited goods or any goods which he has reasonable cause to believe are forfeited. Power to seize goods.
- 87.** Any officer lawfully making any seizure under any Excise Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly. Power to call for aid.
20 Penalty : Twenty pounds.
- 88.** All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct. Seized goods to be secured.
- 25 **89.** When any goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the owner of the goods (unless such owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of
30 abode or business and all the goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom the goods were seized or the owner shall within one month from the date of seizure give notice in writing to the Collector that he claims them ; but if any goods so seized are of a perishable
35 nature or are live animals they may be forthwith sold by the Collector.
- 90.** The Comptroller or the Collector may authorize any goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation. Seized goods may be returned on security.
- 40 **91.** Whenever any goods have been seized by an officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him
for

for the recovery of the goods, and if the claimant does not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Disposal of forfeited goods.

92. All forfeited goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct. 5

Power of arrest.

93. Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe is guilty of—

- (a) Unlawfully manufacturing any excisable goods :
- (b) Unlawfully receiving carrying conveying or having upon 10 his premises or in his custody or under his control any excisable goods :
- (c) Being found without lawful excuse upon any premises where excisable goods are being illegally manufactured :

Reasons for arrest.

94. Any officer arresting any person shall as soon as practicable after arrest give him a statement in writing of the reason for his arrest. 15

Arrested persons to go before Justices.

95. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.

Powers of Justices with offenders.

96. Any Justice before whom any person is brought under 20 this Act may—

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; (or)
- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place 25 appointed for the hearing of the charge.

Power to detain and search suspected persons

97. If any officer of Customs or police has reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him :—

- (a) The officer may detain and search the suspected person ; 30
- (b) Before the suspected person is searched he may require to be taken before a Justice or the Collector ;
- (c) The Justice or Collector may order the suspected person to be searched or may discharge him without search.

But females shall only be searched by a female searcher appointed by 35 the Justice or Collector.

Stock may be checked.

98. An officer may at any time check the stock of material of any producer or dealer, and if any deficiency is found which cannot be accounted for to the satisfaction of the Collector the producer or dealer shall pay duty on the amount of material found to be deficient as if 40 it had been manufactured into excisable goods.

99. Samples

99. Samples of material and of partly manufactured excisable goods and of excisable goods subject to the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. Samples.

5 100. Any officer may purchase samples of excisable goods from any person being the owner or in possession of excisable goods; and no person being the owner of or in possession of any excisable goods shall refuse to deliver to an officer samples of such excisable goods on tender of a reasonable price for such samples. Power to purchase samples.

10 Penalty: Twenty pounds.

Division 2.—Protection to Officers.

102. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. Reasonable cause for seizure a bar to action.

15

103. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent unless a Justice of the High Court of Australia or a Judge of the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave such Justice or Judge may grant on such terms as he may think just. Notice of action to be given.

20

25

104. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence. Defect in notice not to invalidate.

30

105. Upon any proceeding instituted in pursuance of notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served. No evidence to be produced but that contained in notice.

35

106. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent and in case such amends be not accepted to plead such tender in defence. Officer may tender amends.

40

defence

defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Commencement of proceedings against officers.

107. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence. 5

Time for commencing action.

108. No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed. For the purposes of this section "Tariff" shall include any Excise Duty. 10 15

Security may be required.

109. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding. 20

PART X.—PENAL PROVISIONS.

Forfeiture.

110. All excisable goods manufactured or partly manufactured by any person not licensed under this Act, all material found on any premises where the manufacture of excisable goods is unlawfully carried on, and all excisable goods which being subject to the control of the Customs are 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 excisable goods so moved are forfeited to the King together with the packages in which the goods are contained. 25 30

Unlawful possession of excisable goods.

111. No person other than a manufacturer shall, except by authority, have in his possession custody or control any manufactured or partly manufactured excisable goods upon which Excise duty has not been paid, and no person other than a manufacturer, producer, or dealer shall except by authority keep or store any material. 35

Penalty: Fifty pounds.

Illegal prevention of seizures.

112. All persons to the number of two or more assembled for the purpose of preventing the seizure of, or for rescuing after seizure any forfeited goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding five years. 40

113. No

113. No person shall unlawfully convey any excisable goods upon which Excise duty has not been paid and no master of a ship shall use or suffer his ship to be used in the unlawful conveyance of any such goods. Unlawfully convey-
ing excisable
goods.

5 Penalty : One hundred pounds.

114. No person shall—

Offences.

(I.) Sell except by authority any excisable goods unlawfully removed from a factory ;

10 (II.) Buy material from any person who is not a manufacturer producer or dealer ;

(III.) Sell material to any person who is not a manufacturer or dealer ;

(IV.) Evade payment of any duty which is payable ;

(V.) Obtain any drawback which is not payable ;

15 (VI.) Make any entry which is false in any particular ;

(VII.) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;

20 (VIII.) Mislead any officer in any particular likely to affect the discharge of his duty ;

(IX.) Sell or offer for sale any excisable goods upon the pretence that such goods are excisable goods upon which Excise duty has not been paid.

25 Penalty : One hundred pounds.

115. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be liable to imprisonment with hard labour for any period not exceeding four years. False oath or
affirmation.

30 **116.** Whoever falsely represents himself to be an officer shall be guilty of an indictable offence, and shall be liable to imprisonment with or without hard labour for any term not exceeding two years. Personating officers.

117. No person shall obstruct, molest, resist, or hinder any officer in the performance of his duty under this Act. Obstructing officers.

35 Penalty : Fifty pounds.

118. Whoever

(a) Being an officer makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any goods liable to forfeiture or conspires or connives with any person to neglect his duty or do any act whereby the provisions of any Excise Act may be evaded ; Collusive seizures
penalty.

40

(b) Gives,

Bribe offered to officer penalty.

(b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty ; 5

Rescuing goods.

(c) Rescues any goods which have been seized or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence ; 10

Persons assaulting or obstructing officers.

(d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties,

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years. 15

Penalty in cases not provided for.

119. Any person by act or omission guilty of any contravention of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds. 20

Aiders and abettors.

120. Whoever aids, abets, counsels, or procures, or by act or omission is directly or indirectly concerned in the commission of any offence against this Act, shall be deemed to have committed such offence and shall be punishable accordingly.

Attempted offences.

121. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed. 25

Penalties in addition to forfeitures.

122. All penalties shall be in addition to any forfeiture. 5

Maximum penalty in certain cases.

123. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been committed the maximum penalty shall be thrice the value of the goods. 30

Maximum penalty in case of intent to defraud.

124. Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum penalty shall be double that otherwise provided. 35

If previous conviction defendant may be imprisoned.

125. When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty. 40

126. The

126. The minimum penalty for any offence against this Act shall be one-twentieth of the prescribed maximum which is prescribed in pounds. Minimum penalty.

PART XI.—EXCISE PROSECUTIONS.

5 **127.** Proceedings by the Customs for the recovery of penalties under any Excise Act or for the condemnation of goods seized as forfeited are herein referred to as Excise Prosecutions. Interpretation.

128. Excise prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding— How instituted.

- 10 (a) In the High Court of Australia ; or
- (b) In the Supreme Court of any State

and when the penalty does not exceed Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector or of an officer acting under the direction of the Collector in

- 15 (c) Any Court of summary jurisdiction.

129. Every Excise prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge. Prosecution in accordance with practice rules.

25 **130.** Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Excise prosecutions before a Court of summary jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal. State Court practice.

131. Excise prosecutions may be instituted at any time within five years after the cause thereof. Commencement of prosecutions.

35 **132.** All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act. Information &c. to be valid &c. if in words of Act.

40 **133.** No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable. No objection for informality.

134. No

Conviction not to be quashed.

134. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Excise Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect. 5

Protection to witnesses.

135. No witness on behalf of the Minister Collector or officer in any Excise prosecution shall be compelled to disclose the fact that he received or gave any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information. 10

Defendant a competent witness.

136. (1) In every Excise prosecution the defendant shall be competent to give evidence. 15

(2) In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution. 20

Averment of prosecution sufficient.

137. In every Excise prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and— 25

(b) In all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.

Proof of proclamations &c.

138. The production of the *Gazette* containing any proclamation *Gazette* notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or the Collector to be a true copy of or extract from any such proclamation, *Gazette* notice, or regulation issued or made under this Act shall be *primâ facie* evidence of the issue or making of such proclamation, *Gazette* notice, or regulation, and that the same is in force. 30 35

Minimum penalties.

139. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court. 40

Treatment of convicted offenders.

140. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court may—

(1) commit the offender to gaol until the penalty is paid; or
 (2) may release the offender upon his giving security for the payment of the penalty; or
 (3) may 45

(3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.

