
CHAPTER 373
SPIRITS AND BEER MANUFACTURE
ARRANGEMENT OF SECTIONS

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CHAPTER 373

SPIRITS AND BEER MANUFACTURE

An Act to prohibit the distilling and manufacture of spirits and the brewing and manufacture of beer, except under licence and to provide for the free importation of materials and goods in connection with such manufacture in certain circumstances.

[Commencement 31st July, 1963]

22 *cf* 1963
 50 *cf* 1965
 1 *cf* 1973
 3 *cf* 1973
 31 *cf* 1973
 E L A O, 1974
 19 *cf* 1975
 12 *cf* 1980
 5 *cf* 1984
 1 *cf* 1986
 5 *cf* 1987
 7 *cf* 1988
 25 *cf* 1988
 30 *cf* 1989
 31 *cf* 1989
 16 *cf* 1990
 21 *cf* 1991
 37 *cf* 1992
 7 *cf* 1993
 21 *cf* 1997
 16 *cf* 1998
 14 *cf* 1999
 36 *cf* 1999

1. This Act may be cited as the Spirits and Beer Manufacture Act.

Short title.

2. In this Act, unless the context otherwise requires —

Interpretation.

“beer” includes every description of ale, porter, stout, cider, perry, other malt liquors and the by-product of beer commonly known as malta;

1 *cf* 1986, s 3

“Comptroller” means Comptroller of Customs;

“duties of customs” means the duties of customs levied by the Tariff Act and any Act passed in amendment thereof or in substitution therefor, and any other duties or taxes now or hereafter imposed upon or payable in respect of goods imported into The Bahamas except stamp duties;

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“licensee” means any person to whom a licence is granted under the provisions of this Act;

“Minister” means the Minister responsible for Licensing of Shops and Businesses;

31 *cf* 1973, s 2

“prescribed” means prescribed by rules made under the provisions of this Act;

“rum” means an alcoholic beverage distilled from any fermented product of the sugar cane in such a way that the beverage possesses the taste, aroma and other characteristics generally attributed to rum;

12 *cf* 1980, s 2

“spirits” means all alcoholic spirits of any description, whether completely distilled or otherwise, and includes all liquors mixed with or containing spirits.

Prohibition of distilling, etc.

3. No person may —

- (a) have or use a still for distilling, rectifying or compounding spirits;
- (b) brew or make beer or spirits;
- (c) rectify or compound spirits,

I cf 1986, s 3

without first obtaining a licence so to do in accordance with the provisions of this Act. There shall be payable for such licence a fee of one thousand dollars a year.

Minister may prohibit distilling etc. in specified place.
ELAO, 1974

4. The Minister may, by order, prohibit the carrying on of any distillery or brewery in any district or place specified in the order and no licence shall be issued under the provisions of this Act in respect of nor shall any distillery or brewery be carried on in any district or place so specified in such order.

Restriction on issue of licence.

5. No licence shall be issued under the provisions of this Act in respect of any distillery the capacity of which is less than four hundred bushels of grain *per diem*, or an equal amount in weight of molasses or starch or other like substance.

Application for licence.
ELAO, 1974

6. Every person requiring a licence under the provisions of this Act shall make application therefor in writing over his signature to the Minister on the prescribed form which shall state in particular the exact locality where the premises are, or are to be situated, in which the business for which the licence is required is to be carried on.

Person applying to give bond.

7. (1) Before any licence shall be issued, the person applying therefor shall enter into a bond with Her Majesty, Her Heirs and Successors, in such amount and with such sureties as the Comptroller may approve, for rendering upon oath to him every three months a true and faithful account of the quantity of spirits or beer, as the case may be, manufactured by the licensee or his servants within The Bahamas and for the payment to the Comptroller of all duties which may become due and payable in respect of such spirits or beer.

(2) Such bond shall be taken annually by the Comptroller who is hereby authorised and required, should he deem it necessary, to administer an oath to any person offered as surety, by which to ascertain his or her sufficiency.

8. The Minister may grant licences to such persons as he thinks fit for all or any of the purposes of this Act and subject to such terms and conditions as he may determine either generally or in any particular case, and any such licence shall be in force for a period not exceeding twenty-five years unless it be previously revoked in manner hereinafter provided

Licences for twenty-five years and may be subject to conditions.
ELAO, 1974; 50 cf 1965, s 2

9. The Minister may revoke the licence of any licensee who fails to commence production or manufacture by the date stipulated in the licence or discontinues production for any period in excess of three months.

