

## Act No. 27, 1897.

An Act to consolidate the Laws relating to the distillation, rectifying, and compounding of spirits ; the prevention of unlawful distillation ; the protection of the Revenue arising from the duties on spirits ; and the authorisation and regulation of the warehousing under bond and the exportation free of duty of spirits distilled within the Colony of New South Wales. [6th December, 1897.]

DISTILLATION.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

### PART I.

#### *Preliminary.*

1. This Act may be cited as the "Distillation Act, 1897," Short title and division of Act. and is divided into parts and divisions, as follows :—

PART I.—*Preliminary*—ss. 1-3.

PART II.—*Licenses*—ss. 4-26.

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PART

*Distillation.***PART III.—*Distillation, rectifying, and compounding of spirits—Warehousing and exportation of spirits.*****DIVISION 1.—*Distillers and Distilleries*—ss. 27–36.****DIVISION 2.—*Distilling apparatus—Process of distillation*—ss. 37–72.****DIVISION 3.—*Provisions relating to duty on spirits*—ss. 73–89.****DIVISION 4.—*Removal of spirits*—ss. 90–93.****DIVISION 5.—*Bonding warehouses—Exportation of spirits*—ss. 94–103.****DIVISION 6.—*Provisions relating to the rectifying of spirits*—ss. 104–110.****PART IV.—*Prevention of unlawful distillation—Protection of Revenue.*****DIVISION 1.—*Proceedings in respect of unlicensed stills, &c.*—ss. 111–119.****DIVISION 2.—*Notice of making, importing, selling, or setting up stills*—ss. 120–122.****DIVISION 3.—*Brewers and Spirit Merchants*—ss. 123–127.****PART V.—*Sale of colonial brandy*—ss. 128–132.****PART VI.—*Miscellaneous provisions and procedure*—ss. 133–157.****Repeals and savings.****First Schedule.**

**2.** The Acts mentioned in the First Schedule to this Act, to the extent therein expressed, are hereby repealed, but such repeal shall not prejudice or affect the validity or duration of any certificate or license lawfully made or granted under any such Act.

All licenses granted under any such repealed Act shall be held in all respects, and all renewals thereof shall be applied for, under and subject to the provisions of this Act, unless hereinafter otherwise specially provided for.

All regulations made under the authority of any such repealed Act and being in force at the passing of this Act shall be and continue in force hereunder, and shall be deemed to have been made under the authority of this Act.

**3. (1)** In this Act, unless the context or subject matter otherwise<sup>13 Vic. No. 26, s. 43.</sup> indicates or requires, the following terms shall have the meanings<sup>13 Vic. No. 27, s. 130.</sup> hereby assigned to them respectively—

“Collector of Customs,” the Collector or other Chief Officer of Customs.

“Feints,” all spirits produced by the re-distillation of low wines or any further re-distillation.

“Illicit spirits,” all spirits made contrary to this Act, and upon which the full duty has not been paid.

“Low wines,” all spirits of the first extraction drawn and produced by one distillation of wash.

“Officer,”

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- “Officer,” an inspector of distilleries appointed by the Governor.
- “Premises,” when used in Parts I, II, III and VI, all the space included within the wall or paling referred to in section nine of this Act.
- “Proof,” the conventional degree of strength of spirits indicated as such by the instrument called Sykes’ Hydrometer.
- “Spent wash,” the liquor which remains in the wash still after the low wines have been extracted by distillation.
- “Spirits,” includes brandy, rum, gin, low wines, feints, and all descriptions of spirituous liquors whatsoever.
- “Wash,” all material intended to be used in the process of distillation after the same has been mashed, and after fermentation has commenced therein, and before the same has been distilled.
- “Worts,” all material intended to be used in the process of distillation after the same has been mashed, and before fermentation has commenced therein.

(ii) Any person making or keeping any wash prepared or fit for distilling or making low wines or spirits, or any low wines and feints, or having in his custody or use any still, shall be deemed and taken to be, and is hereby declared to be, a distiller liable to the duties, and to the several penalties, fines, and forfeitures imposed by this or any other Act now or hereafter in force relating to the charging of duties, or to the distillation of spirits illicit or otherwise.

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PART II.*Licenses.*

4. From and after the passing of this Act it shall not be lawful Distillation to be carried on in such places only as shall be appointed by proclamation. for any person, except as hereinafter provided, to carry on the business of a distiller or a rectifier and compounder of spirits, or to have, keep, or to make use of any still or other utensil for distilling, or for rectifying and compounding spirits, except in such places as the Governor shall appoint or direct by proclamation, to be published in the Gazette, under a penalty of not less than one hundred pounds nor more than five hundred pounds.

5. Whosoever shall have, keep, or make use of any still or other utensil for distilling or for rectifying and compounding spirits in New South Wales without first having obtained a license for keeping or using the same from the Colonial Treasurer, or other person appointed by the Governor shall be liable to a penalty of not less than one hundred pounds nor more than five hundred pounds, and shall forfeit such still and utensils.

13 Vic. No. 27, s. 2.

Ibid. s. 3.

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Application for a  
license by memorial.  
13 Vic. No. 27, s. 4.

Limitation of the  
size and proportions  
of stills.  
*Ibid.* s. 5.

Certificate as to the  
character of  
applicants for  
licenses.  
*Ibid.* s. 6.

Premises to be  
surrounded by a wall  
or paling  
*Ibid.* s. 8.

Provision of section  
9 requiring a space of  
five feet between  
distillery and other  
buildings dispensed  
with as regards the  
Brisbane Distillery.  
16 Vic. No. 45, s. 1.

**6.** Any person wishing to obtain a license for the purpose of distilling, or for rectifying and compounding spirits, shall, by memorial, apply to the Governor to direct such license to be granted; and such memorial shall state the premises upon which such distilling or rectifying and compounding is to be carried on respectively.

**7.** No license shall be granted in respect of any distillery not licensed previously to the passing of this Act unless the wash still or stills is or are capable of containing double the contents of the low wine or spirit still or stills erected therein, and no wash still shall be capable of containing less than one thousand gallons, and no low wine or spirit still less than five hundred gallons.

**8.** Before any license is granted or renewed to any person under this or any other Act for the time being in force relating to the distillation or rectifying and compounding of spirits, he shall produce to the Colonial Treasurer, or other person appointed by the Governor to grant such license, a certificate under the hands of three justices of the peace that he is of good character and a fit and proper person to be licensed, which certificate shall be published in the Gazette.

**9.** No license to distil or to rectify and compound spirits shall be granted or renewed unless it is certified by the chief inspector of distilleries, or other person appointed by the Governor,—

- (a) that the premises within which the business of distillation is to be carried on are surrounded by a substantial wall or slab paling;
- (b) that no portion of such wall or paling is of less height than six feet from the ground;
- (c) that it is in good repair;
- (d) that it is in the opinion of the person granting the certificate sufficient for the purposes of security intended by this Act;
- (e) that there is a space of five feet between it and any other building;
- (f) that there is but one entrance through it;
- (g) that such entrance is secured by a closely panelled door or gate not less in height than six feet from the ground; and
- (h) that such door or gate is provided with sufficient locks and fastenings.

**10.** The Colonial Treasurer may grant a license to distil spirits at the distillery known as the Brisbane Distillery at Sydney, notwithstanding that the premises within which the business of distillation is to be carried on are not separated by a space of five feet from any other building to the west thereof, and notwithstanding that the chief inspector of distilleries does not certify that such space exists in that direction as by the next preceding section is required, anything in this Act to the contrary thereof notwithstanding.

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**11.** Windows or convenient apertures shall be made for the admission of sufficient light into every part of every licensed distillery, and no license shall be granted or renewed until it is certified by the chief inspector of distilleries or other officer that sufficient light has been admitted into every part of the building.

Distilleries to be sufficiently lighted.  
13 Vic. No. 27, s. 9.

**12.** Before any license is granted for the distillation or for the rectifying and compounding of spirits, a correct plan or series of plans of the whole of the premises shall be furnished to the chief inspector of distilleries or other officer for the approval of the Governor, whereon shall be figured and numbered in numerical progression every boiler, mash tun, underback, cooler, fermenting back, wash charger, low wines' charger, feints' charger, every still including the worm thereof, every spirit vat, every receiver, every safe for securing the tail pipes, every other vessel or utensil on the said premises, and whereon shall be figured every pipe, tube, trough, and pump connected with such vessels, and every drain, sewer, pipe, or tube, being upon or passing through any part of the said premises, and every vessel and utensil on the premises shall be numbered in numerical progression so that the number marked thereon respectively shall correspond with the representation thereof shown on the said plan or series of plans ; and every pipe on such plan for the conveyance of worts or wash shall be painted red, every pipe for the conveyance of feints and low wines shall be painted blue, every pipe for the conveyance of spirits shall be painted green, every pipe for the conveyance of water shall be painted black, and every pipe for the conveyance of gas shall be painted yellow, and such plans or series of plans shall be signed by the person applying for such license :

Provided however that in case the Governor disapproves of the said plan or series of plans or of any matter or thing figured thereon, it shall be lawful for the Governor to direct that the license applied for shall not be granted, and such license shall not be granted accordingly.

**13.** Before any license for the distillation of spirits is granted or renewed, it shall be certified by the chief inspector of distilleries or other person appointed by the Governor to grant such certificate—

- (a) that there is erected upon the premises for which a license is sought to be obtained a store in which spirits when distilled shall be deposited ;
- (b) that it is a solid building of stone or brick ;
- (c) that each and every window is secured with iron bars not less than one-and-a-half inch square or one-and-a-half inch in diameter, and the whole opening secured with strong close wire netting securely fixed to the satisfaction of the person granting the certificate ;
- (d) that there is but one door or entrance to the said store ;
- (e)

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- (e) that the said door is of solid construction, that it is provided with the means of being secured by three locks, of which two shall be furnished and the keys thereof kept by the Government, and one lock furnished and the key kept by the distiller;
- (f) that the vats destined for the storing of spirits within such store are elevated at least two feet from the ground, that they are so placed that the whole exterior surface and the bottom of each are open to inspection; and
- (g) that the said store is in every respect in good repair and sufficiently secure for the purposes of this Act.

Security of store for  
materials certified.

13 Vic. No. 27, s. 12.

**14.** Before any license for the distillation of spirits is granted or renewed it shall be certified by the chief inspector of distilleries or other person appointed by the Governor—

- (a) that there is erected upon the premises for which a license is sought to be obtained a store or stores for the reception of sugar, treacle, molasses, malt, grain, or other material whatsoever which may be intended to be used in the process of distillation;
- (b) that each and every window is secured with iron bars not less than one-and-a-half inch square or one-and-a-half inch in diameter, and the whole opening covered in with strong close wire netting securely fixed to the satisfaction of the person granting the certificate; and
- (c) that there is but one door or entrance to such store, that the door is of solid construction, and that it is provided with the means of being secured by three locks, of which two shall be supplied and the keys kept by the Government, and one lock furnished and the key kept by the distiller.

Certain vessels to be  
certified.

*Ibid.* s. 13.

**15.** Before any license for the distillation of spirits is granted or renewed it shall be certified by the chief inspector of distilleries or other officer that the several vessels hereinafter enumerated and described are erected on the premises for which a license is sought to be obtained, and that the provisions hereinafter expressed with regard to their arrangement have been complied with, and every person applying for such license shall erect and keep the several vessels hereinafter enumerated, and in the manner and for the purposes hereinafter to be described, that is to say—one vessel to be called a wash charger, one other vessel to be called a low wines' receiver, one other vessel to be called a low wines' charger, one other vessel to be called a feints' charger, two other vessels to be called feints' receivers, and one other vessel to be called a spirits' receiver.

Rectifier's receiver to  
be certified.

*Ibid.* s. 15.

**16.** Before any license to rectify and compound spirits is granted or renewed it shall be certified by the chief inspector of distilleries or other officer that there is erected in connection with the still for which a license is sought to be obtained, at least one receiver which shall be

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a close covered vessel provided with the means of being secured by locks, the contents of which receiver shall not be less than that of such still, and that the provisions contained in this Act have been complied with.

**17.** Before any license for the rectifying and compounding of spirits shall be granted or renewed, the person or persons applying for the same, together with two sufficient sureties, shall enter into a recognizance payable to Her Majesty in the sum of three hundred pounds conditioned for the due and faithful observance of all the laws in force in New South Wales in respect to the rectifying and compounding spirits.

**18.** Licenses to distil and to rectify and compound spirits shall be issued in the Forms A and B respectively of the Second Schedule *Ibid. s. 14.*

**19.** The Colonial Treasurer or other person appointed as aforesaid may issue a license to any apothecary, chemist, or druggist *Apothecary's license Ibid. s. 17.* applying for the same, to keep and use on his premises a still of not more than eight gallons content for the purpose of his trade only:

Provided that every person wishing to keep such still shall notify his intention so to do to the Colonial Treasurer or other person appointed as aforesaid, who shall thereupon require such person, together with two sufficient sureties, to enter into a recognizance payable to Her Majesty in the sum of two hundred pounds, conditioned that he will not make use of such still or suffer it to be made use of, except for the preparation of medicines or other articles required bona fide for medical purposes, and that he will not run from any such still any spirituous liquors upon which the full duty has not been paid; and every such person found to have in his possession any still without having entered into such recognizance and obtained such license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

**20.** The Colonial Treasurer or other person appointed as aforesaid may, in his discretion issue a license to any person applying for the same, to keep and use on his premises a still of not more than eight gallons content for any scientific purpose, or for the purpose of distilling scent or perfume from any vegetable matter which has not been submitted to the process of fermentation:

Provided that every person wishing to keep such still shall notify his intention so to do to the Colonial Treasurer or other person appointed as aforesaid, who shall thereupon require such person, with two sufficient sureties, to enter into a recognizance payable to Her Majesty in the sum of two hundred pounds conditioned that he will not make use of such still or suffer it to be made use of, except for such scientific or other purpose as aforesaid, and every person found to

Rectifier's  
recognizance.  
13 Vic. No. 27, s. 16.

License for scientific  
purposes  
*Ibid. s. 18.*

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to have in his possession any such still without having entered into such recognizance, and obtained a license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

Licenses to makers  
of wine

13 Vic. No. 27, s. 19.

and recognizance.

Makers of wine may  
distil brandy under  
certain limitations.

*Ibid.* s. 20.

Fees for licenses.

*Ibid.* s. 21.

