



## **BERMUDA**

### **DISTILLERIES LICENSING ACT 2023**

**2023 : 26**

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WHEREAS it is expedient to establish an industry for the distillation of spirits in Bermuda by creating a licensing regime for the operation of a distillery and the sale and supply of locally distilled spirits; and for related matters;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

### **PART 1 PRELIMINARY**

#### **Citation**

- 1 This Act may be cited as the Distilleries Licensing Act 2023.

#### **Interpretation**

- 2 In this Act, unless the context otherwise requires—
  - “alcohol” means pure ethyl alcohol;
  - “compound” means—
    - (a) denatured alcohol; or
    - (b) any substance that is intended for use as a flavouring, perfuming agent or as a medication,
      - which consists of locally manufactured ethyl alcohol to which other ingredients have been added;

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- “court” means a court of summary jurisdiction;
- “denatured alcohol” means ethanol that has additives that make it unfit for human consumption;
- “distilled spirits” means liquor distilled in Bermuda that is obtained by distillation from wine or other fermented fruit or plant juice or from a starchy material (such as various grains that has first been brewed);
- “distiller” means the holder of a licence;
- “distillery” means a place in which a still is set up and in respect of which a licence is in force;;
- “inspector” has the meaning provided in section 30;
- “licence” means a licence granted under section 8(1);
- “low wine” means a spirit produced as a result of the first run of a still;
- “Minister” means the Minister responsible for liquor licensing;
- “moonshine” means a distilled alcoholic beverage that is unlawfully manufactured;
- “officer” means any customs officer or any police officer above the rank of inspector;
- “prescribed fee” means the relevant fee prescribed in Schedule 1;
- “spirits” includes all liquors mixed with spirits and all mixtures or preparations made with spirits other than compounds;
- “still” means any apparatus for or capable of distilling spirits and includes any part of a still, and any distilling apparatus whatsoever for distilling or making spirits;
- “wash” means a primary fermented or pre-distilled liquid made from sugar or grains, water or yeast;
- “wort” means a liquid produced from the grain when making beer or whiskey.

### **Guidance**

3 (1) The Minister may issue such guidance for the purposes of this Act as considered appropriate and such guidance shall be taken into account when assessing compliance with the provisions of this Act.

(2) The Minister may from time to time revise any guidance issued under this section.

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(3) The Statutory Instruments Act 1977 does not apply to any guidance published under this section.

### **Prohibited areas or places**

4 (1) The Minister, after consultation with the licensing authority, may, by order, prohibit an area from containing or a place from being used as a distillery and no licence shall be granted for that prohibited area or place under this Act.

(2) An order in subsection (1) shall be made subject to the negative resolution procedure.

### **Functions of licensing authority**

5 (1) The functions of the liquor licensing authority, as established by section 4 of Liquor License Act 1974 (hereinafter referred to as "the licensing authority") are—

- (a) to receive, consider and determine applications for licences or applications for the renewal, variation or transfer of licences;
- (b) to maintain a register containing a record of the licences granted under section 8;
- (c) to advise the Minister of any policy matters, including the total number of licences granted, and matters related to this Act and its administration;
- (d) to make recommendations to the Minister on any matter, including policy matters, related to this Act and its administration;
- (e) to assist the Minister in the formulation of policies and strategies relating to this Act and its administration;
- (f) to carry out periodic reviews of this Act for the purpose of making recommendations to the Minister as to any necessary amendments to this Act.

(2) The licensing authority may, on the direction of the Minister or on the requisition of at least two members, enquire into any matter or thing in relation to the distillation or sale of distilled spirits and shall submit a report of its findings to the Minister.

### **Minister may give policy directions**

6 The Minister may from time to time give to the licensing authority general policy directions, not inconsistent with the provisions of this Act, as to the performance of its functions under this Act and the licensing authority shall give effect to such directions.

