

THE EXCISE DUTY ACT
ARRANGEMENT OF SECTIONS

1. Short title.

PART I. *Interpretation*

2. Interpretation.
3. Acts deemed to be properly done.
4. Officer may demand aid of any person.
5. Goods deemed to be manufactured.
6. Duty to be proportionate to quantity, etc.

PART II. *Duties, Drawbacks and Refunds of Duty*

7. Excise duties.
8. Minister may make interim order.
9. Interim order to be confirmed, amended or revoked by House of Representatives.
10. Excess duty to be refunded when order expires.
11. Liability to duty.
12. Disputes, as to excise duty.
13. Value.
14. Appeals to Revenue Court.
15. Minister may remit duties.
16. Duty on goods lost may be remitted.
17. Minister may direct granting of drawbacks.
18. No duty payable on goods exported, shipped as stores, etc.
19. When duty payable.
20. Duty to be paid at rate in force on delivery.
21. Refund of duties paid in error.
22. Certificate of debenture.
23. Contract prices of goods may be adjusted to meet change in excise duty.

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*EXCISE DUTY**PART III. Manufacture of Excisable Goods*

24. Licence to manufacture excisable goods.
25. Application for licence to manufacture excisable goods
26. Transfer of licence.
27. Prohibition on manufacture of goods.
28. Penalty for illicit manufacture.
29. Excisable goods to be deposited in a warehouse.
30. Removal for re-manufacture.

PART IV. Spirits

31. Possession of still.
32. Restrictions on storage material in distillery.
33. Receptacles in registered store to be approved.
34. What may be added to spirits in a distillery.
35. Breaking down spirits.
36. Transfer from butts to containers for removal.
37. Containers to be marked with registered mark.
38. Obliteration or removal of mark restricted.
39. Removal to warehouse.
40. Time limit for storage of spirits in registered store.
41. Commissioner may direct disposal of high wines, etc.
42. Spirits for licensee's own use.
43. Denaturing of spirits.

PART V. Spirituous Compounds

44. Penalty for illegal manufacture of spirituous compounds.
45. Commissioner may grant, refuse or transfer licence.
46. Accounts to be kept by licensee.
47. Labelling of spirituous compounds.

PART VI. Warehouses

48. Appointment of private warehouse.
49. Revocation of appointment of warehouse.
50. Storage and access in warehouse.

51. Owner to maintain containers in good condition.
52. Cost of management of warehouse to be borne by occupier.
53. Storage in private export warehouses.
54. Transfer of excisable goods in warehouse.
55. Vatting, blending, etc.
56. Re-warehousing of spirits.
57. Clandestinely opening or gaining access to warehouse.
58. As to warehoused excisable goods embezzled by officer.
59. Commissioner may remove goods.
60. Removal of warehoused excisable goods.
61. Removal from one warehouse to another.
62. Time limit for removal of duty paid excisable goods.
63. Removal of excisable goods on warehouse becoming insecure.

PART VII. *Powers of Officers*

64. Officer may enter factory.
65. Officer may enter premises, examine and take account of excisable goods.
66. Officer may patrol freely.
67. Search warrant.
68. Search warrants for pipes, etc.
69. Officer may stop ship or carriage.
70. Power to arrest on suspicion of illegal removal of excisable goods.
71. Power of arrest.
72. Officers to have power of constable.

PART VIII. *General*

73. Revocation of licence.
74. Licences and receipts rendered void if cheque payment dishonoured.
75. Attendance of officers.
76. Supervision of distillery or factory by officers.
77. Inspection of books and documents.
78. Assistance to be afforded to officers.
79. How errors in accounts may be corrected.
80. Rewards.

EXCISE DUTY

81. Form of documents.
82. Regulations.
83. Penalty for interfering with label, lock or seal.
84. Sale of excisable goods by manufacturer.
85. Accounts to be kept by wholesaler and retailer.
86. Where excisable goods may be offered for sale.
87. Authority to be produced by person acting for another.
88. Goods to be handled, etc., by owner.
89. Samples for owner.
90. Power of appeal.
91. Accounts to be kept.
92. Manufacturer to produce books, invoices, etc.
93. Deficiency in stock.
Excess in stock.
94. Instruments, calibration tables, accommodation to be provided by
manufacturer or warehouse keeper.
95. Restriction on delivery of goods to counteract evasion.
96. Removal of excisable goods from registered store, factory or
warehouse.
97. Duty to be paid before removal.
98. Returns.

PART IX. Offences

99. Obstruction of officer.
100. Obstruction and impersonation of officers.
101. Collusive seizure, bribery, etc.
102. Illegal possession of excisable goods.
103. Goods used contrary to purpose for which delivered.
104. False declarations and refusing to answer questions.
105. Giving warning to an offender.
106. Offences in regard to consignment notes.
107. Illegal removal.
108. Receiving without consignment note.

PART X. Legal Proceedings

109. Offering goods for sale under pretence that the duties are not
paid.
110. Penalty where goods forfeited.

111. General provision as to forfeiture.
112. Procedure on seizure.
113. Claim to seized goods to be in name of owner.
114. Governor-General may restore seizure, etc.
115. Commissioner may mitigate penalty.
116. General penalty.
117. Prosecution of offences and recovery of duties.
118. Proceedings to be taken within seven years.
119. Alternative prison sentence.
120. Imprisonment for second offence.
121. Limitation as to pleading.
122. Acts by companies.
123. Venue.
124. Officer may prosecute.
125. Onus of proof on defendant in certain cases.
126. Commissioner to certify value.
127. Chemist's certificate sufficient evidence.
128. Admissibility of copies of documents.
129. Proof of order of Government.
130. Certificate of condemnation.
131. Commissioner may distrain for duties.
132. Power of Commissioner to sell warehoused goods.
133. Lien on warehoused goods.

PART XI. *Savings*

134. Savings.

SCHEDULES

Cap. 119.
Laws
26 of 1953,
33 of 1954,
Acts
43 of 1966,
42 of 1969
3rd. Sch.,
17 of 1971,
29 of 1971
2nd. Sch.,
12 of 1985
Sch.,
16 of 1991
S. 64,
21 of 1991
S. 21,
15 of 2014
Sch.

THE EXCISE DUTY ACT

[6th February, 1942.]

1. This Act may be cited as the Excise Duty Act.

Short title.

PART I. *Interpretation*

2. In this Act—

Interpreta-
tion

“absolute alcohol” means 100 *per cent* alcohol by volume;

21/1991
S. 21(a).

“aircraft” includes balloons, kites, gliders, airships and flying machines;

17/1971
S. 2(c).

“beer” includes ale, porter, spruce beer, black beer, and any other description of beer, or any liquor, which is made or sold as a description of beer, or a substitute for beer, which on analysis of a sample thereof at any time is found to contain more than 1.1 *per centum* of absolute alcohol by volume at 20 degrees Celsius; and beer brewed shall be deemed to be beer manufactured;

21/1991
S. 21(a)

“butt” means a receptacle approved by the Commissioner for the reception of spirits in a registered store;

12/1985
Sch.

“carriage” includes every description of conveyance for the transport by land of human beings or goods;

17/1971
S. 2(d).

- “cigar” means a roll of tobacco or of any substitute for tobacco, the outer wrapper of which is tobacco and forms part of the cigar;
- “cigarette” means a roll of tobacco or of any substitute for tobacco, the wrapper of which is paper or any substance other than tobacco and forms part of the cigarette;
- 12/1985
Sch
21/1991
S 21(a)
L. N
165/1999
17/1971
S 2(c) “Commissioner” means the Commissioner of Taxpayer Audit and Assessment;
- “container” includes puncheon, hogshead, barrel, quarter cask, octave, keg or other container of wood, glass, earthenware or other materials;
- 17/1971
S 2(c) “denatured spirits” means spirits to which a substance has, or substances have, been added to render such spirits noxious and non-potable;
- “distillery” means any building or premises licensed under this Act for the manufacture of spirits by distillation and includes a registered store;
- “drawback” means a refund of all or part of any excise duty authorized by law in respect of goods exported or used in any particular manner;
- 21/1991
S. 21(a) “excise duty” includes any duty other than general consumption tax imposed under the General Consumption Tax Act and an export duty of customs imposed on any articles manufactured in the Island;
- 21/1991
S. 21(a). “excisable goods” means goods of any description on which an excise duty is imposed under this Act or on which special consumption tax is imposed under the General Consumption Tax Act;

- “excise warehouse” means any building or premises used **by the Commissioner for the storage of excisable goods** manufactured in this Island without the payment of duty; 12/1985
Sch.
- “export” with its grammatical variations and cognate expressions means to take or cause to be taken out of the Island or the territorial waters thereof;
- “export warehouse” means any warehouse appointed by the Commissioner for the temporary storage of excisable goods for exportation awaiting shipment; 17/1971
S. 2 (b).
12/1985
Sch.
- “factory” means any building or premises licensed under this Act for the manufacture of excisable goods or spirituous compounds;
- “licensee” means a person granted a licence under this Act;
- “manufacturer” means— 17/1971
S. 2 (b).
- (a) any person who by any method or process makes or produces, or causes to be made or produced, any goods;
- (b) any person who applies, or causes to be applied, to any goods any prescribed ancillary treatment, and “manufacture” shall have a corresponding meaning;
- “materials” includes any materials from which excisable goods are capable of being manufactured and any residue from any process of manufacture;
- “obscuration” means the difference, caused by matter in solution, between the actual strength of spirits and the apparent strength as indicated by the hydrometer;
- “officer” includes any person employed in the Taxpayer Audit and Assessment Department, and all members of the Jamaica Constabulary Force, as well as any person acting in the aid of any such person or member; 17/1971
S. 2 (b).
12/1985
Sch.
21/1991
S. 21 (a).
L.N.
165/1999.

and any person acting in the aid of an officer acting in the execution of his office or duty shall be deemed to be an officer acting in the execution of his office or duty;

“owner” includes any person who is for the time being entitled, either as owner or agent for the owner, to the possession of any goods;

21/1991
S. 21 (a).

“percentage volume” means the strength of spirits expressed as a percentage volume of absolute alcohol at 20 degrees Celsius;

17/1971
S. 2 (c).

“prescribed ancillary treatment” means, in relation to any goods (whether or not originally made or produced in Jamaica) any treatment (whether by way of marking, labelling, packaging, repairing, renovating or otherwise; and regardless of whether or not basically new qualities are created) which, by virtue of any provision imposing excise duty on goods by reference to such treatment, renders the goods so treated liable to excise duty or excise duty at a higher rate;

12/1985
Sch.

“private excise warehouse” means any warehouse appointed by the Commissioner as a private excise warehouse;

“proper officer” means any officer whose right or duty it may be to exact the performance of or to perform the act referred to;

17/1971
S. 2 (e).
12/1985
Sch.

“registered store” means any place, building or part of a building approved by the Commissioner under such security, and under such conditions as he may deem necessary, for the reception of spirits distilled in a distillery, and for the temporary storage of such spirits;

17/1971
S. 2 (f).

“rum” means spirits distilled solely from sugar cane juice, sugar cane molasses, or the refuse of the sugar cane;

“ship” means a steamship or any other ship, boat, lighter, or other floating craft of any description and includes aircraft;

“spirits” means distilled spirits of every kind distilled in the Island;

“spirituous compound” means any liquor, cordial, mixture, compound or preparation of which spirits distilled in the Island forms a part;

“still” means any vessel, utensil or apparatus, or any part thereof, capable of being used in the production of any spirits but does not include glass flasks and condensers used solely for laboratory purposes; 17/1971
S. 2 (b).

“warehouse keeper” means the owner or occupier of a private excise or export warehouse.

3.—(1) Every act, matter, or thing, required by this Act to be done or performed by, with, to, or before— Acts deemed to be properly done 12/1985 Sch.

(a) the Commissioner;

(b) any particular officer nominated for such purpose, if done or performed by, with, to, or before, any officer assigned by the Commissioner for such purpose or any person appointed by the Commissioner to act for such particular officer (as the case may be) shall be deemed to be done or performed by, with, to, or before the Commissioner or such particular officer (as the case may be).

(2) Every person employed on any duty or service relating to this Act by the orders or with the concurrence of the Commissioner (whether previously or subsequently expressed) shall be deemed to be the officer for that duty or service. 12/1985
Sch.

(3) Every act required by this Act to be done at any place if done at the place appointed by the Commissioner for such purpose shall be deemed to be done at the particular place as required by law. 12/1985
Sch.