**21.** Nothing in this Act contained shall prevent the maker of wine from grapes, the produce of his own vineyard, in the Colony, from keeping and using one still of not more than fifty nor less than twenty-five gallons content, for the purpose of distilling brandy from such wine, or the lees of such wine, for his own consumption; provided he obtains for such still a license from the Colonial Treasurer, or other person appointed as aforesaid, which license shall be granted only on a certificate signed by two magistrates that the person requiring the still has in cultivation and bearing a vineyard of at least two acres in extent:

Provided that every person wishing to keep such still shall notify his intention so to do to the Colonial Treasurer, or other person appointed as aforesaid, who shall thereupon require such person, with two sufficient sureties, to enter into a recognizance payable to Her Majesty in the sum of two hundred pounds, conditioned that he will not sell or dispose of any spirits so distilled, and that he will not use such still except for the purpose of distilling spirits from such wine or lees as aforesaid; and every such person found to have in his possession any still without having entered into such recognizance and obtained such license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

**22.** Any such maker of wine holding a license as aforesaid may fortify the wines, the produce of his own vineyard, with the brandy distilled by him under the provisions of this Act, and may sell the wines so fortified:

Provided always that no such wines so fortified shall contain a greater proportion than twenty-five per centum of alcohol of the specific gravity of eight hundred and twenty-five at the temperature of sixty degrees according to Fahrenheit's thermometer.

**23.** Every license granted in pursuance of this Act shall terminate on the thirty-first day of December next following the granting therof, and there shall be paid for and in respect of every such license the respective sums hereinafter mentioned if such license is for the full period of twelve months, or such smaller sums respectively as are proportioned to the time the same shall be in force, that is to say:—

- (a) For every license granted for the distillation of spirits or for a renewal of the same the sum of ten pounds;
- (b) For every license granted for the rectifying and compounding of spirits or for a renewal of the same the sum of ten pounds;
- (c) For every license granted to an apothecary, chemist, or druggist, or to any person applying for a license to use a still for any scientific purpose, or for the purpose of making scent or perfume as aforesaid, or for a renewal of the same respectively, the sum of two pounds; and
- (d)

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(d) For every license granted to a maker of wine as aforesaid, or for a renewal of the same the sum of one pound ; and such sums respectively shall be paid by the party obtaining such license to the Colonial Treasurer or other person appointed as aforesaid, who upon receiving the direction of the Governor, and upon the production of the certificates hereinbefore required, and upon the execution of the recognizances hereinbefore mentioned, and upon payment of the said sums respectively by the said party or parties applying for such licenses respectively, is hereby authorised and directed to issue the same for the said term of one year and no longer.

**24.** Such licenses as aforesaid granted under this Act may be renewed annually from year to year upon the person so applying for such renewal paying to the Colonial Treasurer or other person appointed as aforesaid the said sums respectively, and upon receipt by the Colonial Treasurer or other person appointed as aforesaid of a certificate from the chief inspector of distilleries or other person appointed as aforesaid that all the regulations of this or of any other Act for the time being relating to the distillation or to the rectifying and compounding of spirits respectively have been complied with :

Provided, however, that in case the party applying for any such renewed license has been convicted of any offence against the provisions of this Act, or has forfeited the said recognizance hereinbefore mentioned, or that the same has been estreated for any breach of the covenants therein contained, it shall not be lawful for the said Colonial Treasurer or other person appointed as aforesaid to grant such renewal of any former license, but he is hereby authorised and directed to refuse the same unless specially directed to issue a license by the Governor.

**25.** The Colonial Treasurer or other person appointed as aforesaid may issue a license free of all charge to keep and use a still to a certain company known as the Australian Gaslight Company, or to any other company or individual manufacturing coal gas for public use in lighting any city or town within the Colony upon being applied to for that purpose by the said Gaslight Company, or by any other company or person or persons manufacturing gas for the purpose aforesaid, and to be used only on the premises where the manufacture of coal gas is carried on :

Provided that every such company or person wishing to keep such still shall notify their or his intention so to do to the Colonial Treasurer or other person appointed as aforesaid, who shall thereupon require such company or person, with two sufficient sureties, to enter into a recognizance payable to Her Majesty in the sum of two hundred and <sup>and recognizance.</sup> pounds conditioned that any such company or person will not make use of such still, or suffer it to be made use of, except for the preparation of naphtha or spirit of coal tar or other articles required bona fide

Licenses how  
renewable.

13 Vic. No. 27, s. 22.

Licenses to distil  
naphtha

*Ibid.* s. 24.

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fide for the said purpose, and every such company or person found to have in their or his possession any still without having entered into such recognizance and obtained such license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

*Governor may prohibit, suspend, revoke, or annul a license.*

13 Vic. No. 27, s. 7.

**26.** The Governor may prohibit the granting or renewing of any license under this Act, or may suspend or revoke or annul any such license on proof to his satisfaction that the enactments and provisions of this or any other Act for the time being relating to the distillation of spirits have been contravened, or that any officer has been obstructed or prevented in or from doing any part of his duty by the party applying for or holding any such license or renewal thereof.

## PART III.

*Distillation, rectifying, and compounding of spirits—Warehousing and exportation of spirits.*DIVISION 1.—*Distillers and distilleries.*

*Distillers cannot be publicans.*  
*Ibid. s. 25.*

**27.** It shall not be lawful for any person who is the owner or part owner or who has any interest or share in a distillery or in any premises or concerns used for rectifying or compounding spirits, nor for any maker of wine the produce of his own vineyard licensed to use a still, nor for any apothecary or chemist licensed to use a still, nor for any person licensed to use a still for scientific or other purposes to have or to hold a license to retail spirituous or fermented liquors, and in case any person who has obtained a license for the sale of fermented or spirituous liquors by retail becomes, after the obtaining of such license, the owner or part owner of, or has any share or interest in, a licensed distillery, or in any premises or concerns used for rectifying or compounding spirits, such license so granted for the sale of fermented or spirituous liquors by retail shall thereupon become and be absolutely void, and the party continuing to sell fermented or spirituous liquors by retail after having become the owner or part owner of, or after obtaining an interest or share in, a licensed distillery, or in any premises or concerns used for the rectifying or compounding of spirits may be prosecuted and convicted as a person selling fermented or spirituous liquors by retail without a license.

*Distance between the premises of licensed persons and those of brewers.*  
*Ibid. s. 26.*

**28.** No person, whether he has obtained any such license as aforesaid or not, shall practise, follow, or use the trade or business of a brewer of ale, porter, beer or gingerbeer, within the premises on which there is a still, or on any part thereof, or on any other place or premises within one hundred yards of the said premises on which there is a still, under a penalty of one hundred pounds. 29.

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**29.** No other business or work except that of a distiller, or that of coopering or repairing casks for the removal of spirits shall be carried on within the premises of a distiller under a penalty of twenty pounds:

Provided always that the distiller may employ workmen for the necessary repairs or alterations of his premises and may have and keep a forge for the working of the iron required in such repairs or alterations.

**30.** If, on demand of the chief inspector of distilleries, strong safe and convenient ladders are not provided and conveniently placed, of length sufficient to enable the officer on duty to ascend to and examine, and descend from or into any vessel or utensil in such distillery, or if any such ladder is not fixed at or in any part of such vessel or utensil where such officer requires, or if sufficient light and sufficient aid and assistance are not supplied by the distiller or his servants in locking, unlocking, opening, or removing all locks and fastenings, and also for the purpose of gauging or ascertaining the content or capacity of any vessel or utensil, or searching for and gauging all the stock on hand as well by day as by night, every distiller in whose distillery any such neglect or offence takes place shall, for every such neglect or offence, forfeit the sum of one hundred pounds.

**31.** If at any time the said wall or slab, paling or gate, becomes insufficient for the purposes of security intended by this Act, and the distiller does not at the demand of the chief inspector of distilleries cause the said wall or slab, paling or gate, as the case may be, to be rendered secure, and put into the condition or state hereinbefore mentioned, the distiller shall forfeit the sum of fifty pounds, and the additional sum of ten pounds for every day that the said wall or slab, paling or gate, remains in an insecure state.

**32.** No rubbish shall be deposited upon the premises of any distillery, and all materials required for the use of the distillery shall be deposited in a building appropriated for the reception of the same as hereinbefore provided, except coal and fuel; and all coal or fuel shall be so placed as not to obstruct the view of the premises, and all rubbish and any materials, including coal or fuel, which may in any way obstruct the view of the officers or conceal from view any part of the process going on in the distillery, shall be removed by and at the expense of the distiller by order of any inspector of distilleries, and be placed beyond the premises of the distillery; and if any distiller neglects to conform to the provisions of this section, or fails forthwith to remove any such rubbish or materials including coal or fuel as aforesaid when required so to do by any inspector of distilleries, he shall forfeit and pay the sum of twenty pounds for every such offence.

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Office for the  
inspectors.  
13 Vic. No. 27, s. 31.

Return of gauges.  
*Ibid.* s. 32.

Spirit store to be  
registered.  
*Ibid.* s. 33.

Store for materials  
to be registered.  
*Ibid.* s. 34.

**33.** Upon the premises of every distillery there shall be an office fit and proper for the safe custody of the Government books, accounts, and instruments, and convenient for the accommodation of the officer on duty, and upon obtaining his license, the distiller shall deliver the key and give over possession of such office to the chief inspector of distilleries, and the said distiller shall thereby relinquish all right to the occupancy of such office so long as he holds a license, or there remains in the certified and registered store of the premises for which the license is granted any spirits upon which the duty has not been paid; and any distiller failing to comply with the provisions of this section shall forfeit and pay the sum of one hundred pounds.

**34.** Every distiller or rectifier and compounder of spirits shall, immediately on obtaining his license or a renewal thereof, or not later than the seventh day thereafter, furnish to the chief inspector of distilleries a return in writing signed by him of every tun, back, charger, still, receiver, vat, or other vessel or utensil on the premises in respect of which he is licensed, which return shall also set forth a correct statement of the content in imperial gallons in each and every vessel or utensil as above enumerated as well as the number of imperial gallons that every inch of the height thereof is respectively capable of containing, and such return shall not be held to be a lawful return until it has been verified and countersigned by two inspectors of distilleries, and the said return so furnished shall be kept and registered by the chief inspector of distilleries, and all vessels or utensils found on the said premises, which are not stated and mentioned in the said return, shall be liable to be seized by any inspector of distilleries or other person appointed as aforesaid, and any distiller who commences the operation of making or brewing worts or any rectifier who rectifies any spirits before the provisions herein contained have been complied with shall forfeit and pay the sum of one hundred pounds.

**35.** A particular description of the said certified store for the reception of spirits when distilled shall be made and registered by the chief inspector of distilleries in Form C of the Second Schedule hereto, or in words to the like effect, and kept by him with the other records of his office, and all spirits found in any place on the premises except in the said store so registered or in the vessels and utensils and in the manner hereinafter provided shall be forfeited and may be seized by any inspector of distilleries, and the distiller, on proof of spirits being found in any other place or part of the premises, shall forfeit and pay the sum of forty shillings for every gallon of spirits so found.

**36.** A particular description of the said certified store for the reception of sugar, treacle, molasses, malt, grain, or other material which may be used in the process of distillation, shall be made and registered by the chief inspector of distilleries in Form C of the Second Schedule

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Schedule hereto, or in words to the like effect, and kept by him with the other records of his office, and all sugar, treacle, molasses, malt, grain, or other material capable of fermentation, or which may be used as aforesaid, found in any part of the premises except in the certified store so registered shall be forfeited and may be seized by any inspector of distilleries, and the distiller, on proof of any such material being found in any other part of the premises except in the manner herein-after provided, shall forfeit and pay the sum of forty shillings for every hundredweight of materials so found.

DIVISION 2.—*Distilling apparatus—Process of distillation.*

37. (i) Every such wash charger as aforesaid shall be a close covered vessel the capacity or content of which shall not be less than that of the largest fermenting wash back, and every such wash charger shall be connected with the wash still by one close metal pipe having a cock or cocks thereon one end of which pipe shall be fixed into the bottom of such wash charger and the other end thereof shall be fixed into such still, and to such wash charger there shall be one other close metal pipe having a cock thereon, one end of which pipe shall be fixed into the pipe or trough communicating with the fermenting wash backs and the other end of such pipe shall be fixed into such wash charger and such wash charger shall not have any communication with any other vessel or utensil whatever.

(ii) Every such low wines' receiver as aforesaid shall be a close covered vessel with a pump fixed therein for the conveyance of low wines from such receiver into the low wines' and feints' charger and there shall be one close metal pipe externally visible for its whole length attached to and leading directly from the safe at the end of the worm of the wash still and fixed into every such low wines' receiver so that all low wines running into such pipe from such safe shall immediately be discharged therefrom into such low wines' receiver, which receiver shall not have any communication with any vessel or utensil whatsoever except as aforesaid.

(iii) Every such feints' receiver as aforesaid shall be a close covered vessel with a pump fixed therein for the conveyance of feints from such receiver into the low wines' and feints' charger, and there shall be one close metal pipe externally visible for the whole length attached to and leading directly from the safe at the end of the worm of the low wines or spirit still and fixed into every such feints' receiver so that all feints running into such pipe from such safe shall immediately be discharged therefrom into such feints' receiver, which receiver shall not have any communication with any vessel or utensil whatsoever except as aforesaid.

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Low wines' and feints' charger.

(iv) Every such low wines' and feints' charger as aforesaid shall be a close covered vessel connected with the low wines' or spirit still by a close metal pipe having a cock or cocks thereon, one end of which pipe shall be fixed into the bottom of such charger and the other end shall be fixed into such still, and each such charger shall have communication with the low wines' and feints' receiver respectively by means of close metal pipes, one end whereof respectively shall be fixed to each such charger and the other end whereof shall be attached to the pump or pumps to be fixed as aforesaid in the low wines' receiver and feints' receiver respectively, and such charger shall not have any communication with any other vessel or utensil whatsoever except as aforesaid.

Spirit receiver.

(v) Every such spirit receiver as aforesaid shall be a close covered vessel with a pump fixed therein for the conveyance of spirits from such receiver into the spirit vats in the certified and registered store for the reception of spirits and there shall be one close metal pipe externally visible for the whole length attached to and leading directly from the safe at the end of the worm of the spirit still and fixed into such spirit receiver in such manner as that all spirits running therein from such safe shall run directly and be discharged therefrom into such spirit receiver without resting in the said pipe.

Situation of charger and receiver, and dipping holes therein.

