

CHAPTER 90B

SPIRITS

1982-43

This Act came into operation on 1st July, 1984.

Amended by:

1984/61

1996-15

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

1997

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 90B

SPIRITS 1982-43

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**BARBADOS****SPIRITS
1982-43**

An Act to repeal the Rum Duty Act in order to make better provision for the distillation of spirits and related matters.

[Commencement: 1st July, 1984]

**PART I
PRELIMINARY****Short title**

1. This Act may be cited as the *Spirits Act*.

Interpretation

2. In this Act

“alcohol” means pure ethyl alcohol;

“authorised person” means a public officer designated by the Comptroller of Customs to perform any function that is required to be performed by virtue of this Act;

“compound” means

- (a) denatured ethyl alcohol, or
- (b) any substance that is intended for use as a flavouring or perfuming agent or as a medication,

which consists of locally manufactured ethyl alcohol to which other ingredients have been added;

[1996-15]

“Comptroller” means the Comptroller of Customs;

“distiller” means any person having the immediate charge and control of a still, distillery and spirits store;

“distillery” means a house or building of any kind in which a still is set up;

“excise tax” means the excise tax imposed under the *Excise Tax Act*, Cap. 69;

[1996-15]

“licensed still” means a still that is licensed in accordance with section 12;

“Minister” means the Minister responsible for Finance;

“owner” means the proprietor of any still, or, in the case of a still that is leased, the lessee thereof, or in the case of a still under the control of the Supreme Court, the receiver appointed by the High Court;

“spirits” includes all liquors mixed with spirits, and all mixtures or preparations made with spirits other than compounds;

“spirits store” means a store provided by an owner under this Act and used by him for the deposit of spirits; but does not include a warehouse;

“still” means apparatus of any kind capable of distilling spirits;

“strength” in relation to spirits and compounds means the strength as ascertained by the method or instrument approved by the Minister;

“warehouse” means a secure place approved by the Comptroller for the deposit of

- (a) spirits liable to duty; or
 - (b) spirit compounds on which a refund or drawback is payable,
- but does not include a spirit store;

“warehouse keeper” means a person who has entered into a bond with the Comptroller for the due security of the duties payable on spirits deposited in his warehouse or the warehouse under his control.

Administration of Act

3. The Comptroller is responsible for the administration of this Act and may delegate to an authorised person any function that is required to be performed by virtue of this Act.

PART II

CONSTRUCTION, REGISTRATION AND LICENSING OF STILLS

Erection of stills

4.(1) No person shall erect a still in a building that is within 45 metres of the premises of a licensed retailer of liquors.

(2) A person who wishes to distil spirits for the purpose of scientific research may, with the prior approval of the Comptroller, and subject to such conditions as the Comptroller imposes, erect a still for that purpose.

(3) Notwithstanding subsection (1), one or more additional stills may be erected on the same premises on which a still is already erected although such premises may be within 45 metres of the premises of a licensed retailer of liquors.

Stills to be registered

5. The owner of a still shall register that still within 10 days after it is erected.

Mode of registering stills

6.(1) A person who is required to register a still under section 5 shall do so by

- (a) giving to the Comptroller a written declaration signed by himself containing a statement of the address of the place where the still is erected; and
- (b) filing with the Comptroller a full description of the still, with the models or drawings necessary to enable the machinery and method of manufacture to be understood.

(2) The Comptroller shall issue a certificate of registration in the prescribed form to every person who complies with the requirements of this section.

(3) The Comptroller must file and preserve the written declaration mentioned in paragraph (a) of subsection (1).

Report to be made on alteration to still

7. Where it is proposed

- (a) to make alteration to a registered still; or
- (b) to change any condition imposed by the Comptroller for the construction of a still,

the owner of that still shall obtain the permission of the Comptroller before such alterations or construction changes are made, and shall, within 10 days after the completion of the alterations and construction changes, report in writing to the Comptroller the fact of the completion.

Report to be made on destruction or removal of still

8. Where a registered still is destroyed or is to be removed to other premises, the owner

- (a) in the case of the destroyed still, shall report in writing to the Comptroller the fact of the destruction; and
- (b) in the case of the still that is to be removed, shall
 - (i) obtain the permission of the Comptroller before removing the still to new premises, and
 - (ii) report in writing the address of the new premises to which the still is to be moved.

