

LAWS OF BRUNEI

CHAPTER 37

EXECISE

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LAWS OF BRUNEI
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CHAPTER 37
EXCISE

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EXCISE ACT**An Act to regulate excise and the retail sales of liquors**

Commencement: 1st January 1925

Short title.

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

Interpretation.

2. For the purposes of this Act and of rules, notifications and orders made thereunder, the following terms shall, unless there be something repugnant in the subject or context, have the meanings respectively assigned to them —

“beer” includes ale, stout, porter and all other fermented liquors made from malt;

“Controller” means the Controller of Customs appointed under the Customs Act (Chapter 36);

“conveyance” means any ship, boat, or vehicle used for the carriage of liquors;

“denatured” means effectually and permanently rendered unfit for human consumption;

“dutiabale” as applied to any goods means goods subject to the payment of excise duty and on which such duty is payable;

“excise officer” means any officer of customs as defined in subsection (1) of section 2 of the Customs Act (Chapter 36);

“gallon” means the imperial gallon, or 6 reputed quart bottles or 12 reputed pint bottles;

“goods” includes animals, birds, fish, plants and all kinds of movable property;

“intoxicating liquors” includes all liquors fit or intended for human consumption;

“licensed warehouse” means a place licensed under this Act by the State Secretary for the warehousing of liquors;

“liquor” includes all liquid consisting of alcohol or containing more than 2 per cent of pure alcohol by weight, and also any liquid which His Majesty the Sultan and Yang Di-Pertuan in Council may by public notification declare to be liquor for the purposes of this Act;

“manufacture” with its grammatical variations and cognate expressions —

(a) in the case of intoxicating liquors, includes the addition of any substance (other than water) to any intoxicating liquor with intent that the compound so formed shall be sold for human consumption; and

(b) in the case of tobacco, includes any process converting any raw or leaf tobacco into tobacco fit for smoking, snuffing or chewing, and the making of cigarettes from manufactured tobacco;

“medicated wines” means intoxicating liquors which have been submitted to a process of preparation consisting of the addition of a drug or drugs intended to give special medicinal properties;

“retail sale of liquors” means the sale of liquors to members of the public or a class thereof for consumption on or off the premises of the vendor;

“senior officer of excise” means senior officer of customs as defined in subsection (1) of section 2 of the Customs Act (Chapter 36);

“spirit” means any liquor containing alcohol obtained by distillation, whether denatured or not;

“tobacco” includes cigars, cigarettes and snuff.

Administration.

3. (1) The Controller shall, subject to the general control of the State Financial Officer be charged with the duty of collecting and accounting for and otherwise managing the revenues of excise.

(2) Deputy Controllers, Senior Superintendents, Assistant Superintendents and Supervisors of Customs appointed under the Customs Act, shall subject to the general direction and supervision of the Controller, have and exercise all the powers conferred on the Controller by or under this Act.

Excise officers to be public servants.

4. All excise officers shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

Authority cards to be produced.

5. (1) Every excise officer, other than senior officer of excise, when acting against any person under this Act shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such document establishing his identity as the Controller or, in the case of a police officer, the Commissioner of Police, may direct to be carried by such officer.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any excise officer acting or purporting to act under this Act if such officer being an officer other than a senior officer of excise is not in uniform and refuses to declare his office and produce his identification document on demand being made by such person.

Power to impose duties.

6. (1) His Majesty in Council may from time to time impose excise duties upon such goods as he may think fit, and from time to time cancel such duties and impose new duties instead thereof and may prescribe the methods according to which any duties so imposed shall be levied.

(2) The amount of such duties shall be declared by public notification and such duties shall not come into force until the said notification is so published.

Distillation and Manufacture

Licences to distil or manufacture liquors.

7. (1) No person shall distil or manufacture any dutiable goods except under and in accordance with the provisions of a licence issued by the Controller, and at the distillery, factory or place of distillation or manufacture specified in the licence.

(2) Such licence shall be issued at the discretion of the Controller, and shall be subject to such conditions as may be fixed by him from time to time.

