



## ST. CHRISTOPHER AND NEVIS

### **CHAPTER 20.09** **DISTILLERIES ACT**

**Revised Edition**  
showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

This edition contains a consolidation of the following laws—

#### **DISTILLERIES ACT**

**Act 6 of 1984** ... in force 17th March 1894  
Amended by: Act 7 of 1976  
Act 5 of 1977  
Act 9 of 1986

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**CHAPTER 20.09**

**DISTILLERIES ACT**

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## CHAPTER 20.09 DISTILLERIES ACT

AN ACT TO MAKE PROVISION FOR THE REGULATION OF DISTILLERIES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

### Short title.

1. This Act may be cited as the Distilleries Act.

### Application.

2. This Act shall apply to the distillation of spirits only.  
*(Inserted by Act 5 of 1977 as section 1A)*

### Interpretation.

3. In this Act—

“bush rum” means the substance commonly referred to as bush rum, or as mountain dew or as hammond;

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

“Comptroller” means the Comptroller of Customs;

“distiller” means a person who holds a spirit maker’s licence issued pursuant to this Act;

“distillery” means the licensed premises of a distiller;

“excise law” means this Act and any other law relating to excise or any rule or regulation having the force of law for the time being in force relating to intoxicating liquor;

“feints” means spirits received into the feints receiver;

“illicit spirits” means spirits distilled, moved, altered or interfered with in contravention of this Act;

“illicit still” means any still made, imported, used, set up, or in the possession or custody of any person without lawful authority;

“low wines” means spirits of the first extraction received into the low wines receiver;

“Minister” means the Minister of Finance;

“officer” means the Comptroller and any person acting under the instructions of the Comptroller for the purposes of this Act;

“proper officer” means the officer who is assigned by the Comptroller or by any rule or regulation for the performance of any particular duty under this Act or any officer superior in matters of excise to such officer;

“spirits” include all liquor upon which any excise is imposed by law and whether distilled or made, in any stage of distillation or making;

“spirit warehouse” means a warehouse or distillery upon a distiller’s premises in which spirits may be warehoused without payment of duty;

“still” means any apparatus for or capable of distilling spirits and any part thereof and any apparatus connected or used in connection therewith;

“wash” means the liquor from mashed material after it has commenced to ferment and before it has been distilled;

“wort” means the liquor from mashed material before it has commenced to ferment.

*(Section inserted by Act 5 of 1977 as section 1B)*

#### **Powers and functions of the Comptroller.**

4. The Comptroller shall be the principal officer charged with the control of excise throughout the State and shall be responsible to the Minister for the efficient carrying out of the provisions of this Act.

*(Section inserted by Act 5 of 1977 as section 1C)*

#### **Acts may be done by any officer appointed by the Comptroller.**

5. Every act, matter or thing required by any excise law to be done or performed by the Comptroller, if done or performed by any officer appointed by the Comptroller for such purpose, shall be deemed to be done or performed by the Comptroller.

*(Section inserted by Act 5 of 1977 as section 1D)*

#### **Power of Comptroller to settle disputes and enquiries.**

6. (1) If any dispute shall arise between any person and any officer of excise as to the seizure, or detention of any ship or goods, or as to any apparently accidental omission, inadvertency, or non-compliance with the laws and regulations relating to excise, the Comptroller may determine such dispute as he or she may deem just, and if he or she finds that any penalty or forfeiture has been incurred he or she may mitigate or remit the same.

(2) Nothing in this section shall affect any right conferred by any excise law on any person to claim in the case of a forfeiture or to commence or require the commencement of legal proceedings.

*(Section inserted by Act 5 of 1977 as section 1E)*

#### **Powers of Police.**

\*7. All members of the Police Force shall have the same powers, authorities, and privileges as are given by this Act to any officer and the expression “Officer” where used in this Act, shall extend to and include all members of the Police Force.

#### **Still to be licensed.**

8. (1) It shall not be lawful for any person to use any still for the purpose of making or distilling rum or other spirits or for any other purpose without having first obtained a licence for that purpose under the provisions of this Act signed by the Comptroller, and the licence shall specify the name or names of the person or persons to whom, and the local situation, description and name, if any, of the plantation, building or premises, and the particular local situation and capacity of the still, in respect of which the licence shall be granted.

*(Amended by Act 5 of 1977)*

(2) The licence shall commence and take effect upon and from a day to be named in the licence and shall continue in force until and upon the thirty-first day of December next after the day of the commencement of the licence and no longer.

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\* Section inserted by Act 5 of 1977 as section 1F][Note: Sections 2 and 3 have been renumbered as sections 8 and 9

(3) No licence granted under the authority of this Act shall empower any person or persons to whom the same shall be granted to make use of any still, or to make or distil any rum or other spirits in or upon any still, plantation, building or premises other than the still, plantation, building or premises mentioned in that licence.