4.—(1) It shall be lawful for any officer to demand the aid or assistance of any person in the execution of any act or thing authorized or required under this Act, and any such Officer may demand aid of any person. 17/1971 S. 3.

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person failing to aid or assist any officer when called upon to do so, without reasonable excuse, shall be liable on conviction to a fine not exceeding one hundred dollars.

12/1985
Sch.

(2) In this section "officer" means a person employed in the General Consumption Tax and Excise Department or a member of the Jamaica Constabulary Force.

12/1985
Sch.
21/1991
S. 21 (a)

Goods
deemed
to be
manufac-
tured.

5.—(1) All excisable goods manufactured in the Island shall be deemed to be goods manufactured for sale unless and until the contrary is proved.

(2) All excisable goods found in a factory shall be deemed to have been manufactured in such factory.

(3) Where any spirits are found upon any premises upon which there is an unlicensed still, such spirits shall be deemed to have been distilled by the occupier of such premises unless and until the contrary is proved.

Duty to be
propor-
tionate to
quantity, etc.

6. All duties, rates, charges and drawbacks imposed or allowed by this Act according to any specified weight, measure or strength or according to any specified value or any particular description of package, shall be deemed to apply in the same proportion to any greater or less weight, measure, strength or value or any other description of package, and according to metric weights and measures.

21/1991
S. 21 (a).

PART II. *Duties, Drawbacks and Refunds of Duty*

Excise
duties.

7.—(1) The House of Representatives may from time to time by resolution impose an excise duty on goods manufactured in the Island, and may revoke, reduce, increase, or alter, any duty and may provide for exemptions therefrom.

First
Schedule.

(2) The duties set forth in the First Schedule shall be payable and shall continue in force until revoked, reduced, increased, or altered, in the manner provided by this Act.

8. Notwithstanding anything contained in section 7, the Minister may by order impose, increase, or reduce, any excise duty, and from the date of publication of any such order in the *Gazette* until the expiry of such order, the duty payable under such order shall be payable in lieu of any duties payable prior thereto :

Minister may make interim order.

Provided that where any duty is reduced by any such order, the person liable to pay the reduced duty shall pay such reduced duty and in addition shall deposit with the proper officer the difference between the duty payable prior to the date of the order, and the duty payable under the order, until the order expires or is confirmed, amended, or revoked, as provided by section 9.

9.—(1) Every order made under section 8 shall, within twenty-one days from the date after its first publication, be submitted to the House of Representatives, and the House of Representatives may by resolution, confirm, amend, or revoke, such order and, upon publication of the resolution of the House of Representatives in the *Gazette*, the resolution shall have effect in place of the order.

Interim order to be confirmed, amended or revoked by House of Representatives.

(2) If any such order be not submitted within such period of twenty-one days to the House of Representatives it shall *ipso facto* expire.

10.—(1) So much of the duties paid under any order under section 8 as may be in excess of the duty payable under any resolution referred to in section 9 shall be repaid to the person who paid such duties.

Excess duty to be refunded when order expires.

(2) So much of any sums deposited in accordance with section 8 as, together with the duty paid, is equal to the duties payable under any resolution referred to in

12/1985
Sch.

section 9, shall be brought to account by the Commissioner of Inland Revenue as excise duty and the balance, if any, shall be refunded to the depositor.

Liability to
duty

11.—(1) All excisable goods manufactured shall be liable to duty unless accounted for and exempted according to the provisions of this Act.

(2) Where by manufacture, bond, removal of goods or otherwise, any obligation has been incurred for the payment of excise duties, such obligation shall be deemed to be an obligation to pay all excise duties which may become payable under any law, or which are made payable or recoverable under this Act, as such duties become payable.

(3) Where any duty has been short levied or erroneously refunded, the person who should have paid the amount short levied, or to whom the refund has erroneously been made, shall pay the amount short levied or shall repay the amount erroneously refunded (as the case may be), on demand being made by the Commissioner of Inland Revenue.

12/1985
Sch.

Disputes,
as to
excise
duty.
43/1966
S. 2
29/1971
2nd Sch.
12/1985
Sch.
21/1991
S. 21 (a).

12.— (1) If any dispute arises as to whether any or what excise duty is payable on any goods, the person liable to pay such duty, or his agent, shall deposit in the hands of the Commissioner of Inland Revenue the duty demanded by him, and may, within three months after such deposit, apply to the Commissioner of General Consumption Tax and Excise by notice of objection in writing to review and revise the assessment of duty on the goods, and such application shall state precisely the grounds of objection.

(2) On the receipt of the notice of objection referred to in subsection (1), the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the assessment and to produce all books or other documents in his custody or under his control relating to such assessment, and may, by notice, summon any person who he thinks is able to give evidence respecting the assessment to attend before him, and may examine such person on oath or otherwise.

29/1971
2nd Sch.
12/1985
Sch.

(3) Any person who without lawful excuse refuses or neglects to attend or to give evidence in pursuance of notice served on him under subsection (2) or to produce any books or documents which he is required to produce under the said subsection, or who refuses to answer any lawful question touching the matters under consideration, or who knowingly or wilfully gives any false evidence before the Commissioner shall be guilty of an offence against this Act.

29/1971
2nd Sch

12/1985
Sch.

(4) Where a person who has objected to an assessment of duty subsequently agrees with the Commissioner as to the amount at which the assessment should be made the assessment shall be amended accordingly but, in any other event, the Commissioner shall give notice in writing to the person of his decision in respect of the objection.

29/1971
2nd Sch.
12/1985
Sch.

(5) On receipt of the advice of the Commissioner of Inland Revenue that payment of the deposit has been made, as required by this section, the Commissioner shall, where such goods have not already been delivered in consequence of security given pursuant to subsection (2) of section 19, cause delivery thereof.

12/1985
Sch.

(6) All such deposits shall be paid by the Commissioner of Inland Revenue to the Accountant-General, and, in case no such proceedings are brought within the time limited for that purpose, such deposit shall be retained and

12/1985
Sch.

paid into the Consolidated Fund in the same manner as if it had been originally paid and received as the duty due on such goods; and in case of such proceedings, if it is determined that the duty so deposited was not the proper duty, but that a less duty was payable, the difference between the deposit and the duty found to be due, or the whole deposit, as the case may require, shall be returned to the person who made the deposit or his agent and in like manner where in case of such proceedings it is determined that the duty so deposited was less than the proper duty, the difference between the deposit and the duty found to be due shall be recovered and paid into the Consolidated Fund.

Value.
43/1966
S. 2,
12/1985
Sch.

13.—(1) Where excise duty is chargeable on any goods by reference to their value that value shall be the price which, in the opinion of the Commissioner, the goods would fetch on a sale made at the time when excise duty in respect of the goods becomes due by a person selling on the open market in Jamaica, and for the purpose of computing that price the following circumstances shall be assumed.

(2) It shall be assumed—

- (a) that any commission or other costs, charges or expenses incidental to the making of the contract of sale are to be paid by the seller;
- (b) that the price is the sole consideration for the sale;
- (c) that neither the seller nor any person associated in business with him has any interest direct or indirect, in the subsequent resale or disposal of the goods; and
- (d) that there has not been and will not be any commercial relationship between the seller and the buyer whether created by contract or otherwise, other than that created by the sale.

(3) Where the goods to be valued are goods made in accordance with a patented invention or are goods to which a registered design has been applied, it shall also be assumed for the purpose of computing the price aforesaid that the buyer under the sale mentioned in subsection (1) is not the patentee or the proprietor of the design and has not paid any sum or given any consideration by way of royalty or otherwise in respect of the patent or design and, on payment of the price, will be entitled to deal with the goods free from any restriction as regards the patent or design.

(4) Where the seller of goods to be valued—

- (a) is, or is associated in business with, the proprietor or a registered user of a trade mark registered in respect of the goods; or
- (b) could have sold them under such trade mark without infringing the right to the use of the trade mark given by the registration thereof,

it shall also be assumed for the purpose of computing the price aforesaid that the sale mentioned in subsection (1) is a sale under the said trade mark, unless it is shown to the satisfaction of the Commissioner that the goods to be valued have not at any time been, and security is given, to the satisfaction of the Commissioner, that they will not be, so sold by or on behalf of the seller or any person associated in business with him.

12/1985
Sch.

(5) Where a particular form of get-up is used in Jamaica by any person in relation to the goods of the class to which the goods to be valued belong, and the goods to be valued are the goods of that person, it shall also be assumed for the purpose of computing the price aforesaid that the sale mentioned in subsection (1) is a sale of the goods got up in that form unless it is shown to the satisfaction of the Commissioner that the goods to be valued have not at any time been, and security is given, to

12/1985
Sch.

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12/1985
Sch.

the satisfaction of the Commissioner, that they will not be, so sold by or on behalf of the seller or any person associated in business with him.

(6) For the purposes of this section—

- (a) any reference to “get-up” includes a reference to marking, labelling, packing or any other treatment adopted for identifying goods or presenting goods to the user or consumer;
- (b) two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has an interest in the business or property of the other, or both have a common interest in any business or property, or, some third person has an interest in the business or property of both of them.

Appeals
to
Revenue
Court
29/1971
2nd Sch.
12/1985
Sch.

14.—(1) Any person (hereafter in this Act referred to as the “objector”) who has disputed an assessment by notice of objection under section 12 and who is dissatisfied with the decision of the Commissioner therein may appeal to the Revenue Court within thirty days of the date of receiving the Commissioner’s decision referred to in subsection (4) of section 12 or within such longer time as may be permitted by or pursuant to rules of court.

(2) The onus of proving that the assessment complained of is excessive shall be on the objector.

Minister
may remit
duties.

15. The Minister may, upon application made by the person liable for payment of any duty or fees under this Act, waive, remit, or refund, in whole or in part, any duty or fee if, in the circumstances of the case, he deems it expedient to do so, and any such waiver, remission or refund may be subject to such special conditions as the Minister may see fit to impose.

43/1966
S. 3.

16.—(1) If any goods liable to excise duty are lost or destroyed by unavoidable accident before delivery from a factory or warehouse, or in removing them from a factory or warehouse, or in shipping them for exportation or for use as stores, or in the course of delivery from or receiving **into any factory or warehouse, the Commissioner may remit the duties if satisfied that such goods have not been and will not be used or consumed in the Island.**

Duty on goods lost may be remitted.

12/1985 Sch.

(2) If any manufacturer or owner desires to destroy any goods liable to excise duty before they have been delivered from his factory or from a warehouse, the goods may be destroyed subject to any directions which may be **given by the Commissioner, and upon their destruction in accordance with such directions the duty thereon shall be remitted.**

12/1985 Sch.

(3) **The Commissioner may remit the duty on any deficiency of spirits shown to his satisfaction to have been reasonably caused by leakage, evaporation or absorption.**

12/1985 Sch.

(4) Where any excisable goods which have been removed from a factory or warehouse have become spoilt or unfit for use or do not meet the specification of the trade, **the Commissioner may, in his discretion, permit the goods to be returned to the factory or warehouse and to be destroyed or otherwise disposed of to his satisfaction, and thereupon the Commissioner shall hold on credit, or, if he thinks necessary, refund any excise duty paid in respect of such goods.**

17/1971 S. 4

12/1985 Sch.

17. The Minister may from time to time make regulations as to the drawback of excise duty which may be granted, and the conditions under which such drawback shall be allowed.

Minister may direct granting of drawbacks.

18.—(1) No excise duty shall be payable on any goods manufactured in the Island and shipped as stores or exported by the manufacturer thereof.

No duty payable on goods exported, shipped as stores, etc.

(2) No goods shall be deemed to have been shipped as stores or exported unless they have been shipped as stores or exported in accordance with the provisions of the customs laws governing goods exported on drawback, and within seven days, or such further period as the **Commissioner may by notice in writing allow, of the date of delivery thereof from a factory or warehouse.**

12/1985
Sch.

(3) No excise duty shall be paid on any excisable goods which are manufactured and delivered in the Island for the use of Her Majesty's Naval, Military or Air Forces, but in respect of each such delivery a certificate signed by the officer for the time being in command of such **Forces in the Island shall be produced to the Commissioner to the effect that such excisable goods are for the use of Her Majesty's Naval, Military or Air Forces.**

12/1985
Sch.

When duty
payable,
12/1985
Sch.