(3) There shall be charged for such licence an annual fee to be determined by His Majesty in Council annually in each case.

Licensee may keep a still etc.

8. No person other than the holder of a licence under section 5 shall knowingly keep or have in his possession any still, utensil or any other apparatus or machine for manufacturing dutiable goods.

Removal of dutiable goods.

9. No dutiable goods shall be removed from any distillery, factory or place of distillation or manufacture specified in a licence issued under section 5, except in accordance with such rules as His Majesty in Council may from time to time make.

Excise officer may enter licensed premises and take samples.

10. The holder of a licence under section 5 shall at all times permit any excise officer to enter on the licensed premises and to take samples of any material used in such process.

Power to make rules for distilleries and factories.

11. It shall be lawful for His Majesty in Council to make rules for the following purposes —

(a) to prescribe the form in which an application for a licence to distil or manufacture shall be made;

(b) to prescribe the form in which such licence shall be issued;

(c) to prescribe the books and registers to be kept by the distiller or manufacturer, and returns to be submitted by him;

(d) to regulate the hours during which distillation or manufacture may or may not take place, and at which dutiable goods may be removed from distillery, factory or place of distillation or manufacture;

(e) to regulate the manner in which duty shall be paid and to safeguard the revenue to be derived therefrom;

(f) to regulate the erection, inspection, supervision, management and control of distilleries, factories and places for distillation or manufacture of dutiable goods, and the fittings, implements and apparatus to be maintained therein;

(g) to prescribe what accommodation the distiller or manufacturer shall be required to furnish free of cost for such excise officers as he may deem to be necessary for the control of the distillery or factory.

Exemptions.

12. Nothing contained in this Act shall apply to any distillation by a medical practitioner or by a chemist and druggist which may be proved to be for genuine medicinal or scientific purposes or to any distillation of essential oils.

Storage of Dutiable Goods

Public Warehouses.

13. The State Secretary may establish public warehouses wherein dutiable goods may be deposited and kept without payment of duty and may prescribe from time to time the amount to be paid as warehouse rent on any dutiable goods so deposited and may make rules to regulate the deposit, custody and removal of such dutiable goods.

Licences for warehouses.

14. (1) The Controller may from time to time grant licences for the warehousing of locally manufactured goods liable to duty in places to be specified in such licences.

(2) Such licence shall be issued at the discretion of the Controller and shall be for such period and subject to such special conditions as he may see fit.

(3) There shall be charged for such licence an annual fee to be determined by His Majesty in Council annually in each case.

Dutiable goods to be warehoused.

15. No person shall store or keep or have in his possession or control any dutiable goods on which the duty, if any, has not been paid except in a public or licensed warehouse, provided that it shall not be an offence for any person licensed to distil or manufacture dutiable goods to have in his possession upon the licensed premises dutiable goods distilled or manufactured on such premises subject to such restrictions and in accordance with such rules as His Majesty in Council may from time to time make.

Storage of imported goods.

16. It shall be lawful for the Controller to authorise the storage of imported liquors in a licensed warehouse, subject to such conditions and to such fees as he may think fit to impose in each case.

Deposit etc. of dutiable goods.

17. No dutiable goods shall be deposited in, or removed from, such licensed warehouse, except in accordance with such rules as His Majesty in Council may from time to time make.

No removal until duty paid.

18. No dutiable goods shall be removed from such licensed warehouse, except for export to a place outside Brunei Darussalam, until after the duty, if any, thereon shall have been paid.

Power to make rules for licensed warehouses.

19. It shall be lawful for His Majesty in Council to make rules for the following purposes —

(a) to prescribe the form in which applications for a licence for a warehouse for the storage of dutiable goods or for the opening of a licensed warehouse for the deposit of dutiable goods therein, or for permission to remove from a licensed warehouse shall be made;

(b) to prescribe the form in which licences for warehouses for the storage of dutiable goods or permits to remove dutiable goods from a licensed warehouse shall be issued;

(c) to prescribe the books and registers to be kept, and the returns to be submitted by the licensee of any warehouse;

(d) to regulate the days and hours during which any licensed warehouse may or may not be opened for the deposit or removal of dutiable goods.