Report to be made on replacement of still

9. When a new still is to be erected in place of a registered still, the owner of the new still shall obtain the permission of the Comptroller before erecting the new still, and shall, when the new still is completed, report in writing to the Comptroller the fact of the completion.

Report to be made on sale of still

10. Where a registered still is to be sold, leased or transferred, the owner of that still shall, 10 days prior to the completion of the sale, lease or transfer, report in writing to the Comptroller

- (a) the fact of such sale, lease or transfer; and
- (b) the name and address of the person to whom that sale, lease or transfer is to be made.

Licensing of stills

11. The owner of a still shall not distil spirits in that still unless he has first obtained a licence to do so in the manner specified in section 12.

Requirements for obtaining licence

12.(1) Subject to subsection (2), an owner of a registered still who wishes to obtain a licence to distil spirits must

- (a) deliver to the Minister a certificate issued by the Magistrate of the district in which the still is situate, certifying that he is a fit and proper person to receive the licence;
- (b) satisfy the Comptroller that the still to be licensed is constructed in accordance with the prescribed requirements; and
- (c) pay to the Accountant-General the prescribed fee.

(2) A licence may not be issued in respect of an unregistered still.

(3) Subject to section 4(2), the Minister may issue, without payment of a fee, a special licence to a person referred to in section 4(2), and in that case the person is exempt from the requirements of subsection (1).

(4) A special licence issued under subsection (3) may be revoked at any time after issue.

(5) The Minister may issue a licence in the prescribed form to a person who complies with the requirements of subsection (1) upon payment, by that person, of the prescribed fee.

(6) A licence issued under this section expires at the end of December of the year in which it is issued.

Licence unaffected where still is altered, removed or replaced

13.(1) Where a licensed still is to be altered or to be removed to other premises, the licence is not affected by the alteration or removal.

(2) Where a new still is erected or acquired in substitution for a licensed still, the licence issued to the owner of the licensed still entitles him, subject to subsection (3), to distil spirits in the substituted still during the continuance of the licence.

(3) The owner of a new still referred to under subsection (2) shall, before using that still, obtain from the Minister an endorsement on his licence of the fact of transfer.

Sale of licence

14.(1) Where a licensed still is sold, leased or transferred, the licence held by the owner of that still may be sold, leased or transferred by him with the still.

(2) The person to whom a licence is sold, leased or transferred shall not make use of that licence, until he has reported, in writing, to the Comptroller the fact of the sale, lease or transfer, and has complied with paragraph (a) of section 12(1).

PART III

WAREHOUSING OF SPIRITS AND DUTY ON SPIRITS

Warehousing and export of spirits

15.(1) Subject to subsection (2), spirits distilled in Barbados must, within a period of 14 days

- (a) be warehoused in a warehouse; or
- (b) be exported in accordance with the *Customs Act*, Cap. 66 or any other enactment regulating the export of spirits.

(2) Spirits that are permitted to be redistilled need not be warehoused.

(3) An authorised person shall seize all spirits that are not warehoused in contravention of this section.

[1996-15]

16. [Repealed by 1996-15.]

17. [Repealed by 1996-15.]

Payment of excise tax on spirits

18. Spirits on which the excise tax is paid shall be removed from the warehouse within 48 hours of payment, or, where the Comptroller is of the opinion that to do so may result in exceptional hardship, within such longer period as the Comptroller allows.

19. *[Repealed by 1996-15.]*

20. *[Repealed by 1996-15.]*

Rights of owners of licensed stills

21. The owners of licensed stills and the holders of licenses to manufacture compounds in a warehouse may convert locally distilled spirits on which no duty is paid, into compounds.

Articles imported for use in manufacture of compounds exempt from import duty

22. Any article imported into Barbados for the purpose of being added to spirits manufactured in Barbados or used in converting spirits manufactured in Barbados into compounds is exempt from import duty and shall be kept by the importer in the manner directed by the Comptroller.

[1996-15]

Determination of admixture

23. In the manufacture of any non-potable compound, the minimum rate of admixture with articles, other than spirits, for the purpose of rendering those articles non-potable shall be fixed by the Minister responsible for Health.

24. *[Repealed by 1996-15.]*

25. *[Repealed by 1996-15.]*

Licence to export compounds

26.(1) Every exporter of a compound made in Barbados shall pay to the Comptroller the prescribed licence fee, and the Comptroller shall issue to him a licence to export that compound.

(2) The licence issued under subsection (1) expires on the 15th day of January in the year following the year of issue, and is renewable annually on or before that date.