19.—(1) The excise duty on any goods shall become due and payable to the Commissioner of Inland Revenue by the manufacturer of such goods before they are delivered for Island consumption from the factory of the manufacturer or from a warehouse, if they are goods permitted or required by the Commissioner to be warehoused without payment of duties thereon, or before any such goods are used by the manufacturer in his factory or in a warehouse for any purpose, or otherwise as specially provided by law :

12/1985
Sch.

Provided that nothing in this subsection shall apply to goods delivered for shipment as stores or for export and duly shipped, or to goods permitted to be used free of duty and duly so used in accordance with the provisions of this Act, or to goods in respect of which the Commissioner may remit the duty under the provisions of section 16.

12/1985
Sch.

(2) The Commissioner of Inland Revenue may, upon the manufacturer giving such security by bond or otherwise as he may require, defer the payment of duty upon such terms as he may allow, and in such case all duties which

become due within any month, or any other period that may be prescribed, shall be paid to the Commissioner of Inland Revenue within ten days of the last day of such month or other prescribed period:

12/1985
Sch

Provided, however, that the Minister may by order extend the time within which duties shall be paid to the Commissioner of Inland Revenue.

20. All goods made or deposited in any factory or warehouse without payment of duty shall, upon being delivered therefrom for consumption in the Island or upon being used in a factory or warehouse, be subject to the rate of duty in force at the time when the goods were so delivered or used, save in any case where special provision is otherwise made by any law.

Duty to be
paid at rate
in force on
delivery.

21. The Commissioner of Inland Revenue shall refund any money which has been overpaid as duties of excise at any time within two years after such overpayments have been made on the proper document for such overpayment being certified by the proper officer.

Refund of
duties paid
in error
12/1985
Sch.

22.—(1) Every sum of money which is due upon any debenture, certificate, or other instrument, for the payment of money out of the duties of excise shall be paid by the Commissioner on the proper debenture being certified by the proper officer.

Certificate
of debenture

12/1985
Sch.

(2) In every such case the owner of any goods entitled to drawback shall make and subscribe a declaration on the debenture that the conditions under which drawback is allowed have been fulfilled and that such owner at the time of the delivery or using of the goods was and continues to be entitled to the drawback thereon and, in the case of goods exported, that such goods have been actually exported and have not been re-landed and are not intended to be re-landed in the Island.

12/1985
Sch.

(3) **The Commissioner may require the owner** of any such goods to produce satisfactory evidence of the landing or disposal of any such goods exported before certifying any such debenture.

(4) No debenture for any drawback shall be paid after the expiration of one year, in the case of goods exported, from the date of shipment or in the case of goods entitled to drawback for any particular use, from the date of acquisition.

Contract prices of goods may be adjusted to meet change in excise duty.

23.—(1) Where any new excise duty is imposed or where any excise duty is increased and any goods in respect of which the duty is payable are delivered on or after the date on which the new or increased duty takes effect in accordance with a contract made before that date, the seller of the goods may, in the absence of agreement to the contrary, recover as an addition to the contract price a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any excise duty is repealed or decreased and any goods affected by such duty are delivered on or after the date on which the duty ceases or the decrease in the duty takes effect in accordance with a contract made before that date, the purchaser of the goods, in the absence of agreement to the contrary, may (if the seller of the goods has had in respect of those goods the benefit of the repeal or decrease of the duty) deduct from the contract price a sum equal to the amount of the repealed duty or decrease of duty, as the case may be.

(3) Where any addition to or deduction from the contract price may be made under this section on account of any new, increased, repealed or reduced duty, such sum as may be agreed upon or as may in default of agreement **be determined by the Commissioner as representing in the case of a new or increased duty any new expenses**

12/1985
Sch.

incurred and in the case of a repealed or reduced duty any expenses saved, may be included in the addition to or deduction from the contract price, and may be recovered or deducted accordingly.

PART III. *Manufacture of Excisable Goods*

24.—(1) Every person who desires to manufacture any excisable goods shall apply to the Commissioner for a licence so to do.

Licence to manufacture excisable goods. 12/1985 Sch.

(2) Every application pursuant to subsection (1) shall be in such form and accompanied by such information or documents as the Commissioner may from time to time specify, and every application shall be accompanied by a receipt issued by the Commissioner of Inland Revenue on payment to him of the appropriate fee specified in the Second Schedule.

12/1985 Sch. Second Schedule.

(3) No person shall manufacture any excisable goods except pursuant to a licence granted under this section.

(4) The House of Representatives may from time to time by resolution alter, add to, or amend the Second Schedule.

25.—(1) The Commissioner shall consider any application for a licence pursuant to section 24 and, subject to the provisions of subsection (2), shall either grant or refuse such licence in his absolute discretion.

Application for licence to manufacture excisable goods.

(2) Every licence granted by the Commissioner pursuant to subsection (1), shall contain such terms as he thinks fit.

12/1985 Sch.

(3) Every licence granted by the Commissioner shall be an annual licence and shall expire on the 31st day of March next following the date of issue, and shall have effect only in respect of the premises in respect of which it is issued.

12/1985 Sch.

Transfer of
licence.
12/1985
Sch.

26. Any licence issued under section 25 may be transferred by endorsement by the Commissioner from place to place or from person to person :

Provided that nothing in this section shall be construed as imposing any obligation on the Commissioner to assent to any such transfer.

Prohibition
on manu-
facture of
goods.
17/1971
S. 5(a).
12/1985
Sch.

27.—(1) No goods, other than those in respect of which a licence is granted under this Part, shall be manufactured in any factory licensed under this Part, save where the Commissioner expressly permits by endorsement on such licence.

17/1971
S. 5 (b).

(2) Except as the Commissioner may otherwise permit, where excisable goods are removed from a factory or warehouse in a container, such container shall be labelled in such a manner as may be prescribed.

17/1971
S. 5 (b).

(3) Any manufacturer or warehouse keeper who contravenes the provisions of this section shall incur a penalty of two thousand dollars and any excisable goods manufactured or removed contrary to this section shall be forfeited.

12/1985
Sch.

Penalty for
illicit manu-
facture.

12/1985
Sch.

28. Any person manufacturing excisable goods contrary to the provisions of this Act shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding five thousand dollars and all machinery, utensils, apparatus, materials and all goods whatsoever found on the premises shall be forfeited.

Excisable
goods to be
deposited in
a warehouse.
12/1985
Sch.

29.—(1) Subject to any exemptions made by the Commissioner, all excisable goods except spirits shall be deposited daily in an excise, private excise, or export warehouse, and an account shall be taken thereof each day.

(2) All spirits shall, immediately upon distillation, be deposited in a registered store and an account taken thereof.

(3) Every licensee contravening or failing to comply with the provisions of this section, shall incur a penalty of two thousand dollars, and any excisable goods not deposited or accounted for, as required by subsections (1) and (2), shall be forfeited.

12/1985
Sch.

30. On application being made to him, the Commissioner may permit excisable goods to be removed from a registered store or warehouse for re-manufacture under such conditions as he may in any case prescribe.

Removal
for re-manu-
facture.
12/1985
Sch.

PART IV. *Spirits*

31.—(1) Every person who is in possession of or uses any still, except in accordance with the terms of a licence issued under the provisions of this section, shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding five thousand dollars, and such still, together with all apparatus or utensils appurtenant thereto, and any spirits, or materials capable of being used in connection with the manufacture of spirits, found on the premises whereon such still is situated, shall be forfeited.

Possession
of still.

12/1985
Sch.

(2) Every person who desires a licence to possess or to continue to possess a still, shall apply in writing to the Commissioner, setting forth full particulars of the still, of the premises whereon it is intended to be maintained, or is erected, of the purposes for which it is intended to be or is used, and any other matters which the Collector-General may in any particular case require.

12/1985
Sch.

(3) Every application under subsection (2), shall be considered by the Commissioner, who shall either grant or refuse such application, or grant such application subject to such conditions as he may think fit.

12/1985
Sch.

(4) Where the Commissioner grants any application under subsection (3), he shall on receipt of the sum of one hundred dollars, cause a licence to possess a still to be issued to the applicant.

12/1985
Sch.

(5) Every licence issued under the provisions of subsection (4) shall contain such terms and conditions as the Commissioner may think fit and shall expire on the 31st day of March next after the date upon which it has been issued.

12/1985
Sch.

Restrictions
on storage
material
in distillery.

17/1971
S. 6.

12/1985
Sch.

32.—(1) No container, utensil, cupboard or other means of storage required to be used in a distillery shall be—

- (a) introduced into a distillery except with the permission in writing of the proper officer or unless it has been approved by the Commissioner;
- (b) used in a distillery unless it has been approved by the Commissioner;
- (c) taken from a distillery without the prior approval of the proper officer in writing.

(2) Every cupboard or other means of storage approved for use in a distillery shall be so constructed and maintained as to allow full view of all its contents and easy access to it by any officer.

(3) Where any container, utensil, cupboard or means of storage is introduced into, used in or removed from, a distillery otherwise than in accordance with the provisions of this section, the licensee shall incur a penalty of one thousand dollars, and such container, utensil, cupboard or other means of storage shall be forfeited.

12/1985
Sch.

Receptacles
in registered
store to be
approved.

17/1971
S. 7.

12/1985
Sch.

33.—(1) All spirits kept at any registered store shall, except with the approval of the Commissioner, be kept in butts provided by the licensee and approved by the Commissioner.

(2) Every butt for the keeping of spirits shall have its capacity clearly marked thereon and shall be provided with such means of ascertaining the quantity of spirit therein as the Commissioner may from time to time require.

(3) Where any spirits are kept at any registered store, except in accordance with the provisions of this section, the licensee shall incur a penalty of one thousand dollars and such spirits shall be forfeited.

12/1985
Sch.

34.—(1) Except as may be otherwise permitted by the Commissioner, nothing shall be added to any spirits in a distillery save colouring matter or water.

What may be added to spirits in a distillery.

(2) No rum shall be coloured with any colouring matter save cane sugar caramel.

17/1971
S. 8.
12/1985
Sch.

35.—(1) Every licensee or owner who may require to reduce the strength of spirits in a registered store or warehouse by addition of water, shall first apply to the proper officer giving particulars of the spirit which it is required to break down.

Breaking down spirits.

(2) Every person who, except with the consent of the proper officer and, unless the Commissioner otherwise directs, in the presence of such officer, adds or causes to be added any water to any spirits in a distillery or warehouse, shall incur a penalty of two thousand dollars, and all spirits to which any water is added except as aforesaid shall be forfeited.

12/1985
Sch.

12/1985
Sch.

(3) Where any water has been added to any spirits contrary to the provisions of subsection (2) the licensee of the distillery or the occupier of the warehouse, as the case may be, shall be deemed to have caused such water to have been added, until he proves the contrary.

36.—(1) Where any licensee desires to transfer spirits from the butts in a registered store into puncheons, casks, hogshead or other containers for removal, he shall apply to the proper officer, stating the quantity of spirits to be removed and the number of containers it is desired to fill, and the time and date proposed for such operations.

Transfer from butts to containers for removal.

(2) The proper officer, on receipt of the application, shall grant permission for the filling of such containers, but may require the filling to be done in the presence of an excise officer.

(3) Notwithstanding anything to the contrary contained in section 40 every puncheon, cask, hogshead or other container so filled shall be removed from the registered store within one month from the date of filling, unless the Commissioner otherwise permits.

12/1985
Sch.

Containers
to be marked
with regis-
tered mark.

12/1985
Sch.

37.—(1) Every licensed manufacturer of spirits shall notify the Commissioner of the mark or marks which he desires to use as the mark of his distillery, and if the Commissioner sees no objection thereto he shall approve such mark or marks and shall register them as the registration mark of the distillery.

17/1971
S. 9.

(2) No container shall be filled in a registered store or introduced into a registered store to be filled unless such container is marked with the registered mark of the distillery, and has a reference number legibly cut, branded or printed indelibly thereon.

17/1971
S. 9.

(3) Every container to be filled in a registered store shall be filled in its proper numerical sequence.

Obliteration
or removal
of mark
restricted.

38. The marks on any puncheon, cask, hogshead, or other container of spirits shall not be obliterated or removed except by permission, and in the presence, of the proper officer.

Removal to
warehouse.

39.—(1) Except as provided in sections 30 and 42 no spirits deposited in a registered store shall be removed except to an excise, private excise, or export warehouse.

(2) The proper officer shall take an account of all spirits received in any such warehouse, and shall issue an acknowledgment for the receipt thereof to the distillery or warehouse from which such spirits were received.