Revocation of licence.
14 cf 1999, s 2

10. (1) Notwithstanding anything to the contrary in this Act, the Minister may grant an exclusive licence under this section to any person for any of the purposes of this Act.

Grant of an exclusive licence
1 cf 1973, s 2; 19 cf 1975, Sch

(2) A licence under this section shall be in force for such period not exceeding five years and be subject to such terms and conditions, as are specified in the licence.

(3) In addition to the fee payable under section 3 of this Act there shall be payable in respect of a licence granted under this section a special fee of such amount as the Minister thinks fit.

19 cf 1975, Sch

(4) A licence under section 8 of this Act shall not be granted for any purpose of this Act so as to have effect while there is in force a licence under this section for that purpose.

11. The Minister may from time to time on application being made therefor in the prescribed form transfer a licence to such person as he thinks fit on payment of the prescribed fee.

Transfer of licences.
ELAO, 1974

12. On the receipt of any application for a licence or for the transfer of a licence, the Minister shall cause notice thereof to be published in the *Gazette* for a period of ten days and such notice shall contain the full name and address of the applicant, the purpose for which the licence

Notice of application to be published.
ELAO, 1974

is required and a description of the premises in respect of which the applicant is applying for a licence or the transfer of a licence.

Opposition to
grant and
hearing thereof

13. (1) Any person shall be at liberty to oppose the grant of a licence or the transfer of a licence provided he has given written notice of his intention so to do to both the Minister and the applicant for the licence or transfer, not later than seven clear days from the last day of the ten day publication under the provisions of section 12 of this Act.

(2) The person opposing the grant of a licence or the transfer of a licence shall give his grounds for such opposition in the form of an affidavit which may be supported by affidavits sworn to by not more than four other persons. Such affidavits and copies thereof may accompany the notice of intention to oppose as aforesaid but shall be supplied within seven clear days from the last day upon which the person opposing may give notice under the provisions of subsection (1) of this section.

(3) The applicant, upon receipt of any notice and affidavits, if any, provided and sworn under the provisions of subsection (2) of this section, may if he wishes, file his reply by affidavit accompanied by not more than four affidavits from such other persons as he may desire within a further seven clear days from the date of the said receipt.

ELAO, 1974

(4) The Minister shall consider the application and the affidavits filed in opposition and in reply and shall give his decision and either grant or refuse the licence or the transfer of a licence.

Issue and
registration of
licence or
transfer
ELAO, 1974

14. When the Minister has decided to grant a licence or the transfer of a licence under the provisions of this Act, the applicant therefor shall be given an order for the issue thereof and he shall attend at the Treasury as soon as possible, present such order and pay to the Treasurer the sum payable therefor under the provisions of this Act.

Duty payable on
manufactured
spirits and beer
31 cf 1973, s 3

15. (1) Notwithstanding the provisions of any other Act In force from time to time in The Bahamas and in lieu of any duties or taxes which may be levied or charged under the provisions of any other Act in force from time to time in The Bahamas, there shall be charged, levied and collected —

- (a) on spirits manufactured under the provisions of this Act —
- (i) on spirits termed Alcohol — a tax of six dollars per proof gallon; *21 cf 1997, s 2*
 - (ii) on spirits termed Gin — a tax of six dollars per proof gallon; *21 cf 1997, s 2*
 - (iii) on spirits termed Vodka — a tax of six dollars per proof gallon; *21 cf 1997, s 2*
 - (iv) on spirits termed Rum — a tax of six dollars per proof gallon; *21 cf 1997, s 2*
- (b) on spirits, other than spirits referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (a) of subsection (1) of this section, manufactured under the provisions of this Act, a tax at the rate of four-fifths of the stamp duty from time to time imposed by the Stamp Act on the importation into The Bahamas of the particular kind of spirits so manufactured; *21 cf 1991, s3*
- (c)¹ on beer (excluding the by-product known as “malta”) manufactured under the provisions of this Act, a tax of four dollars per gallon; *25 cf 1988, s 2*
36 cf 1999, s 2
- (d) on the beverage malta, manufactured under the provisions of this Act, a tax of sixty cents per gallon. *1 cf 1986, s 5*
- (e) on beer manufactured within the Port Area and subsequently exported from the Port Area to any other part of The Bahamas a tax at a rate of \$1.00 per imperial gallon. *36 cf 1999, s 2*

(2) The tax imposed by subsection (1) shall be paid when the spirits or beer are withdrawn from bond in such lawful manner as may be prescribed by the Minister.