5 **141.** When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs. Collector may levy on goods in his possession.

10 **142.** The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person— Release of offenders.

(I.) on payment to him of the penalty adjudged ;

(II.) on a certificate by the Collector that the penalty has been paid or realized ;

15 (III.) if the penalty adjudged to be paid is not paid or realized according to the following table :—

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.
£2 or under	Seven days.
Over £2 and not more than £5	Fourteen days.
Over £5 and not more than £20	One month.
20 Over £20 and not more than £50	Two months.
Over £50 and not more than £100	Three months.
Over £100 and not more than £200	Six months.
Over £200	One year.

25 **143.** No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted. Imprisonment not to release penalty.

30 **144.** Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed. Conviction to operate as a condemnation.

35 **145.** In all Excise prosecutions the Court may award costs against any party or claimant, and all provisions relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid. Parties may recover costs.

146. All penalties and forfeitures recovered under any Excise Act shall be applied to such purposes and in such proportions as the Minister may direct. Application of penalties.

PART

PART XII.—DISPUTES AS TO DUTY.

Deposit of duty.

147. If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue :— 5

- (1) The owner upon making proper entry shall be entitled to delivery of the goods.
- (2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the 10 contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

The provisions of this section shall not apply in cases where the 15 Minister is of opinion that any evasion of this Act has been committed or attempted.

PART XIII.—SETTLEMENT OF CASES BY THE MINISTER.

Settlement of disputes by Minister.

148. If any dispute shall arise between any officer and any person with reference to any non-compliance with or contravention 20 of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order which shall be forthwith published in the *Gazette* to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred. 25

Orders to be final.

149. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Powers of Ministers at inquiries.

150. The Minister in holding any inquiry under this Part of 30 this Act shall hold such inquiry in public and may—

- (a) Summon the parties and any witnesses before him.
- (b) Take evidence on oath.
- (c) Require the production of documents.
- (d) Allow reasonable expenses to witnesses and costs to 35 successful parties.

Procedure.

151. No person being summoned as a witness at any inquiry under this Act shall—

- (a) Disobey such summons ;
- (b) Refuse to be sworn as such witness ; 40
- (c) Refuse or fail to produce any document he may be required to produce ;
- (d) Being sworn as a witness refuse or fail to answer any question lawfully put to him^s

Penalty : Twenty pounds.

152. Any 45

152. Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister shall in such
5 manner as he shall think fit inform his mind of the circumstances, and finally decide the difference.

Minister may determine differences.

PART XIV.—MISCELLANEOUS.

153. If after any agreement is made for the sale or delivery of excisable goods duty paid any alteration takes place in the duty
10 collected affecting such goods before they are entered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

Alteration of agreements where duty altered.

(a) In the event of the alteration being a new or increased
15 duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.

(b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference
caused by the alteration from the agreed price.

20 (c) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case may require.

154. All Excise duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable
25 by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

155. Any declaration prescribed may be made before any Justice of the Peace in any State or before any officer.

Declarations.

156. The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are
30 required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Excise.

Regulations.

157. All regulations so made shall—

35 (i.) Be published in the *Gazette*.

(ii.) Take effect from the date of publication or from a later date to be specified in such regulations; and

40 (iii.) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if not then within seven days after the commencement of the next session.

Regulations to be confirmed.

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation
45 shall thereupon cease to have effect.

SCHEDULES.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this security the Subscribers are, pursuant to the *Excise Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—[*here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition*—subject only to this condition that if—[*here insert the condition of the security*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* NOTE.—If liability is not intended to be joint and several and for the full amount, here state what is intended, as, for example, thus—“The liability of the subscribers is joint only,” or “the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit).”

SCHEDULE II.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

Request for Registration as producer.
To the Collector of Customs, State of
I HEREBY request you to register me as a producer under the above Act.
Full name—
Address—
Occupation—
Kind of material to be produced—
Place and description of area on which material is to be produced—
Dated the day of 190 .

(Signature of producer).

Witness—

SCHEDULE III.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

CERTIFICATE OF REGISTRATION OF PRODUCER.

I CERTIFY that A.B. of [*address and occupation*] has, pursuant to the above Act, this day been registered as a producer of [*here set out kind of material*] at [*here set out place and description of area on which material is to be produced*].

This Certificate of Registration will remain in force until cancelled.

Dated the day of 190 .

Collector of Customs for the State of

SCHEDULE.

SCHEDULE IV.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

REQUEST FOR REGISTRATION AS A DEALER

I HEREBY request you to register me, pursuant to the above Act as a Dealer in
[*here set out kind of material*].

Full name—

Address—

Occupation—

Situation of premises on which business is to be carried on—

Dated the day of 190 §

(Signature of Dealer).

Witness—

SCHEDULE V.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

CERTIFICATE OF REGISTRATION AS A DEALER.

I CERTIFY that A. B., of [*address and occupation*] has this day been registered, pursuant to the above Act, as a Dealer in [*here set out kind of material*] in the premises [*here describe premises sufficiently to identify them*].

This Certificate of Registration will remain in force until cancelled;

Dated the day of 190 §

Collector of Customs for the State of

SCHEDULE VI.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

APPLICATION FOR A LICENCE TO MANUFACTURE.

I HEREBY apply for a Licence to Manufacture [*here set out kind of excisable goods to be manufactured*] in the factory described in the drawings and particulars furnished herewith [*here set out in quantities not exceeding in any one year the weight of or in any quantity*].

Name in full—

Address—

Occupation—

Situation of premises—

(Signature of applicant.)

Witness—

SCHEDULE

SCHEDULE VII.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

MANUFACTURER'S LICENCE.

A.B. of [*here state place of residence and occupation*] is hereby licensed, pursuant to *The Excise Act 1901*, to manufacture [*here set out kind of excisable article and add*] in quantities not exceeding in any one year or in any quantity] in the factory situate at [*here give name of place or town and street*], drawings and particulars of which have been furnished to me as prescribed.

This licence commences on the day of and will unless cancelled, continue in force so long as the licence-fee is duly paid as prescribed.

Dated the day of 190 .

Collector of Customs for the State of

SCHEDULE VIII.

SCALE OF FEES FOR FACTORY LICENCE.

The scale of fees payable by a manufacturer for every licence granted to him in respect of a factory shall be as follows:—

For every factory wherein tobacco, cigars, cigarettes, and snuff may be manufactured in quantities the weight of which, in the whole, manufactured in one year, shall—

- (a) Not exceed 5,000 lbs., £5 per annum.
- (b) Exceed 5,000 lbs., but not 10,000 lbs., £10 per annum.
- (c) Exceed 10,000 lbs., but not 20,000 lbs., £20 per annum.
- (d) Exceed 20,000 lbs., but not 50,000 lbs., £50 per annum.
- (e) Exceed 50,000 lbs., but not 100,000 lbs., £100 per annum.
- (f) Exceed 100,000 lbs., but not 200,000 lbs., £150 per annum.
- (g) Exceed 200,000 lbs., but not 350,000 lbs., £200 per annum.
- (h) Exceed 350,000 lbs., £250 per annum.

SCHEDULE IX.

SCALE OF AMOUNTS IN WHICH SECURITY IS TO BE GIVEN BY MANUFACTURERS.

For every manufacturer paying a licence-fee of	£5 per annum ...	£200
" " "	10 " "	300
" " "	20 " "	400
" " "	50 " "	500
" " "	100 " "	1,000
" " "	150 " "	1,500
" " "	200 " "	2,000
" " "	250 " "	3,000

SCHEDULE X.

TOBACCO REGULATIONS.

Book to be kept by Producer.

1. Every producer of tobacco shall keep an account of the number of acres on which he grows tobacco, the quantity of tobacco leaf harvested, the quantity of tobacco leaf cured, and all sales of tobacco leaf.

Producer's

Producer's Return.

2. Every producer shall, not later than the fifteenth day of January in each year, furnish to the Collector a return, verified by declaration, in or to the effect of the form hereto, stating all particulars with respect to the matters specified in the several heads of such form, so far as relates to the year ending on the 31st December immediately preceding:—

TOBACCO PRODUCER'S RETURN.

Name of Tobacco Producer.		Place of Abode.	Place of Cultivation.	Number of Acres under Cultivation.	Quantity of Tobacco Leaf Cured.	Number of Acres proposed to be Cultivated.	Where Crop of Tobacco Leaf is Stored.	Sales of Leaf.			Remarks.
Sur-name.	Christian Name.							Date.	Quantity.	To whom	
				A. R. P.	lbs.	A. R. P.					