(3) The quantity of spirits so acknowledged shall be recorded in the books of the distillery or warehouse dispatching such spirits, and any discrepancy between the quantity recorded as dispatched and the quantity received shall forthwith be accounted for, and if such discrepancy be a deficiency the excise duty leviable by law shall be paid forthwith by the manufacturer of such spirits.

33/1954
S. 2.

40.—(1) Every person who, except with the consent of the Commissioner, stores spirits at any registered store for a period in excess of four months, shall incur a penalty of one thousand dollars.

Time limit
for storage
of spirits in
registered
store.
12/1985
Sch.

(2) The Commissioner may cause any spirits stored in a registered store in contravention of subsection (1) to be removed to an excise warehouse.

(3) Where the Commissioner causes any spirits to be removed to an excise warehouse under the provisions of subsection (2), any penalty incurred under subsection (1), together with the cost of the removal of such spirits pursuant to subsection (2), shall be a charge upon such spirits.

12/1985
Sch.

41. The Commissioner may give directions specifying the procedure in respect of the disposal of spirits commonly known as high wines, low wines, lees and feints used in the manufacture of rum in a distillery.

Commis-
sioner may
direct
disposal of
high wines,
etc.

42. Notwithstanding anything contained in this Act, the Commissioner may permit, under such conditions as he may deem fit, the removal of spirits from a distillery for the sole use of the licensee, on the payment of the excise duty thereon.

Spirits for
licensee's
own use.
12/1985
Sch.

43.—(1) The Commissioner may, subject to any regulations made under this Act by the Minister, permit spirits to be denatured, in such manner and under such conditions as he sees fit.

Denaturing
of spirits.
17/1971
S. 10 (a).
12/1985
Sch.

17/1971
S. 10(b).

(2) Any spirits so denatured shall not be liable to the excise duty on spirits leviable under this Act, unless the House of Representatives expressly imposes such or any other duty on denatured spirits or any particular class of denatured spirits.

(3) If any person—

- (a) prepares or attempts to prepare any denatured spirits for use as or for a beverage or as a mixture with a beverage; or
- (b) sells any denatured spirits whether so prepared or not as or for a beverage, or mixed with a beverage; or
- (c) uses any denatured spirits or any derivative thereof in the preparation of any article capable of being used wholly or partially as a beverage, or internally as a medicine; or
- (d) sells or has in his possession any such article in the preparation of which denatured spirits or any derivative thereof has been used; or
- (e) without the consent in writing of the Commissioner, purifies or attempts to purify any denatured spirits or, after any denatured spirits has once been used, recovers or attempts to recover the spirits by distillation or condensation or in any other manner,

12/1985
Sch.

he shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding one thousand dollars, and the denatured spirits, spirits, or spirituous compound with respect to which the offence is committed shall be forfeited.

12/1985
Sch.

PART V. *Spiruous Compounds*

44. Every person who manufactures any spirituous compound for sale except—

Penalty for illegal manufacture of spirituous compounds

- (a) on premises licensed under the Spirit Licence Act for consumption thereon on the day of manufacture;
- (b) in a warehouse in accordance with the provisions of this Act; or
- (c) under a licence issued under section 45,

shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding two thousand dollars, and shall forfeit all apparatus, utensils or materials used or intended to be, or capable of being used, in the manufacture of such spirituous compounds.

12/1985 Sch.

45.—(1) Every person who desires to manufacture spirituous compounds, shall apply in writing to the Commissioner specifying the spirituous compounds which he desires to manufacture, and the premises whereon he desires to manufacture such spirituous compounds.

Commissioner may grant, refuse or transfer licence.

(2) The Commissioner shall consider any application for a licence made under subsection (1) and shall grant or refuse such application, or grant such application subject to such terms as he thinks fit.

12/1985 Sch.

(3) The Commissioner shall, on receiving an application under subsection (2), accompanied by a receipt issued by the Commissioner of Inland Revenue on payment to him of the fee set out in the Second Schedule, cause a licence to be issued to the applicant.

12/1985 Sch.

Second Schedule.

(4) Every licence issued under subsection (3) shall contain such terms and conditions as the Commissioner may think fit, and shall expire on the 31st day of March next after the date upon which it has been issued.

12/1985 Sch.

(5) Any licence issued under this section may be transferred by endorsement by the Commissioner from place to place or from person to person:

12/1985 Sch.

12/1985
Sch. Provided that nothing in this subsection shall be construed as imposing any obligation on the Commissioner to assent to any such transfer.

Accounts to
be kept by
licensee.
17/1971
S. 11. **46.** Every licensee shall keep, or cause to be kept in the factory, such accounts and in such manner as may be prescribed from time to time.

Labelling
of spirituous
compounds.
17/1971
S. 12.
12/1985
Sch. **47.—(1)** Except as otherwise permitted by the Commissioner, no spirituous compounds shall be removed from a factory or warehouse in any container unless every such container is labelled in such a manner as to identify the manufacturer and place of manufacture, and upon every such label—

- 21/1991
S. 21 (a). (a) there shall clearly be indicated the percentage volume of the compound in the container;
- (b) there shall be printed the words “manufactured in Jamaica under the Excise Duty Act”;
- (c) where denatured spirits are used in the manufacture of the spirituous compound, that fact shall be clearly indicated.

12/1985
Sch. (2) Any spirituous compound removed contrary to the provisions of this section, shall be forfeited, and the manufacturer shall incur a penalty of one thousand dollars.

PART VI. *Warehouses*

Appoint-
ment of
private
warehouse.
12/1985
Sch. **48.** The Commissioner may by notice appoint any building to be a private excise warehouse or export warehouse for the storage of excisable goods in this Island without the payment of duty thereon. Every such appointment shall be subject to such conditions as the Commissioner may prescribe.

Revocation
of appoint-
ment of
warehouse.
49.—(1) The Commissioner may revoke the appointment of any private excise or export warehouse on giving to the warehouse keeper notice in writing of such revocation, and any such notice addressed to the warehouse keeper at

such warehouse shall be deemed to be notice to all persons interested in any excisable goods therein or in any other contents of such warehouse.

(2) If within three months from the date of any such notice any excisable goods in such warehouse have not been removed to another warehouse, or returned to the factory of the manufacturer thereof, or shipped as stores or exported or delivered for use within the Island, the warehouse keeper shall forthwith pay to the Commissioner the duties thereon.

12/1985
Sch.

50. All excisable goods warehoused in a private excise warehouse or export warehouse shall be arranged and stored in such a manner that access can easily be had to each container of such goods. If upon request by the proper officer, the occupier of any warehouse fails to cause any container therein to be so arranged, he shall incur a penalty of ten dollars per day in respect of each container to which easy access is not possible.

Storage and
access in
warehouse.

12/1985
Sch.

51. Every owner of warehoused excisable goods shall at all times maintain all vats, puncheons, casks, hogsheads, or other containers in good condition, and if he fails so to do, the Commissioner may direct that any vat, puncheon, cask, hogshead, or other container in bad condition be repaired, and the owner shall be liable to pay all expenses so incurred.

Owner to
maintain
containers
in good
condition.
12/1985
Sch.

52. The entire cost of the control and management of each private excise warehouse and export warehouse shall be borne by the occupier.

Cost of
manage-
ment of
warehouse
to be borne
by occupier.

53.—(1) No goods other than excisable goods for exportation awaiting shipment shall be stored in an export warehouse, and all excisable goods so warehoused shall, except with the consent of the Commissioner, be exported

Storage in
private
export ware-
houses.

12/1985
Sch.

within a period of three months from the date of warehousing or else shall be removed by the owner of the goods to an excise warehouse.

(2) If any excisable goods are not removed in accordance with subsection (1), the proper officer may remove them to an excise warehouse at the expense of the owner, who shall, in the case of spirits, incur a penalty of sixty cents in respect of each puncheon, cask, hogshead or other container so removed by the proper officer, and the expenses and penalty, if not paid, shall be a first charge on the goods when warehoused.

(3) For the purposes of this section no excisable goods shall be accepted as excisable goods for exportation awaiting shipment unless the owner satisfies the proper officer as to the consignee and destination and as to the owner's intention to export the goods within three months.

Transfer of
excisable
goods in
warehouse
17/1971
S. 13

54. Upon the sale or transfer of excisable goods which have been warehoused, the person in whose name such excisable goods have been warehoused and the person to whom they have been transferred or sold shall notify the proper officer in writing and the proper officer shall record the excisable goods in the name of the new owner.

Vatting,
blending,
etc.
12/1985
Sch.

55. The Commissioner may give directions as to the spirits which may be vatted, blended, racked, refilled, bottled or repacked in any warehouse and the manner of so doing, and further may direct in what manner and subject to what conditions the owner may take samples.

Re-ware-
housing of
spirits.

12/1985
Sch.

56.—(1) An account shall be taken annually of all spirits warehoused in vats and on the taking of such account such spirits shall be re-warehoused in the manner prescribed by the Commissioner.

(2) An account shall be taken in every fifth year of all spirits warehoused otherwise than in vats, and, on such account being taken, such spirits shall be re-warehoused or removed from the warehouse as the Commissioner may in any particular case direct.

12/1985
Sch.

(3) Where under the provisions of subsection (2), the Commissioner directs the removal of any spirits, the owner shall forthwith pay to the proper officer all duty, warehouse fees or other charges upon such spirits.

12/1985
Sch.

57. Any person who opens a warehouse in which spirits are stored except in the presence of the proper officer, or who in any way clandestinely opens any warehouse in which excisable goods are stored and gains access thereto shall for every such offence incur a penalty of five thousand dollars.

Clandestinely opening or gaining access to warehouse.
12/1985
Sch.

58. In any case where excisable goods in an excise warehouse are embezzled by the wilful misconduct of any officer, and the officer is prosecuted and convicted, the value of such excisable goods shall be made good to the owner in accordance with the directions of the Minister.

As to warehoused excisable goods embezzled by officer.

59. The Commissioner may remove any excisable goods warehoused in an excise warehouse from one excise warehouse to another.

Commissioner may remove goods.
12/1985
Sch.

60.—(1) Subject to any exemptions granted by the Commissioner, the owner of any excisable goods stored in any excise warehouse or private excise warehouse shall, before such goods are removed therefrom, make application by himself or by his agent to the proper officer for permission to remove such goods.

Removal of warehoused excisable goods.
12/1985
Sch.

(2) Every application under subsection (1) shall be in such form and accompanied by such particulars as the Commissioner may require.

12/1985
Sch.

(3) The proper officer shall on receipt of such application, and on payment of the excise duties leviable by law and any fees and charges due, issue a permit for removal, and such permit shall accompany the goods to their destination and be retained by the owner, and for the purposes of this section such permit shall be deemed to be the consignment note referred to in section 96.

(4) All excisable goods in respect of which a permit for removal has been issued, shall be removed within fourteen days after the issue of such permit, and if not so removed shall be forfeited and disposed of in such manner as the Minister may direct, unless the failure to remove such excisable goods is explained to the satisfaction of the Commissioner.

12/1985
Sch.

Removal
from one
warehouse
to another.
12/1985
Sch.

61. The Commissioner may permit the removal of excisable goods in bond from one warehouse to another under such conditions and on such security as he may deem fit.

Time limit
for removal
of duty paid
excisable
goods.
12/1985
Sch.

62. All excisable goods in a warehouse which have been sold by the direction of the Commissioner under the provisions of this Act shall be removed within fourteen days and if not so removed shall be forfeited.

Removal of
excisable
goods on
warehouse
becoming
insecure.

63. If any private excise warehouse, export warehouse or registered store in the opinion of the Commissioner becomes insecure, he may direct that the excisable goods stored therein be removed to the nearest excise warehouse at the expense of the owner, unless such owner makes other arrangements to the satisfaction of the Commissioner.

12/1985
Sch.

PART VII. *Powers of Officers*

Officer
may enter
factory.

64.—(1) It shall be lawful for an officer at any time, by night or by day, to enter into any part of any factory or warehouse and to gauge, measure and take an account of

every still or other vessel or utensil of any kind and of any excisable goods or materials therefor in such factory or warehouse and further to take such samples of such goods or materials as he may require.

(2) If any officer after having demanded admittance into any such factory or warehouse is not immediately admitted, the manufacturer or warehouse keeper, as the case may be, shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding five thousand dollars, and in any such case it shall be lawful for the officer or any person acting in his aid or assistance at any time, by night or by day, to break open by force such of the doors or windows, or break through such of the walls, of any part of such factory or warehouse as may in his opinion, be necessary for the purpose of entering such factory or warehouse.