(3) The Spirits and Beer Manufacture Rules in force immediately before the commencement of the Spirits and Beer Manufacture (Amendment) (No. 3) Act, 1973² shall be deemed to have been prescribed for the purposes of subsection (2) of this section.

¹ Substitution of paragraph (c) in operation with effect from 31st December, 1986 in terms of section 2(1) of Act 25 of 1988.

² Act No. 31 of 1973. Date of commencement 28th March, 1973.

5 *cf* 1984, s 2

(4) There shall be payable in respect of spirits or beer manufactured under the provisions of this Act and placed in bond a bonding tax of three-quarters of one per centum *ad valorem*.

Reduction of
duty on
exportation.
1 *cf* 1973, s 4; 31
cf 1973, s 4
21 *cf* 1991, s 3
21 *cf* 1997

16. Notwithstanding anything to the contrary, but subject to the conditions specified in subsection (2) there shall be allowed in respect of export from The Bahamas —

(a) of spirits referred to in paragraph (a) of subsection (1) of section 15, manufactured in The Bahamas under this Act, a rebate of duty of one hundred per centum;

16 *cf* 1998, s 2

(b) of any spirits, other than spirits termed rum or beer manufactured within The Bahamas under this Act, a rebate of duty of one hundred per centum.

21 *cf* 1997, s 3

(c) of beer manufactured in The Bahamas under this Act, a rebate of duty of one hundred per centum; of the tax imposed under subsection (1) of section 15.

(2) The conditions mentioned in subsection (1) of this section are as follows —

(a) that the spirits or beer in question are entered for export before being removed from the licensed premises;

(b) that the spirits or beer in question are not so removed except under and in accordance with conditions approved by the Comptroller;

(c) that, if it is not proved to the satisfaction of the Comptroller within a reasonable time after the grant of the rebate or reduction that the spirits or beer in question have been shipped on board a vessel, ship or aircraft which has been duly cleared outwards from The Bahamas in accordance with the provisions of the Customs Management Act, the Comptroller may serve a notice in writing to that effect upon the licensee, and the service of such a notice shall operate to cancel the rebate of reduction forthwith.

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Offence of
diverting spirits
or beer in certain
cases.
1 *cf* 1973, s 4

17. It shall be an offence against this Act for any person, without reasonable excuse (proof whereof shall be on him) —

(a) to retain within The Bahamas; or

(b) to unship or land at any port or place therein,

any spirits or beer on which rebate or reduction has been allowed under section 16 of this Act, and any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding one thousand five hundred dollars, and the court may, in addition to or instead of imposing such a fine, order that the spirits or beer shall be forfeit to the Crown.

18. (1) Any licensee may import into The Bahamas or take out of bond without payment of duties of customs all raw materials (which expression shall include but shall not be limited to grain, sugar, starch, molasses and oils) machinery, tools, fixtures, equipment or supplies which may, from time to time, be required for the purpose of the processes carried on at any distillery or brewery:

Importation of certain articles duty free.

Provided that upon entry of the said articles and before any permit for the delivery of the same shall be given, the licensee, or the duly authorised agent of the licensee, shall make and sign a declaration before the Comptroller to the effect that such articles are intended to be used solely for the purpose of the distillery or brewery for which the licensee is licensed under this Act.

(2) If any such articles shall be used or applied for or to any purpose other than that set forth in such declaration the person making such declaration shall be liable to a fine of eight hundred dollars to be recovered summarily, and such articles shall be forfeited and may be seized and proceeded against in the same manner as goods liable to forfeiture under the provisions of the Customs Management Act, or any Act passed in amendment thereof or substitution therefor.

Penalty.
5 cf 1987, s 2

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(3) If at any time any person in whom the property in any such articles shall be vested shall desire to use any of the said articles otherwise than for the purposes specified in the declaration, it shall be lawful for the Comptroller on payment of the full amount of the duties of customs ordinarily payable on such articles, or on so much thereof as the Comptroller shall consider reasonable, by memorandum endorsed on the declaration to cancel the same as far as relates to such articles.

Payment of duty when used for other purposes.

(4) Notwithstanding anything to the contrary in this or any other law a person, being either a licensee under this Act or an approved manufacturer within the meaning of the Industries Encouragement Act may, with the approval

21 cf 1991, s 3

of the Minister fate any product, or by-product, or raw material the use of which is necessary for the purposes, of the process carried out by him as licensee or approved manufacturer out of bond without payment of duties of customs for transfer to any other person for use in any process carried on by that other person for commercial purposes.