I, _____, hereby declare that the above return contains a true statement of the particulars mentioned therein for the year ending the 31st December last past.

Declared before me this _____ day of _____, 19____.

(Signed)

(Signed)

J.P. or Officer.

Book to be kept by Dealer.

3. Every dealer in leaf tobacco shall keep an account of all tobacco leaf purchased and sold by him distinguishing between Australian grown tobacco leaf and imported tobacco leaf.

Dealer's Return.

4. Every dealer shall not later than the fifteenth day of January, April, July, and October in each year furnish to the Collector a return verified by declaration in the form following, stating all particulars with respect to the matters specified in the several heads of such form as far as relates to the immediately preceding quarter of the year:—

TOBACCO LEAF DEALER'S RETURN.

Quantity of Leaf Tobacco Bought.		From whom.	Quantity of Leaf Tobacco Sold.		To whom.	Quantity of Leaf Tobacco in hand.	
Australian.	Imported.		Australian.	Imported.		Australian.	Imported.

_____, hereby declare that the above return contains a true statement of the particulars mentioned therein for the quarter ended _____ day of _____ last past.

Declared before me this _____ day of _____, 19____.

(Signed)

(Signed)

J.P., or Officer.

Plan and particulars to accompany application for licence.

5. The drawings and particulars to accompany applications for licences to manufacture tobacco, cigars, cigarettes, and snuffs shall be as follows:—

- (1) A plan and sectional elevation of the factory buildings ;
- (2) The name and situation of the factory ;
- (3) The material of which the factory is constructed ;
- (4) The number of flats or stories in the building or buildings ;
- (5) The number of rooms in each story, and for what purpose each room or story is intended to be used ;
- (6) The number and position, with relation to the principal building of a factory, of any detached buildings used or to be used as part of the factory, together with number of rooms therein ; and
- (7) Such other particulars as the Collector may require.

Factory fastenings, &c.

6. Every factory shall be secured in such a manner and by such fastenings as shall be approved by the Collector, and shall be opened and visited at such times and in the presence of such officers as the Collector shall direct.

Manufacturer to provide a special store-room.

7. Every manufacturer shall provide, when directed by the Collector so to do, a secure store-room in his factory, in which all tobacco, cigars, cigarettes, or snuff manufactured in his factory shall be stored and every door of such store shall be provided by the manufacturer with an approved lock the key of which shall be kept by him, and with a lock supplied by the Collector at the expense of the manufacturer the key of which shall be kept by an officer so that both the keys will be required to open the door.

Manufacturers' Books.

8. Every manufacturer shall keep a book in a form approved by the Collector, in which he shall enter—

- (a) The weight of all tobacco leaf received into the factory, distinguishing Australian grown leaf from imported leaf.
- (b) The weight in pounds of all tobacco, cigars, cigarettes, or snuff made in the factory.
- (c) The weight in pounds of all tobacco, cigars, cigarettes, or snuff removed from his factory.
- (d) The amount of refuse, waste, and clippings arising from the operations in the factory, distinguishing Australian grown leaf from imported leaf.
- (e) The amount of duty paid.

Manufacturers' Returns.

9. Every manufacturer shall furnish to the Collector a return showing—

- (a) The weight in pounds of all leaf tobacco received into his factory, distinguishing Australian grown leaf from imported leaf.
- (b) The weight of all leaf tobacco used in manufacturing tobacco, cigars, cigarettes, or snuff.
- (c) The weight of all tobacco, cigars, cigarettes, or snuff manufactured in the factory.
- (d) The weight of all tobacco, cigars, cigarettes, and snuff removed from the factory.
- (e) The weight of tobacco, cigars, cigarettes, and snuff in the factory at the close of the day on which the return is made up to.
- (f) The weight of tobacco, cigars, cigarettes, and snuff in course of manufacture at the close of the day on which the return is made up to.

When

When Returns to be made up to.

10. In the case of factories at which a supervising officer is stationed the above, return shall be made up to the close of the last days of the months of March, June, September, and December in each year; and in the case of other factories up to the close of the last day of each month.

When Returns to be sent in.

11. Manufacturers' returns shall be made up and sent to the Collector forthwith after the close of the day up to which they are made.

Labels subject to approval.

12. No labels shall be fixed on any package containing tobacco, cigars, cigarettes, or snuff manufactured in Australia unless it has been approved by the Collector.

Manufacturer to give notice of removal of goods.

13. Every manufacturer at whose factory a supervising officer is not permanently stationed shall give at least twenty-four hours' notice in writing to the Collector when he wishes to remove tobacco, cigars, cigarettes, or snuff.

Security on removal.

14. Before any manufactured tobacco is removed from a factory without payment of duty the manufacturer shall give security in a sum equal to twice the amount of the excise duty payable on the tobacco.

Different kinds of refuse to be kept separate.

15. The stalks, refuse, clippings, and waste from imported leaf tobacco shall be kept separate from the stalks, refuse, clippings, and waste from Australian leaf tobacco.

Refuse to be destroyed under supervision after notice.

16. All stalks, refuse, clippings, and waste accumulated in any factory shall be destroyed in such manner as the Collector shall direct, and under the personal supervision of an officer; and every manufacturer shall give forty-eight hours' notice in writing to the Collector of his intention to destroy any stalks, refuse, clippings, or waste.

Importer to give notice before removing tobacco for renovation.

17. Any person who desires to remove manufactured tobacco from a Customs warehouse to a factory for the purpose of renovation shall give one day's notice in writing to the Collector of the time at which he proposes to so remove the same, and with such notice shall furnish in writing the following particulars with respect to such tobacco, that is to say:—The number of packages, the bond marks and numbers of each package, the Customs warehouse in which such tobacco is deposited, and the factory to which it is to be removed.

Collector to give order for delivery.

18. The Collector may upon security being given authorize the delivery of the tobacco which may then be removed direct to the factory under the supervision of an officer.



THIS Bill originated in the House of Representatives; and having this day passed, is now ready for presentation to the Senate for its concurrence.

C. GAVAN DUFFY,

Clerk of the House of Representatives.

House of Representatives,

Melbourne, 25th September, 1901.

A BILL

INTITULED

An Act Relating to Excise.

BE 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.

- 5 1. This Act may be cited as *The Excise Act 1901*. Short title.
2. This Act shall commence on a day to be fixed by proclama- Commencement.
tion.
3. This Act is divided in parts as follows :— Parts.
- 10 Part I.—Introductory.
 Part II.—Administration.
 Part III.—Producers and Dealers.
 Part IV.—Licensing of Manufacturers.
 Part V.—Excise Supervision, Manufacturers' Books and
 Regulation of Factories generally.
- 15 Part VI.—Payment of Duty, Removal of Excisable
 Goods from Factories and Excise Control.
 Part VII.—Special Provisions relating to Tobacco.
 Part VIII.—Drawbacks.
 Part IX.—Officers.
- 20 Division 1.—Powers of Officers.
 Division 2.—Protection to Officers.
- Part X.—Penal Provisions.
 Part XI.—Excise Prosecutions.
 Part XII.—Disputes as to Duty.
- 25 Part XIII.—Settlement of Cases by the Minister.
 Part XIV.—Miscellaneous.

[C. 25]—150/25.9.1901.—F.6443.

4. In

Definitions

4. In this Act except where otherwise clearly intended—

“By authority” means by the authority of an officer doing duty in the matter in relation to which the expression is used.

“Collector” means the Collector of Customs for a State. 5

“Comptroller” means the Comptroller-General of Customs.

“Dealer” means a person registered under this Act as a dealer in material.

“Excise Acts” includes this Act and all other Acts relating to Excise. 10

“Excisable goods” means goods in respect of which excise duty is imposed by the Parliament.

“Factory” means the premises on which any person is licensed to manufacture excisable goods, and includes all adjoining premises used in connexion therewith or with the business of the manufacturer. 15

“Gazette notice” means a notice signed by the Minister and published in the *Gazette*.

“Justice” means any Justice of the Peace having jurisdiction in the place. 20

“Licence” means a licence to manufacture excisable goods.

“Manufacture” includes all processes in the manufacture of excisable goods.

“Manufacturer” means a person licensed under this Act to manufacture excisable goods. 25

“Material” includes all material used in the manufacture of excisable goods and declared by proclamation to be material within the meaning of this Act.

“Officer” includes all persons employed in the service of the Customs. 30

“Permission” means the written permission of the Collector.

“Prescribed” means prescribed by this Act.

“Producer” means a person registered under this Act as a producer of material.

“The Customs” means the Department of Trade and Customs. 35

“This Act” includes all Excise Acts incorporated therewith and all regulations made under this Act or any such Excise Act.

Penalty at foot of sections.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission is an offence against this Act punishable on conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned. 40

Application of Act.