12/1985
Sch.

65.—(1) Any officer may at any time enter into or upon premises in which excisable goods are sold or offered for sale, received for use in manufacture, or stored for commercial or manufacturing purposes and may take account of any excisable goods which may be found in the custody or possession of any person found on such premises and may take samples of such excisable goods paying for them the usual price thereof if demanded.

Officer may enter premises, examine and take account of excisable goods.
17/1971
S. 14 (a)

(2) If any person who sells, offers for sale, receives for use in manufacture, or stores for commercial or manufacturing purposes any excisable goods on any premises fails to aid and assist to the utmost of his power such officer in measuring and taking an account of all excisable goods in or upon such premises, he shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding one thousand dollars.

17/1971
S. 14 (b)

17/1971
S. 14 (c).
12/1985
Sch.

Officer may
patrol
freely.

66.—(1) Any officer when on duty may patrol upon and pass freely along and over any part of the Island, and no such officer so patrolling shall be liable to any indictment, action or suit for so doing.

(2) The officer in charge of any ship employed for the protection of the excise revenue may haul any such ship upon any part of the coasts of the Island or upon any part of the shores, banks or beaches of any river, creek or inlet, and may moor any such ship on any such part of such coasts, shores, banks or beaches above or below high-water mark, and keep such ship so moored for such time as he may deem necessary and proper, and no such officer shall be liable to any indictment, action or suit for so doing.

Search
warrant.

67. If any officer has reasonable cause to suspect the existence in any house or place of—

- (a) an unlicensed still; or
- (b) any excisable goods upon which excise duty leviable by law has not been paid, or accounted for; or
- (c) any excisable goods or spirituous compounds manufactured contrary to the provisions of this Act,

and it is made so to appear by information on oath before any Resident Magistrate or Justice in the Island it shall be lawful for such Resident Magistrate or Justice by special warrant under his hand to authorize such officer to enter and search such house or other place, by day or by night, and to seize and carry away any excisable goods, apparatus, utensils, materials, or documents found therein, and it shall be lawful for such officer, in case of resistance, to break open any door, and to force or remove any other impediment or obstruction to such entry, search or seizure.

68.—(1) If any officer has reasonable cause to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by any person for or in connection with the illegal manufacture of excisable goods, and it is made so to appear by information on oath before any Resident Magistrate or Justice in the Island, it shall be lawful for such Resident Magistrate or Justice by special warrant under his hand to authorize such officer to break open any part of the premises of such person and forcibly enter thereon at any time by night or day and so far as is reasonably necessary break up the ground in those premises or any wall thereof or any other part thereof to search for such pipe or other means of conveyance, cock, vessel or utensil.

Search
warrant
for pipes,
etc.
17/1971
S. 15.

(2) If the officer finds any pipe or other form of conveyance leading to or from any such house or place, he may enter any other premises from or into which it leads and so far as is reasonably necessary, break any part of those other premises to trace the course of such pipe or means of conveyance and may cut it away and turn any cock or other similar device thereon and examine whether it conveys or conceals any goods chargeable with excise duty, or any materials used in the manufacture of such goods, or any residue thereof, in such a manner as to prevent a true account thereof being taken or whether such goods are being manufactured contrary to the provisions of this Act.

(3) An officer acting in pursuance of subsection (1) or subsection (2) may seize and carry away any pipe or other means of conveyance, and any cock, vessel or utensil which in his opinion is intended to be used in connection with the illegal manufacture of excisable goods, and also any excisable goods appearing to him to have been illegally manufactured and any documents related thereto.

(4) Every such pipe or other means of conveyance, cock, vessel or utensil as aforesaid, and all goods chargeable with a duty of excise or materials for the manufacture of such goods found therein, shall be liable to forfeiture, and the person by whom the goods aforesaid were kept or used shall be liable to a penalty of two thousand dollars.

12/1985
Sch.

Officer may
stop ship or
carriage.

69.—(1) Any officer or constable, may upon reasonable suspicion, stop and examine any ship or carriage for the purpose of ascertaining whether any goods on which excise duties have not been paid or secured by certificate, or otherwise, as required by law, are contained therein, and, if none are found, the officer or constable shall not on account of such stoppage and examination be liable to any prosecution or action at law on account thereof.

(2) Where any ship or carriage is so stopped, the master of the ship and any person driving or conducting the carriage who refuses to stop or to allow such examination when required by any officer or constable shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding four thousand dollars.

12/1985
Sch.

(3) If such officer or constable finds any such goods, or any goods which he reasonably supposes ought to be accompanied by a certificate, and the master or person in charge of such ship or carriage fails to produce them on demand, the officer or constable may seize such ship or carriage and its contents and may arrest and detain any person found in or upon or accompanying such ship or carriage at the time of such stoppage and convey him before a Resident Magistrate, and if such person fails to satisfy the Resident Magistrate that such goods were lawfully in his custody or possession for removal, he shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding two thousand dollars, or treble the value of such goods, whichever is the greater, and such goods shall be forfeited.

12/1985
Sch.

70.—(1) Any officer or constable may stop and detain any person who is reasonably suspected of carrying or removing any excisable goods on which, contrary to the provisions of this Act, excise duty has not been paid or accounted for, and the officer may examine the excisable goods and require the production of a permit or certificate authorizing the removal thereof.

Power to arrest on suspicion of illegal removal of excisable goods

(2) Any officer or constable may search, or cause to be searched, any person detained under subsection (1):

Provided that no female shall be searched except by a female.

71. If any person liable to arrest under this Act escapes from any officer attempting to arrest him or if any officer is for any reason unable, or fails to arrest him, such person may afterwards be arrested and detained by any officer at any place in the Island within seven years from the time such offence was committed and may be dealt with as if he had been arrested at the time of committing such offence.

Power of arrest

72. Every officer acting in the execution of his duty shall have all the powers, privileges and immunities of a constable.

Officers to have power of constable

PART VIII. *General*

73. The Commissioner may by notice in writing addressed to a manufacturer and delivered at his licensed premises, revoke any licence or other permission to manufacture, given under this Act to such manufacturer, and thereupon any such licence or permission shall be void and of no effect, and if such manufacturer shall continue to manufacture any excisable goods specified in the licence, he and every person aiding and assisting him shall be guilty of the offence of manufacturing without a licence.

Revocation of licence 12/1985 Sch.

Licences
and receipts
rendered
void if
cheque pay-
ment dis-
honoured
17/1971
S 16

74. Where any excise duties or licence fees are paid by a cheque and such cheque is subsequently dishonoured, any receipt or licence issued in respect of any such dishonoured cheque shall be void *ab initio*.

Attendance
of officers

75. The Commissioner may prescribe the hours during which officers may be required to attend at factories and warehouses, and officers shall not attend outside the hours so prescribed save with the special permission of the Commissioner and subject to the payment of such additional fees as may be prescribed from time to time.

12/1985
Sch

Supervision
of distillery
or factory by
officers
17/1971
S 17(a)

76.—(1) Notwithstanding anything contained in this Act, the Commissioner may require that any factory shall, while open or operating, be under the continuous supervision of an officer.

15/2014
Sch

(2) No premises licensed under this Act for the manufacture of excisable goods shall be opened or operated on public holidays except as the Commissioner may permit, either generally or on any special occasion.

17/1971
S 17(c)

(3) Any manufacturer who contravenes the provisions of subsection (2) shall incur a penalty of two hundred dollars.

(4) In this section “operate” in relation to a factory means to carry on in that factory work of any kind.

Inspection
of books
and docu-
ments
17/1971
S 18

77.—(1) It shall be lawful for any officer during the course of inspection of any records, accounts or documents of any kind, required to be produced under this Act, to make any notes, memoranda or indication of check in such records or accounts or on such documents as he may deem necessary, and append his signature or initials thereto.

(2) Any person, who without lawful excuse erases, alters or obliterates any such notes, memoranda or indication of check shall incur a penalty of five hundred dollars.

12/1985
Sch.

78. If upon demand made by any officer, safe and convenient ladders are not provided and conveniently and firmly placed, long enough to enable such officer to ascend and to examine any vessel or utensil in any factory or warehouse, or to gauge or ascertain the contents or capacity of any vessel or utensil therein, or if any such ladder is not fixed at or in any part of such vessel or utensil as required by such officer, or if sufficient lights and sufficient aid and assistance is not supplied on the demand of any officer for the purpose of his gauging or ascertaining the contents or capacity of any vessel or utensil or of searching for or gauging and taking an account of all excisable goods and materials therefor in any such factory or warehouse (as well by night as by day), the manufacturer or warehouse keeper (as the case may be) shall incur a penalty of five hundred dollars.

Assistance to
be afforded
to officers.

12/1985
Sch.

79. On the discovery of an error in any book, document or register required to be kept under this Act, the person committing the error shall not erase such entry but shall amend it by drawing his pen through it, and by making the correct entry and placing his initials thereto.

How errors
in accounts
may be
corrected.

80. Notwithstanding anything to the contrary in any law, the Commissioner may, with the approval of the Minister, reward any person who furnishes him with any information relating to any offence against the provisions of this Act, or who assists in the recovery of any penalty provided for by this Act.

Rewards.
12/1985
Sch.

Form of documents.

81.—(1) Every document submitted to the Commissioner or his officers for the purposes of this Act shall be in such form and completed in such manner as may be prescribed, and shall contain the particulars required by such form or indicated therein.

12/1985 Sch.

(2) Subject to the provisions of this Act and any regulations made thereunder, the Commissioner may from time to time prescribe forms required to be used for the purposes of this Act and any such forms so prescribed, shall be published in the *Gazette* one month before such forms are required to be used.

Regulations.

82.—(1) The Minister may make regulations for the better carrying out of this Act and for preventing frauds on the revenue by the concealment or removal of excisable goods, and may in such regulations prescribe fees, rents and charges to be paid in respect to any matter therein referred to, and all such regulations shall be published in the *Gazette* and shall on publication have the same effect to all intents and purposes as if they had been contained in this Act.

12/1985 Sch.

(2) There may be annexed to any regulations made under this section fines or penalties not exceeding one thousand dollars for any breach of such regulations.

Penalty for interfering with label, lock or seal.
17/1971 S. 19.

83. If any officer shall affix any label, lock or seal upon any closed spirit receiver, pipe-line, cock, valve, flange carriage, or any other place in a factory or warehouse and any such label, lock or seal be opened, altered, removed or broken without the approval of the proper officer, the manufacturer or warehouse keeper shall, unless he proves that such label, lock or seal was not wilfully opened, altered, removed or broken, incur a penalty of one thousand dollars.

12/1985 Sch.

84. Every person licensed to manufacture excisable goods under this Act may—

Sale of excisable goods by manufacturer.

(a) sell, by wholesale direct from his factory, any such excisable goods manufactured according to his licence as are exempted by the Commissioner under section 29 from being warehoused daily in an excise, private excise or export warehouse, and for such purpose shall not be required to take out any licence under any law governing the sale of goods;

17/1971
S. 20.
12/1985
Sch.

(b) with the prior approval of the Commissioner and subject to such terms and conditions as the Commissioner may impose, sell excisable goods (other than spirits) by wholesale otherwise than from his factory.

12/1985
Sch.

85.—(1) Every person who sells or has in his possession for sale excisable goods or spirituous compounds shall keep at the licensed premises such accounts and in such manner as may be prescribed by the Commissioner from time to time and produce to any officer on demand such accounts and all documents relating to the purchase of such excisable goods or spirituous compounds.

Accounts to be kept by wholesaler and retailer.

17/1971
S. 20.
12/1985
Sch.

(2) Every person who sells by wholesale excisable goods or spirituous compounds shall, upon the sale or delivery of such goods or compounds, tender a bill to the purchaser thereof showing the date of sale, his name and address, the name and address of the purchaser and the quantity and description of the goods purchased. Such bill shall accompany the goods to which it relates.

(3) Any person who fails to comply with the provisions of this section shall be liable to a penalty of one hundred dollars.

12/1985
Sch.

(4) In this section "licensed premises" in relation to any person means the premises to which the licence granted under any law to that person for the sale of goods relates.

Where excisable goods may be offered for sale.

86. Subject to the provisions of this Act no excisable goods shall be offered for sale except in premises duly licensed under the Licences on Trades and Business Act, or the Spirit Licence Act.