(vi) Each and every such charger and receiver shall be erected and kept in a convenient and public situation in the still house or to the approbation of the chief inspector of distilleries and exposed to open view and easy of access and inspection on all parts thereof, and each such charger and receiver respectively shall have a sufficient cover thereon with a rectangular dipping hole cut in such cover not more nor less than an inch square, and in which dipping hole there shall be placed a dipping rod to be provided by the distiller.

Penalty.

(vii) If any charger or receiver is made use of in any distillery which is not erected, kept, and constructed in manner herein directed or which has any hole therein except a trap-door in the cover thereof properly secured by the officer and a dipping hole as aforesaid, or if any pipe or cock as aforesaid is made use of which is not placed, kept, and constructed in manner herein directed, or if there is any communication with any other vessel or utensil whatsoever other than as by this Act is required, authorised, and allowed, then and in every such case such distiller shall forfeit and pay the sum of two hundred pounds and also the sum of twenty pounds for every day during which such charger or receiver or pipe or cock not strictly in accordance with the provisions of this section remains in the distillery of such distiller.

Underground pipes to be enclosed in wooden cases.

13 Vic. No. 27, s. 36.

**38.** Every pipe or tube which, in any building or in any part of the premises of the distillery, passes below the surface of the ground shall be enclosed in a wooden case so constructed as to admit of its being

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being opened and the pipe or tube exposed to view at the demand of any inspector of distilleries; and any distiller who fails to comply with the provisions herein contained shall forfeit and pay the sum of two hundred pounds:

Provided always that the pipes used for the conveyance of water in any of the distilleries licensed previously to the twenty-seventh day of September, one thousand eight hundred and forty-nine, shall not be affected by the provisions of this section.

**39.** (1) The end of every tail-pipe belonging to every still of every distiller or rectifier or compounder of spirits shall be enclosed and secured at the expense of the distiller or rectifier or compounder of spirits in such manner and by such mechanism and means as the chief inspector of distilleries may direct; and all spirits, low wines, and feints running from such tail-pipe shall run into a safe, enclosed and secured in manner as aforesaid, and shall be thence conveyed by a pipe open externally to the inspection of the officers for its whole length into the spirits receiver, or low wines, or feints, receiver or receivers, as the case may be.

Ends of tail pipes  
to be secured.  
13 Vic. No. 27, s. 37.

- (II) (a) If, upon demand by the chief inspector of distilleries, the end of every such tail-pipe is not secured by such mechanism and means as shall be so directed; or
- (b) if the whole of the spirits, low wines, and feints coming from any such tail-pipe are not run into such safe so enclosed and secured as aforesaid; or
- (c) if such spirits, low wines, and feints respectively, and every part thereof, are not conveyed from such safe into the spirits receiver or low wines, or feints, receiver or receivers, as the case may be, directly and by such pipe as aforesaid; or
- (d) if, on the demand of the proper officer, all the expenses incurred by providing and repairing or altering such mechanism, or means of enclosing the end of such tail-pipe and safe as aforesaid, are not paid by or on behalf of such distiller or rectifier to such officer; or
- (e) if such mechanism and means of enclosing the end of such tail-pipe and safe as aforesaid are not affixed and kept and preserved affixed as aforesaid; or
- (f) if at any time after the end of any such tail-pipe or any such safe has been enclosed and secured as aforesaid, the mechanism or means by which the same are so enclosed and secured as aforesaid, or any part thereof, is or are destroyed or injured; or
- (g) if, by any art or contrivance, any access is gained or had without notice to and without the knowledge and presence of an inspector of distilleries to any spirits, low wines, or feints from the time of the extraction or distillation thereof until the same have been taken account of by the proper officer in the proper receiver or receivers; or

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(h) if the officer is in any manner prevented from or baffled or defeated in the taking a true account of any spirits, low wines, or feints in any vessel whatsoever; then and in every such case the distiller shall for every such offence forfeit and pay the sum of two hundred pounds.

Discharge cock of  
the fermenting  
backs.

13 Vic. No. 27, s. 38.

**40.** Every distiller shall provide and fix to the satisfaction of the chief inspector of distilleries a proper discharge cock or plug and plug-hole in every fermenting wash back through which cock or plug-hole the wash in such wash back shall, from time to time, be conveyed by a main pipe or open trough into the wash charger, and such main pipe or trough shall be placed and fixed in such manner that all wash or liquor put therein shall forthwith run and be discharged from thence into such wash charger, and not elsewhere, except by a sewer cock fixed on such main pipe and properly secured and fastened; and there shall not be any other pipe or conveyance entering into or passing out of any such wash fermenting back except the pipe or trough for conveying wort into such fermenting back from the coolers, and if such discharge cock or plug is not provided and fixed as aforesaid, or if such main pipe or open trough is not placed and fixed as aforesaid, or if there is any other pipe, conveyance, or cock to or from any fermenting back, except as aforesaid, then and in every such case such distiller shall forfeit and pay the sum of two hundred pounds:

Provided always that nothing herein contained shall prevent any distiller from placing any close metal pipe or pipes in, but not opening into, any wash back for the purpose of conveying through such back hot or cold air or water for the purpose of promoting or retarding the fermentation of the worts or wash contained in such back.

Pipes, &c., to be  
stanch.

*Ibid.* s. 39.

**41.** The pipes, troughs, sluices, and cocks for the conveyance of worts into the fermenting backs of every distillery shall be secure and stanch, so that there shall be no leakage therefrom; and any distiller who fails to repair and make secure and stanch any such pipe, trough, sluice, or cock within twenty-four hours after receiving notice in writing to that effect from the officer on duty, shall forfeit and pay the sum of one hundred pounds.

Utensils, &c., to be  
kept in repair.

*Ibid.* s. 40.

**42.** Every distiller or rectifier shall, at his own expense and charge, provide, maintain, and keep the several utensils, cocks, pumps, pipes, and troughs which are required by this Act, and shall also provide, maintain, and keep in good repair, and at his own expense and charge, proper and sufficient fastenings to the satisfaction of the chief inspector of distilleries or other officer appointed by the Governor, for securing the several cocks and plugs required by this Act to be secured, and for securing the covers of or belonging to the chargers and receivers hereinbefore mentioned respectively, and also for

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for securing the furnace doors, pumps, safes, pipes, vessels, and utensils permitted, allowed, or required for the purposes mentioned in this Act, and every distiller or rectifier failing herein shall forfeit and pay the sum of one hundred pounds.

**43.** Any inspector of distilleries on duty at any distillery may lock, secure, and fasten the several coverings, fastenings, furnace doors, cocks, safes, pipes, pumps, plugs, troughs, vessels, and utensils for which fastenings are required to be provided in such manner as the chief inspector of distilleries may direct as aforesaid, and may keep the same and each and every of them so locked, secured, and fastened at all times, except when they shall be opened, unfastened, or unlocked by or in the presence of any inspector as aforesaid.

**44.** At or near the top of every fermenting wash back, and at or near the top of every charger or receiver, and of every vat for storing or keeping spirits in the premises of any distiller there shall be an opening or dipping place at which the officer may conveniently take his dip or gauge of the contents of such vessel, and all such backs and vessels respectively shall be placed and kept in convenient situations and shall be at all times easy of access to the officer for his more readily and effectually inspecting and examining them in every part and taking the dip or gauge thereof, and if in any such back or vessel there is not such opening or dipping place so constructed and secured as aforesaid, or if any such back or vessel is not placed and kept in a convenient situation and easy of access to the officer as aforesaid, or if the officer is at any time by any means whatever, or in any manner whatever prevented from ascertaining the quantity and gravity or either of them of any wort or wash, or the quantity or strength of any low wines, feints, or spirits, then and in every such case such distiller offending therein shall forfeit and pay the sum of two hundred pounds.

**45.** If the size, situation, or position of any vessel, utensil, or pipe is in any manner altered at any time after such return or plan as is required by this Act has been made or given thereof, unless on such notice as is herein provided, then in each and every such case such distiller or rectifier offending therein shall forfeit and pay the sum of two hundred pounds:

Provided always that such distiller or rectifier may alter the size, situation, or position of any such vessel or utensil or pipe, or may erect and set up any new vessel, utensil, or pipe on receiving permission in writing from the chief inspector of distilleries of such intended alteration, specifying the particular vessel, utensil, or pipe, and the size, situation, or position which is intended to be altered, and making return of such vessel, utensil, or pipe in manner hereinbefore mentioned, and conforming in all respects to the regulations in this Act contained in that behalf.

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Governor may allow distillers already licensed to use the vessels already erected.

13 Vic. No. 27, s. 44.

**46.** The Governor may permit and allow any distiller or rectifier working under the regulations of any Act or Acts in force prior to the twenty-seventh day of September, one thousand eight hundred and forty-nine, to keep or use such of the vessels already fixed or used in the distillery of such distiller or rectifier as are reported by the chief inspector of distilleries to be secure and adapted to the purposes for which such vessels are prescribed or required by this Act, and no distiller or rectifier to whom such permission is granted shall be liable to any of the penalties imposed by this Act in respect of such distiller or rectifier keeping or using any such vessels so permitted, although the same may not be conformable with the provisions of this Act, anything hereinbefore contained to the contrary notwithstanding.

Officer may empty worm tubs.

*Ibid.* s. 45.

**47.** Whenever any inspector of distilleries has reason to suspect that any fraud is practised against the revenue, or against the provisions of this Act, he may direct that the water contained in any worm tub belonging to any still at any time when such still is not at work shall be drawn or run off, and that the tub and worm shall be cleaned by the distiller or rectifier, his servants or workmen, and if the water is not so drawn or run off at the direction of such officer, and the tub and worm forthwith cleaned and the water kept and continued out of such worm and tub for the space of two hours or until the officer has finished his inspection and examination of such tub and worm therein, the distiller or rectifier at whose distillery such worm tub is situate shall forfeit and pay the sum of two hundred pounds, and such officer may draw or run off, and keep drawn or run off, such water or so much thereof and for so long a time as he thinks necessary.

Regulation of material store.

*Ibid.* s. 46.

**48.** The said certified and registered store for the reception of material to be used in the process of distillation may be opened for the purpose of admitting such material between the hours of eight in the morning and four in the afternoon only, and all such material previously to such admission into the said store shall be weighed by the distiller or his servants in the presence and to the satisfaction of an inspector of distilleries who shall take account thereof, and the said store shall be opened for the delivery of such material for the purpose of mashing between the hours only of six in the morning and three in the afternoon, and immediately after such delivery such material shall be weighed by the distiller or his servants in the presence and to the satisfaction of an inspector of distilleries, who shall take account thereof, and the material so weighed, shall within one hour thereafter be conveyed into the underback or mash-tun of the distillery, and any such distiller offending herein or failing or refusing to provide the necessary assistance for weighing such material shall forfeit and pay the sum of fifty pounds.

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**49.** The chief inspector of distilleries shall provide a book to be <sup>Notice book.</sup> called a notice book to be kept in every distillery or rectifying estab- <sup>13 Vic. No. 27, s. 47.</sup> lishment by the distiller or rectifier, as the case may be, or by their servants, and before any notice or declaration by this Act required to be given or delivered is so given or delivered, an entry shall be made in such book stating the particulars of all such notices and declarations, and such book shall at all times on demand be delivered to any inspector of distilleries at the distillery or rectifying establishment, and if any distiller or rectifier, or any person on his behalf, to whom any such book is tendered, refuses to receive the same, or if the particulars of all such notices or declarations respectively are not inserted in such book, or if any untrue entry is made therein, or if such book or any entry therein is defaced, obliterated, or altered by any such distiller or rectifier, or by any person employed in the distillery or rectifying establishment, or if such book is not at any time delivered to any inspector of distilleries on his demanding the same, then, and in every such case such distiller or rectifier shall forfeit and pay the sum of two hundred pounds.

**50.** Any notice or declaration which is given or served by or on behalf of any distiller or rectifier upon any person upon whom the same ought to be given or served, shall, according to the true intent and meaning of such notice and declaration, be taken to be good and <sup>Entries in notice book to be effectual as against distiller or rectifier.</sup> effectual as against such distiller or rectifier, although such notice or declaration is not in the form or does not contain the several particulars or is not given or served on the person within the time by this Act prescribed or appointed for giving or receiving the same, and upon the trial of any information or other proceeding relating to or in any manner touching or concerning any such notice or declaration it shall not be competent to or for such distiller or rectifier to allege any imperfection or defect in any such notice or declaration or in giving or serving the same.

**51.** No distiller shall commence mashing without having first <sup>Notice of mashing.</sup> served a written notice of at least sixteen hours on the officer on duty, <sup>Ibid. sec. 49.</sup> specifying therein the back or backs which he intends to set up, and the material and the weight thereof which he intends to use in the twenty-four hours next following on the expiration of the said sixteen hours, and similar notice shall be given from day to day of every such mashing under a penalty of one hundred pounds :

Provided, however, that for every day after the first day a notice of at least six hours shall be sufficient instead of sixteen.

**52.** No distiller shall add to the worts contained in any fermenting <sup>As to yeas' and spent wash.</sup> back any composition for exciting fermentation except after having served one hour's notice thereof on the officer on duty, and in the presence of such officer, and in any quantity not exceeding the proportion of ten gallons of any such composition to one hundred gallons of any such worts : <sup>Ibid. s. 50.</sup> Provided

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Provided, however, that at any time before the declaration first hereinafter mentioned the distiller may make use of spent wash in the preparation of worts in any quantity not exceeding the proportion of twenty gallons of such spent wash to one hundred gallons of any such worts, and any distiller offending against the provisions or enactments herein contained shall forfeit and pay the sum of two hundred pounds.

Notice of setting up backs.

13 Vic., No. 27, s. 51.

**53.** Before any worts are conveyed from the cooler into any fermenting back, the distiller shall give notice thereof to the officer on duty, which notice shall specify the back which is intended to be filled or set up, and any distiller failing herein shall forfeit and pay the sum of fifty pounds.

Saccharometers.

*Ibid.* s. 52.

**54.** Any such saccharometers may be used for ascertaining the specific gravity of wort or wash under this Act as shall from time to time be prescribed for that purpose by the Governor, and every degree of specific gravity to be ascertained by any saccharometer under the provisions of this Act shall be calculated in the following manner, that is to say, that distilled water being assumed as unity at the temperature of sixty degrees by Fahrenheit's thermometer, every degree of such specific gravity shall be correspondent to a thousandth part of the specific gravity of such water, and all wort or wash shall for the purposes of this Act be deemed and taken to be of the specific gravity at which the said saccharometer shall on the application thereof denote or indicate such wort or wash to be.