#### **Distillery to be properly constructed.**

9. (1) Every person applying for a licence shall be bound to show to the satisfaction of the Comptroller that the arrangements for distilling and for storing the spirits distilled are sufficient to secure the safe keeping of all the spirits distilled on the premises and that the structural arrangements are sufficient to prevent any portion of the spirits so distilled being abstracted or brought into consumption without payments of the duties of excise.

(2) Where the Comptroller is not satisfied as provided in subsection (1) he or she shall not issue the licence unless authorised to do so by the Minister:

Provided always that any person aggrieved by any decision of the Comptroller in this matter may appeal to the Minister and the decision of the Minister shall be final.

*(Amended by Act 5 of 1977)*

*(Note: Section 4 deleted by Act 5 of 1977)*

#### **Licences not transferable.**

\*10. No licence granted under this Act shall be assignable or transferable in any manner whatever.

#### **Failing to renew licence.**

†11. It shall not be lawful for any person before taking out a licence or at any time after the expiration of the time for which the licence for using a still shall be granted under this Act to work, use or continue to work or use any still, or to brew, or make any wort, or wash, or to distil any rum or other spirits and if any person shall keep or work, or continue to keep or work, or shall use any still or shall make or brew any wort or waste or shall distil any rum or other spirits contrary to this Act, that person shall, on summary conviction in every such case, forfeit the sum of ten thousand dollars and all the wort, wash and spirits and the still with the head and worm thereof, and all other vessels and utensils therewith used or containing any such wort, waste, rum or other spirits shall be forfeited and may be seized by any revenue officer or member of the police force or by any person duly authorised to make seizures under any Act of the State.

*(Amended by Act 7 of 1976 and Act 9 of 1986)*

#### **Right of search for illicit stills.**

‡12. Whenever the Comptroller has reasonable cause to suspect that any private or concealed still or any privately made wash or other materials for distillation is or are set up or kept in any house or place not duly licensed the Comptroller may or any person acting on his or her behalf or under his or her direction enter by day or by night and if necessary for such purpose to break open the door or any part of the house or place and to seize the still, wash or other materials for distillation, and to

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\* Originally section 5

† Originally section 6

‡ Originally section 7

secure the same in such manner as he or she shall think fit and the still, wash or other materials for distillation and all rum or other spirits found in the house or place with the casks or packages containing the same shall be forfeited and the owner of the private or concealed still, wash or other materials or rum or other spirits or the person in whose custody they are found shall be liable, on summary conviction, to a fine not exceeding ten thousand dollars.

*(Amended by Act 7 of 1976 and Act 9 of 1986)*

#### **Licence to be forfeited for fraud.**

\*13. Where any person holding a licence under this Act is convicted of any offence involving a fraud on the revenue or excise laws of the State the Magistrate or Court by or before whom the person is convicted shall declare the licence to be forfeited and the licence shall thereupon be forfeited and no licence to distil shall thereafter be issued to that person except with the permission of the Minister.

#### **Regulations.**

†‡14. (1) The Minister may, from time to time, make regulations and prescribe forms for the regulation of distilleries and of stores for spirits and for the distillation, storage and removal of spirits and generally for carrying out all or any of the provisions of this Act.

(2) Any person who does not comply with any of the regulations commits an offence and shall be liable, on summary conviction, to a fine of one thousand five hundred dollars.

*(Substituted by Act 5 of 1977)*

#### **Authority to remove and purpose for which spirit may be moved.**

15. (1) No spirits shall be removed from a distillery without an entry made and passed authorising their removal and no entry authorising the removal of spirits shall be passed in respect of a smaller quantity than ten gallons.

(2) Entries may be made by the distiller or owner and passed by an officer and may authorise the removal of spirits for—

- (a) home consumption;
- (b) removal to an approved place; or
- (c) export

#### **Customs control.**

16. All spirits distilled in a distillery shall, until delivery for home consumption or until they are exported to places outside the State, whichever shall first happen, be subject to the control of the Customs, and shall not be moved, altered or interfered with, except by authority and in accordance with this Act.

#### **Strength of spirits.**

17. The strength of spirits may be ascertained for the purpose of duty by means of a hydrometer approved by the Comptroller but if, in the opinion of the Comptroller,

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\* Originally section 8

† Section 10 was replaced with sections 10, 11, 12, 13 and 14 which have been renumbered as sections 15, 16, 17, 18 and 19, respectively

‡ Originally section 9

the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner.

**Power to search and seize.**

**18.** (1) Any officer, upon reasonable suspicion, may stop and search any vehicle or boat for the purpose of ascertaining whether any illicit still or illicit spirits are on the vehicle or boat, and the driver of the vehicle or the person in charge of the boat shall stop and permit an officer to search his or her vehicle or boat when required by an officer so to do.

(2) Any officer may seize and secure any forfeited goods or any goods which he or she has reasonable cause to believe are forfeited and may convey them to a Crown's warehouse, police station or place of security or mark and impound them on the premises where they are found.