[1996-15]

Duties of authorised persons with respect to compounds

27.(1) Spirits distilled in Barbados and articles imported into Barbados for conversion into compounds in any place where a person is licensed to manufacture compounds in a warehouse, are to be delivered by the authorised person and converted in his presence.

(2) The authorised person must keep an account of the spirits and other articles used for the conversion mentioned in subsection (1) and of the quantity of compounds resulting from the conversion.

[1996-15]

(3) The person licensed to manufacture compounds in a warehouse shall refund to the Accountant-General the actual travelling expenses incurred by an authorised person in performing the function imposed upon him by this section.

Returns by authorised persons

28. Every authorised person shall, within the first week of every month, submit to the Comptroller

- (a) a return stating the quantity of spirits permitted for warehousing and redistillation from each spirits store under his control during the previous month; and

- (b) a general monthly return, in the prescribed form, in respect of the distilleries, spirit stores and warehouses under his control.

29. *[Repealed by 1996-15.]*

PART IV
INSPECTIONS

Authorised person to visit registered stills

- 30.(1)** An authorised person who is assigned to a distillery shall
- (a) immediately obtain from the Comptroller a copy of the particulars of every registered still and a list of the licensed stills in that distillery;
 - (b) as soon as possible after obtaining the documents specified in paragraph (a), visit and inspect each registered still; and
 - (c) ascertain whether the particulars of the registered stills are accurate.
- (2) Where an authorised person finds that the particulars given to the Comptroller at the time of the registration of a still are inaccurate, he must immediately report the inaccuracy to the Comptroller.

Duties of authorised persons respecting stills

- 31.** An authorised person is required to ascertain with respect to the distillery under his control
- (a) whether each still is duly registered;
 - (b) whether each still is duly licensed; and
 - (c) whether the owner of the still is complying with the other requirements of this Act, the *Excise Tax Act*, Cap. 69 and the regulations made thereunder.

Bond to be given by owner of still

32. The owner of a registered still or warehouse may keep the keys of the spirits store, and of all locks or other fastenings to locks and pumps, on the owner giving such security by bond as the authorised person may require, to cover the excise tax payable on the spirits in the spirits store; and any such bond must be given before any spirits are permitted to be removed from a spirits store.

[1996-15]

Visits to distillery

33.(1) An authorised person shall visit each licensed distillery under his control as often as is necessary for the performance of his functions under this Act, and shall on each visit

- (a) cause the several receivers attached to the still to be emptied, if necessary;
- (b) accurately ascertain the alcohol content of each receiver;
- (c) lock the receivers; and
- (d) enter in the spirits store book the alcohol content of each receiver.

(2) An authorised person may, as often as he considers necessary, examine the entries made by the owner or distiller in the spirits store book, or the warehouse book, as the case may be, and shall measure and test the spirits that are in the spirits store or warehouse, so as to ascertain the quantity of alcohol stored there at that time.

(3) An authorised person may, without giving any previous intimation of his intended visit

- (a) visit and inspect each distillery under his control during the time that spirits are being distilled, as frequently and at any time of day or night as he considers necessary so as to check the quantity and strength of the spirits made at that distillery;

- (b) visit and inspect each warehouse under his control in which spirits are stored, as frequently and at any time of day or night as he considers necessary for the purposes of checking the quantity of spirits stored there; and
 - (c) enter in the spirits store book or the warehouse book, as the case may be, a notation of the hour, day of the week and month and year when each such visit is made.
- (4) An authorised person must, on making a visit under subsection (3), examine the entries made by the owner or warehouse keeper in the spirits store book, or the warehouse book, from the date of the previous visit, and he may measure and test the spirits that are in the spirits store or warehouse, for the purpose of ascertaining the quantity of spirits stored there at that time.

Owners and distillers to permit authorised persons to enter

34. Every owner, distiller and warehouse keeper shall permit an authorised person at any time to enter any part of the distillery, spirits store, warehouse or building belonging to the owner, distiller or warehouse keeper, to search for or examine any still, vessel or utensil, for the purpose of making such detailed examination as the authorised person considers necessary.

Assistance to authorised persons

35. Every owner and every distiller shall, on the request of the authorised person, provide that authorised person with any reasonable assistance as he requires in the performance by that person of his functions under this Act.

Inspection of spirits store book etc.

36.(1) Every owner, distiller and warehouse keeper shall permit an authorised person to inspect his spirits store book or warehouse book, as the case may be, and to make any entry into, or extract from, that book.