Retail Sale**Appointment of Licensing Boards.**

20. (1) It shall be lawful for His Majesty to establish a Licensing Board or Licensing Boards for such areas as he may deem fit.

(2) Each Board shall consist of a Chairman and a Vice-Chairman and not less than 2 or more than 5 other members, all of whom shall be appointed by His Majesty.

(3) No licence for the retail sale of any intoxicating liquor shall be issued or transferred except with the approval of such Board.

Retail sale to be licensed.

21. (1) No person shall sell by retail or offer for sale by retail any intoxicating liquors whether for consumption on the premises or off the premises of the vendor except under and in accordance with a licence issued under this Act and in a place in such licence specified.

(2) The delivery of any intoxicating liquor in less quantities than 6 gallons if not sold in bottles, or the reputed equivalent thereof if sold in bottles, shall be taken in any proceeding under this Act to be *prima facie* evidence of sale by retail and that money or other consideration was given for the same.

Types of licence.

22. (1) The Licensing Board shall have authority to direct the issue or transfer of licences as follows —

Retail-shop licences.

(a) Retail-shop licences, for the sale by retail of intoxicating liquors or medicated wines, for consumption elsewhere than on the premises or at the place where they are sold;

Public-house licences.

(b) Public-house licences, for the sale by retail of intoxicating liquors for consumption on the premises or at the place where they are sold;

Chemists' licences.

(c) Chemists' licences, for the sale by retail of medicated wines for consumption elsewhere than on the premises or at the place where they are sold,

and no licence issued under this section shall be transferable, except with the consent of the Licensing Board and on payment of the prescribed fee.

(2) It shall be lawful for the Licensing Board, in their discretion, to subject the issue or transfer of any licence under this section to such conditions, to be indorsed on the licence, as they may think fit to impose, or to refuse the issue or transfer of any such licence, or to suspend or cancel any such licence at any time.

(3) Any person aggrieved by the issue, transfer, refusal, suspension or cancellation of a licence under this section shall, if he so desire, be heard in person by the Licensing Board.

Duties of licensee.

23. Every person licensed under section 22 shall —

(a) on demand by the proper officer of excise render an account in writing of the quantity and description of intoxicating liquors in his possession, custody or control;

(b) permit the proper officer of excise to enter the premises in which such liquors are stored at any time between the hours of six in the morning and six in the evening and inspect the same;

(c) exhibit his licence at all times in a conspicuous place upon the licensed premises.

Licensee not to keep dutiable liquors on premises.

24. No person licensed under section 20 shall store or keep on his licensed premises any liquor upon which the duty has not been paid, and in the absence of proof to the contrary any liquors upon which the duty has not been paid found on such premises shall be presumed to be stored or kept by such licensee.

Licensee not to permit Muslims to enter.

25. (1) No person holding a licence to sell by retail intoxicating liquors for consumption on the premises shall permit any Muslim, other than a public servant in the lawful exercise of his duty, to enter upon the premises so licensed.

(2) Every Muslim found upon premises so licensed shall be presumed to have entered thereon with the permission of the holder of the licence, unless the contrary is proved.

No person except licensee to exhibit sign.

26. No person except a person holding a licence to sell by retail intoxicating liquors for consumption on the premises shall exhibit or keep up any sign, writing, painting or other mark which may imply or give reasonable cause to believe that his premises are so licensed.

Power to make rules to regulate issue of retail licences.

27. It shall be lawful for His Majesty in Council to make rules for the following purposes —

(a) regulate the proceedings of Licensing Boards and the issue of licences by their authority;

(b) to prescribe the form in which applications for licences to sell intoxicating liquors shall be made and in which such licences shall be issued;

(c) to fix the fees which shall be charged for the issue or transfer of such licences and the periods for which licences may be issued;

(d) to prohibit sales except for cash;

(e) to prohibit the admixture with any intoxicating liquors of any substance deemed to be noxious or objectionable;

(f) to prohibit drunkenness or disorderly conduct in or near any licensed premises, and the meeting or remaining of person of bad character in such premises;

(g) to prescribe the days and hours during which any licensed premises may or may not be open, and to provide for the closing of such premises on special occasions;

(h) to prescribe the nature of the premises in which any intoxicating liquors may be sold, and the notices to be exposed at such premises; and

(i) to prescribe the accounts to be kept and the returns to be submitted by licence holders.