Minister may enter into agreement with licensee for construction, etc., of buildings
E L A O, 1974

19. (1) Any licensee desiring to construct, alter, repair, improve, extend, rehabilitate, remodel, furnish, refurbish, equip, re-equip or air condition any building or buildings as a distillery or brewery, may, from time to time, submit to the Minister in writing for approval, full particulars of such proposed construction, alteration, repair, improvement, extension, rehabilitation, remodelling, furnishing, refurbishing, equipping, re-equipping or air conditioning, together with a plan showing the location of the said building or buildings, plans and drawings of the proposed building or buildings and an estimate of the cost thereof, and shall supply to the Minister such other information as the Minister may require. The Minister may enter into an agreement with the licensee providing for the refund of all duties of customs in respect of all materials necessary for the purpose of carrying out all or such part of the proposals as the Minister has approved, which may be imported into The Bahamas purchased or taken out of bond therein by the licensee during such period as the Minister may determine. Every agreement entered into pursuant to the provisions of this subsection shall contain such covenants on the part of the licensee and such safeguards as the Minister shall deem fit and proper in the circumstances.

(2) Every agreement made under the provisions of this section shall be expressed to be made by and between the Minister acting for and on behalf of the Government of The Bahamas of the one part, and the licensee of the other part, and shall be executed by the Minister under the Public Seal, and shall be executed by the licensee, if the licensee be an individual under his hand and seal, or if the licensee be a company, under its common seal.

(3) A copy of every agreement made under the provisions of this section shall be laid upon the table of each House of Parliament within fourteen days after the date on which such agreement is made, or if Parliament be not in session, within fourteen days after the first meeting thereof after the date on which such agreement is made.

(4) For the purposes of this section, customs duties exemptions shall be available only in respect of — 14 of 1999, s. 5.

- (a) materials used for plant construction and equipment on a one time basis at the commencement of the licensing and subsequently only upon the expansion or replacement of the plant but not including spare or replacement parts;
- (b) approved raw materials.

20. If any alcohol or neutral or cologne spirits is used by a licensee to produce gin, vodka or any other similar product there shall be allowed to such licensee a rebate or drawback of eighty per centum of the duties of customs paid or secured upon the importation thereof. Rebate of duty on alcohol, etc., used to produce gin, etc.

Provided that no such rebate or drawback shall be allowed unless and until the licensee or his duly authorised agent shall make a declaration before the Comptroller to the effect that the said alcohol or neutral or cologne spirits has been used to produce gin, vodka or some similar product, and that the said licensee is entitled to the rebate or drawback thereon, and unless such alcohol or neutral or cologne spirits is used in bond and in the presence and under the control of a customs officer, such officer to be appointed by the Comptroller at the expense of the licensee.

21. It shall be lawful for the Comptroller, or any customs officer authorised by him, to enter any premises licensed under the provisions of this Act, for the purpose of ascertaining whether the terms and conditions of the licence are being complied with, and generally for the purpose of preventing or detecting the violation of any of the provisions of this Act or the Liquor Licences Act, or any Act passed in amendment or substitution therefor, and to remain on such premises for so long as is necessary for the carrying out of his duty. Comptroller, etc., may enter licensed premises.
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22. All whisky distilled under the provisions of this Act shall remain in bond for a period of not less than three years before being exported or sold. Whisky to remain in bond for three years.

23. No licensee shall commence to work his distillery or brewery at any time unless he has given at least three days' previous notice in writing to the Comptroller; and after any interruption of work for more than one week in duration a new notice shall be given. Licensee must give notice before starting work.

Minister may
authorise
Comptroller to
label bottles
E L A O, 1974

24. It shall be lawful for the Minister to authorise and empower the Comptroller or any other customs officer to place a stamp or label across the mouth of any or all bottles filled with spirits or beer in bond and under Government supervision, showing that the said bottles were so filled in bond and under Government supervision.