Declaration of the highest specific gravity, &c.

*Ibid.* s. 53.

**55.** Within twenty-four hours after any worts have been conveyed into the cooler, the distiller or his servants shall deliver to the officer on duty a declaration specifying the number of the back or backs into which such worts have been conveyed, and the specific gravity of such worts in such back or backs, and the quantity thereof, that is to say, the number of inches not occupied or wetted by the worts, being the space between the upper edge on the dipping place of such back or backs and the surface of the worts, and if any worts are conveyed into and collected in any fermenting back or backs in any other manner than as is herein directed, or if any untrue declaration is given, or if such declaration is not given as is herein required, then, and in each and every such case, the distiller shall forfeit and pay the sum of two hundred pounds.

Increase of specific gravity or quantity.

*Ibid.* s. 54.

**56.** If at any time beyond six hours after any such declaration as aforesaid has been delivered, the specific gravity of any such worts or wash is found to exceed the specific gravity specified in such declaration by five per centum, or if the quantity of any such worts or wash is found to exceed by five per centum, the quantity of wort mentioned in such declaration as the quantity collected as aforesaid, then and in each and every such case the distiller shall forfeit and pay the sum of two hundred pounds.

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**57.** If at any time after any inspector of distilleries has taken <sup>And proceedings</sup> an account of, and ascertained the specific gravity and quantity of any <sup>thereon.</sup> wort or wash in any fermenting back, any wort is found in such back or any wash in process of fermentation is found in such back which exceeds in gravity by five per centum or more the wort or wash in such back of which such account has been taken, or which exceeds in quantity by five per centum or more the wort or wash in such fermenting back of which such account has been previously taken, all such wort or wash in such back shall be considered as new wort or wash, and not included in any former charge against the distiller in whose possession such wort or wash is found, and such distiller shall be charged with duty in respect of the whole wort or wash in such back in like manner as such distiller is by this Act chargeable in respect of any wort or wash not before charged, and the wort or wash of which such account has been previously taken in such back shall be deemed to be distilled or decreased, and the distiller shall be charged for a quantity of spirits in respect of such wort or wash so deemed to be distilled or decreased in like manner as such distiller is chargeable under this Act for any wort or wash actually distilled or decreased, and such distiller shall also for every such offence forfeit and pay the sum of two hundred pounds.

**58.** All spirits shall be deemed and taken to be of the degree of <sup>Hydrometer.</sup> strength at which any hydrometer, called *Sykes' hydrometer*, upon trial <sup>*Ibid. s. 56.*</sup> by any inspector of distilleries or other person appointed as aforesaid, denotes such spirit to be.

**59.** All wash which is made in the distillery of any distiller, <sup>Course of wash</sup> shall be fermented in the fermenting wash backs of such distiller, and <sup>through the different vessels.</sup> shall be conveyed directly from thence into the wash charger, and <sup>*Ibid. s. 57.*</sup> shall be conveyed from such charger into the wash still, there to be made or distilled into low wines, and all low wines shall be conveyed directly from the safe at the worm end of the wash still into the low wines' receiver, and shall from thence be pumped up or conveyed into the low wines' charger, and shall be conveyed directly from such charger or chargers into the low wines' or spirit still, there to be re-distilled; and all feints or spirits produced by such re-distillation shall be conveyed directly from the safe at the worm end of the low wines' or spirit still into the feints' receiver or spirit receiver respectively; and so much of such feints as are conveyed into such feints' receiver or receivers shall be pumped or conveyed directly from thence into the low wines' charger or feints' charger, and shall be conveyed directly from such charger or chargers into the low wines still to be re-distilled, and the produce of the last-mentioned re-distillation and of every other re-distillation, shall, in like manner, be conveyed directly from the safe at the worm end of the low wines' or spirit still into the spirits' receiver, or into the feints' receiver or receivers; and no feints <sup>conveyed</sup>

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conveyed into such feints' receiver or receivers, shall in any case be removed from thence, except by pumping or conveying such feints directly into the low wines' or feints' charger or chargers, from whence such feints shall be conveyed directly into the low wines still or stills for re-distillation, until the whole of such feints are made into spirits, and conveyed and run into the spirit receiver; and no spirits conveyed into the spirit receiver shall be re-distilled, or shall be removed from such receiver, except into the vat or vats in the said certified and registered store for the reception of spirits.

If any distiller ferments, or suffers to be fermented, any wash, or removes or distils, or suffers to be removed or distilled, any wash, low wines, feints, or spirits, contrary or otherwise than according to the directions and provisions herein contained, or does not convey and run the whole of the spirits made or distilled by him into the spirit receiver, such wash, low wines, feints, and spirits, respectively, together with all vessels and utensils wherein the same are contained, shall be forfeited, and may be seized by any inspector of distilleries; and the distiller so offending, shall, in every such case, forfeit and pay the sum of two hundred pounds, or twenty shillings for every gallon of such wash, low wines, feints, or spirits, so removed or distilled, and not conveyed and run into the spirit receiver at the election of the chief inspector of distilleries, or person who informs or sues for the same.

Wash charger to be cleaned out.

13 Vic. No. 27, s. 58.

Notice of charging the wash charger  
*Ibid.* s. 59.

**60.** The wash charger in any distillery shall be thoroughly cleaned out at least once in every week, and any distiller offending against the provisions of this section shall forfeit and pay the sum of fifty pounds.

**61.** One hour before any wash is conveyed from any fermenting wash back in the distillery of any distiller, a notice in writing shall be given to the officer on duty, by or on behalf of such distiller, in which shall be stated the number of the back in which such wash is contained, the specific gravity of such wash, and the day and hour when such wash is to be removed, and such officer shall attend at the time specified in such notice, and after he has locked the charging cock of the wash charger he shall remove such fastenings as prevent the conveyance of such wash from any back mentioned in such notice into the wash charger, and thereupon all the wash which is contained in such fermenting wash back shall be conveyed into such charger in manner prescribed in this Act, and such officer after having affixed and secured the fastenings which he had so removed shall be at liberty and authorised to take an account of the true quantity and specific gravity thereof in the wash charger, and shall thereupon unlock the charging cock aforesaid, and if any wash is removed before such notice has been given, or is removed or conveyed from any other back, or at any other time or manner than has been mentioned in such notice,

or

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or before the officer on duty has locked, removed or secured, respectively, such cocks or fastenings as beforementioned, and taken account of the true quantity of the wash in such charger, such distiller shall in every such case forfeit and pay the sum of two hundred pounds.

**62.** Any such officer as aforesaid may take and convey away <sup>Officer may distil</sup> from any wash back or charger in the distillery of any distiller a <sup>a sample.</sup> <sup>13 Vic. No. 27, s. 60.</sup> sample not exceeding the quantity of twenty gallons of the wash contained in such back or charger, and may cause such samples of wash to be distilled into low wines in any still provided for that purpose by order of the Governor, and such officer shall gauge or measure the quantity and ascertain the strength of the low wines produced by the distillation of such wash :

Provided always that such distiller shall be paid for any such sample of wash at the rate of sixpence for every gallon thereof, or that the produce by distillation of any such sample of wash shall be returned to the distiller at the option of the chief inspector of distilleries.

**63.** The chief inspector of distilleries may erect and keep a still <sup>Chief Inspector may erect a still.</sup> <sup>Ibid. s. 61.</sup> in any distillery or in any place provided by order of the Governor for the purpose of distilling any such sample of wash as aforesaid, and also for the purpose of distilling into spirits any wash low wines or feints seized by any inspector of distilleries at any unlicensed distillery.

**64.** The chief inspector of distilleries or other officer appointed by the Governor may at any time require that any low wines' receiver in the distillery of any distiller shall be emptied and cleaned out, and that any quantity of wash shall be conveyed into any wash still in <sup>Chief inspector may superintend the distillation of a charge of wash.</sup> <sup>Ibid. s. 62.</sup> the distillery of such distiller, and from any such wash back as such officer shall direct or require, in order that such wash may be forthwith distilled into low wines, and all persons in the employ of such distiller shall, on reasonable notice, give and provide aid and assistance and fuel to such officer at his request in distilling such wash into low wines, and in conveying the whole of such low wines directly into such low wines' receiver which is so cleaned out, and such low wines shall be kept in such receiver unmixed with any matter or thing whatsoever until such officer has taken an account of the quantity and strength of such low wines, and if such low wines' receiver is not emptied and cleaned out, or if such wash is not conveyed into such wash still or from such wash back as is required by such officer, or if such aid and assistance and fuel are not given to such officer in the distilling such wash into low wines, or in conveying the whole of such low wines into such receiver, or if such low wines are not kept in such receiver unmixed as aforesaid until such officer has taken such account as aforesaid, then and in every such case every such distiller shall for each default or offence forfeit and pay the sum of two hundred pounds.

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The quantity of proof spirit in the low wines' receiver not to exceed the quantity due from the wash.

13 Vic. No. 27, s. 63.

**65.** In every case, whether low wines have been produced from wash distilled in the wash still in any distillery and conveyed into the low wines' receiver in such distillery as aforesaid, or have been produced from any sample of wash taken by such officer as aforesaid and distilled in any still provided by order of the Governor aforesaid, such officer shall ascertain the quantity of proof spirit in and equivalent to such low wines according to the strength of such low wines, and if such quantity of proof spirits so computed exceeds in any of the respective cases aforesaid the rate or proportion of one gallon and one quarter of a gallon of proof spirits from each and every one hundred gallons of such wort or wash for and in respect of the several and respective rates of attenuation according to the composition of such worts or wash as hereinafter mentioned, then and in each and every such case respectively the distiller shall forfeit and pay the sum of two hundred pounds, and also the sum of sixpence for every gallon of wort or wash contained in the wash back from which such wash so distilled was removed or taken :

Provided always that such officer shall pay to every such distiller the value of every sample of wash which he so takes away from such distiller or return the produce thereof, and mix the low wines with the low wines of the wash back to which they belong :

Provided also that such distiller or any person acting on his behalf may be present at the distillation of any such wash if such distiller or other person desires to be so present.

The contents of the backs not to be mixed in the wash charger.

*Ibid.* s. 64.

**66.** After any wash has been removed from any fermenting back in any distillery it shall not be lawful to remove any wash from any other fermenting back in such distillery until the whole contents of such first-mentioned back have been taken a separate account of by the proper officer in the wash charger and conveyed into the wash still, and if any wash is removed contrary hereto the distiller in whose distillery such offence is committed shall forfeit and pay the sum of two hundred pounds.

Notice of distillation from wine, ale, &c.  
*Ibid.* s. 65.

**67.** It shall not be lawful for any distiller to have, receive, or commence distilling from any wine, ale, beer, or any fermented liquor whatsoever which has not been brewed or made in his distillery without first having served a written notice of at least two days on the chief inspector of distilleries or the officer on duty of his intention so to do, which notice shall specify the description and quantity of such liquor as aforesaid which he intends to use in the twenty-four hours next following on the expiration of the said two days, and a notice of six hours to the like effect shall be served on the officer on duty from day to day for every day after the first day, and any distiller offending herein shall forfeit and pay the sum of two hundred pounds.

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**68.** No distiller shall mix or suffer to be mixed in any charger, still, receiver, or vat, or in any vessel or utensil whatsoever any worts or wash made or fermented in his distillery, or any low wines, feints, or spirits produced therefrom with any wine, ale, beer, or any fermented liquor whatsoever which has not been fermented or made in his distillery, or with any low wines, feints, or spirits produced therefrom, and any distiller offending against the provisions of this enactment shall forfeit and pay the sum of two hundred pounds.

**69.** Lamps or lights to the satisfaction of the officer on duty shall be kept burning at all hours between sunset and sunrise when the distillery is in operation, and any distiller offending herein shall forfeit and pay the sum of ten pounds.

**70.** If any material capable of fermentation is brewed or mashed, or if any still is made use of in the distillery of any distiller licensed under this Act, during any part of the Lord's Day, such distiller in each and every such case, shall forfeit and pay the sum of fifty pounds.

**71.** Within twelve hours after any distiller has commenced pumping any worts into the cooler, he or his servant shall deliver to the officer on duty a declaration specifying the number of the back or backs into which such worts have been conveyed, and the specific gravity of such worts in such back or backs, and the quantity thereof, that is to say the number of inches not occupied or wetted by such worts, being the space between the upper edge on the dipping place of such back or backs and the surface of the worts, and if any worts are conveyed into and collected in any fermenting back or backs in any other manner than is herein directed, or if any untrue declaration is given, or if such declaration is not given as is herein required, then, and in each and every such case the distiller shall forfeit and pay the sum of two hundred pounds.

**72.** In all licensed distilleries where wine is the material to be distilled from, and such wine has been taken from the store certified and registered for the reception of material to be used in the process of distillation to any distillery, it shall be lawful for the distiller at his discretion either to convey the said wine into the underback or mash tun of the distillery or to pump it into the wash charger within one hour after it is received from the said store.

Provided always, that all such wine shall upon its receipt into the certified and registered store as aforesaid, and also on its removal therefrom for the purpose of distillation, be gauged in the presence and to the satisfaction of an inspector of distilleries who shall take an account thereof.

*Distillation.*DIVISION 3.—*Provisions relating to duty on spirits.*

Mode of charging  
duty.

13 Vic. No. 27, s. 69.

Quarterly computa-  
tion.

*Ibid.* s. 70.

16 Vic. No. 45, s. 4.

Duty computed  
ratably with the  
attenuation.

**73.** From and after the commencement of this Act it shall be lawful to charge the distiller with duty upon the quantity of proof spirit produced by him, as well as upon any deficiency ascertained in the manner hereinafter directed.