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### **Minister to publish**

7 The Minister shall publish, or cause to be published, annually a list of distilleries.

## **PART 2 LICENSING**

### **Types of licence**

8 (1) The licensing authority may, in accordance with this Part, grant any of the following licences—

- (a) a Distillery Licence, for the small scale production of distilled spirits, including the sale and supply of such distilled spirits;
- (b) a Commercial Distillery Licence, for the large scale production of distilled spirits, including the sale and supply of such distilled spirits; or

(2) A distiller may apply for an Export Licence and shall pay the prescribed application fee which shall be non-refundable.

(3) Every licence shall be granted in respect of a specified place on which alone it shall be lawful to operate a distillery, and the licence shall contain a particular description of such place.

(4) The following persons shall be disqualified from applying for and obtaining a licence—

- (a) any person who is under 18 years of age;
- (b) any person who is an undischarged bankrupt;
- (c) any person who has been convicted of a contravention of section 34 or 37 of this Act;
- (d) any person serving in Her Majesty's Forces in Bermuda or any member of the Bermuda Police Service.
- (e) any person who has been convicted, whether in Bermuda or elsewhere, of an offence of which fraud or dishonesty is an element.

(5) The scale of production of distilled spirits shall be determined by the licensing authority in accordance with the information required in section 9(b)(ii).

### **Application for the grant or renewal of a licence**

9 (1) An application for the grant of a licence shall—

- (a) be made in writing and be in such form as the licensing authority shall determine;

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- (b) include—
    - (i) if the applicant is a company, a copy of the Certificate of Incorporation and a Certificate of Compliance as evidence that the company is in good standing;
    - (ii) such information as is required for the licensing authority to make a determination on the scale of production of distilled spirits;
  - (c) be accompanied by—
    - (i) such plans relating to the location, siting, lay out, approaches, construction and equipment of the distillery as the licensing authority may consider necessary;
    - (ii) a fire certificate issued by the Chief Fire Officer under section 13 of the Fire Safety Act 2014 or written confirmation from the Chief Fire Officer that he has surveyed the place and concluded fire safety requirements under Part 4 of that Act;
    - (iii) a certificate granted by the Chief Environmental Health Officer certifying that the place in respect of which the application is made is furnished with sufficient and suitable sanitary accommodations and that the sanitary condition of the place is satisfactory in every respect;
  - (d) include the address of the proposed distillery and details including—
    - (i) a sketched plan showing by appropriate colourings or markings, the general lay-out of the distillery, the parts of the distillery where the distillation is to take place, and the location of sanitary facilities;
    - (ii) proof that the applicant owns the place in which the proposed distillery is to operate;
    - (iii) where the applicant is not the owner, a written agreement with the owner of the proposed property or place to use such property or place as a distillery;
  - (e) include the prescribed fee which shall be non-refundable;
  - (f) include a statement signed and dated by the applicant indicating that all information submitted in support of the application is correct and complete to the best of the applicant's knowledge.
- (2) An application for the renewal of a licence shall—
- (a) be made in writing and be in such form as the licensing authority shall determine;

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- (b) be accompanied by—
  - (i) a fire certificate issued by the Chief Fire Officer under section 13 of the Fire Safety Act 2014 or written confirmation from the Chief Fire Officer that he has surveyed the place and concluded fire safety requirements under Part 4 of that Act;
  - (ii) a certificate granted by the Chief Environmental Health Officer certifying that the place in respect of which the application is made is furnished with sufficient and suitable sanitary accommodations and that the sanitary condition of the place is satisfactory in every respect;
  - (iii) include the prescribed fee which shall be non-refundable;
- (c) include a statement signed and dated by the applicant indicating that all information submitted in support of the application is correct and complete to the best of the applicant's knowledge.

(3) Where, in the opinion of the licensing authority, any particulars, specifications or plans furnished in connection with an application under subsection (1)(c)(i) or (d)(i) are such to prevent it from dealing satisfactorily with an application, the licensing authority may, by written notice to the applicant, require such additions or corrections or further particulars, specifications or plans as it considers necessary in order to enable it to deal satisfactorily with the application.

(4) The licensing authority shall consider every such application and may in its discretion either grant or renew, or refuse to grant or renew a licence.

### **Notice of decision to grant or refuse**

10 (1) The licensing authority shall give an applicant for a licence notice, in writing, of the its decision to grant or refuse the application for the licence.