(2) Every entry made under subsection (1) must be initialled by the authorised person.

PART V
METHYLATED SPIRITS

Making and selling of methylated spirits

- 37.(1)** No person shall methylate spirits unless he is a warehouse keeper.
- (2) No person shall supply and sell methylated spirits unless he is
- (a) a person who satisfies the requirement of subsection (1); or
 - (b) the holder of a licence to retail spirits issued under the *Liquor Licences Act*, Cap. 182.
- (3) A person who is authorised to methylate spirits under subsection (1) shall not supply methylated spirits to any person other than a retailer of methylated spirits, and shall not do so in any quantity that is less than 60 litres of alcohol.

Conditions for methylation

- 38.(1)** A person who is authorised to methylate spirits under section 37
- (a) shall not use, for the purpose of methylation, any spirits other than those manufactured in Barbados;
 - (b) shall not use, for the purpose of methylation, less than 100 litres of spirits at a strength of 75 percent volume at any one time;
 - (c) shall methylate only in the presence of an authorised person and in accordance with his directions; and
 - (d) shall keep all methylated spirits in clearly marked vessels approved by the Comptroller.
- (2) The substances to be mixed with locally made spirits for the purpose of methylation or denaturing are to be determined by the Minister responsible for Health.

- (3) Samples of wood naphtha or methylic alcohol to be used for methylated spirits
- (a) shall be examined and approved by the Government Analyst;
 - (b) must be supplied by the Comptroller, on such conditions as he may impose, to the Government Analyst;
 - (c) must be supplied to the Comptroller at the expense of the methylator.

PART VI

OFFENCES AND LEGAL PROCEEDINGS

Offence under section 4

39. A person who contravenes section 4 is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 3 years.

Offence under section 5

40. A person who uses an unregistered or unlicensed still for the distilling of spirits is guilty of an offence, and is liable on summary conviction to imprisonment for 12 months.

Offences under section 6

41.(1) The owner of a licensed still who fails to comply with section 6(1) is guilty of an offence and is liable on summary conviction, for each period of 10 days during which the address of the place where a still is erected is not provided, to a fine of \$250 or to imprisonment for 1 month.

(2) A person who at the time of registering a still in the manner specified in section 6 makes a false declaration is guilty of an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for 3 months.

Offences under sections 7, 8, 9 and 10

42. A person who fails to comply with the requirements of section 7, 8, 9 or 10 is guilty of an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for 3 months.

Offences under sections 11 and 14

43.(1) The owner of a still who contravenes section 11 is guilty of an offence and is liable on summary conviction to a fine of \$250 for each day or part thereof during which the contravention continues.

(2) The owner of a licensed still to whom a licence to distil spirits in that still is sold, leased or transferred with the still, who contravenes section 14(2) is guilty of an offence and is liable on summary conviction to a fine of \$150 for every day or part thereof during which the contravention continues.

Offences under sections 34 and 35

44.(1) A person who contravenes section 34 or 35 is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 3 years.

(2) Where an owner, distiller or warehouse keeper has been convicted of an offence under subsection (1) is found guilty of a second or subsequent offence, the court may order the owner, distiller or warehouse keeper to forfeit his licence issued under this Act.

Offences under sections 37 and 38

45. A person who fails to comply with section 37 or 38 is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for 1 year.

Offence under section 55

46. A person in charge of a vehicle or boat who fails to comply with a request under section 55 is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for 1 year.

Rendering non-potable compound or methylated spirits capable of being drunk

- 47.** A person who by any means renders
- (a) any non-potable compound capable of being drunk; or
 - (b) methylated spirits capable of being drunk,

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 3 years.

Forgery of documents required by or under this Act

- 48.** A person who
- (a) counterfeits or forges, or causes or procures the counterfeiting or the forging of, or assists in counterfeiting or forging, the whole or any part of any permit, receipt or any impression, mark or stamp required by or under this Act to be put on a permit, or receipt; or
 - (b) utters, gives or makes use of any permit, receipt or other document that is counterfeited or forged, or has a counterfeited or forged impression or stamp on it, knowing that the permit, receipt or document or any part of that permit, receipt or document, or the impression, mark or stamp on that permit, receipt or document to be counterfeited or forged; or
 - (c) knowingly receives any permit, receipt or other document that is counterfeited or forged, or has any counterfeited or forged impression, mark or stamp on it,

is guilty of an offence and is liable on indictment to imprisonment for 3 years.