Authority to be produced by person acting for another.

87.—(1) Whenever any person makes application to any officer requiring him to transact any business relating to the excise revenue on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf such application is made, and in default of the production of such authority may refuse to transact such business, and any document required by this Act to be signed by any particular person if signed by any person authorized as aforesaid on behalf of the person required to sign it shall be deemed for all purposes to be signed by the person required to sign it:

12/1985
Sch.

Provided that the Commissioner may in his discretion refuse to allow any such application as aforesaid.

12/1985
Sch.

(2) Notwithstanding that any document or declaration is required by this Act to be signed in the presence of the Commissioner or a proper officer, if such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Commissioner or the proper officer who receives it, the document or declaration shall be as valid as if it had been signed in the presence of the Commissioner or the proper officer in whose presence it is required to be signed.

88. The removal and shipment of excisable goods and the bringing of them to the proper place for examination and weighing, the weighing, opening, unpacking, repacking, bulking, sorting, lotting, marking, and numbering, where such operations respectively are necessary or permitted, and the removing to, and the placing of them in, the proper place of deposit until delivered or shipped shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile, or otherwise prepare, any such goods in such manner as the officer may require to enable him to examine or take account of them.

Goods to be handled, etc., by owner.

89. The Commissioner may give directions as to the excisable goods which may be bulked, sorted, lotted, packed and repacked in a factory or warehouse and the manner in which such operations shall be conducted, and may further direct the manner in which and the conditions upon which the owner of any such goods may take samples thereof.

Samples for owner.
12/1985
Sch.

90.—(1) Any person who is aggrieved by any decision of the Commissioner to refuse to issue or renew a licence, or to revoke a licence, may appeal to a Judge in Chambers, whose decision shall be final.

Power of appeal.
12/1985
Sch.

(2) Rules of court may prescribe the notices to be given and the procedure to be followed on any appeal under subsection (1).

91.—(1) Every manufacturer shall keep or cause to be kept on his licensed premises accounts in such manner as may be prescribed by the Commissioner from time to time and such accounts shall be verified by the signature of the manufacturer and shall be kept in an accessible place on his licensed premises, and shall be produced for the inspection of any excise officer at his request.

Accounts to be kept.

12/1985
Sch.

(2) In the case of spirits such accounts shall shew—

- (a) the quantity of wash or liquor prepared and the quantity charged into the still;
- 21/1991
S. 21 (a). (b) the actual quantity of spirits distilled and the percentage volume thereof;
- 21/1991
S. 21 (a). (c) the quantity of spirits in each butt, the percentage volume thereof, and the resultant number of litres of absolute alcohol;
- 21/1991
S. 21 (a).
21/1991
S. 21 (a).
21/1991
S. 21 (a). (d) in the case of any operation reducing the strength of spirits, the number of litres to be reduced, the percentage volume thereof, and the resultant number of litres of absolute alcohol prior to such reduction; the quantity of water used in such operation, the number of litres, the percentage volume thereof and the resultant number of litres of absolute alcohol subsequent to such reduction;
- 21/1991
S. 21 (a). (e) the number of containers filled showing the total quantity in litres and the quantity in litres of absolute alcohol in each container;
- 21/1991
S. 21 (a). (f) the number of containers removed showing the total quantity in litres, the strength and quantity in litres of absolute alcohol in each container and the destination;
- (g) the total quantity of spirits on hand both in butts and other containers;
- (h) any other matter that may from time to time be prescribed.

(3) In the case of excisable goods other than spirits, such accounts shall shew—

- (a) the quantity of materials purchased or received and from whom they were received;
- (b) the quantity of materials used;
- (c) the description and quantity of excisable goods manufactured daily and in the event of no

excisable goods being manufactured on any day an entry to that effect shall be made;

- (d) the disposal in detail;
- (e) the balance on hand;
- (f) any other matter that may from time to time be prescribed.

(4) Every licensee who contravenes or fails to comply with the provisions of this section, shall incur a penalty of five hundred dollars.

12/1985
Sch.

92.—(1) In addition to complying with the requirements of section 91, every manufacturer shall, on the request of the Commissioner, produce for the inspection of the Commissioner such invoices and other books or documents in his possession relating to any excisable goods manufactured by him during the preceding twelve months as the Commissioner may require, and shall answer such questions regarding the description, manufacture, quantity, selling price, consignee, destination and any other matter relating to such goods (or to any materials used in the manufacture of such goods or to any by-product or residue of such manufactured goods) as may be put to him by the Commissioner and shall further produce such evidence as the Commissioner may consider necessary in support of any information so furnished.

Manufacturer to produce books, invoices, etc.

12/1985
Sch.

17/1971
S. 21 (a).
12/1985
Sch.

(2) If any manufacturer fails, neglects or refuses to carry out any of the provisions of this section or untruly answers any question put to him as aforesaid he shall incur a penalty of two thousand dollars.

17/1971
S. 21 (b).

12/1985
Sch.

93.—(1) If any manufacturer or warehouse keeper fails to produce to any officer, on his request, any excisable goods manufactured, deposited in a registered store, or warehoused, by him and not delivered or used in accordance with the provisions of this Act, he shall immediately pay to the

Deficiency in stock.

12/1985
Sch.

Commissioner the duties due on such goods not so produced, save and except in respect of any deficiency thereof which is shown to the satisfaction of the Commissioner to be due to leakage, evaporation or absorption.

12/1985
Sch.

(2) In addition to paying the duties on such goods not produced as aforesaid the manufacturer or warehouse keeper, as the case may be, shall incur a penalty of treble the value of such goods, or five thousand dollars, whichever is the greater.

Excess in
stock.

(3) If at any time the quantity of excisable goods found in any factory or warehouse is in excess of the quantity which according to the books of the manufacturer or warehouse keeper should be therein, all such quantity in excess shall be forfeited, and the manufacturer or warehouse keeper, as the case may be, shall incur a penalty equal to the value of the goods so found in excess, unless he furnishes an explanation to the satisfaction of the Commissioner.

12/1985
Sch

Instru-
ments, cali-
bration
tables,
accommo-
dation to
be pro-
vided by
manufac-
turer or
warehouse
keeper.
17/1971
S 22

94.—(1) Every manufacturer or warehouse keeper shall keep in his factory or warehouse such reasonably necessary instruments for weighing, measuring and testing any excisable goods, and materials therefor, and any packages, vats or utensils therein, as the Commissioner may require and shall permit any officer to use them for the purpose of weighing, measuring, testing or taking an account of any such excisable goods, materials, packages, vats or utensils, and such manufacturer or warehouse keeper shall take such steps as may be necessary to ensure and maintain the accuracy of such instruments.

12/1985
Sch

(2) The Commissioner may require that an approved measuring instrument shall be fixed to any still or apparatus used for the production of any excisable goods,

in such manner that any excisable goods produced shall run into and through such instrument.

(3) The Commissioner may require any manufacturer or warehouse keeper to calibrate and provide calibration tables for any container in which excisable goods or materials for the manufacture thereof or by-products or residues thereof are stored, and copies of such calibration tables shall be furnished to the Commissioner on demand. Such containers shall be capable of being accurately calibrated and all calibrations shall be verified to the satisfaction of the Commissioner.

12/1985
Sch.

All such containers so calibrated shall be legibly marked by the manufacturer or warehouse keeper with identifying marks and their capacities shown thereon, as may be required by the Commissioner.

12/1985
Sch.

(4) If any manufacturer or warehouse keeper contravenes or fails to comply with the preceding provisions of this section or uses or causes or procures or suffers to be used any false, unjust or insufficient, instrument or measure, or practises or suffers to be practised any art, device or contrivance, by which any officer may be hindered or prevented from taking a just and true measure or account as aforesaid, he shall incur a penalty of two thousand dollars, and all such false and unjust instruments and measures shall be forfeited.

12/1985
Sch.

(5) Every manufacturer or warehouse keeper shall provide and maintain for the officers attached to the factory or warehouse such office and other accommodation as the Commissioner may require.

95.—(1) The Minister may by order authorize the Commissioner during any period named in the order not exceeding three months, to refuse to allow the delivery of goods or commodities liable to payment of excise duty, from

Restriction
on delivery
of goods to
counteract
evasion.
33/1954
S. 3.

any registered store, factory or warehouse, on payment of such duty, in any cases where deliveries are demanded of amounts exceeding the deliveries which appear to the Commissioner to be reasonable deliveries in the circumstances.

12/1985
Sch.

(2) In this section "the Minister" means the Minister responsible for public finance.

Removal of
excisable
goods from
registered
store, factory
or ware-
house.

17/1971
S. 23 (a)

96.—(1) Unless otherwise permitted by the Commissioner, every manufacturer or owner of excisable goods shall, prior to the removal of any such goods from a registered store, factory, or warehouse, prepare a consignment note in triplicate in the form prescribed, setting forth the particulars of the excisable goods to be removed.

(2) Every manufacturer or owner who prepares a consignment note pursuant to subsection (1) shall—

- (a) send the original of such consignment note with the excisable goods to which it relates to the destination of such excisable goods; and
- (b) send the duplicate of such consignment note along with the account to be delivered to the Commissioner under section 98; and
- (c) retain the triplicate of such consignment note in the registered store, factory or warehouse.

17/1971
S. 23 (b)
12/1985
Sch.

Duty to be
paid before
removal.

97. No excisable goods shall be removed from a factory, or (in the case of goods permitted or required to be warehoused) from any warehouse, until all fees, charges and other amounts payable thereon under this Act or any regulations made thereunder have been paid, or secured to the satisfaction of the Commissioner.

12/1985
Sch.

Returns.

98.—(1) Save where otherwise expressly provided every manufacturer shall within ten days of the close of each month, or of such other period as may be prescribed,

deliver to the Commissioner in the approved form an account of all materials used or received into his factory, and of all excisable goods manufactured, delivered, used, removed to or received from another factory or removed to or received from a warehouse, lost by evaporation, leakage, or other cause or otherwise disposed of and of any duties which have become due or have been paid during that month, or other prescribed period, on any goods manufactured by him, and such account shall be verified by his signature.

12/1985
Sch.

(2) Every manufacturer who fails to comply with the provisions of this section shall incur a penalty of five hundred dollars.

PART IX. *Offences*

99. Every person who, by himself or by any person in his employ, obstructs, hinders, molests, assaults or by any device prevents or hinders any officer in the execution of his duty shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding five thousand dollars.

Obstruction
of officer.
17/1971
S. 24.

12/1985
Sch.

100.—(1) If any person—

- (a) staves, breaks or destroys any goods to prevent seizure thereof by an officer or other person authorized to seize them; or
- (b) rescues or staves, breaks, or destroys, any goods, to prevent the securing thereof, seized by any officer or other person authorized to seize them; or
- (c) rescues any person apprehended for any offence punishable under this Act; or

Obstruction
and impersonation
of officers.

12/1985
Sch.

(d) prevents the apprehension of any such person, he shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding five thousand dollars.

(2) If any person, not being an officer, takes or assumes the name, designation, appearance or character of an officer for the purpose of thereby obtaining admission to any distillery, warehouse, factory, or premises licensed under this or any other law relating to excisable goods, or for the purpose of doing or procuring to be done any act which he would not be entitled to do, or procure to be done, on his own authority, or for any other unlawful purpose, he shall, in addition to any other punishment to which he may be liable for the offence, be liable on conviction to be imprisoned, with or without hard labour, for any term not exceeding six months.

Collusive
seizure,
bribery, etc.

101.—(1) Every officer who—

- (a) makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize, any excisable goods, materials, or goods liable to forfeiture under this Act; or
- (b) accepts any fee, perquisite, or reward, whether pecuniary or otherwise, directly or indirectly, from any person on account of anything done or to be done by him, or omitted to be done by him, in or in any way relating to his office or employment (except such fee, perquisite, or reward, as he may receive with the approval of the Governor-General or the Commissioner); or
- (c) takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty; or
- (d) conspires or connives with any person to commit an offence against this Act for the purpose of seizing any excisable goods, materials, or goods,

12/1985
Sch.

whether obtaining any reward for such seizure or otherwise,
shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding seven thousand dollars.

12/1985
Sch.

(2) Every person who gives or offers, or promises to give or procures to be given, any bribe, recompense, fee, perquisite, or reward to, or makes any collusive agreement with, any such officer to induce him in any way to neglect his duty, or to do, conceal or connive at any act whereby any provision of this Act may be evaded, shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding five thousand dollars.