6. Except so far as inconsistent therewith this Act shall be incorporated and read as one with all other Excise Acts, but so that only Parts II., VIII., IX, X., XI., XII., XIII., and XIV. shall apply to beer and spirits which are dealt with by other Acts of the Parliament. 45

PART II.—ADMINISTRATION.

7. Until it is otherwise lawfully determined the Excise Acts shall be administered by the Minister of State for the Commonwealth administering the Customs. Minister.
- 5 8. The Comptroller-General of Customs shall under the Minister have chief control of Excise throughout the Commonwealth. Comptroller-General.
9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Excise Act (except 10 this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation. Delegation by Minister.
- 15 10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Excise Act. Delegation by Comptroller.
11. Every delegation, whether by the Minister or Comptroller, shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller. Revocation of delegation.
- 20 12. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs under any Excise Act. General power of Collector.
13. All officers of Customs shall be officers of Excise and all officers of Excise shall be officers of Customs. Customs officers to be Excise officers.
- 25 14. No fees shall be charged for the registration of producers or dealers under this Act, but licence-fees shall be as prescribed. Fees.
- 30 15. In the event of any Excise being hereafter imposed in relation to any manufacture previously free there shall be allowed two months from the commencement of the Act imposing the Excise for compliance with the provisions of this Act relating to registration and licences. Time for compliance with this Act.
- 35 16. The Customs shall have the right to require and take securities for compliance with the Excise Acts and generally for the protection of the revenue and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry relating thereto. Right to require security.
17. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector. Security.
18. When

General security
may be given.

18. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

Cancellation of
bonds.

19. All Customs securities may after the expiration of three 5 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller.

New sureties.

20. If the Collector is not at any time satisfied with the sufficiency of any security he may require a fresh security and a fresh 10 security shall be given accordingly.

Form of Customs
security.

21. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under any Excise Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the 15 full amount.

Effect of Customs
security.

22. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed it unless the defendants shall prove 20 compliance with the condition or that the security was not executed by them or release or satisfaction.

Surrender of
lesser licence for
larger licence.

23. A lesser licence may at any time be surrendered for a larger licence and in such case the licensee shall receive credit for a proportionate part of the fee paid for the lesser licence against the 25 amount payable for the larger licence.

PART III.—PRODUCERS AND DEALERS.

Producers to be
registered.

24. No person shall produce material for the purpose of sale or manufacture unless he is registered as a producer.

Penalty : Twenty pounds.

30

How registration
effected.

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

(a) The producer shall send to the Collector a request for registration as a producer in the form in Schedule II. hereto.

(b) The Collector shall register the producer's name and the 35 place where he produces material in a book, and shall furnish to the producer a certificate of registration in the form of the Schedule III. hereto.

Dealers to be
registered.

26. No person shall deal in material unless he is registered as a dealer, but this shall not apply to producers who deal only in 40 material of their own production.

Penalty : Twenty pounds.

27. Registration

27. Registration of dealers shall be effected as follows :—

(a) The dealer shall send to the Collector a request for registration in the form in Schedule IV. to this Act.

(b) The Collector shall register the name and place of business of the dealer in a book, and shall furnish to the dealer a certificate of registration in the form in Schedule V. to this Act.

Mode of
registration of
dealers.

28. Except by permission no producer or dealer shall keep or store material at any place other than the premises in respect of which he is registered.

Penalty: Twenty pounds.

Storage of material.

29. No producer shall produce material except at the premises in respect of which he is registered and no dealer shall carry on business as a dealer except at the premises in respect of which he is registered.

Penalty: Twenty pounds.

Unregistered
premises.

30. Any producer or dealer may be severally registered in respect of any number of separate and distinct premises.

Registration of
separate premises.

31. Every producer who ceases to produce material and every dealer who ceases to carry on business as a dealer shall forthwith give notice to the Collector that he has ceased to produce material or to carry on business, as the case may be, and the Collector shall thereupon cancel his registration.

Notice of ceasing to
produce or deal in
material.

32. Producers and dealers shall as prescribed keep accounts and furnish returns of all materials produced or dealt in by them.

Penalty: Twenty pounds.

Accounts and
returns.

PART IV.—LICENSING OF MANUFACTURERS.

33. Licences to manufacture may be granted by the Collector, and may licence manufacture without limitation or subject to any specified limitation.

Granting of
licences.

34. No person shall manufacture except pursuant to this Act and a licence granted thereunder.

Penalty: One hundred pounds.

Manufacturers to be
licenced.

35. Every licence to manufacture in force under any State Act at the commencement of this Act shall unless previously cancelled continue in force as a licence under this Act until the expiration of the period for which the last payment of licence fee was made prior to commencement of this Act.

Saving existing
licences.

36. Any person may by application in the form in Schedule VI. apply to the Collector for a licence.

Application for
licence.

37. The

- 37.** The applicant shall furnish the Collector with the prescribed drawings and particulars. 5
- 38.** The applicant for a licence shall—
 (a) Pay to the Collector the licence-fee as prescribed.
 (b) Give security to the Collector for compliance with this Act 5
- 39.** The Collector if satisfied with the security given may grant to the applicant a licence in the form in Schedule VII., but if the application is refused the licence-fee shall be returned to the applicant.
- 40.** Licences shall, unless cancelled, continue in force so long as the licence fees payable in respect thereof are duly paid. 10
- 41.** Licences may be transferred with the written permission of the Collector on security being given by the transferee, and may be cancelled by the Minister by *Gazette* notice if the holder is convicted of any offence against this Act. 15
- 42.** The Collector may at any time require any manufacturer to give fresh security, and fresh security shall be given accordingly and in default the licence may be cancelled by the Minister by *Gazette* notice.
- 43.** No manufacturer shall manufacture excisable goods at any place other than the factory specified in his licence, or shall manufacture in his factory excisable goods to a greater quantity than allowed by his licence. 20
 Penalty : One hundred pounds.
- PART V.—EXCISE SUPERVISION, MANUFACTURERS' BOOKS, AND
 REGULATION OF FACTORIES GENERALLY.** 25
- 44.** The manufacture of excisable goods shall for the protection of the revenue be subject to the right of supervision by officers.
- 45.** Every manufacturer shall if required by the Collector provide in connexion with his factory reasonable office accommodation and reasonable board and lodging for the supervising officer in each case to the satisfaction of the Collector. 30
 Penalty : Fifty pounds.
- 46.** Every manufacturer providing board and lodging for an officer pursuant to the request of the Collector shall be entitled to fair remuneration therefor at such rates as shall be agreed or prescribed. 35
- 47.** Every manufacturer shall provide all reasonable facilities for enabling officers to exercise their powers under this Act. 40
 Penalty : Fifty pounds.
- 48.** For 40

48. For the information of officers every manufacturer shall keep books and prepare and render accounts as prescribed and shall also as prescribed verify such books and accounts. Books.

Penalty: Fifty pounds.

5 **49.** The Collector may give directions in writing to any manufacturer directing— Collector may give directions.

(a) In what parts of the factory any process in the manufacture is to be carried on.

10 (b) In what parts of the factory material and other matters used in the manufacture and excisable goods manufactured are respectively to be kept.

And every manufacturer shall comply with such directions.

Penalty: Fifty pounds.

15 **50.** Every manufacturer shall at his own expense provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into and all excisable goods manufactured in his factory, and for taking stock of all material and excisable goods contained in his factory. Weights and scales.

Penalty: Fifty pounds.

20 PART VI.—PAYMENT OF DUTY, REMOVAL OF EXCISABLE GOODS FROM FACTORIES, AND EXCISE CONTROL.

51. The manufacturer shall be liable to pay to the Collector the Excise duties on all excisable goods manufactured by him. Liability to pay duty.

25 **52.** Partly manufactured excisable goods may by authority and subject to the prescribed conditions be transferred from one factory to another for the purpose of completing the manufacture. Transfer of partly made goods.

53. No excisable goods shall be removed from a factory without an entry made and passed authorizing their removal. Removal.

Penalty: One hundred pounds.

30 **54.** Excisable goods shall only be removed from a factory in packages of such sizes and marked in such manner as may be prescribed. Size of packages.

55. Entries may be made by the manufacturer and passed by an officer and may authorize the removal of excisable goods for Purposes of removal.

35 (a) Home consumption.
(b) Removal to a licensed Customs warehouse.
(c) Exportation.

56. The excise duty shall be paid before the entry for home consumption is passed. When duty to be paid.

40 **57.** The manufacturer shall give security for the due removal or exportation of the excisable goods before any entry is passed for the removal of excisable goods to a licensed Customs warehouse or for exportation. Security on removal.