**74.** At the expiration of each and every three months, and not later than the tenth day of the month next thereafter ensuing a computation shall be made, and a copy thereof served on the distiller by the chief inspector of distilleries or other officer appointed by the Governor of the quantity of proof spirit made by the distiller during any such period of three months from worts or wash mashed, fermented, or made in his distillery, and after making an allowance of five per centum upon the quantity of proof spirit which ought to be produced from such worts or wash according to the several rates of attenuation hereinafter specified, and a further allowance or charge as the case may require of two and one-half per centum on the low wines and feints on hand at the commencement and expiration of such period, the quantity so computed and ascertained shall be compared with the quantity of proof spirit which ought to have been produced from the worts or wash mashed, fermented, or made by the distiller according to the several and respective rates hereinafter expressed, and as the case may require according to the provisions herein contained, that is to say, for and in respect of every one hundred gallons of worts or wash which shall be mashed, fermented, or made in the distillery of any distiller from malt or grain, or any mixture of malt with grain it shall be lawful to compute a quantity of proof spirit at the rate of one gallon of proof spirit for every five degrees of specific gravity of such worts or wash which shall have been attenuated, that is to say, for every five degrees of difference between the highest specific gravity of such worts or wash as declared by the distiller, and the lowest decreased specific gravity of the same worts or wash as declared by the distiller, or as appearing on any account taken thereof by the proper officer pursuant to this Act previously to the distillation of such worts or wash, and for and in respect of every one hundred gallons of worts or wash which shall be mashed, fermented, or made in the distillery of any distiller from sugar, molasses, or treacle at the rate of one gallon of proof spirit for every four and one-half degrees of specific gravity attenuated and ascertained in manner aforesaid, and such computation of proof spirit shall be made at the same rates and proportions of attenuation for any lesser quantity of such worts or wash, and for any less decrease of specific gravity as the case may require, and if by such computation it appears that the quantity of proof spirit produced by the distiller, and conveyed into the certified and registered store of the distillery, and remaining on hand in low wines and feints as aforesaid

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aforesaid during the said period is less than the quantity of proof spirit which ought to have been produced from the worts or wash mashed, fermented, or made in the distillery during the same period according to the rates herein expressed then, and in every such case the distiller shall pay duty on such deficiency.

75. In preparing the quarterly computation required by the <sup>How quarterly</sup> next preceding section, if the distiller shall have mashed, fermented, or <sup>computation of</sup> made any worts or wash from any mixture of grain or malt with sugar, <sup>quantity of proof</sup> molasses, or treacle in which mixture the weight of the sugar, molasses, <sup>spirit to be made.</sup> 16 Vic. No. 45, s. 3. or treacle was equal to or in excess of the weight of the grain or malt, the spirits distilled from any such worts or wash shall, for the purposes of such computation, be deemed to have been produced from worts or wash mashed, fermented, or made from sugar, molasses, or treacle only, but if in such mixture the weight of the grain or malt was in excess of the weight of the sugar, molasses, or treacle, the spirits distilled from the worts or wash, mashed, fermented, or made therefrom shall, for the purposes of such computation, be deemed to have been produced from worts or wash, mashed, fermented, or made from malt or grain only.

76. Whenever any such deficiency is found to exist, it shall not be lawful for any distiller, after he has been served with a copy of such computation and before the production to the officer on duty of a certificate of the due payment of the full duty chargeable on such deficiency, signed by the Colonial Treasurer for the time being or other person appointed by the Governor to receive the same, either to commence the operation of mashing or to remove any spirits out of the certified and registered store, and any distiller offending herein shall forfeit and pay the sum of two hundred pounds. 13 Vic. No. 27, s. 71.

77. The aforesaid periods of three months shall be deemed to have ended with the thirty-first day of March, the thirtieth day of June, <sup>Definition quarterly</sup> <sup>periods.</sup> the thirtieth day of September, and the thirty-first day of December <sup>Ibid. s. 72.</sup> respectively in every year.

78. Between the hours of ten o'clock in the night-time of the last day of every month and six o'clock in the morning thereafter ensuing it shall not be lawful for any distiller to have or keep any feints, low wines, or spirits in any vessel in his distillery except in the chargers and in the vats in the certified and registered store for the reception of spirits, nor to have or keep in any vessel any wort or wash, the lowest specific gravity of which has been declared pursuant to this Act, and any distiller offending herein shall forfeit and pay the sum of fifty pounds. A regulation to facilitate monthly and quarterly accounts. <sup>Ibid. s. 73.</sup>

79. Every distiller shall, in respect of all worts or wash in his distillery, be chargeable and charged according to the highest gauge of quantity which is at any time taken thereof and according to the highest amount of the specific gravity thereof at any time declared by such Distiller made chargeable according to the highest gauge. <sup>Ibid. s. 74.</sup>

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such distiller or ascertained by any inspector of distilleries without any allowance for waste, spent wash, dregs, yeast, or other matter whatsoever, and if any decrease more than five per centum takes place in the quantity of wort or wash in the distillery of any distiller the amount of such decrease shall be deemed and taken to have been distilled by such distiller, and such distiller shall be chargeable and charged with a quantity of spirit in proportion to the decrease of any such wort or wash according to the directions of this Act.

Officer may take samples and make trials.

13 Vic. No. 27, s. 75.

**80.** Any inspector of distilleries may whenever and as often as such inspector deems it expedient so to do, take any sample or samples of any wort, wash, low wines, feints, and spirits respectively, in any back still, receiver, charger, or other vessel, or utensil whatsoever in the distillery of any distiller, in order that such officer may ascertain the specific gravity or strength of such worts, wash, low wines, feints, and spirits respectively, and from such part of any such back still, receiver, charger, or other vessel, or utensil as the officer thinks proper, and the specific gravity or strength of any such sample so taken shall be and be held to be the true and correct specific gravity or strength of the whole contents of the back still, receiver, charger, or other vessel, or utensil from which any such sample is so taken :

Provided always that before any such sample is so taken all the liquor contained in any such back still, receiver, charger, or other vessel, or utensil may be stirred and mixed up and mixed together by such distiller or any person in the employ of such distiller if he thinks fit so to do.

Spirits to be kept in vats only.

*Ibid.* s. 76.

**81.** Within the certified and registered store for the reception of spirits, the spirits shall be kept in vats only (not in casks), and no vat shall be erected in the said store which is not capable of containing at least one thousand liquid gallons, and every distiller who does not comply with the provisions of this section shall forfeit and pay the sum of fifty pounds.

Stock account to be kept.

*Ibid.* s. 77.

**82.** The proper officer shall keep a true account by way of debtor and creditor of the stock of spirits in the certified and registered store of every distiller licensed under this Act, and shall in such account debit such stock with the full quantity of spirits computed at proof which is from time to time conveyed into such stock, and credit the same with the full quantity of spirits computed at proof which is from time to time sent out of such stock, and at the expiration of every month such officer shall ascertain the actual quantity or stock of spirits which is then in the certified and registered store of the distillery for the purpose of balanceing the said account, and if at any time the quantity of spirits in the certified and registered store of any distiller is less than the quantity of spirits which, by the stock account kept by such officer, ought to be in the stock or possession of such distiller, every such distiller shall forfeit and pay the sum of ten shillings for every gallon of spirits which is deficient :

Provided

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Provided always that no distiller shall be liable to such forfeiture in any case where such deficiency or decrease is not greater than at the rate of six per centum per annum, and such distiller proves to the satisfaction of the chief inspector of distilleries that such decrease did not result from any fraud practised or intended.

**83.** It shall not be lawful to mix with or add to any low wines, <sup>No syrup, &c. to be mixed with spirits.</sup> feints, or spirits on the premises of any distiller, any sugar, syrup, or <sup>13 Vic. No. 27, s. 78.</sup> any glutinous or saccharine or other matter or thing whereby the gravity of such low wines, feints, or spirits will be increased, or so as to prevent the true strength thereof being ascertained by the hydrometer, and if it is at any time found that any sugar, syrup, or other glutinous or saccharine or other matter is so mixed with or added to any low wines, feints, or spirits in the distillery of any distiller, such distiller shall forfeit and pay for every such offence the sum of two hundred pounds, and all low wines, feints, and spirits so mixed shall be forfeited and may be seized by any inspector of distilleries :

Provided always that nothing herein contained shall prevent any distiller from mixing any colouring matter with his spirits in the spirit vats in the certified and registered stores of the distillery.

**84.** Spirits shall be drawn out of the said vats only between the <sup>Time for drawing</sup> hours of ten o'clock before noon and two o'clock in the afternoon and <sup>spirits.</sup> in the presence of an inspector of distilleries. <sup>*Ibid.* s. 79.</sup>

**85.** No cask or vessel of any kind shall be admitted into the <sup>Limitation in the size</sup> certified and registered store for the reception of spirit for the purpose <sup>of casks.</sup> of being filled from any of the said vats which is not capable of containing at least forty imperial gallons, and no cask or vessel of any kind after having been filled from the said vats or from any of them shall remain in the said store more than forty-eight hours, but if the duty due on the spirits contained in any such casks or vessels is not paid within forty-eight hours, or if the said casks or vessels are not removed within the same forty-eight hours, the contents of the said casks or vessels shall be returned into the vats and the casks or vessels placed outside of the said store for the reception of spirits, and any distiller who keeps any such cask or vessel more than forty-eight hours within such store, or who refuses or fails to return the contents of such cask or vessel into the vats as herein enacted shall forfeit and pay the sum of fifty pounds :

Provided that nothing herein contained shall prevent such distiller from keeping any cask or vessel longer than forty-eight hours within such store upon receiving permission in writing from the chief inspector of distilleries so to do.

**86.** In case any spirits or any other property whatsoever is <sup>Accidents by fire or</sup> destroyed by fire or any other accident, it shall not be lawful for the <sup>otherwise.</sup> distiller, proprietor, or other person whatever to claim, or demand, <sup>*Ibid.* s. 81.</sup> or to maintain any action or suit against Her Majesty or against any officer

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officer or person acting under the authority of this Act, for any compensation or damages for or on account or by reason of such accident, and no duty shall be demanded or paid for any spirits so destroyed as aforesaid, nor for any spirits lost by the leakage of any vessel :

Provided that the chief inspector of distilleries or other officer appointed by the Governor shall certify that a loss has arisen from such a cause.

Colonial Treasurer's  
certificate of payment  
of duty.

13 Vic. No. 27, s. 82.

**87.** The duties chargeable on spirits distilled within New South Wales and its Dependencies, or on any deficiency appearing on any account at the expiration of any period of three months as aforesaid, shall be paid to the Colonial Treasurer, or to such other person as the Governor appoints to receive the same, who shall grant a certificate of such payment to the party paying the same, and such certificate shall be filed in the office of the chief inspector of distilleries.

Distance between  
duty paid spirit store  
and distillery.

*Ibid.* s. 88.

**88.** No distiller or agent of any distiller, shall have, keep, or make use of any store for the sale of duty paid spirits, at any place nearer to any part of the premises of any distillery than five hundred yards, and every distiller or agent of any distiller offending against the provisions of this section shall forfeit and pay the sum of two hundred pounds.

Penalty on parties  
selling or purchasing  
illicit spirits.

*Ibid.* s. 89.

**89.** Every person who sells, or disposes of, or who offers to sell, or dispose of any quantity of illicit spirits, or spirits part of which is illicit, shall forfeit and pay a penalty of one hundred pounds, and every person who knowingly purchases any such spirits shall forfeit and pay a penalty of one hundred pounds, and shall forfeit the said spirits so purchased.

## PART III.

DIVISION 4.—*Removal of spirits.*

Permits for the  
removal of spirits.

*Ibid.* s. 84.

**90.** It shall not be lawful to send, take, or remove any spirits out of the premises of any distiller except between the hours of ten in forenoon and four in the afternoon, nor without having a permit to remove the same, signed by an inspector of distilleries or other officer appointed by the Governor.

Such permit shall specify—

- (a) the distiller's name;
- (b) the place from whence the spirits are to be removed;
- (c) the vessels in which the said spirits are contained, and the quantity of spirits contained in each and every such vessel;
- (d) the name and residence of the person to whom such spirits are to be sent and forwarded; and
- (e) the time during which such permit is to be in force:

Provided

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Provided that such permit shall not be granted by the inspector of distilleries or other officer appointed as aforesaid for the removal of any spirits which have not been previously lodged and deposited in the certified and registered store for the reception of spirits:

Provided, further, that at the time such permit is required the distiller, or other person requiring such permit, shall give to such inspector of distilleries, or other officer aforesaid, the certificate of the Colonial Treasurer, or other person appointed as aforesaid, that the duty upon such spirits intended to be removed has been duly paid.

**91.** All spirits removed from the premises of any distiller without a permit as aforesaid, or before the hour of ten in the forenoon or after the hour of four in the afternoon, shall be seized and forfeited, together with the casks in which the same are contained, and the carts, drays, or other conveyances, and the horses or other animals employed in removing the same.

**92.** Any inspector of distilleries, officer of customs, or other person appointed as aforesaid, may stop and detain any person who is found removing or carrying any spirits of any kind from the premises of any distiller, and may demand the production of the permit as aforesaid accompanying such spirits, and on being satisfied that the spirits are the same in quantity, quality, sort, or kind and strength as expressed in such permit, and that the duty payable by law in respect thereof has been paid or secured to be paid for the same, such officer shall indorse on such permit the time, hour, and place of such examination, and shall sign his name thereto.

If any person so found removing or carrying away such spirits which are by law required to be accompanied with a permit refuses to produce such permit as aforesaid immediately on being required so to do by any officer for the purposes aforesaid, or is found removing or carrying any such spirits without a lawful permit, every such person shall for every such offence forfeit and pay the sum of one hundred pounds, and it shall be lawful for such officer, and he is hereby authorised, empowered, and required to stop, arrest, and detain every such person, and to convey the said person, together with the spirits so found removing or carrying by or with him, before one or more justices of the peace residing near to the place where any such person is so stopped or arrested; and it shall be lawful for such justice or justices of the peace, and he and they are hereby required and shall have full power and authority to hear and determine in a summary way any information against any such person so stopped or arrested under the provisions of this Act, and, on the confession of any such person, or upon proof on oath by one or more credible witness or witnesses, to convict such person in such penalty as aforesaid, and no such penalty shall be mitigated by any justice or justices below one-fourth part thereof.

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Unlawful permits.  
13 Vic. No. 27, s. 87.

**93.** Every permit used for any purpose whatsoever other than to accompany the removal and delivery of the spirits for which such permit was obtained and granted, and at the time limited and to the place expressed in such permit, shall be deemed and taken to be an unlawful permit.

Warehousing of  
spirits distilled in  
the Colony.  
*Ibid.* s. 90.

Officer of Customs to  
give a receipt for  
spirits removed.  
*Ibid.* s. 91.

Collector of Customs  
may appoint bonding  
warehouses.  
*Ibid.* s. 92.

Custom House entry  
and security by bond.  
*Ibid.* s. 93.