**Forfeiture.**

**19.** The following shall be forfeited—

- (a) all illicit stills;
- (b) all illicit spirits, and the vessels in which they are contained;
- (c) all material capable of being used in the course of or in connection with the distillation of spirits found on any premises on which there is an illicit still;
- (d) all vehicles, boats and animals conveying or having on board, or having packed therein or thereon, any illicit still or illicit spirits, and all animals and harness used in drawing any such vehicle;
- (e) all wort and all wash removed from a distillery except in accordance with the provisions of this or any other excise law;
- (f) all low wines, feints, or spirits in any receiver or charger with which or to which any substance has been mixed or added except by authority which increases their specific gravity or prevents their true strength from being ascertained;
- (g) all wort or wash in a distillery the gravity of which cannot be correctly ascertained by the prescribed saccharometer;
- (h) all wort, wash, or fermented liquor found in a distillery if there is reasonable ground for suspecting that an offence under this Act been committed in relation to such wort, wash or fermented liquor;
- (i) all spirits found in any distillery elsewhere than in the proper charger, receiver, spirit store or spirit warehouse;
- (j) all spirits to which wine has been added for the purpose of breaking down or reducing the strength of the spirits.

**Offences as to illicit stills or spirits.**

**20.** (1) No person shall—

- (a) use or unlawfully have in his or her possession or custody or under his or her control or upon his or her premises any illicit still;
- (b) make any illicit spirits;

- (c) supply the means or materials for establishing, maintaining or working any illicit still;
- (d) receive, carry, convey or conceal or have upon his or her premises or in his or her custody or under his or her control any illicit spirits;
- (e) be found without lawful excuse in any place where distillation is being illegally carried on;
- (f) sell or dispose of any illicit spirits;
- (g) purchase any illicit spirits knowing them to be illicit spirits;
- (h) make or sell, or have in his or her possession or custody or control any wash or wort intended for distillation by an illicit still.

(2) Any person who, by act or omission, is found guilty of a contravention of this section shall be liable, on summary conviction, to a penalty of five thousand dollars.

(3) Any person who has in his or her possession or custody or under his or her control any spirits exceeding in quantity one pint or any quantity whatsoever of bush rum shall be deemed, for the purposes of this section, to be a person in unlawful possession thereof unless—

- (a) he or she is a distiller, and they have come legally to his or her possession in that capacity; or
- (b) he or she is in possession under permit for their removal, or having been legally authorised to remove them, is in possession thereof for the purpose of the removal; or
- (c) the spirits have been legally sold, delivered, or disposed of to him or her under the provisions of this or any other excise law.

(4) If an officer has reasonable ground for suspecting that spirits or bush rum are in the unlawful possession of anyone in any premises, then upon oath made by that officer before a magistrate or justice of the peace of the grounds of suspicion, the magistrate or justice of the peace may issue a warrant under his or her hand authorising the officer to enter if need be by force, the premises named in the warrant and search the premises and any persons found therein and seize any spirits unlawfully possessed therein, and also a warrant to arrest the person unlawfully in possession thereof and to bring him or her before the Magistrate of the District to be dealt with according to law.

(5) In any proceeding under this section it shall not be necessary to negative any of the exceptions in favour of the defendant contained in this section but the onus of proving that any of those exceptions applies in his or her case shall lie on the defendant and a certificate purporting to be signed by a Government Chemist or by a laboratory technician shall be sufficient evidence of all the matters therein stated unless the contrary be proved.

*(Inserted by Act 5 of 1977 as section 15)*

### **Recovery of Penalties.**

**21.** (1) Offences under this Act may be prosecuted and any penalty or forfeiture imposed thereby may be sued for, prosecuted and recovered summarily in the manner provided by the Magistrates' Code of Procedure Act, Cap. 3.17 on the complaint of any officer.

(2) Proceedings under this Act may be commenced at any time within two years after the date of the offence.

*(Inserted by Act 5 of 1977 as section 16)*

**Further powers to search.**

**22.** (1) If a constable has reasonable ground to suspect that any person is in possession of spirits or bush rum in contravention of this Act, the constable may—

- (a) search that person, and detain him or her for the purpose of searching him or her;
- (b) search any vehicle in which the constable suspects that the spirits or bush rum may be found, and for that purpose require the person in control of the vehicle to stop it;
- (c) seize and detain for the purposes of proceedings under this Act anything found in the course of the search which appears to the constable to be evidence of an offence against this Act.

(2) Nothing in subsection (1) of this section shall be construed as prejudicing any power of search or any power to seize or detain property which is exercisable by a constable apart from that subsection.

*(Inserted by Act 5 of 1997 as section 17)*

**Penalty in cases not provided for.**

**23.** Any person who, by any act or omission, is found guilty of any contravention of this Act for which no penalty is expressly provided, shall be liable, on summary conviction, to a fine of seven hundred and fifty dollars.

*(Inserted by Act 5 of 1977 as section 18)*

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