58. All

- Customs control. **58.** All excisable goods manufactured shall until delivery for home consumption or exportation to parts beyond the seas whichever shall first happen be subject to the control of the Customs, and shall not be moved altered or interfered with except by authority and in accordance with this Act. 5
Penalty : One hundred pounds.
- Deficiency in duty. **59.** Whenever, in relation to any factory, it appears, on taking stock of excisable goods manufactured and material by an officer, that duty has not been paid on the full quantity of excisable goods on which duty ought to have been paid, the manufacturer shall 10
forthwith pay to the Collector the amount of the deficiency unless such deficiency is accounted for to the satisfaction of the Collector.
- Power to prescribe scales for calculating quantities of excisable goods produced. **60.** For the purpose of calculating the full quantity of excisable goods which have been produced in a factory scales may be prescribed showing the quantity of excisable goods which shall be deemed to 15
have been produced from a given quantity of material, and the quantity of fully manufactured excisable goods which shall be deemed to have been produced from a given quantity of partly manufactured excisable goods.
- PART VII.—SPECIAL PROVISIONS RELATING TO TOBACCO. 20**
- Annual licence-fees. **61.** The annual licence-fee for a licence to manufacture tobacco cigars cigarettes or snuff shall be according to the scale set out in Schedule VIII. hereto, and shall be paid by the licensee by equal quarterly instalments in advance on the first days of January April 25
July and October in each year.
- Payment of first quarter's fee. **62.** The applicant for a licence shall pay to the Collector a quarterly instalment of the licence or a proportionate part thereof not being less than one-third of such quarterly fee according to the length of time which will elapse before the next quarterly fee will become due. 30
- Amount of security. **63.** The sum in which security is to be given by the applicant for a licence shall be according to the scale set out in Schedule IX. hereto.
- Exemption. **64.** No person shall be deemed to manufacture merely because he cures tobacco leaf as stripped from the plant so as to convert it 35
into leaf tobacco.
- Size of packages. **65.** All tobacco cigars cigarettes and snuff manufactured in a factory shall be put up in packages of the prescribed weights and sizes.
- Marking of packages. **66.** The manufacturer shall mark upon every package of manu- 40
factured tobacco cigars cigarettes or snuff his name and address a consecutive number the gross weight of the package and the net weight of the contents before it is removed from the factory.
Penalty : Twenty pounds. **67.** Manufactured

67. Manufactured tobacco may by authority be received into a factory for renovation or for cutting or for any other prescribed purpose but for no other purpose.
Penalty : Twenty pounds. Receipt of manufactured tobacco in factory.
- 5 68. Manufactured tobacco received into a factory shall be dealt with in the manner prescribed and shall be treated separately and kept separate from tobacco manufactured in the factory.
Penalty : Twenty pounds. Manufactured tobacco received in factory to be treated separately.
- 10 69. A refund of the Customs duty paid on the importation of leaf tobacco may be made in respect of all stalks refuse clippings or waste arising from the operations in any factory and destroyed in the manner prescribed. Refund of duty on waste.
- 15 70. No manufacturer shall have in his factory any manufactured tobacco containing more than thirty per centum of moisture.
Penalty : Fifty pounds. Limitation of amount of moisture in tobacco.
- 20 71. Any manufactured tobacco which on being dried at a temperature of two hundred and twelve degrees as indicated by Fahrenheit's thermometer is decreased in weight by more than thirty per centum shall be deemed to have contained more than thirty per centum of moisture. How moisture determined.
72. Until otherwise prescribed the regulations in Schedule X. hereto shall have force as the regulations relating to the manufacture of tobacco cigars cigarettes and snuff. Tobacco regulations.

PART VIII.—DRAWBACKS.

- 25 73. Drawbacks of Excise duty may be allowed on exportation in respect of such excisable goods in such cases to such amount and in such manner as may be prescribed. Drawbacks allowed.
- 30 74. If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on excisable goods passing into that State then whilst such duties are so imposed drawback may be allowed in the State in which the Excise duty has been paid in respect of such goods as if exported. Drawback on goods passing into Western Australia.
- 35 75. No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the Excise duty paid did not amount to One pound. Limit of value.
- 40 76. All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly. Examination of goods under drawback.
77. For the purpose of claiming drawback a drawback debenture shall be presented to the Collector who shall as soon as the goods have been exported cause the debenture to be passed for payment. Debenture to be passed.
- B
78. The

Declaration on
debenture.

78. The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported, and have not been re-landed and are not intended to be re-landed, and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback. 5

Payment of draw-
back debentures.

79. No drawback debenture shall be paid except with the consent of the Minister— 10

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Minister may

(b) Prohibit the payment in whole or in part of any drawback debenture, but so as not to deprive the person entitled thereto of any remedy he may have for such drawback. 15

PART IX.—OFFICERS.

Division 1.—Powers of Officers.

Access to factory
and books.

80. Officers shall at all times have complete access to every part of any factory, and may examine, take account of, and note all vessels utensils material and excisable goods in the factory and every stage of process in the making of excisable goods, and may examine and take copies of or extracts from, all books and accounts required to be kept by the manufacturer in relation to the factory or the making or sale of excisable goods. 20 25

Power to enter
premises of
producers and
dealers.

81. Any officer may at any time between sunrise and sunset enter and search the premises of any producer or dealer or person who sells excisable goods, or any land upon which material is produced, or any premises where he has reasonable cause to suspect that excisable goods are made, or not having paid duty are kept or stored. 30

Power under writ
of assistance.

82. 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 into any house, premises or place, and may break open and search the same and any chests, trunks, or packages in which excisable goods are supposed to be. 35

Power to take
assistants.

83. Any officer acting under a writ of assistance or Customs warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary. 40

Power to search
vehicles.

84. Any officer upon reasonable suspicion may stop and search any vehicle or boat for the purpose of ascertaining whether any excisable goods upon which duty has not been paid are thereon, and the

the driver of any vehicle or the person in charge of any boat shall stop and permit an officer to search his vehicle or boat when required by an officer so to do.

Penalty: Fifty pounds.

- 5 **85.** Any officer may open packages and examine weigh mark and seal any excisable goods subject to the control of the Customs and may lock up seal mark or fasten any plant in or on a factory, and the expense of the examination of the goods including the cost of their removal to the place of examination shall be borne by the
10 owner.
- 86.** No fastening, lock, mark, or seal placed by an officer upon any goods or upon any plant in a factory shall be opened, altered, broken, or erased, except by authority.
 Penalty : Fifty pounds.
- 15 **87.** Any officer may seize any forfeited goods or any goods which he has reasonable cause to believe are forfeited.
- 88.** Any officer lawfully making any seizure under any Excise Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly.
20 Penalty : Twenty pounds.
- 89.** All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct.
- 25 **90.** When any goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the owner of the goods (unless such owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of
30 abode or business and all the goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom the goods were seized or the owner shall within one month from the date of seizure give notice in writing to the Collector that he claims them ; but if any goods so seized are of a perishable
35 nature or are live animals they may be forthwith sold by the Collector.
- 91.** The Comptroller or the Collector may authorize any goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation.
- 40 **92.** Whenever any goods have been seized by an officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him
for

Examine all goods.

Seals, &c. not to be broken.

Power to seize goods.

Power to call for aid.

Seized goods to be secured.

Notice to be given of goods seized.

Seized goods may be returned on security.

Collector may retain goods and require owner to proceed for restoration.

for the recovery of the goods, and if the claimant does not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Disposal of forfeited goods.

93. All forfeited goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct. 5

Power of arrest.

94. Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe is guilty of—

- (a) Unlawfully manufacturing any excisable goods :
- (b) Unlawfully receiving carrying conveying or having upon 10
his premises or in his custody or under his control
any excisable goods :
- (c) Being found without lawful excuse upon any premises
where excisable goods are being illegally manufactured :

Reasons for arrest.

95. Any officer arresting any person shall as soon as practicable after arrest give him a statement in writing of the reason for his arrest. 15

Arrested persons to go before Justices.

96. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.

Powers of Justices with offenders.

97. Any Justice before whom any person is brought under 20
this Act may—

- (1) Commit such person to gaol until he can be brought before
Justices to be dealt with according to law ; (or)
- (2) Admit him to bail upon his giving sufficient security for
his appearance before Justices at the time and place 25
appointed for the hearing of the charge.

Power to detain and search suspected persons

98. If any officer of Customs or police has reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him :—

- (a) The officer may detain and search the suspected person ; 30
- (b) Before the suspected person is searched he may require to
be taken before a Justice or the Collector ;
- (c) The Justice or Collector may order the suspected person to
be searched or may discharge him without search.