**94.** It shall be lawful to remove spirits from the certified and registered store of any distillery, and to warehouse the same in any warehouse appointed by the Collector of Customs for that purpose, without the payment of any duty on the first entry thereof in the manner and upon the fulfilment of the conditions and regulations hereinafter mentioned.

**95.** Upon the delivery of the warrant hereinafter mentioned to the officer on duty at the distillery, such officer shall deliver the spirits therein described to the officer of customs appointed to convey the same to the bonded warehouse, who shall give a receipt for the same to the officer on duty.

**96.** The Collector of Customs may appoint any of the bonding warehouses now or hereafter under his supervision, for the purpose of lodging under bond any spirits distilled under the provisions of this Act.

**97.** Before any spirits are removed from the certified and registered store of any distillery to any bonding warehouse, an entry of the same in the usual and proper form for ware-goods under bond shall be passed at the Custom House, and the person entering the same shall give security by bond in double the amount of duty which would be payable thereon if taken out of the said store for home consumption, with one sufficient surety, to be approved of by the Collector of Customs, that the said spirits shall be warehoused to the satisfaction of the said Collector of Customs, and thereupon the said Collector of Customs shall grant a warrant for the removal of such spirits from the said registered store of the distillery to the bonding warehouse named in the warrant, and the said spirits shall be re-gauged by the proper officer at the same time, and the distiller shall be liable to pay the full amount of duty on any deficiency which may appear between the quantity and strength of the spirits so re-gauged, and the quantity and strength of the spirits for which a permit shall have been granted as aforesaid for removal to the bonded warehouse, and after such spirits have been so deposited in such bonding warehouse and re-gauged as aforesaid, they shall be subject to the same rules and regulations in respect to re-gauging and leakage as imported spirits are when in bond.

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**98.** Spirits warehoused as aforesaid, being first duly entered at the Custom House, may be delivered under the authority of the Collector of Customs without payment of duty for the purpose of removal to any port within the Colony, under bond to the satisfaction of the said Collector of Customs for the due arrival of such goods at such port, and for the payment of the duty payable thereon before being landed to the officer appointed to receive the same.

**99.** It shall be lawful to export spirits distilled in the Colony to parts beyond the Colony without payment of duty.

**100.** Before any spirits distilled in the Colony and deposited in any such bonding warehouse are exported to places beyond the Colony without payment of duty, the person exporting the same shall pass an entry outwards in the usual manner, and shall enter into bond in double the amount of the duty which would be payable thereon if entered for home consumption, with one sufficient surety, to be approved of by the Collector of Customs, that the same shall be landed at the place for which they are entered outwards, or be otherwise accounted for to the satisfaction of the said Collector of Customs.

**101.** In every case where spirits deposited in any such bonding warehouse in manner aforesaid are wanted for home consumption the usual bills of entry for the payment of the duty shall be passed at the Custom House, one of which bills shall be delivered to the Colonial Treasurer or to any other officer appointed by the Governor for that purpose, and the amount of duty due thereon paid to him or to such other officer as aforesaid, who shall grant a receipt for the same, and upon the production of that receipt to the Collector of Customs he shall grant a warrant for the delivery of the spirits in the same manner and form as is provided in the case of imported spirits to be delivered from the warehouse.

**102.** Within one month after the thirty-first day of December in each year returns shall be made up and published in the Gazette—

- (i) Of all Colonial distilled spirits received into the bonding warehouses during the preceding year;
- (ii) Of all Colonial distilled spirits cleared both for home consumption and for exportation from the said warehouses for the same period;
- (iii) Of all Colonial distilled spirits remaining therein on the last day of the year; and
- (iv) Of all Colonial distilled spirits exported during the previous year direct from the certified and registered stores attached to any distillery for the reception of spirits when distilled under the provisions of this Act without having been warehoused.

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Spirits may be shipped for ports within the Colony or for export upon entering into bond and passing entries.

14 Vic. No. 22, s. 1.

**103.** It shall be lawful to remove any spirits distilled within the Colony from the certified and registered store attached to any distillery for the reception of spirits when distilled, and to ship the same in any ship or vessel for removal to any port within the Colony, or for export to places beyond the Colony upon the distiller or exporter entering into the like bonds, and passing the like entries as are by this Act required to be entered into and passed with respect to spirits distilled in the Colony and removed from a bonded warehouse for shipment either to any port within the Colony or to places beyond the Colony as the case may be.

**DIVISION 6—*Provisions relating to the rectifying of spirits.***

Rectifiers not to keep worts, &c., on their premises.

13 Vic. No. 27, s. 99.

**104.** If any rectifier has in his custody or possession any wort, wash, or any fermenting or fermented liquor, or any materials prepared or fit for the purpose of being distilled or rectified into low wines or spirits, or any material whatsoever capable of fermentation after admixture with water or otherwise not being spirits already and elsewhere made and distilled, and on which the full duty for spirits has been already paid, or any material whatsoever which may add to the alcohol contained in the quantity of spirits to be rectified, then and in any such case such rectifier shall forfeit and pay a sum of not less than one hundred nor more than five hundred pounds.

Regulation of rectifier's apparatus  
*Ibid.* s. 100.

**105.** There shall be a cock at the end of the tail pipe of every still used by every rectifier of spirits, and no such rectifier shall have or keep any opening, fixed pipe, or other conveyance whatever leading to any still belonging to or used by such rectifier other than, and except one charging pipe to each such still, nor shall have or keep any opening, fixed pipe, or other conveyance whatever leading from any such still save and except the discharge cock to each still respectively belonging, and the head of such still terminating in the worm and proper locks and fastenings shall be provided and maintained by such rectifier at his own expense, and charge and subject to the approval of the chief inspector of distilleries for properly and sufficiently locking and securing the charge and discharge cock, and the door of the furnace, and the cock at the end of the tail pipe of each and every still respectively used by such rectifier, which lock and fastenings shall be locked and sealed by an inspector of distilleries who shall have the custody of the keys thereof.

If any such rectifier has or keeps any opening, fixed pipe, or other conveyance (not before excepted) leading to or leading from such still, or refuses to provide and maintain such locks and fastenings as aforesaid, or prevents or hinders the officer from affixing any lock or fastening as aforesaid, or if by any means, device, or contrivance whatsoever, any lock, seal, or fastening is opened, broken, or removed

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removed by any rectifier or by any person in his employ or under his command at any time after the same has been locked, made, or secured by any inspector of distilleries, or if any such rectifier wilfully opens, breaks, or damages, or causes, or suffers to be opened, broken, or damaged any of such locks, seals, or fastenings as aforesaid, every such rectifier shall for every such fixed pipe, opening, or conveyance (not before excepted), and for every such lock, seal, or fastening so opened broken, or damaged, forfeit and pay the sum of two hundred pounds.

**106.** No rectifier of spirits shall charge his still or commence the rectifying of spirits without first giving notice to an inspector of distilleries either personally or at his usual place of abode or at such place as the chief inspector of distilleries appoints of his intention so to do, and such notice shall be given in writing at least twenty-four hours before such rectifier charges his still, and shall contain full particulars of the description of spirits it is his intention to rectify and of the quantity and strength thereof, and any rectifier who charges his still or commences to rectify spirits without first giving such notice shall forfeit and pay the sum of fifty pounds.

**107.** Any inspector of distilleries may at all times ascertain the quantity and strength of the spirits contained in the still of any rectifier and may take an account thereof, and if, at the time specified in the notice last aforesaid, the quantity and strength of such spirits so ascertained and taken an account of by such officer are found not to agree with the quantity and strength as set forth by such rectifier in such notice last aforesaid, such rectifier shall forfeit and pay the sum of fifty pounds.

**108.** Every such rectifier of spirits shall before beginning to run off any spirits from any still, charge the same with a quantity of liquor in the proportion of not less than seven parts in ten of the whole quantity of liquor which any such still exclusive of the head thereof is capable of containing, and such still shall remain and continue so charged until the rectifier begins to run off spirits therefrom, and such still shall be worked off within six hours to be computed from the time of the officer taking the gauge thereof, and if any such rectifier begins to draw off any spirits from any such still not so charged, or does not work off the same within such six hours, such rectifier shall forfeit and pay the sum of fifty pounds.

**109.** At the expiration of the said six hours, or as soon as the still of such rectifier has ceased to run, any inspector of distilleries may open and secure the discharge cock, and may shut and secure the charge cock and the cock at the end of the tail pipe, and the door of the furnace of any such still in such manner as shall be approved of by the chief inspector of distilleries, so to remain until they are again shut or opened and secured as the case may require by any inspector of distilleries.

*Distillation.*

Quantity of spirit produced by the rectifier not to exceed the quantity put into his still.

13 Vic. No. 27, s. 105.

**110.** Any inspector of distilleries may ascertain and take an account of the quantity and strength of the spirits rectified by any rectifier in pursuance of any such notice as aforesaid, and if the number of gallons of proof spirit produced by each process of rectifying is found to exceed in any case the number of gallons of proof spirit as ascertained, and taken an account of by any such officer in the still of any such rectifier, or if by any device or contrivance any such officer is prevented from ascertaining and taking a true account of the quantity and strength of any such spirit, every such rectifier shall forfeit and pay the sum of one hundred pounds.

**PART IV.***Prevention of unlawful distillation—Protection of revenue.***DIVISION 1.—Proceedings in respect of unlicensed stills, &c.**

Penalty for keeping unlicensed still, &c.  
13 Vic. No. 26, s. 9.

**111.** Every person who has in his possession or custody any unlicensed still, or any still-head, or worm, or other utensil for distilling whatsoever, or who unlawfully makes, or who is aiding, assisting, or otherwise concerned in unlawfully making any spirits, or who knowingly supplies the means or materials for establishing, maintaining, or working any unlicensed still, or who knowingly carries, conveys, or conceals, or is aiding, assisting, or otherwise concerned in the carrying, conveying, or concealing, of any spirits upon which the full duty has not been paid, shall forfeit and pay a sum of not more than five hundred nor less than one hundred pounds.

Officer may seize stills, &c.  
*Ibid.* s. 1.

**112.** Any inspector of distilleries, officer of customs, or any other person appointed by the Governor, may seize any still, still-head, worm, or other apparatus or utensil whatsoever, intended or suited for distilling, or for any process of distillation, found in any house, building, premises, or place whatsoever, unless the owner or occupier thereof holds and produces a valid license to distil or to rectify spirits, or has otherwise complied with the regulations and provisions of any law in force for the time being relating to distillation, and may also seize all materials capable of fermentation, and all worts, wash, wines, spirits, and other chattel property found in any such house, building, place, or premises, and all such articles so seized as aforesaid shall be forfeited and disposed of in manner hereinafter provided.

Officers may seize spirits.  
*Ibid.* s. 2.

**113.** Any inspector of distilleries, officer of customs, or other person appointed as aforesaid, may seize all or any spirits on which the full amount of duty chargeable has not been paid, except as may be provided in any Act now or hereafter in force, relating to the distillation of spirits in the Colony and its dependencies, or in any Act relating to Her Majesty's Customs, and all such spirits so seized shall be forfeited.

**114.**

*Distillation.*

**114.** In case any inspector of distilleries, officer of customs, or officers may proceed other person appointed as aforesaid has cause to suspect that any unlicensed still, or still-head, or worm, or other utensil for distilling whatsoever, or any back or other vessel for making worts, or wash, or other material preparing for distillation, or any spirits upon which the full duty has not been paid, is or are set up, kept, or concealed in any house, building, premises, or place, then and in such case upon information exhibited by such inspector of distilleries, officer of customs, or other person as aforesaid before any justice of the peace, setting forth the ground of his suspicion, it shall and may be lawful for such justice of the peace before whom such information has been exhibited, if he judges it to be reasonable, by warrant under his hand and seal to authorise and empower such inspector of distilleries, officer of customs, or other person appointed as aforesaid, by day or by night (but if in the night time then in the presence of a constable), to break open the doors or any part of such house, building, premises, or place, where he so knows or suspects such unlicensed still or other things as before enumerated to be set up, kept, or concealed; and to enter into such house or place, and to seize all and every such still or other such things as aforesaid, and also all chattels found within such house, building, premises, or place, and either to detain and keep the same in the house, building, premises, or place where found, or to remove the same to the Queen's warehouse, or to the police-office next to the place where the same is or are discovered and found, or to any other place of security.

**115.** It shall be lawful for any inspector of distilleries, officer of customs, or other person appointed as aforesaid, having reasonable grounds to believe that any unlicensed still, or any still-head or worm, or other utensil for distilling whatsoever, or any back or other vessel for making worts or wash, or any worts or wash, or other material preparing for distillation, or any spirits upon which the full duty has not been paid, is, or are set up, kept, or concealed in any house or place, then, and in such case to enter into such house or place with writ of assistance, and search for and seize any such unlicensed still or other things as before enumerated, and also all chattels found within such house or place, and either to detain or keep the same in the house or place where found, or to remove the same to the Queen's warehouse, or to the police-office nearest to the place where the same is, or are discovered and found, or to any other place of security.

**116.** It shall be lawful for any inspector of distilleries, officer of customs, or other person appointed as aforesaid, to arrest or cause to be arrested, and to take or cause to be taken before one of the Judges of the Supreme Court of New South Wales, any person whatsoever who has in his custody or possession, or who keeps, or makes use of any unlicensed still or utensil for distilling, or who unlawfully

<sup>under warrant.</sup>  
<sup>13 Vic. No. 26, s. 3.</sup>

<sup>under writ of assistance.</sup>  
<sup>Ibid. s. 4.</sup>

<sup>Officers may arrest and take certain persons before a Judge.</sup>  
<sup>Ibid. s. 5.</sup>

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unlawfully makes, or is aiding, assisting, or otherwise concerned in unlawfully making any spirits, or who knowingly supplies the means, or materials for establishing, maintaining, or working any unlicensed still, or who carries, conveys, or conceals, or is aiding, assisting, or otherwise concerned in the carrying, conveying, or concealing of any spirits upon which the full duty has not been paid, and upon proof being given on oath to the satisfaction of the said Judge, of the existence of a reasonable suspicion of the guilt of the person so arrested it shall be lawful for the said Judge by order under his hand to direct the person so arrested to be held to bail in such sum as the said Judge shall name, to abide the event of an action, information, or other proceeding, for the offence for which the said person has been arrested, to be commenced within such time as the said Judge shall direct, and in default of bail to commit such person to gaol to abide the event of the said action, information, or proceeding as aforesaid, and such bail shall be justified in like manner and subject to the same rules as bail in actions at law is justified and subject to.