12/1985
Sch.

102. Every person who—

- (a) has in his custody, possession, or control; or
- (b) in any way harbours, keeps, or conceals, or permits, suffers, causes, or procures to be harboured, kept, or concealed; or
- (c) knowingly acquires possession of, or is in any way knowingly concerned in carrying, removing, depositing, concealing, or dealing with,

Illegal
possession
of excisable
goods.

any excisable goods manufactured contrary to the provisions of this Act, or on which the duty leviable by law has not been paid, shall incur a penalty of five thousand dollars or five times the duty on such excisable goods, at the election of the Commissioner, and all excisable goods in respect of which any such penalty is incurred shall be forfeited.

12/1985
Sch.

103.—(1) Where any goods, which are ordinarily liable to duty at a given rate, are allowed by law to be delivered at a lower rate of duty or free of duty—

Goods used
contrary to
purpose for
which
delivered.

- (a) on any special conditions and such conditions are not observed; or

- (b) for use for some special purpose and the goods at any time within three years after the date of delivery have been used for any other than the specified purpose; or
- (c) by reason of the fact that they are the property of, or intended for use by, some particular person and are sold or transferred within three years after delivery to any other person,

such goods shall be forfeited, and the person obtaining delivery of such goods, and any person who is knowingly concerned in the use of such goods contrary to such conditions or for some purpose other than that specified or in any way contrary to this section, shall incur a penalty equal to treble the value of such goods, or five thousand dollars, whichever is the greater, unless full duties on such goods have been paid, with the prior consent of the Commissioner.

12/1985
Sch.

12/1985
Sch.

(2) The person to whom any such goods have been delivered shall on demand produce them to any officer or otherwise account for them to the satisfaction of the Commissioner within such period of three years referred to in subsection (1) and if he fails to produce such goods or otherwise to account for them he shall incur a penalty equal to treble the value of such goods or five thousand dollars, whichever is the greater.

12/1985
Sch.

12/1985
Sch.

(3) This section shall not apply to goods delivered for the use of the Government and sold or transferred by Government order.

(4) Where goods are delivered to any person with any such concession on duty as is referred to in subsection (1) the Commissioner may, subject to such terms and conditions as he may think fit, permit the sale or transfer of the goods to another person who, if the goods were originally delivered to him, would have been entitled to the

17/1971
S. 25.

12/1985
Sch.

like concession on duty; and thereupon, subsections (1) and (2) shall apply *mutatis mutandis* in relation to that other person as they applied in relation to the person to whom such goods were originally delivered.

104. Every person who in any matter relating to excise duty or under the control or management of the Commissioner—

False declarations and refusing to answer questions. 12/1985 Sch.

(a) makes or subscribes or causes to be made or subscribe any declaration, certificate, or other instrument which is false in any particular; or

(b) being required by this Act to answer questions put to him by an officer, refuses to answer such questions or answers them untruly,

shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding one thousand dollars.

105.—(1) Every person who in any manner gives or attempts to give warning to any person committing or attempting to commit any offence against this Act shall be guilty of an offence against this Act and on conviction shall be liable to be imprisoned with hard labour for any term not exceeding twelve months.

Giving warning to an offender.

(2) Any person may prevent any such warning being made and may for such purpose enter upon any lands without being liable to any indictment, suit, or action for such entry.

106. If any manufacturer or warehouse keeper—

(a) removes any excisable goods contrary to the provisions of section 96 or accompanied by an inaccurate consignment note or without filling in the particulars on the duplicate and triplicate of such consignment note by the use of double-sided carbon paper; or

Offences in regard to consignment notes. 17/1971 S. 26.

- (b) fails to deliver the original consignment note, together with the goods, to the person receiving such goods at the time and place at which the goods are received; or
- (c) fails to keep on his premises and produce the triplicate of any consignment note to an officer; or
- (d) contravenes any of the provisions of subsection (2) of section 96,

12/1985
Sch.

he shall incur a penalty equal to treble the value of any goods in respect of which the penalty is incurred or one thousand dollars, whichever is the greater, and all goods delivered or used in contravention of this section or of section 96 shall be forfeited.

Illegal
removal.

107.—(1) Any person who takes out any excisable goods required to be accompanied by a consignment note from any registered store, factory or warehouse, unless such goods are accompanied by the consignment note, or who aids, assists or is concerned therein shall incur a penalty of two hundred dollars.

(2) Any person who takes out any excisable goods from any registered store, factory or warehouse without the knowledge and consent of the manufacturer or the warehouse keeper, as the case may be, shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding four hundred dollars, or treble the value of such goods, whichever is the greater.

Receiving
without
consignment
note.

108.—(1) If any person—

- (a) receives any excisable goods required to be accompanied by a consignment note without such consignment note; or

- (b) fails on the demand of any officer to produce within fourteen days from the date of any such demand such consignment note in respect of any such goods received by him and required to be accompanied by a consignment note; or
- (c) produces or causes or suffers to be produced to any person any consignment note as having been received with any excisable goods other than the goods therein described,

he shall incur a penalty of two hundred dollars.

(2) If any person knowingly buys or receives or *has in his possession, or under his control in any manner or in any place,* any excisable goods which have been unlawfully removed or abstracted from a registered store, factory or warehouse without the knowledge and consent of *the manufacturer or of the warehouse keeper, as the case may be,* he shall be guilty of an offence against this Act and on conviction shall be liable to a fine not exceeding four hundred dollars, or treble the value of the goods, whichever is the greater.

PART X. *Legal Proceedings*

109. If any person offers for sale any excisable goods under pretence that the duties due thereon have not been paid or that such duties have not been legally made, then all such goods (although not liable to any duties or although such duties have been legally made) shall be forfeited.

Offering goods for sale under pretence that the duties are not paid.

110. Where any goods become liable to forfeiture under this Act, every person who is knowingly concerned in the act or omission which renders such goods liable to forfeiture shall be liable to be dealt with and punished in the same manner as the principal offender, and shall incur the penalty, or be liable to the fine, provided by this Act, in respect of such act or omission.

Penalty where goods forfeited.

General
provision as
to forfeiture.

111.—(1) All ships and carriages together with all animals and things made use of in the removal or conveyance of any goods liable to forfeiture under this Act shall be forfeited, and all ships, goods and carriages together with all animals and things liable to forfeiture and all persons liable to be detained for any contravention of the provisions of this Act may be seized or detained in any place, either upon land or water, by any officer.

12/1985
Sch.

(2) All ships, goods and carriages together with all animals and things so seized shall forthwith be delivered into the care of the Commissioner, and the forfeiture of any ship, carriage, animal or thing shall be deemed to include the tackle, apparel and furniture thereof and the forfeiture of any goods shall be deemed to include the package in which such goods are found and all the contents thereof.

17/1971
S. 27.
12/1985
Sch.

(3) It shall be lawful for the Commissioner to seize any invoices, books or other documents relating to any excisable goods or to any materials for manufacture thereof or to any by-products or residues of any such manufacture as he may deem necessary, from any manufacturer, warehouse keeper, wholesaler or retailer, and to detain any such article for so long as may be necessary for the purpose of any investigation in relation thereto, and where such investigation results in legal proceedings against any person for an offence until such legal proceedings are finally disposed of.

17/1971
S. 27.

(4) Any officer may at his discretion require any article seized to remain at the place of seizure and the owner or person in possession of such article shall in every such case give a receipt to the officer for the article so seized, and shall produce such article at any time he is required so to do by an officer.

17/1971
S. 27.

(5) Any person who fails to comply with the requirements of subsection (4) shall incur a penalty of five thousand dollars.

12/1985
Sch.

112.—(1) Every officer who seizes any animal, carriage, goods or thing under the provisions of this Act or of any law authorizing seizure, shall give notice in writing of such seizure to the owner of the animal, carriage, goods or thing so seized if he be known, save where such animal, carriage, goods or thing is at the time of such seizure, in the possession of the owner or the offender, or such seizure is made in the presence of the owner or the offender.

Procedure
on seizure.

(2) Every notice under subsection (1) may be given by being delivered to the owner or transmitted by post to, or delivered at, his usual place of abode or business.

(3) Any animal, carriage, goods or thing seized under this Act shall be deemed to be condemned, and may be sold or otherwise disposed of as the Minister may direct, save in cases where within one calendar month of the date of such seizure, notice is given in writing to the Commissioner by the owner of such animal, carriage, goods or thing or some person authorized by him, that he claims such animal, carriage, goods or thing.

12/1985
Sch.

(4) When any notice of claim is given under the provisions of subsection (3), the Commissioner shall commence proceedings for condemnation and forfeiture of the animal, carriage, goods or thing seized.

12/1985
Sch.

(5) Notwithstanding the provisions of subsections (3) and (4), the Commissioner may, in his discretion, cause any animals or perishable goods which have been seized to be sold forthwith at public auction.

12/1985
Sch.

(6) Where any animals or perishable goods are sold under subsection (5), the proceeds of such sale shall be retained to abide the result of any legal proceedings in respect of any claim to the animal or perishable goods so seized.

Claim to
seized goods
to be in
name of
owner.

113.—(1) No claim shall be made or entertained in any court for the restoration of any animal, carriage, ship or goods seized under this Act, for any cause of forfeiture, unless such claim be made by or in the true name of the owner or proprietor thereof, and setting forth his place of residence and occupation.

(2) If any such claimant resides in the Island, oath shall be made by him before the court that the animal, carriage, ship or goods was or were his property at the time of seizure, and if such person shall reside outside of the Island, oath shall be made by his agent by whom such claim or appearance is entered that he has full authority from such claimant to make or enter such claim or appearance and that to the best of his knowledge and belief they were at the time of seizure the *bona fide* property of the claimant and on failure of making such proof of ownership such animal, carriage, ship or goods shall be condemned as if no claim or appearance had been made.

(3) If such animal, carriage, ship or goods is at the time of the seizure thereof, the *bona fide* property of a number of proprietors exceeding five in number, it shall not be necessary for more than two of them to enter such claim or appearance on the part of themselves and their co-proprietors or to make such oath as aforesaid.

(4) If any such animal, carriage, ship or goods is at the time of seizure the property of a company, such claim and appearance may be entered and oath made by the secretary or a director of such company.

(5) For the purposes of this section a company means a limited company registered in the Island under the provisions of the Companies Act but does not include any company or association of persons calling themselves a company not so registered.

114. Where any seizure has been made, or any fine or penalty incurred or inflicted, or where any person is committed to prison for any offence against this Act, the Governor-General may direct restoration of such seizure whether condemnation shall have taken place or not, or may waive or compound proceedings, or mitigate or remit such fine or penalty, or may release such person from confinement either before or after conviction on any such terms and conditions, as he may see fit.

Governor-General may restore seizure, etc.

115. Subject to the approval of the Minister (which approval may be signified by general directions to the Commissioner), the Commissioner may mitigate or remit any penalty or restore anything seized under this Act at any time prior to the commencement of proceedings in any court against any person for an offence against this Act or for the condemnation of any seizure.

Commissioner may mitigate penalty. 12/1985 Sch.

116. Save as is otherwise expressly provided in this Act, any person who is convicted of any contravention of, or failure to comply with, the provisions of this Act or of any regulations made thereunder for which no specific fine or penalty is provided shall be liable to a fine or penalty not exceeding two thousand dollars.

General penalty.

12/1985 Sch.

117.—(1) Save where otherwise expressly provided, every person guilty of an offence against this Act or of any regulations made thereunder, and every person liable to a fine or to a penalty or to the forfeiture of any article under the provisions of this Act or of any regulations made thereunder may be prosecuted, on the complaint of an officer, in a summary manner before a Resident Magistrate.

Prosecution of offences and recovery of duties.

(2) Save where otherwise expressly provided all rents, charges, expenses, duties, and other sums of money payable under this Act may be recovered, without limit of amount, in an action in the Resident Magistrate's Court.

Proceedings to be taken within seven years.

118. Proceedings under this Act may be commenced at any time within seven years next after the date of the offence.

Alternative prison sentence.

119. Where any court has imposed a fine or a penalty for any contravention of the provisions of this Act and such fine or penalty is not paid, the court may, notwithstanding anything contained in any other law, order the defendant who is convicted of such contravention, in default of payment of the fine or penalty adjudged to be paid, to be imprisoned with or without hard labour for any term not exceeding six months (where the fine or penalty does not exceed two hundred dollars) or for any term not exceeding twelve months (where the fine or penalty exceeds two hundred dollars).