But females shall only be searched by a female searcher appointed by 35
the Justice or Collector.

Stock may be checked.

99. An officer may at any time check the stock of material of any producer or dealer, and if any deficiency is found which cannot be accounted for to the satisfaction of the Collector the producer or dealer shall pay duty on the amount of material found to be deficient as if 40
it had been manufactured into excisable goods.

100. Samples

100. Samples of material and of partly manufactured excisable goods and of excisable goods subject to the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. Samples⁷

5 **101.** Any officer may purchase samples of excisable goods from any person being the owner or in possession of excisable goods; and no person being the owner of or in possession of any excisable goods shall refuse to deliver to an officer samples of such excisable goods on tender of a reasonable price for such samples. Power to purchase samples.

10 Penalty: Twenty pounds.

Division 2.—Protection to Officers.

102. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. Reasonable cause for seizure a bar to action.

103. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent unless a Justice of the High Court of Australia or a Judge of the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave such Justice or Judge may grant on such terms as he may think just. Notice of action to be given.

104. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence. Defect in notice not to invalidate.

105. Upon any proceeding instituted in pursuance of notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served. No evidence to be produced but that contained in notice.

106. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent and in case such amends be not accepted to plead such tender in defence. Officer may tender amends.

defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Commencement of proceedings against officers.

107. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence. 5

Time for commencing action.

108. No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed. For the purposes of this section "Tariff" shall include any Excise Duty. 10 15

Security may be required.

109. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding. 20

PART X.—PENAL PROVISIONS.

Forfeiture.

110. All excisable goods manufactured or partly manufactured by any person not licensed under this Act, all material found on any premises where the manufacture of excisable goods is unlawfully carried on, and all excisable goods which being subject to the control of the Customs are 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 excisable goods so moved are forfeited to the King together with the packages in which the goods are contained. 25 30

Unlawful possession of excisable goods.

111. No person other than a manufacturer shall, except by authority, have in his possession custody or control any manufactured or partly manufactured excisable goods upon which Excise duty has not been paid, and no person other than a manufacturer, producer, or dealer shall except by authority keep or store any material. 35
Penalty: Fifty pounds.

Illegal prevention of seizures.

112. All persons to the number of two or more assembled for the purpose of preventing the seizure of, or for rescuing after seizure any forfeited goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding five years. 40
113. No

113. No person shall unlawfully convey any excisable goods upon which Excise duty has not been paid and no master of a ship shall use or suffer his ship to be used in the unlawful conveyance of any such goods.

Unlawfully convey-
ing excisable
goods.

5 Penalty : One hundred pounds.

114. No person shall—

Offences.

(I.) Sell except by authority any excisable goods unlawfully removed from a factory ;

10 (II.) Buy material from any person who is not a manufacturer producer or dealer ;

(III.) Sell material to any person who is not a manufacturer or dealer ;

(IV.) Evade payment of any duty which is payable ;

15 (V.) Obtain any drawback which is not payable ;

(VI.) Make any entry which is false in any particular ;

(VII.) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;

20 (VIII.) Mislead any officer in any particular likely to affect the discharge of his duty ;

(IX.) Sell or offer for sale any excisable goods upon the pretence that such goods are excisable goods upon which Excise duty has not been paid.

25 Penalty : One hundred pounds.

115. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be liable to imprisonment with hard labour for any period not exceeding four years.

False oath or
affirmation.

30 **116.** Whoever falsely represents himself to be an officer shall be guilty of an indictable offence, and shall be liable to imprisonment with or without hard labour for any term not exceeding two years.

Personating officers.

117. No person shall obstruct, molest, resist, or hinder any officer in the performance of his duty under this Act.

Obstructing officers.

35 Penalty : Fifty pounds.

118. Whoever

(a) Being an officer makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any goods liable to forfeiture or conspires or connives with any person to neglect his duty or do any act whereby the provisions of any Excise Act may be evaded ;

Collusive seizures
penalty.

40 (b) Gives,

- Bribe offered to officer penalty. (b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty ; 5
- Rescuing goods. (c) Rescues any goods which have been seized or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence ; 10
- Persons assaulting or obstructing officers, (d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties, shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years. 15
- Penalty in cases not provided for. **119.** Any person by act or omission guilty of any contravention of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds. 20
- Aiders and abettors. **120.** Whoever aids, abets, counsels, or procures, or by act or omission is directly or indirectly concerned in the commission of any offence against this Act, shall be deemed to have committed such offence and shall be punishable accordingly.
- Attempted offences. **121.** Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed. 25
- Penalties in addition to forfeitures. **122.** All penalties shall be in addition to any forfeiture.
- Maximum penalty in certain cases. **123.** If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been committed the maximum penalty shall be thrice the value of the goods. 30
- Maximum penalty in case of intent to defraud. **124.** Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum penalty shall be double that otherwise provided. 35
- If previous conviction defendant may be imprisoned. **125.** When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty. **126.** The 40

126. The minimum penalty for any offence against this Act shall be one-twentieth of the prescribed maximum which is prescribed in pounds. Minimum penalty.

PART XI.—EXCISE PROSECUTIONS.

5 **127.** Proceedings by the Customs for the recovery of penalties under any Excise Act or for the condemnation of goods seized as forfeited are herein referred to as Excise Prosecutions. Interpretation.

128. Excise prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding— How instituted.

10 (a) In the High Court of Australia ; or

(b) In the Supreme Court of any State

and when the penalty does not exceed Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector or of an officer acting under the direction

15 of the Collector in

(c) Any Court of summary jurisdiction.

129. Every Excise prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge. Prosecution in accordance with practice rules.

25 **130.** Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Excise prosecutions before a Court of summary jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal. State Court practice.

131. Excise prosecutions may be instituted at any time within five years after the cause thereof. Commencement of prosecutions.

35 **132.** All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act. Information &c. to be valid &c. if in words of Act.

133. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable. No objection for informality.

Conviction not to
be quashed.

134. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Excise Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect. 5

Protection to
witnesses.

135. No witness on behalf of the Minister Collector or officer in any Excise prosecution shall be compelled to disclose the fact that he received or gave any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information. 10

Defendant a
competent witness.

136. (1) In every Excise prosecution the defendant shall be competent to give evidence. 15

(2) In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution. 20

Averment of
prosecution
sufficient.

137. In every Excise prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—
(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and— 25

(b) In all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.

Proof of
proclamations &c.

138. The production of the *Gazette* containing any proclamation *Gazette* notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or the Collector to be a true copy of or extract from any such proclamation, *Gazette* notice, or regulation issued or made under this Act shall be *prima facie* evidence of the issue or making of such proclamation, *Gazette* notice, or regulation, and that the same is in force. 30 35

Minimum penalties.

139. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court. 40

Treatment of
convicted
offenders.

140. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court may—
(1) commit the offender to gaol until the penalty is paid; or
(2) may release the offender upon his giving security for the payment of the penalty; or
(3) may 45

(3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.

5 **141.** When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs. Collector may levy on goods in his possession.

10 **142.** The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person— Release of offenders.

(I.) on payment to him of the penalty adjudged ;
 (II.) on a certificate by the Collector that the penalty has been paid or realized ;

15 (III.) if the penalty adjudged to be paid is not paid or realized according to the following table :—

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.
£2 or under	Seven days.
Over £2 and not more than £5	Fourteen days.
Over £5 and not more than £20	One month.
20 Over £20 and not more than £50	Two months.
Over £50 and not more than £100	Three months.
Over £100 and not more than £200	Six months.
Over £200	One year.

25 **143.** No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted. Imprisonment not to release penalty.

30 **144.** Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed. Conviction to operate as a condemnation.

35 **145.** In all Excise prosecutions the Court may award costs against any party or claimant, and all provisions relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid. Parties may recover costs.

146. All penalties and forfeitures recovered under any Excise Act shall be applied to such purposes and in such proportions as the Minister may direct. Application of penalties.

PART XII.—DISPUTES AS TO DUTY.

Deposit of duty.

147. If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue :—

- (1) The owner upon making proper entry shall be entitled to delivery of the goods.
- (2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

PART XIII.—SETTLEMENT OF CASES BY THE MINISTER.

Settlement of disputes by Minister.

148. If any dispute shall arise between any officer and any person with reference to any non-compliance with or contravention of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order which shall be forthwith published in the *Gazette* to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

Orders to be final.

149. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Powers of Ministers at inquiries.

150. The Minister in holding any inquiry under this Part of this Act shall hold such inquiry in public and may—

- (a) Summon the parties and any witnesses before him.
- (b) Take evidence on oath.
- (c) Require the production of documents.
- (d) Allow reasonable expenses to witnesses and costs to successful parties.