Penalties, Forfeitures, General**Forfeiture of dutiable goods packed to deceive.**

28. If any dutiable goods distilled or manufactured within Brunei Darussalam shall be found packed in any manner calculated to deceive the officers of excise so that a proper account of such dutiable goods might not

be taken, the same shall be forfeited, together with everything packed therewith.

Forfeiture of dutiable goods the subject of an offence and of articles used in commission of such offence.

29. (1) All dutiable goods in respect of which there may have been committed any offence against this or any other Act relating to the excise, or against any rule duly made or permit granted thereunder, or any breach of the restrictions or conditions subject to or upon which any licence has been granted, together with any still, utensil or other apparatus, or any receptacle, package, or conveyance in which the same may have been found, or which may have been used in connection with such offence or breach, may be seized, and all such dutiable goods and other articles, either so seized, or which may be found without any apparent owner and for which no claim may be made within one month, shall be forfeited.

(2) All such dutiable goods and other articles, and all persons liable to be detained for any offence under this or any other Act relating to excise, may be seized or detained in any place, either on land or water, by any excise or police officer, and all dutiable goods and other articles so seized shall, as soon as conveniently may be, be delivered into the care of the proper officer of excise appointed to receive the same.

(3) Whenever any such dutiable goods or other articles shall be seized, the seizing officer shall forthwith give notice in writing of such seizure, and of the grounds thereof, to the owner, if known, either by delivering the same to him personally, or by letter addressed to him at his place of abode if known, and transmitted by post: provided that such notice shall not be required where the seizure is made in the presence of the offender.

Power of officers to stop and search conveyances.

30. Any excise or police officer may, upon reasonable suspicion or probable cause, stop and examine any conveyance to ascertain whether any dutiable goods or other articles liable to seizure are contained therein, and any person in control of such conveyance refusing to allow such examination shall be guilty of an offence: Penalty, a fine of not less than \$250 not more than \$5,000.

Power to restore forfeited dutiable goods and other articles.

31. The State Secretary may, by an order made by him for that purpose, direct any still, utensil or other apparatus, or any receptacle, package or conveyance, or any dutiable goods seized under this or any other Act relating to the excise to be delivered to the proprietor thereof, upon such terms and conditions he may see fit.

Penalty for evasion of provisions of Act.

32. Every person who, contrary to the provisions of this Act, receives into or has in his possession, custody or control any dutiable goods on which the duty leviable by law is not proved to have been paid or which have been illegally made or prepared, or who assists or is otherwise concerned in the illegal removal or withdrawal of any dutiable goods from any distillery, factory or place for distilling or manufacturing any dutiable goods or from any licensed warehouse or place of security in which dutiable goods may have been deposited, or who knowingly harbours, keeps or conceals, or permits or suffers or causes or procures to be harboured, kept or concealed, any dutiable goods on which the duties shall not have been paid, or any dutiable goods illegally removed or to whose hands or possession any such dutiable goods shall knowingly come, or who is in any way knowingly concerned in conveying, removing, depositing, concealing or in any manner dealing with any such dutiable goods with intent to defraud the Government of Brunei Darussalam of any duties thereon, or to evade any prohibition or restriction of or applicable to such dutiable goods, or who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duties of excise, shall be guilty of an offence: Penalty, in each and every case be on conviction punished by a fine of not less than 3 nor more than 20 times the value of the dutiable goods and the duty.

Assaulting or obstructing officers.