Officers may arrest  
and take certain  
persons before a  
justice of the peace.

13 Vic. No. 26, s. 6.

Time allowed for  
preparing  
informations.

*Ibid.* s. 7.

Persons escaping  
may be arrested.

*Ibid.* s. 8.

**117.** It shall be lawful for any inspector of distilleries, officer of customs, or other person as aforesaid, to arrest, or cause to be arrested, and to take or cause to be taken before any one or more justice or justices of the peace, to be dealt with according to law, any person whatsoever, who has in his custody or possession, or who keeps, or makes use of any unlicensed still or utensil for distilling, or who unlawfully makes, or is aiding, assisting, or otherwise concerned in making unlawfully any spirits, or who knowingly supplies the means or materials for establishing, maintaining, or working any unlicensed still, or who knowingly carries, conveys, or conceals, or is aiding, assisting, or otherwise concerned in the carrying, conveying, or concealing of any spirits upon which the full duty has not been paid.

**118.** When any person has been arrested under the provisions of the next preceding section by any inspector of distilleries, officer of customs, constable, or other person appointed as aforesaid, and taken before any justice of the peace, if it appears to such justice that for the purpose of preparing any information, conviction, or warrant of commitment, there is reasonable cause to detain such person, such justice may, and he is hereby authorised and required to order such person to be detained for a reasonable time, and at the expiration of such time to be dealt with according to law.

**119.** If any person so liable to be arrested as aforesaid, is not arrested at the time of committing the offence for which he is liable to be arrested, or after arrest makes his escape, it shall be lawful for any inspector of distilleries, officer of customs, or other person appointed as aforesaid, or for any constable to arrest such person so liable to arrest as aforesaid, at any time afterwards, and to take him before any Judge of the Supreme Court or justice of the peace to be dealt with as aforesaid.

DIVISION

*Distillation.*DIVISION 2.—*Notice of making, &c., of Stills.*

**120.** No person shall commence to make or to land out of any ship any still, still-head, worm, or other utensil for distilling whatsoever, without having first given notice thereof in writing to the chief inspector of distilleries or other person appointed as aforesaid, and every such notice shall set forth the number of gallons which such still is capable of containing, and every person who commences to make or who lands out of any ship any still, still-head, worm, or other utensil for distilling whatsoever, without having first given such notice as aforesaid, shall forfeit and pay a sum not exceeding fifty pounds.

**121.** No person shall sell any still, still-head, worm, or other utensil for distilling whatsoever, either separately or as part of any house, building, premises, or place in which any still has been erected, without having given notice in writing to the chief inspector of distilleries of the name and residence of the purchaser thereof, and also of the number of gallons which such still is capable of containing, and every person who sells any such still, still-head, worm, or other utensil for distilling whatsoever as aforesaid, without having first given such notice, or knowingly gives an incorrect return, shall forfeit and pay a sum not exceeding fifty pounds.

**122.** No person shall erect and set up any still without having first given notice in writing to the chief inspector of distilleries of his intention so to do, which notice shall also set forth the number of gallons which such still is capable of containing, the name and residence of the owner thereof, the place in which it is intended to erect and set up the same, and the purpose for which such still is to be used, and every person who erects and sets up any still without having first given such notice as aforesaid, or knowingly gives an incorrect return, shall forfeit and pay a sum not exceeding five hundred nor less than one hundred pounds, unless such person holds at the time a valid license under any Act in force for the time being relating to distillation.

DIVISION 3.—*Brewers and spirit merchants.*

**123.** All premises in respect of which any license is obtained under the *Licensing Act* of 1882, or occupied by brewers or by persons selling spirits upon which the duty has been paid, and in quantities of two gallons or upwards, shall be open at all times to the inspection of any officer, officer of customs, or person appointed as aforesaid, who shall respectively have power to enter into, and to search all such premises, and if any person obstructs or molests any such officer, officer of customs, or person appointed as aforesaid, in the performance of his duty, such person shall forfeit and pay a sum not exceeding two hundred pounds.

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Business of brewing and selling spirits may not be carried on in the same premises.

13 Vic. No. 26, s. 19.

Brewers may not have more than six gallons of spirits on their premises.

*Ibid.* s. 20.

Brewer's name to be painted on his carts.

*Ibid.* s. 21.

Officers may stop brewers' carts.

*Ibid.* s. 22.

**124.** It shall not be lawful for any person engaged in the trade or business of a brewer to carry on the trade or business of a dealer in spirits, either by wholesale or retail, upon any premises in respect of which a brewer's license issued under the *Licensing Act of 1882* is, for the time being, in force, or on any premises situated within the distance of one hundred yards from the same, and every person offending herein shall forfeit and pay a sum not exceeding thirty pounds.

**125.** All spirits found on the premises of any brewer licensed under the *Licensing Act of 1882*, beyond the quantity of six imperial gallons, may be seized by any officer, officer of customs, or person appointed as aforesaid, and shall be forfeited, and for every gallon of spirit so seized such brewer shall forfeit and pay a sum not exceeding forty shillings.

**126.** Every brewer licensed as aforesaid shall cause his name to be painted legibly, in letters not less than two inches in length, upon every dray, cart, or other vehicle used for the purposes of his trade or business, and every such brewer who fails to comply with the regulations herein contained shall forfeit and pay a sum not exceeding twenty pounds.

**127.** Any officer, officer of customs, or person appointed as aforesaid may stop any dray, cart, or other vehicle belonging to or bearing the name of or used by any brewer licensed as aforesaid, and may examine all goods carried thereon; and any person who obstructs or offers any hindrance to any such officer, officer of customs, or person appointed as aforesaid in the performance of his duty shall forfeit and pay a sum not exceeding fifty pounds.

**PART V.***Sale of Colonial Brandy.*

Permit may be obtained for the removal of brandy to bonded warehouse.

30 Vic. No. 15, s. 1.

**128.** Any owner of a vineyard who is possessed of brandy distilled from grapes, the produce of such vineyard, under the authority contained in the twenty-first section of this Act, may apply to the Colonial Treasurer for a permit authorising him to remove to and place in any bonded warehouse any such brandy. And the Colonial Treasurer shall grant such permit on such person so applying, executing a bond to Her Majesty in the penal sum of two hundred pounds, conditioned that the brandy specified therein shall, within the time limited for such purpose by such permit, be deposited in the bonded warehouse to which such permit authorises such brandy to be removed.

**129.**

*Distillation.***129.** Every such permit shall state—

- (a) the name and residence of the person applying for it;
- (b) the places from and to which the brandy specified therein is to be removed;
- (c) the quantity of brandy;
- (d) the name of the person under whose charge it is to be removed; and
- (e) the time within which the removal is to be accomplished.

Requisites of permit.  
30 Vic. No. 15, s. 2.

**130.** If any brandy distilled under the authority of the said twenty-first section is found in course of removal from the premises in which it was distilled without a permit or otherwise than in the manner herein provided, the same may be seized by any inspector of distilleries or officer of customs, and adjudged to be forfeited in the same manner as any goods declared liable to forfeiture for non-payment of duty.

Brandy removed  
without permit may  
be seized and  
forfeited.

*Ibid.* s. 3.

**131.** Every owner of a vineyard who may distil brandy under the authority of the said twenty-first section shall keep at the place of distillation for the inspection at all times on demand of any inspector of distilleries a book in which shall be entered the date of every occasion on which distillation takes place, the number of gallons of spirits distilled on each occasion, and the manner in which the spirits so distilled may have been disposed of, and no permit issued under this Act shall be deemed to be a valid permit unless such book is kept and submitted to inspection as herein provided.

Book to be kept by  
owner of a vineyard.  
*Ibid.* s. 4.

**132.** Brandy deposited in any bonded warehouse under the provisions of this Part of this Act shall be liable to the payment of the same duty as is chargeable by law upon brandy imported into the Colony, and the same may be sold and delivered out of bond either for export or home consumption in the same manner as brandy imported.

Brandy to be liable  
to same duty as  
imported brandy.  
*Ibid.* s. 5.

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PART VI.*Miscellaneous provisions and procedure.*

**133.** All worts, wash, low wines, feints, and spirits, and all materials, preparations, utensils, and vessels for the making thereof in the custody or possession of any distiller, or in the custody or possession of any person or persons to the use of or in trust for him, or into whose hands soever the same come, and by what conveyance or title soever the same are claimed shall be subject and liable to, and the same are hereby made chargeable with all the duties in arrear or owing from time to time from or by such distiller, and shall also be subject and liable to all penalties and forfeitures incurred by such distiller for any offence by him committed against this or any other law relating to spirits,

Property on the  
premises liable for  
duties in arrear or for  
penalties incurred.

13 Vic. No. 27, s. 83.

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spirits, and it shall be lawful in all such cases to levy thereupon such duties, penalties, and forfeitures, and use such proceedings for the recovery or enforcement thereof as might lawfully be done in case the debtors or offenders were the true and lawful owners of such worts, wash, low wines, feints, and spirits, materials, preparations, utensils and vessels :

Provided always that when the same come into the hands and possession of any third person or persons by any bona fide sale and delivery made before any such duties have been charged or become chargeable upon or any such penalties or forfeitures have been incurred by the distiller, by whom the same respectively shall have been so sold and delivered as aforesaid, no such worts, wash, low wines, feints, or spirits, materials, preparations, vessels, or utensils, shall be subject or liable to or be made chargeable with such duties, penalties, or forfeitures as herein mentioned.

Governor may make rules and appoint officers.

13 Vic. No. 27, s. 106. may appoint such officers and other persons for that purpose as he may 13 Vic. No. 26, s. 23. deem fit and proper.

Officers exempt from juries, &c.

13 Vic. No. 27, s. 107.

Penalty on persons offering bribes and on officers receiving the same.

*Ibid.* s. 108.

13 Vic. No. 26, s. 24.

Officers may break up ground on the premises of a distillery.

13 Vic. No. 27, s. 109.

**134.** The Governor may make such rules and regulations as he may think necessary to carry the provisions of this Act into effect, and

**135.** No inspector of distilleries nor any other person employed to carry into effect the provisions of Parts I, II, III, and VI of this Act shall be liable to serve on any jury or inquest, or in any parochial or other office, whilst he is so employed, any law, usage, or custom to the contrary notwithstanding.

**136.** If any person gives, offers, or promises to give any bribe, recompense, or reward to or makes or offers to make any collusive agreement with any inspector of distilleries, officer of customs, or other officer or person appointed as aforesaid to induce him in any way to neglect his duty, or to conceal or connive at any act whereby any of the provisions of this or any other Act, now or hereafter in force, relating to the distillation of spirits may be evaded, every such person so offending shall on conviction thereof forfeit and pay a penalty or sum not exceeding two hundred pounds, whether such gift or offer is accepted or such promise performed or not, and any inspector of distilleries, officer of customs, or other officer or person appointed as aforesaid who directly or indirectly takes or receives any bribe, recompense, or reward, or in any way neglects his duty, or conceals or connives at any act whereby any of the provisions of this or any other such Act as aforesaid may be evaded, shall forfeit and pay a like penalty or sum not exceeding two hundred pounds.

**137.** It shall be lawful for any inspector of distilleries, or any person acting in his aid or assistance, by night or by day, to break up any ground in any part of the distillery or premises of any distiller, or any ground near to or adjoining such distillery, or through any wall or partition thereof, or belonging thereto, to search for any pipe or cock, or

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or any private conveyance or utensil, and upon finding any such pipe or conveyance leading therefrom or thereto to break up the ground, house, wall, or other place through or into which such pipe or other conveyance leads, and break up or cut away any such pipe, cock, or other conveyance, and to turn any cock or cocks, and to examine whether such pipe or other conveyance may or can convey or conceal any wort, wash, or other liquor fit for distillation, or low wines, feints, or spirits, from the sight or view of the officer so as to hinder or prevent him from taking or keeping a true account thereof.

**138.** It shall be lawful for any inspector of distilleries, or other person appointed for that purpose by the Governor, to enter into and upon the premises of any distiller or rectifier of spirits to search for and seize any spirits the duty on which has not been paid, and which may be kept or concealed thereon in any manner contrary to the provisions of this Act.

**139.** No writ shall be sued out nor a copy of any process served upon any inspector of distilleries, officer of customs, or other person so appointed by the Governor as aforesaid, for anything done in the exercise of his office until one calendar month after notice in writing has been delivered to him or left at his usual place of abode by the attorney or agent for the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name, and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of such action shall be produced except of such as is contained in such notice, and no verdict shall be given for the plaintiff unless he proves on the trial that such notice was given, and in default of such proof the defendant shall receive in such action a verdict and costs.

**140.** Every such action shall be brought within three calendar months after the cause thereof, and the defendant may plead the general issue and give the special matter in evidence, and if the plaintiff becomes nonsuited or discontinues the action, or if upon a verdict or demurrer judgment is given against the plaintiff, the defendant shall receive treble costs, and have remedy of the plaintiff as any defendant can have in other cases where costs are given by law.

**141.** In case any information or suit is brought to trial on account of any seizure made under this Act, and a verdict is found for the claimant thereof, and the judges or court before whom the cause has been tried shall certify upon the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure, and if any action, indictment, or other suit or prosecution is brought to

Officer may enter premises and seize spirits.

13 Vic. No. 27, s. 110.

Officer to have notice of action.  
*Ibid.* s. 111.

13 Vic. No. 26, s. 25.

Actions to be brought within three months, &c.

13 Vic. No. 27, s. 112.

13 Vic. No. 26, s. 26.

Judge may certify probable cause of seizure.

13 Vic. No. 27, s. 113.

13 Vic. No. 26, s. 2

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to trial against any person on account of such seizure wherein a verdict is given against such defendant, the plaintiff, besides the things seized or the value thereof, shall not be entitled to more than two-pence damages nor to any cost of suit, nor shall the defendant in such prosecution be fined more than one shilling.

Officer may tender amends.

13 Vic. No. 27, s. 114.

13 Vic. No. 26, s. 28.

**142.** It shall be lawful for any inspector of distilleries, officer of customs, or other person as aforesaid, within one calendar month after such notice to tender amends to the party complaining or his agent and to plead such tender in bar to any action together with other pleas, and if the jury find the amends sufficient they shall give a verdict for the defendant, and in such case or in case the plaintiff becomes nonsuited or discontinues his action, or judgment is given for the defendant upon demurrer, then such defendant shall be entitled to like costs as he would have been entitled to in case he had pleaded the general issue only:

Provided always that it shall be lawful for such defendant by leave of the Court where such action is brought, at any time before issue joined, to pay money into Court as in other cases.