Procedure.

151. No person being summoned as a witness at any inquiry under this Act shall—

- (a) Disobey such summons ;
- (b) Refuse to be sworn as such witness ;
- (c) Refuse or fail to produce any document he may be required to produce ;
- (d) Being sworn as a witness refuse or fail to answer any question lawfully put to him^a

Penalty : Twenty pounds.

152. Any 45

152. Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister shall in such
5 manner as he shall think fit inform his mind of the circumstances, and finally decide the difference.

Minister may determine differences.

PART XIV.—MISCELLANEOUS.

153. If after any agreement is made for the sale or delivery of excisable goods duty paid any alteration takes place in the duty
10 collected affecting such goods before they are entered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

Alteration of agreements where duty altered.

(a) In the event of the alteration being a new or increased duty the seller after payment of the new or increased
15 duty may add the difference caused by the alteration to the agreed price.

(b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.

(c) Any refund or payment of increased duty resulting from
20 the alteration not being finally adopted shall be allowed between the parties as the case may require.

154. All Excise duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable
25 by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

155. Any declaration prescribed may be made before any Justice of the Peace in any State or before any officer.

Declarations.

156. The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are
30 required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Excise.

Regulations.

157. All regulations so made shall—

(i.) Be published in the *Gazette*.

Regulations to be confirmed.

(ii.) Take effect from the date of publication or from a later date to be specified in such regulations; and

(iii.) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if
40 not then within seven days after the commencement of the next session.

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation
45 shall thereupon cease to have effect.

SCHEDULES.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this security the Subscribers are, pursuant to the *Excise Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—[*here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition*]*—subject only to this condition that if—[here insert the condition of the security]*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* **NOTE.**—If liability is not intended to be joint and several and for the full amount, here state what is intended, as, for example, thus—“The liability of the subscribers is joint only,” or “the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit).”

SCHEDULE II.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

Request for Registration as producer.
To the Collector of Customs, State of
I HEREBY request you to register me as a producer under the above Act.

Full name—

Address—

Occupation—

Kind of material to be produced—

Place and description of area on which material is to be produced—

Dated the day of 190 .

(Signature of producer).

Witness—

SCHEDULE III.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

CERTIFICATE OF REGISTRATION OF PRODUCER.

I CERTIFY that A.B. of [*address and occupation*] has, pursuant to the above Act, this day been registered as a producer of [*here set out kind of material*] at [*here set out place and description of area on which material is to be produced*].

This Certificate of Registration will remain in force until cancelled.

Dated the day of 190 .

Collector of Customs for the State of

SCHEDULE.

SCHEDULE IV.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

REQUEST FOR REGISTRATION AS A DEALER

I HEREBY request you to register me, pursuant to the above Act as a Dealer in
[*here set out kind of material*].

Full name—

Address—

Occupation—

Situation of premises on which business is to be carried on—

Dated the day of 190 ¶

(Signature of Dealer).

Witness—

SCHEDULE V

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

CERTIFICATE OF REGISTRATION AS A DEALER.

I CERTIFY that A. B., of [*address and occupation*] has this day been registered, pursuant to the above Act, as a Dealer in [*here set out kind of material*] in the premises [*here describe premises sufficiently to identify them*].

This Certificate of Registration will remain in force until cancelled}

Dated the day of 190

Collector of Customs for the State of

SCHEDULE VI.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

APPLICATION FOR A LICENCE TO MANUFACTURE.

I HEREBY apply for a Licence to Manufacture [*here set out kind of excisable goods to be manufactured*] in the factory described in the drawings and particulars furnished herewith [*here set out in quantities not exceeding in any one year the weight of or in any quantity*].

Name in full—

Address—

Occupation—

Situation of premises—

(Signature of applicant.)

Witness—

SCHEDULE

SCHEDULE VII.

COMMONWEALTH OF AUSTRALIA.

The Excise Act 1901.

MANUFACTURER'S LICENCE.

A.B. of [*here state place of residence and occupation*] is hereby licensed, pursuant to *The Excise Act 1901*, to manufacture [*here set out kind of excisable article and add in quantities not exceeding in any one year or in any quantity*] in the factory situate at [*here give name of place or town and street*], drawings and particulars of which have been furnished to me as prescribed.

This licence commences on the _____ day of _____ and will unless cancelled, continue in force so long as the licence-fee is duly paid as prescribed.

Dated the _____ day of _____ 190 .

Collector of Customs for the State of _____

SCHEDULE VIII.

SCALE OF FEES FOR FACTORY LICENCE.

The scale of fees payable by a manufacturer for every licence granted to him in respect of a factory shall be as follows:—

For every factory wherein tobacco, cigars, cigarettes, and snuff may be manufactured in quantities the weight of which, in the whole, manufactured in one year, shall—

- (a) Not exceed 5,000 lbs., £5 per annum.
- (b) Exceed 5,000 lbs., but not 10,000 lbs., £10 per annum.
- (c) Exceed 10,000 lbs., but not 20,000 lbs., £20 per annum.
- (d) Exceed 20,000 lbs., but not 50,000 lbs., £50 per annum.
- (e) Exceed 50,000 lbs., but not 100,000 lbs., £100 per annum.
- (f) Exceed 100,000 lbs., but not 200,000 lbs., £150 per annum.
- (g) Exceed 200,000 lbs., but not 350,000 lbs., £200 per annum.
- (h) Exceed 350,000 lbs., £250 per annum.

SCHEDULE IX.

SCALE OF AMOUNTS IN WHICH SECURITY IS TO BE GIVEN BY MANUFACTURERS.

For every manufacturer paying a licence-fee of	£5 per annum	...	£200
" " " "	10	"	300
" " " "	20	"	400
" " " "	50	"	500
" " " "	100	"	1,000
" " " "	150	"	1,500
" " " "	200	"	2,000
" " " "	250	"	3,000

SCHEDULE X.

TOBACCO REGULATIONS.

Book to be kept by Producer.

1. Every producer of tobacco shall keep an account of the number of acres on which he grows tobacco, the quantity of tobacco leaf harvested, the quantity of tobacco leaf cured, and all sales of tobacco leaf.

Producer's

Producer's Return.

2. Every producer shall, not later than the fifteenth day of January in each year, furnish to the Collector a return, verified by declaration, in or to the effect of the form hereto, stating all particulars with respect to the matters specified in the several heads of such form, so far as relates to the year ending on the 31st December immediately preceding:—

TOBACCO PRODUCER'S RETURN.

Name of Tobacco Producer.		Place of Abode.	Place of Cultivation.	Number of Acres under Cultivation.	Quantity of Tobacco Leaf Cured.	Number of Acres proposed to be Cultivated.	Where Crop of Tobacco Leaf is Stored.	Sales of Leaf.			Remarks.
Sur-name.	Christian Name.							Date.	Quantity.	To whom	
				A. R. P.	lbs.	A. R. P.					

I, _____, hereby declare that the above return contains a true statement of the particulars mentioned therein for the year ending the 31st December last past.

Declared before me this _____ day of _____, 19 ____.

(Signed)
(Signed)

J.P. or Officer.

Book to be kept by Dealer.

3. Every dealer in leaf tobacco shall keep an account of all tobacco leaf purchased and sold by him distinguishing between Australian grown tobacco leaf and imported tobacco leaf.

Dealer's Return.

4. Every dealer shall not later than the fifteenth day of January, April, July, and October in each year furnish to the Collector a return verified by declaration in the form following, stating all particulars with respect to the matters specified in the several heads of such form as far as relates to the immediately preceding quarter of the year:—

TOBACCO LEAF DEALER'S RETURN.

Quantity of Leaf Tobacco Bought.		From whom.	Quantity of Leaf Tobacco Sold.		To whom.	Quantity of Leaf Tobacco in hand.	
Australian.	Imported.		Australian.	Imported.		Australian.	Imported.

_____, hereby declare that the above return contains a true statement of the particulars mentioned therein for the quarter ended _____ day of _____ last past.

Declared before me this _____ day of _____, 19 ____.

(Signed)
(Signed)

J.P., or Officer.

Plan and particulars to accompany application for licence.

5. The drawings and particulars to accompany applications for licences to manufacture tobacco, cigars, cigarettes, and snuffs shall be as follows:—

- (1) A plan and sectional elevation of the factory buildings ;
- (2) The name and situation of the factory ;
- (3) The material of which the factory is constructed ;
- (4) The number of flats or stories in the building or buildings ;
- (5) The number of rooms in each story, and for what purpose each room or story is intended to be used ;
- (6) The number and position, with relation to the principal building of a factory, of any detached buildings used or to be used as part of the factory, together with number of rooms therein ; and
- (7) Such other particulars as the Collector may require.