False declaration

- 49.** A person who
- (a) falsely swears, affirms or declares to any particulars in any return or document required by this Act; or
 - (b) makes a false statement, declaration or return with a view to evade payment of any duties on spirits or to evade any of the requirements of this Act,

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 3 years.

Tampering with receivers

50.(1) Subject to subsection (2), a person who in any way tampers with any pipe, safe or receiver or any pump, cock, lock or other fastenings attached to the pipe, safe or receiver is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or to imprisonment for 2 years.

(2) Where any pipe, safe, receiver, pump, cock, lock or any fastenings attached to a pipe, safe, receiver, pump or lock is tampered with, the person in charge of the distillery shall, unless the contrary is proved, be deemed to be the offender.

Receiving spirits unlawfully

51.(1) A person who receives or purchases spirits from any spirits store, warehouse or other place in which the owner of a distillery or warehouse keeper may keep the spirits distilled shall, upon being required to do so by any officer of the customs, give an account of the spirits so received or purchased.

(2) Where the officer is not satisfied with an account given under subsection (1), he shall lodge a complaint before a magistrate against the person who received or purchased the spirits for having so received or purchased it and failing to give a satisfactory account of the disposal of the spirits so received and purchased.

(3) Where, on the hearing of a complaint brought under subsection (2), the person against whom the complaint is brought refuses or fails to give a satisfactory account of the disposal of the spirits received or purchased, the magistrate may, if he is satisfied that the person is guilty of the offence, impose a fine of \$500 or imprisonment for 3 months.

Receiving permitted spirits

52. A person who receives into his possession any spirits that are permitted to, or in the name of, another person before that other person has first received the spirits, is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for 1 year; and the spirits may be seized and sold and the proceeds paid into the Consolidated Fund.

Obstructing authorised person

53. A person who obstructs, hinders or molests an officer in the execution of his duty, or any other person aiding that person, is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 3 years.

General penalty

54. A person who contravenes any provision of this Act and in respect of that contravention no penalty is expressly provided, is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or to imprisonment for 2 years.

Seizure of vehicles conveying spirits

55.(1) Any officer of customs, police officer, parish constable or justice of the peace may seize any vehicle, boat or aircraft in the possession of a person removing or permitting the removal of, or the purchaser of spirits, that contains spirits and are being removed or conveyed contrary to this Act or the regulations.

(2) Any vehicle, boat or aircraft that is seized under subsection (1) shall be sold at public auction and the proceeds paid into the Consolidated Fund.

Spirits seized to be taken to police station

56. Where spirits are seized under this Act in any public or private place, the person who seized the spirits shall request the person in charge of the vehicle or boat to drive or take the vehicle or boat to the nearest police station, or as near thereto as is practicable.

Process to be issued free of costs

57.(1) Notwithstanding any enactment to the contrary, no costs are payable by the Comptroller or an authorised person in respect of the service of process for the prosecution of an offence under this Act.

(2) Where an information is dismissed, a magistrate may only impose costs if he is satisfied that the complaint was frivolous and vexatious.

PART VII

MISCELLANEOUS

Expenses

58.(1) Subject to subsection (2), all expenses properly incurred, either by the Comptroller or an authorised person, in carrying out this Act are to be paid from moneys voted for the purpose by Parliament.

(2) The reasonable expenses incurred by authorised persons in the performance of their functions under this Act, other than a visit under section 33(3), are to be paid by the distiller or warehouse keeper, as the case may be.

Recovery of fees and expenses

59. Notwithstanding anything contained in any other enactment, fees and expenses payable under this Act are recoverable before a magistrate in the exercise of his civil jurisdiction.

Consolidated Fund

60. All revenue collected under this Act shall be paid into the Consolidated Fund.

Regulations

61.(1) The Minister may make regulations respecting

- (a) the construction of stills for the purposes of this Act;
- (b) the receipt, warehousing, delivery and removal of spirits from any spirits store, distillery or warehouse;
- (c) the prevention of smuggling;
- (d) the fees payable under this Act;
[1996-15]
- (e) the awards that may be made to a person who gives information that leads to a conviction under this Act;
- (f) any matter that is necessary to give effect to the true meaning and intent of this Act.

(2) Regulations made under subsection (1) are subject to affirmative resolution.

(3) Any person who contravenes any regulations made under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for one year.