33. Every person who assaults or obstructs any officer of excise or other public servant or any person acting in his or their aid or assistance, or duly employed for the prevention of the evasion of duties or of the illicit manufacture or sale of dutiable goods, in the execution of his or their duty, or in the due seizing of any liquors liable to forfeiture under this or any other Act relating to the excise, or who rescues or endeavours to rescue, or causes to be rescued, any dutiable goods which have been duly seized, or who before or after any seizure staves, breaks or otherwise destroys any cask, bottle, jar or other package to prevent the seizure thereof or the securing of

the same be guilty of an offence: Penalty, for the first offence imprisonment for 18 months and a fine of \$3,000; and for every subsequent offence imprisonment for a term of 3 years and a fine of \$5,000.

Penalty for offences not otherwise provided for.

34. Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Act or of any rule duly made or permit granted thereunder, or in breach of the restrictions and conditions subject to or upon which any licence has been issued under this Act, shall be deemed to be an offence against this Act, and for every such offence, not otherwise especially provided for, the offender shall, in addition to the forfeiture of any articles seized, be liable on conviction for every first offence to a fine of \$1,500; and for every subsequent offence to a fine of \$3,000 and imprisonment for 18 months.

Making a false return.

35. Every person who under the provisions of this Act delivers any application or supplies any particulars, return, account or other written statement required by this Act or by any rule duly made thereunder shall, if such application, particulars, return, account or written statement be false or incorrect, either in whole or in part, to the knowledge of the person so making, delivering or supplying the same, whether the same be signed by him or not, be guilty of an offence: Penalty, a fine of \$3,000 and to imprisonment for 18 months; and for every subsequent offence a fine of \$5,000 and imprisonment for 3 years.

Rewards.

36. The Controller may offer such rewards as he may see fit out of any pecuniary penalty to any officer or other person by whose means the same is recovered, and may order to be paid in respect of any seizure made under this or any other Act relating to the excise to the person or persons making the same such reward as he may see fit, not exceeding the value of the dutiable goods or articles so seized.

Power of licensing authority to suspend or cancel licence.

37. (1) The authority granting any licence, permit or pass under this Act may cancel or suspend it —

(a) if any duty or fee payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder of such licence, permit or pass, or by his servants, or by anyone acting with his expressed or implied permission on his behalf, of any of the terms or conditions of such licence, permit or pass; or

(c) if the holder thereof is convicted of any offence under this Act or any other law for the time being in force relating to revenue, or of any cognisable and non-bailable offence.

(2) When a licence, permit or pass held by any person is cancelled under paragraph (a) or (b) of subsection (1), the licensing authority may cancel any other licence, permit or pass granted to such person under this Act or under any other law for the time being in force relating to excise revenue.

(3) The holder shall not be entitled to any compensation for the cancellation or suspension of his licence, permit or pass under this section, nor to refund of any fee paid or deposit made in respect thereof.

Recognisances may be required.

38. The licensing authority may require, as a condition precedent to the issue of any licence, that the applicant shall enter into recognisances with such security as may be thought fit for the due observance of the conditions of the licence.

Provisions in case of death or bankruptcy of licensee.

39. In the case of the death or bankruptcy of any licensee the licensing authority may by indorsement on the licence authorise any other person to exercise the right conferred by the licence until the expiration of the term for which it was originally granted, or for any shorter period, and subject to all the conditions originally imposed by such licence and to such further conditions as the licensing authority may deem fit to impose.

Power to make rules.

40. It shall be lawful for His Majesty in Council to make rules, not in consistent with this Act, to regulate the conduct of all matters relating to the collection of excise duties, and the powers and duties to be exercised and

performed by officers of excise, and generally for the purpose of giving effect to the provisions of this Act.

Convictions under other laws.

41. Nothing in this Act shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other law for the time being in force in Brunei Darussalam; but so that no person shall be punished more than once for the same offence.

Jurisdiction.

42. A conviction for any offence under this Act may be had before the Court of a Magistrate, which shall have jurisdiction to impose any penalty provided by this Act.

Protection of Officers

Provisions as to actions.

43. (1) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Act, or by any rules made thereunder —

(a) without giving to such person one month's previous notice in writing of the intended action, and of the cause thereof;

(b) after the expiration of 3 months from the date of the accrual of the cause of action;

(c) after tender of sufficient amends.

(2) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(3) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the magistrate before whom the action is tried shall certify his approbation of the action.