Factory fastenings, &c.

6. Every factory shall be secured in such a manner and by such fastenings as shall be approved by the Collector, and shall be opened and visited at such times and in the presence of such officers as the Collector shall direct.

Manufacturer to provide a special store-room.

7. Every manufacturer shall provide, when directed by the Collector so to do, a secure store-room in his factory, in which all tobacco, cigars, cigarettes, or snuff manufactured in his factory shall be stored and every door of such store shall be provided by the manufacturer with an approved lock the key of which shall be kept by him, and with a lock supplied by the Collector at the expense of the manufacturer the key of which shall be kept by an officer so that both the keys will be required to open the door.

Manufacturers' Books.

8. Every manufacturer shall keep a book in a form approved by the Collector, in which he shall enter—

- (a) The weight of all tobacco leaf received into the factory, distinguishing Australian grown leaf from imported leaf.
- (b) The weight in pounds of all tobacco, cigars, cigarettes, or snuff made in the factory.
- (c) The weight in pounds of all tobacco, cigars, cigarettes, or snuff removed from his factory.
- (d) The amount of refuse, waste, and clippings arising from the operations in the factory, distinguishing Australian grown leaf from imported leaf.
- (e) The amount of duty paid.

Manufacturers' Returns.

9. Every manufacturer shall furnish to the Collector a return showing—

- (a) The weight in pounds of all leaf tobacco received into his factory, distinguishing Australian grown leaf from imported leaf.
- (b) The weight of all leaf tobacco used in manufacturing tobacco, cigars, cigarettes, or snuff.
- (c) The weight of all tobacco, cigars, cigarettes, or snuff manufactured in the factory.
- (d) The weight of all tobacco, cigars, cigarettes, and snuff removed from the factory.
- (e) The weight of tobacco, cigars, cigarettes, and snuff in the factory at the close of the day on which the return is made up to.
- (f) The weight of tobacco, cigars, cigarettes, and snuff in course of manufacture at the close of the day on which the return is made up to.

When

When Returns to be made up to.

10. In the case of factories at which a supervising officer is stationed the above, return shall be made up to the close of the last days of the months of March, June, September, and December in each year; and in the case of other factories up to the close of the last day of each month.

When Returns to be sent in.

11. Manufacturers' returns shall be made up and sent to the Collector forthwith after the close of the day up to which they are made.

Labels subject to approval.

12. No labels shall be fixed on any package containing tobacco, cigars, cigarettes, or snuff manufactured in Australia unless it has been approved by the Collector.

Manufacturer to give notice of removal of goods.

13. Every manufacturer at whose factory a supervising officer is not permanently stationed shall give at least twenty-four hours' notice in writing to the Collector when he wishes to remove tobacco, cigars, cigarettes, or snuff.

Security on removal.

14. Before any manufactured tobacco is removed from a factory without payment of duty the manufacturer shall give security in a sum equal to twice the amount of the excise duty payable on the tobacco.

Different kinds of refuse to be kept separate.

15. The stalks, refuse, clippings, and waste from imported leaf tobacco shall be kept separate from the stalks, refuse, clippings, and waste from Australian leaf tobacco.

Refuse to be destroyed under supervision after notice.

16. All stalks, refuse, clippings, and waste accumulated in any factory shall be destroyed in such manner as the Collector shall direct, and under the personal supervision of an officer; and every manufacturer shall give forty-eight hours' notice in writing to the Collector of his intention to destroy any stalks, refuse, clippings, or waste.

Importer to give notice before removing tobacco for renovation.

17. Any person who desires to remove manufactured tobacco from a Customs warehouse to a factory for the purpose of renovation shall give one day's notice in writing to the Collector of the time at which he proposes to so remove the same, and with such notice shall furnish in writing the following particulars with respect to such tobacco, that is to say:—The number of packages, the bond marks and numbers of each package, the Customs warehouse in which such tobacco is deposited, and the factory to which it is to be removed.

Collector to give order for delivery.

18. The Collector may upon security being given authorize the delivery of the tobacco which may then be removed direct to the factory under the supervision of an officer.



EXCISE BILL.

SCHEDULE SHOWING THE AMENDMENTS MADE BY THE SENATE.

No. 1.—Page 3, clause 15, at end of clause add “but during such period every unlicensed person who manufactures excisable goods shall comply with this Act as if licensed and the premises on which he manufactures excisable goods shall be deemed a factory.”

No. 2.—Page 4, after clause 23 insert the following new clause:—

“23A. Excisable goods and goods liable to duties of Customs may in Goods for use in prescribed cases and subject to the prescribed conditions be delivered free of duty ^{manufacture.} or subject to such duty as may be prescribed for use in the manufacture of excisable goods.”

No. 3.—Page 6, after clause 39 insert the following new clause:—

“39A. The annual fees for licences are as specified in Schedule VIII., Licence-fee. computing as from the first of January, and when by reason of the time of the granting of a licence it will not continue for a full year the amount shall be reduced proportionally.”

No. 4.—Page 6, clause 43, line 23, after “licence” insert “or except by permission sell by retail any excisable goods in his factory or at any place within fifty yards thereof.”

No. 5.—Page 7, after clause 50 insert the following new clause:—

“50A. Every manufacturer is responsible for the safe custody of all ^{Responsibility of} material and excisable goods in his factory and for the observance of this Act ^{manufacturers} within his factory.”

No. 6.—Page 8, after clause 63 insert the following new clause :—

“ 63A. The Collector shall furnish to each manufacturer the number of ^{Number of} his factory to be called the factory number and the number representing the ^{factory and} State in which the factory is situated to be called the State number.”

No. 7.—Page 8, clause 65, line 37, omit “ cigars cigarettes.”

No. 8.—Page 8, clause 66, line 41, omit “ cigars cigarettes.”

No. 9.—Page 8, after clause 66 insert the following new clauses :—

“ 66A. The manufacturer shall mark upon every package of cigars or ^{Marking of} cigarettes the factory number and the State number before the package is ^{packages of} removed from the factory. ^{cigars and} ^{cigarettes.}

Penalty : Twenty pounds.

66B. The marking of packages shall be plain and clear and in distinct ^{How marking} characters and shall be effected by cutting burning or oil paint.” ^{effected.}

No. 10.—Page 10, clause 80, lines 22 and 23, omit “and every stage of process in the making of excisable goods.”

No. 11.—Page 10, clause 82, line 35, after “into” insert “and search.”

No. 12.—Page 10, clause 82, line 36, omit “and search.”

No. 13.—Page 10, clause 82, line 36, after “and” insert “search.”

No. 14.—Page 10, clause 82, line 36, after “any” insert “depository.”

No. 15.—Page 10, clause 82, line 37, after “goods” insert “may be or.”

No. 16.—Page 13, clause 103, line 25, omit “a Judge.”

No. 17.—Page 13, clause 103, line 27, omit “or Judge.”

No. 18.—Page 13, clause 104, at end of clause add “and the Court may give leave to amend such notice as it thinks just.”

No. 19.—Page 15, clause 114, line 22, omit “excisable.”

No. 20.—Page 16, clause 118, line 16, omit “Three” insert “Five.”

No. 21.—Page 17, after clause 128, insert the following new clause:—

“128A. In any Excise prosecution where the penalty exceeds One hundred pounds and the excess is not abandoned the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the prosecutor either in the High Court of Australia or in the Supreme Court of the State in which such prosecution has been instituted and thereupon the proceedings shall stand removed accordingly and may be continued as if originally instituted in the Court to which they are so removed.”

Defendant to
have right of
trial in High or
State Court.

No. 22.—Page 18, clause 136, line 18, after “evidence” omit remainder of clause.

No. 23.—Page 20, clause 148, line 20, omit “non-compliance with or.”

No. 24.—Page 21, clause 152, line 4, omit “shall” insert “may.”

No. 25.—Page 21, after clause 154, insert the following new clause:—

“154A. If any rebate is allowed in respect of any Excise Duty, the allowance Rebate.
shall be made and duty paid as prescribed.”

No. 26.—Page 26, Schedule X, after Regulation No. 8, insert the following new Regulation:—

Delivery Book.

8A. Every manufacturer shall keep in his factory in a form approved by the collector a delivery book in which he shall enter daily the following particulars in relation to all tobacco, cigars, cigarettes, and snuff removed from his factory:—

- (a) The date of removal.
- (b) The weight of the tobacco or snuff removed.
- (c) The number of cigars or cigarettes removed.
- (d) The names and addresses of the persons to whom the tobacco, cigars, cigarettes, or snuff are delivered.

C. B. BOYDELL,
For Clerk of the Parliaments.