Imprisonment for second offence.

120. Where a fine or penalty of two hundred dollars or upwards has been imposed under this Act, and the defendant has previously been convicted for an offence against this Act, or has previously incurred a pecuniary penalty or forfeiture under this Act which has been enforced in any court, the court may, if it thinks fit, in lieu of ordering payment of a fine or penalty, order the defendant to be imprisoned, with or without hard labour for any period not exceeding one year, or may order both payment of the fine or penalty and such imprisonment.

Limitation as to pleading.

121. The fact that any excise duties have been secured by bond or otherwise, shall not be pleaded or made use of in answer to, or in stay of, any proceedings under this Act.

Acts by companies. 17/1971 S. 28.

122. Where the person responsible for any act or omission under this Act is a body corporate every person who at the time of that act or omission was a director or officer of the body corporate, shall be deemed to be responsible for the act or omission and shall be liable for all excise duties

arising therefrom and any penalty in relation thereto unless he proves that the act or omission occurred without his knowledge or that he exercised all due diligence to prevent the occurrence thereof.

123. Every person who commits any offence against this Act may be proceeded against, tried, and punished in any parish or place in which such person may be apprehended or may be in custody for such offence or may appear in answer to a summons lawfully issued charging the offence as if the offence had been committed in that parish or place and the offence shall for all purposes incidental to or consequential upon the prosecution, trial, or punishment, thereof be deemed to have been committed in that parish or place. Venue.

124. Any officer may prosecute and conduct any information or other proceedings under this Act in respect of any offence or penalty. Officer may prosecute.

125. In any prosecution under this Act the burden of proving that the duties have been paid in respect of any excisable goods, or that any such goods have been lawfully made, imported, removed, delivered or exported, or concerning the place whence any goods have been brought, or of proving that any goods have been illegally seized or that all requirements of this Act have been complied with and fulfilled shall lie on the defendant or the person claiming anything seized. Onus of proof on defendant in certain cases.

126.—(1) In all cases where any fine, penalty, or forfeiture, the amount of which is to be determined by the value of any goods, is incurred under this Act, such value shall mean the value of such goods duty paid, and shall be determined by the Commissioner in every case, subject to appeal to the Minister, and no goods shall be deemed to be of less Commissioner to certify value.

12/1985
Sch.

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value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with the goods by any person offending or endeavouring to offend against this Act.

12/1985
Sch.

(2) The order of the Commissioner as to the value of any such goods shall be conclusive, subject to appeal to the Minister, and shall not be liable to be questioned in any court.

Chemist's
certificate
sufficient
evidence.

127.—(1) In any proceedings under this Act, the production of a certificate purporting to be signed by the Government Chemist shall be sufficient evidence of all the matters therein stated, unless the contrary be proved.

12/1985
Sch.

(2) The certificate of the Commissioner or Government Chemist as to the strength of any spirit shall be *prima facie* evidence of the strength thereof.

(3) In ascertaining the strength of any spirit, any obscuration shall be determined and allowed for.

(4) Where in any proceedings the court or the defendant so requires, the Government Chemist shall attend and give evidence upon oath.

17/1971
S. 29.

(5) In this section "Government Chemist" includes a Government Analyst appointed under any enactment for the time being in force relating to food and drugs.

Admissibility
of copies of
documents.
12/1985
Sch.

128. A copy of any entry in any book or document required to be kept under the provisions of this Act shall, if purporting to be certified under the hand of the Commissioner as a true copy, be received in all courts as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded, and certificates and copies

of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs and Excise in the United Kingdom or of any Collector of public revenue in any Commonwealth country or of any Jamaican or British Consul or Vice-Consul in a foreign country, shall be received as *prima facie* evidence of the matters therein contained.

42/1969
3rd Sch.

129. If upon the trial of any issue touching any seizure, fine, penalty, forfeiture, or other proceedings, under this Act or incident thereto it may be necessary to give proof of any order issued by the Government, or any person in the employment of the Government, the order or any letter or instructions referring thereto shall be admitted and taken as sufficient evidence of such order if any such document purports to be signed by any such functionary, or appears to have been officially printed or issued, unless the contrary be proved.

Proof of
order of
Government.

130. Condemnation by any court under this Act, may be proved in any court or before any competent tribunal by the production of a certificate of such condemnation purporting to be signed by the officer of such court.

Certificate of
condemna-
tion.

131.—(1) Where any excise duty remains unpaid after the period within which the duty is payable, the Commissioner may authorize the levying of a distress—

Commis-
sioner.
may distrain
for duties.
12/1985
Sch.

- (a) upon the goods, chattels and effects of the manufacturer of the goods in respect of which the duty remains unpaid; and
- (b) upon all machinery, plant, tools, ships, vehicles, animals, goods, and effects, used within the Island in the manufacture, sale, or distribution, of

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excisable goods found in any premises or on any lands in the use or possession of such manufacturer or of any person on his behalf or in trust for him.

Third
Schedule.

(2) The authority to distrain under this section may be according to the form contained in the Third Schedule, and such authority shall be a warrant and authority to levy by distress the amount of any duties due.

12/1985
Sch.

(3) For the purpose of levying any distress under this section, any person expressly authorized by writing under the hand of the Commissioner may execute any warrant of distress, and if necessary may break open any building or place in the daytime for the purpose of levying such distress, and may call to his assistance any constable, and it shall be the duty of any constable when so required to aid and assist in the execution of any warrant of distress, and in levying the distress.

(4) Any distress so taken may, at the cost of the owner thereof, be kept for fourteen days, at the end of which time, if the amount due in respect of duty and the cost and charges of and incident to the distress are not paid, the goods distrained on may be sold.

(5) Out of the proceeds of the sale there shall first be paid the cost or charges of and incident to the sale and keeping of the distress, and thereafter the amount due in respect of duties and the residue (if any) shall be payable on demand to the owner of the goods distrained upon.

(6) In the exercise of the powers of distress herein conferred, it is hereby declared that it shall be lawful for the person to whom authority as aforesaid is given to distrain upon all goods, chattels, and effects, belonging to the manufacturer whenever they may be found and although they may be in some place other than premises in his occupation or use.

132. If any duty, fees, or charges, due and payable on any excisable goods warehoused in an excise warehouse remain unpaid after they have become due or after demand for payment has been made, the Commissioner may direct the sale of such excisable goods, or any part thereof, and may apply the proceeds to the payment of such duty, fees, or charges, and the balance, after deduction of all expenses incurred in such sale, shall be handed to the owner.

Power of Commissioner to sell warehoused goods.
12/1985 Sch.

133. Where a manufacturer and his sureties fail to pay any excise duty as required by a bond entered into under this Act, the Commissioner shall, for the payment of such duty, have a lien on any excisable goods of such manufacturer and his sureties warehoused in an excise warehouse or held elsewhere under bond.

Lien on warehoused goods.
17/1971 S. 30.
12/1985 Sch.

PART XI. *Savings*

134.—(1) All offices, appointments, proclamations, rules, regulations, by-laws, orders, warrants, seals, certificates, books, records, instruments, documents, proceedings, and generally all acts of authority which originated under any Law now repealed, and are subsisting or in force immediately prior to the 6th February, 1942, shall enure for the purposes of this Act as fully and effectually as if they had originated under the provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

Savings.

(2) Where in any Law or in any proclamation, rule, regulation, by-law, order, form or document whatsoever made under any Law hereby repealed, reference is made to any former Excise Duty Law, or any Law amending any former Excise Duty Law, such reference shall be read and shall operate as if it had been made to this Act or the provisions of this Act corresponding to such Law.

L.N.
185B/1987.
Appendices
A and B.
21/1991
S. 21 (a).

FIRST SCHEDULE

(Section 7)

1. Excise duty shall, subject to paragraph 2, be payable on goods specified in Appendices A and B at a rate equal to the aggregate of—
- (a) customs duty under the First Schedule to the Customs Tariff (Revision) Resolution, 1972; and
 - (b) additional stamp duty on customs warrants inwards, that would have been chargeable in respect of goods of like kind produced or manufactured outside the Common Market area and imported into Jamaica from outside that area.
2. Paragraph 1 shall not apply in relation to—
- (a) goods specified in Appendices A and B that are manufactured solely for export;
 - (b) goods specified in Appendix A with respect to which the Commissioner is satisfied that the production conditions specified in relation to them, respectively, have within Jamaica been complied with;
 - (c) goods specified in Appendix B with respect to which the Commissioner is satisfied that their manufacture was from component parts that were completely disassembled.
3. The Minister may, by notice published in the *Gazette*—
- (a) amend Appendix A or Appendix B as the case may require, for the purpose of adding thereto or removing therefrom any goods;
 - (b) amend any of the conditions specified under Appendix A in relation to any goods;
 - (c) suspend for a specified time any of the conditions specified under Appendix A in relation to any goods.

APPENDIX A

21/1991
S. 21 (a).

<u>Excisable Goods</u>	<u>Specified Conditions</u>
Steel Re-inforcing Bars	Produced from billets, blooms, slabs, ingots, blocks, powders, pigs, lumps or waste and scrap, of iron or steel.
Gas Stoves and Electric Stoves	<ol style="list-style-type: none"> (a) Forming of all panels (b) Welding and riveting of body (c) Chemical treatment of all metal (d) Painting and vitreous enamelling
Refrigerators	<ol style="list-style-type: none"> (a) Forming of cabinet outer shell and inner body lining of metal

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APPENDIX A, *contd.*

<u>Excisable Goods</u>	<u>Specified Conditions</u>	21/1991 S. 21 (a).
	(b) Thermo-forming of inner body lining of plastic material	
	(c) Assembly of outer body and inner lining	
	(d) Foam insulation of walls	
	(e) Pre-treatment painting of metal work	
	(f) Spot welding and riveting of body	
Air Conditioning Window Units	(a) Forming of outer casing and rear panel	
	(b) Pre-treatment and enamelling of metal work	
	(c) Forming condenser coil	
	(d) Forming evaporator coils	
Chest Freezers and Bottle Coolers	(a) Forming of outer metal shell	
	(b) Forming of inner metal lining	
	(c) Forming of outer door shell	
	(d) Assembling of inner door lining	
	(e) Insulation of body and door	
	(f) Forming of condenser coil unit	
	(g) Pre-treatment and enamelling of cabinet and door	
Water Heaters	(a) Forming of metal outer casing	
	(b) Pre-treatment and enamelling of outer casing	
	(c) Insulation	
	(d) Wiring of electrical components.	

APPENDIX B

<u>Excisable Goods</u>	21/1991 S. 21 (a).
Television Sets	
Amplifiers	
Music Systems	
Domestic Household Appliances as follows—	
Hot Plates	
Toasters	

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EXCISE DUTY

APPENDIX B, contd.

Excisable Goods

- Mixers (including cake mixers)
- Blenders
- Electric Juicers
- Electric Fans (except ceiling fans)
- Electric Irons
- Radios
- Radio Cassettes
- Radio Amplifiers
- Radio Equalizers
- Radio Receivers.

21/1991
S. 21 (a).

SECOND SCHEDULE (Sections 24 and 45)

FEEs FOR LICENCES TO MANUFACTURE

FIRST COLUMN Excisable Goods	SECOND COLUMN Fee Payable
1. Manufacture of goods, other than goods mentioned in paragraph 2.	\$1,000.00
2. Manufacture of prescribed goods subject to special consumption tax under the General Consumption Tax Act.	\$1,000.00

THIRD SCHEDULE (Section 131)

FORM OF WARRANT OF DISTRESS

To

12/1985
Sch.

I..... Commissioner by virtue of the powers vested in me by section 131 of the Excise Duty Act, do hereby authorize you to collect and recover the sum of

.....due for excise duty from

.....manufacturer, having

his factory at.....; and for the recovery thereof I further authorize that you, with the aid (if necessary) of your assistants and calling to your assistance any constable (if necessary), which assistance they are hereby required to give, do forthwith levy by distress the said sum together with the costs and charges of and incident to the taking and keeping of such distress, on the goods, chattels or other distrainable things of the said manufacturer wherever the same may be found and on all machinery, plant, tools, ships, vehicles, animals, goods and effects used within the Island in the manufacture, sale or distribution of excisable goods which you may find in any

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premises or on any lands in the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorized, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

Given under my hand at.....
this.....day of.....19.....

Commissioner. 12/1985
Sch.