Property seized to be claimed within certain periods.

13 Vic. No. 27, s. 115.

13 Vic. No. 26, s. 29.

Claims to be lodged within certain periods.

13 Vic. No. 27, s. 116.

13 Vic. No. 26, s. 30.

Admission of claims to property seized.

13 Vic. No. 27, s. 117.

13 Vic. No. 26, s. 31.

**143.** (i) All property seized under the provisions of Parts I, II, III, or VI of this Act shall be deemed to be forfeited unless claimed within ten days after the same was seized, and shall be sold by public auction.

(ii) All property seized under the provisions of Part IV of this Act shall be deemed to be forfeited unless claimed within one month after the same was seized, and shall be sold by public auction.

**144.** (i) All claims for property seized as forfeited under Parts I, II, III, or VI of this Act shall be lodged with the Colonial Treasurer within ten days after the seizure was made.

(ii) All claims for property seized under Part IV of this Act shall be lodged with the Colonial Treasurer within one month after the seizure was made.

**145.** No claim to any spirits or other property seized under this Act and returned into any of Her Majesty's Courts for adjudication shall be admitted, and no appearance shall be permitted to be entered to any information filed for the forfeiture of any spirits or other property seized for any cause of forfeiture under this Act unless such claim or appearance is entered in the name of the owner of such spirits or other property so seized describing the place of residence and the business or profession of such owner, and if such owner resides in Sydney or within twenty miles thereof oath shall be made before one of the Judges of the Court in which such information is filed or before one of the Justices of the Bench of Magistrates before whom any cause of forfeiture is tried for spirits or other property seized as forfeited under this Act that the spirits or other property so seized were or was really and truly the property of him at the time of such seizure; but if such

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such owner is not resident in Sydney or within twenty miles thereof then and in such case such oath shall be made in like manner by the agent, attorney, or solicitor by whom such appearance is entered that he has full power and legal authority and directions from such owner to enter such appearance, and that to the best of his knowledge and belief such spirits or other property were or was at the time of the seizure thereof bona fide the property of the party in whose name such appearance is entered, and on failure thereof the spirits and other property shall be absolutely forfeited and judgment be entered thereon by default according to the usual method of proceedings of the Court in the same manner as if no appearance had been entered thereto; and every person who is convicted of making or taking a false oath to any of the facts hereinbefore directed or required to be sworn to shall be deemed to be guilty of perjury and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

**146.** Upon the entry of any claim to any spirits or other property seized for any cause of forfeiture or of any appearance to any information filed for such forfeiture, the person who enters such claim or appearance, if such claimant resides within the Colony, shall be bound by a recognizance (to be entered into before one of the Judges of the Supreme Court or a justice of the peace, before whom the said cause or matter is to be inquired into) with two sufficient sureties in the penalty of one hundred pounds to answer and pay the costs occasioned by such claim or appearance, and if the owner does not reside within the said Colony then and in such case the agent, attorney, or solicitor by whose directions such claim or appearance is entered shall in like manner be bound with two sufficient sureties in like penalty to pay the costs occasioned by such claim or appearance.

**147.** All informations, suits, or actions for the recovery of any fine, forfeiture, or penalty imposed by Parts I, II, III, or VI of this Act may be heard and determined in a summary way before any two or more justices of the peace or the Judges of the Supreme Court at the instance of any inspector of distilleries, and any such information, suit, or action shall and may be filed or instituted in the name of the Attorney General or of the chief or other inspector of distilleries, and if a question arises whether any person is the chief or other inspector of distilleries as aforesaid *viva voce* evidence may be given of such fact and shall be deemed legal and sufficient evidence.

**148.** All penalties and forfeitures incurred or imposed by Part IV of this Act shall and may be sued for, prosecuted, and recovered by action of debt, bill, plaint, or information in any Court of Record in New South Wales in the name of the Attorney General, or in the name or names of some officer or officers of customs or inspector of distilleries, or, in cases where the penalty does not exceed the sum of one hundred pounds by information in a summary way before any two or more justices of the peace.

**149.**

Claimant to enter into a recognizance.

13 Vic. No. 27, s. 118.

13 Vic. No. 26, s. 32.

Informations under Parts I, II, III, and VI may be heard and determined in a summary way.

13 Vic. No. 27, s. 119.

Recovery of penalties and forfeitures incurred or imposed under Part IV.

13 Vic. No. 26, s. 33.

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Penalties to be sued for within one year after the offence.

13 Vic. No. 27, s. 120.

any time within one year after the commission of the offence by reason

13 Vic. No. 26, s. 34, whereof such penalty or forfeiture is incurred.

Form of information, &c.

13 Vic. No. 27, s. 121.

force relating to the distillation or rectifying of spirits or the prevention of unlawful distillation, and all convictions for such offences and all warrants of justices of the peace founded upon such convictions shall be drawn respectively in Forms D, E, and F, contained in the Second Schedule hereto or in words to the like effect.

Second Schedule.

Offence to be set forth in the words of the Act.

13 Vic. No. 27, s. 122.

13 Vic. No. 26, s. 36.

150. All informations before any justice of the peace for any offences committed against this or any other Act now or hereafter in force relating to the distillation or rectifying of spirits or the prevention of unlawful distillation, and all convictions for such offences and all warrants of justices of the peace founded upon such convictions shall be drawn respectively in Forms D, E, and F, contained in the Second Schedule hereto or in words to the like effect.

Proof of the officer's appointment unnecessary.

13 Vic. No. 27, s. 123.

13 Vic. No. 26, s. 37.

151. Every information for any penalty or forfeiture under this or any other Act now or hereafter in force relating to the distillation or rectifying of spirits or the prevention of unlawful distillation, and every conviction or warrant of commitment for any penalty shall be deemed valid and sufficient in which the offence for which such penalty is inflicted, or the cause of forfeiture is set forth in the words of this or any other such Act as aforesaid, or in words to the like effect.

*Onus probandi* to be on the claimant.

13 Vic. No. 27, s. 125.

13 Vic. No. 26, s. 39.

152. In case of any information or proceeding under this Act or any Act now or hereafter in force relating to the distillation of spirits or the prevention of unlawful distillation, the averment that the person prosecuting such information or proceeding is an inspector of distilleries or officer of customs shall be sufficient proof of the appointment of such inspector of distilleries or officer of customs without proof of the appointment of such inspector of distilleries or officer of customs, unless the defendant in such case proves to the contrary.

Payment and distribution of penalties, &c.

13 Vic. No. 27, s. 126.

13 Vic. No. 26, s. 40.

153. If any spirits or other property is seized or stopped for non-payment of the duties on such spirits or any other cause of forfeiture, and any dispute arises as to ownership, or whether the duties have been paid for the same, the proof thereof shall be on the owner or claimant and not on the officer who seizes or stops the same.

154. All fines, penalties, and forfeitures recovered under this Act or any other Act for the time being in force relating to the distillation of spirits shall be paid to Her Majesty, and shall be divided and applied as follows (that is to say) :—After deducting the charges of prosecution from the proceeds thereof, one-third part of the net produce thereof shall be paid into the Consolidated Revenue Fund ; one-third part thereof shall be paid to the informer, and one-third part thereof to the person who sues for the same, where such fines, penalties, and forfeitures are recovered in consequence of information being given to the seizing officer ; and when the said fines, penalties, and forfeitures are otherwise recovered, the same are to be divided and

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and applied as follows (that is to say)—after deducting the said charges, the one moiety of the net produce thereof as aforesaid into the Consolidated Revenue Fund, and the other moiety to be paid to the seizing officer or person suing for the said penalty.

Provided always that nothing herein contained shall be deemed or construed to affect or in any way to interfere with the right of Her Majesty to pardon the offender, and to remit the whole or any part of any such fine, penalty, or forfeiture as to Her Majesty seems meet.

**155.** If in or upon any information, suit, or action brought for the recovery of any fines, forfeitures, or penalties imposed by this Act the party is convicted and sentenced to pay such fine or penalty, and in case any such fine or penalty is not immediately paid or security given to the satisfaction of the Court or justices before whom the case has been heard and determined for the due payment of such fine or penalty, the party or parties who have been convicted and sentenced to pay such fine or penalty shall forthwith be committed to prison, there to remain for a period of not less than three nor exceeding twelve months, unless such fine or penalty is sooner paid.

**156.** No judgment, order, conviction, or sentence of any of the said Courts touching any forfeiture or penalty imposed by Parts I, II, III, or VI of this Act shall be suspended or stayed unless a prohibition in due course of law is obtained and served upon the party intended to be restrained thereby within eighteen months from the time when such judgment, order, conviction, or sentence was given, made, or pronounced.

**157.** No writ of certiorari shall issue from the Supreme Court to remove any proceedings before any justice of the peace under this or any other Act now or hereafter in force relating to the distillation of spirits, nor shall any writ of habeas corpus issue to bring up the body of any person who has been convicted before any justice of the peace under this or any other such Act, unless the party against whom such proceeding has been directed, or who has been so convicted, or his attorney or agent states in an affidavit, in writing to be duly sworn, the grounds of objection to such proceedings or conviction, and upon the return of such writ of certiorari or habeas corpus no objection shall be taken or considered, other than such as has been stated in such affidavit; and it shall be lawful for any justice of the peace, and he is hereby required to amend any information, conviction, or warrant of commitment for any offence under any such Act at any time whether before or after conviction.

*Distillation.*

## SCHEDULES.

## Section 2.

## FIRST SCHEDULE.

Reference to Acts.	Title or short title.	Extent of Repeal.
13 Vic. No. 26 ...	An Act to prevent unlawful distillation, and to provide for the protection of the revenue arising from the duties on spirits.	The whole of the unrepealed sections.
13 Vic. No. 27 ...	An Act to consolidate and amend the laws relating to the distillation, rectifying, and compounding of spirits, and to authorise and regulate the warehousing under bond, and the exportation free of duty, of spirits distilled within the Colony of New South Wales, and to repeal certain laws relating thereto.	The whole Act.
14 Vic. No. 22 ...	An Act to amend the law with respect to the distillation and exportation of spirits distilled in the Colony of New South Wales.	The whole Act.
16 Vic. No. 45 ...	An Act for amending the law relating to the Distillation of Spirits.	The whole Act.
30 Vic. No. 15 ...	An Act to permit the sale of brandy distilled by the owners of vineyards from grapes the produce of such vineyards.	The whole Act.

## Sections 18 and 145.

## SECOND SCHEDULE.

## A.

*License to distil spirits.*13 Vic. No. 27,  
Schedule E.

No.

Colonial Treasury.

I do issue this license to to distil spirits at the for the term of commencing from the day of and ending on the day of in the year under the regulations of the Act in such case made and provided.

And I do hereby acknowledge to have received from the said of £ for this license. the sum

(Signed)

## B.

*License to rectify and compound spirits.*

Schedule F.

No.

Colonial Treasury.

I do issue this license to to rectify and compound spirits at for the term of commencing from the day of in the year and ending on the day of in the year under the regulations of the Act in such case made and provided.

And I do hereby acknowledge to have received from the said for this license. the sum of £

(Signed)

## C.

*Distillation.*

C.

Schedule D.

*Form of registration of spirit store or of material store.*New South Wales.  
Distillery.

Licensed                    day of                    A.D.

I                    chief inspector of distilleries (or other officer appointed by His Excellency the Governor) do hereby register the store at this distillery for the reception of spirits when distilled [*or of material to be used in the process of distillation as the case may be*] being a building bounded on the north &c. [*here give the inside measurement of the walls and their height, &c. in feet and inches*].

Made and registered by me this                    day of                    in the year of  
our Lord

Witness—

Chief Inspector Distilleries.

D.

*Form of information before justices of the peace.*

13 Vic. No. 26.

13 Vic. No. 27.

Schedules C and A.

New South Wales }  
                  to wit. }

Be it remembered that on the                    day of                    in the year of our Lord  
                 , A. B., chief inspector of distilleries (or inspector of distilleries as the case may be) who is directed by the chief inspector of distilleries to prefer this information, gives me,                   , Esquire, one of Her Majesty's justices of the peace, to understand and be informed that C. D., on the                    day of                    in the year  
of our Lord                    (*here state the offence*)                    contrary to the form  
of the Act in that case made and provided whereby the said C. D. hath forfeited the sum  
of                   , and the said A. B. prays that I, the said justice, will proceed according to law.

E.

*Form of conviction to be used for an offence against this Act.*

13 Vic. No. 26.

13 Vic. No. 27.

Schedules D and B.

New South Wales }  
                  to wit. }

Be it remembered that on the                    day of                    in the year of our Lord  
                 , an information was exhibited by A. B., chief inspector of distilleries (or inspector of distilleries, as the case may be) before us,  
                 , Esquires, two of Her Majesty's justices of the peace of the said  
Colony, against C. D., which said information charged that the said C. D., on the  
day of                   , in the year of our Lord                    (*here state  
the offence as in the information*)                    contrary to the form of the  
Act in such case made and provided, which offence has been duly proved before us the  
said justices. We do therefore convict the said C. D. of the said offence and do adjudge  
that the said C. D. hath forfeited for his said offence the sum of

Given under our hands and seals this                    day of  
                  in the year of our Lord

F.

*Form of warrant of commitment to gaol for a penalty.*

13 Vic. No. 26.

13 Vic. No. 27.

New South Wales }  
                  to wit. }

To A. B., constable, and E. F., the gaoler or keeper of the                    Schedules E and C.

WHEREAS C. D. has been duly convicted before us,                   , Esquires,  
two of Her Majesty's justices of the peace for the said Colony, of having  
                  (*here state the offence as in the information*)

And whereas we the said justices did adjudge that the said C. D. hath forfeited for his  
said offence the sum of                   , and whereas the said sum was not immediately  
paid

*Employers' Liability.*

paid nor security given to our satisfaction for the due payment thereof. These are therefore to require you the said A. B. forthwith to take, carry, and convey the said C. D. to the at , in the , and to deliver him into the custody of the gaoler or keeper of the said , and we the said justices, do hereby authorise and require the said E. F., the gaoler or keeper of the said , to receive the said C. D. into his custody and him safely to keep for the period of unless he shall sooner pay the said sum of or otherwise be delivered by due course of law.

Given under our hands and seals at in the  
this day of in the year of our Lord