Rules
E L A O, 1974

25. It shall be lawful for the Minister, from time to time, to make rules in respect of all or any of the following matters —

- (a) the supervision and inspection of any licensed premises and the bonded warehouse thereon;
- (b) the style of architecture, design and size of the bonded warehouses and the materials of which they are to be constructed;
- (c) the method to be used in the storage of goods in the bonded warehouses;
- (d) the size and kind of containers in which the spirits or beer are to be stored;
- (e) the stamping of the containers, whether casks, barrels, bottles or otherwise, and prescribing the stamps to be used and how the same are to be printed or engraved;
- (f) the custody and control of the bonded warehouses;
- (g) the supplying of warehouse receipts and certificates, including landing certificates;
- (h) the manner in which the bottling of spirits or beer in bond shall be carried on;
- (i) the books, records and accounts to be kept and returns to be made by the gaugers and warehouse-keepers, or other officials and by the licensees;
- (j) the mode and time of inspecting the spirits and beer;
- (k) prescribing the process to be used in order to reduce any spirits to fourteen under proof spirits as measured by the Sykes Hydrometer;
- (l) authorising the proper sanitary inspection, especially in regard to the protection from contamination of any spirits, gin, vodka or other products manufactured under the provisions of this Act and supervision and inspection that such spirits, gin, vodka or other products are of

satisfactory quality, and in regard to the protection from contamination of the waters of the harbour, from refuse oil and from refuse products from any distillery or brewery;

- (m) the fees to be paid for the services of excise officials;
- (n) all fees for the use of Government stamps;
- (o) prescribing every matter or thing to be prescribed under the provisions of this Act; and
- (p) generally for carrying into effect the objects of this Act.

26. If any person contravenes any of the provisions of section 3 of this Act such person shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of two thousand dollars, and all spirits and vessels, utensils and materials for distilling or preparing spirits or manufacturing beer in his possession shall be forfeited, and in addition any licence which may have been granted to such person under the provisions of this Act may be revoked by order of the court.

Penalty for contravention of the provisions of section 3 of this Act
5 cf 1987, s 2

27. If any licensee contravenes or disregards any of the terms and conditions of or subject to which the licence was granted, such licensee shall be guilty of an offence against this Act and shall be liable on summary conviction to a penalty of two hundred dollars or to imprisonment of six months, and the licence shall be liable to be revoked by order of the court.

Penalties with regard to licence
5 cf 1987, s 2

28. (1) No materials imported into The Bahamas pursuant to the provisions of any agreement made under the authority of this Act may be sold, given away, or otherwise disposed of within The Bahamas unless the full amount of the duties of customs ordinarily payable upon the importation thereof shall have been paid into the Treasury, in which case it shall be lawful for the Comptroller by a memorandum endorsed on the bond furnished upon the importation thereof to cancel the same so far as it relates to such construction plant.

Penalties for disposing of materials without payment of duties

(2) Every person who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of two thousand dollars, or to imprisonment for one year, or to both such fine and imprisonment, and the construction plant sold, given away, or otherwise disposed of

5 cf 1987, s 2

Ch. 293. in contravention of the provisions of this section may be seized and proceeded against in the same manner as goods liable to forfeiture under the Customs Management Act, or any Act passed in amendment thereof of substitution therefor, and the penalty of any bond furnished upon the importation of such construction plant may be recovered as liquidated damages.

Penalty for false declaration.

29. Every person knowingly making a false declaration for the purposes of obtaining a refund of the duties of customs pursuant to the provisions of any agreement made under the authority of this Act shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of two thousand dollars, or to imprisonment for one year, or to both such fine and imprisonment.

5 *cf* 1987, s 2

Penalty for wrongful application of materials.

30. (1) Any person applying any materials in respect of which duties of customs shall have been refunded pursuant to the provisions of any agreement made under the authority of this Act, for any purpose other than for the purpose specified in such agreement, shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of two thousand dollars, or to imprisonment for one year, or to both such fine and imprisonment.

5 *cf* 1987, s 2

ELAO, 1974

(2) If the person convicted of an offence under the provisions of subsection (1) of this section shall be a licensee such agreement may be cancelled by the Minister, in which case all duties of customs refunded to the licensee pursuant to the provisions of any agreement made under the authority of this Act may be recovered from the licensee as liquidated damages.

Prosecutions.

31. All proceedings for offences against this Act may be prosecuted in the name of the Comptroller.

Expenses.

32. All expenses incurred under the provisions of this Act shall be paid out of the Consolidated Fund by warrant in the usual manner.

Repeal.

27 *cf* 1924

33. The Spirits and Beer Manufacture Act, 1924 is hereby repealed:

Provided that any person who holds a licence granted under the provisions of the Act hereby repealed shall, on application being made therefor, be entitled to an agreement under the provisions of section 19 of this Act.