- (2) If the decision is—
  - (a) to grant the application, the licensing authority shall issue the licence in the form provided in section 11;
  - (b) to refuse the application, the notice referred to in subsection (1) shall set out the reasons for the refusal.

(3) Before a licence is issued under subsection (2)(a), the applicant shall pay the prescribed fee.

### **Form of licence**

11 A licence shall specify—

- (a) the name of the distillery;



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- (b) the activities authorised by the licence and the extent to which the activities are authorised;
- (c) the address of the distillery in which the activity is to be conducted;
- (d) the terms and conditions (if any) imposed by the licensing authority in accordance with section 12;
- (e) the date on which the licence expires.

### **Terms and conditions of a licence**

12 (1) The following conditions shall be deemed to be the terms and conditions of every licence, in addition to any other terms and conditions the licensing authority may determine—

- (a) the distiller shall not engage or employ a person to carry out any activity authorized by the licence if the person has not attained the age of 18 years;
- (b) the distiller, his servant or agent, shall examine the photographic identification as proof of age of any person—
  - (i) seeking to enter the distillery before the person is granted access;
  - (ii) before the sale or supply of spirits;
- (c) the distiller carries out any activity authorised by the licence in accordance with the licence;
- (d) the distiller complies with any guidelines issued by the licensing authority;
- (e) the distiller shall allow a member of the licensing authority or an inspector to enter the distillery where the activity is being conducted for the purposes of—
  - (i) inspecting or monitoring activity;
  - (ii) ensuring whether or not the activity is being carried out as authorised by the licence and whether the licence conditions are being complied with.

(2) In this section “photographic identification” means identification which bears a photograph of the person, his date of birth and a holographic mark and includes—

- (a) a valid passport;
- (b) a valid driver’s licence that clearly displays the person’s name, photograph and date of birth; or

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(c) other valid government issued identification that clearly displays the person's name, photograph and date of birth.

(3) Where a person is required to provide photographic identification as proof of age and fails to do so, a distiller, his servant or agent shall require them to leave the distillery.

### **Duration of licence**

13 Subject to section 16 (revocation) or 17, (suspension) a licence is valid for a period of one year from the date it is issued, or a shorter period as specified therein, and may be renewed under section 15 (renewal).

### **Display of licence**

14 (1) A distiller shall display, or cause to be displayed, a licence in a prominent place at the address shown on the licence so that it can be readily seen on entry to the distillery.

(2) A distiller who fails to display a licence commits an offence.

### **Renewal of licence**

15 (1) A licence may be renewed on application annually if a distiller is not in breach of the terms and conditions attached to the licence.

(2) An application in subsection (1) shall—

(a) be in such form and include such information as the licensing authority may determine;

(b) be accompanied by the prescribed fee.

### **Revocation of licence**

16 (1) Subject to section 18, the licensing authority may at any time revoke a licence if it is satisfied—

(a) that the distiller—

(i) has made a false declaration in an application for a licence under this Act or submitted false information or documentation;

(ii) has failed to comply with any term or condition of his licence or any provision of this Act or regulations made under this Act;

(iii) has ceased to carry on all the activities authorised by the licence;

(iv) is no longer in compliance with the requirements of this Act or any regulations made under this Act, or any guidance issued by the licensing authority;

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(v) is no longer a fit and proper person.

- (b) that the distillery is no longer being used for the purpose provided in the licence.
- (c) that the distiller has for a period in excess of three months, without reasonable excuse failed to commence the distillation of spirits or has discontinued distilling spirits;
- (e) that authorised activities to take place at the distillery have been undertaken by the distiller at an unlicensed place.

(2) Subject to section 24, the revocation of a licence takes effect on the expiration of 14 days beginning on the date of service on the distiller of the notice revoking the licence.

(3) The licensing authority shall cause notice of any revocation to be published in the Gazette.

### **Suspension or variation of licence**

17 (1) Subject to section 18, the licensing authority may suspend or vary a licence—

- (a) at the request of the distiller; or
- (b) if the distiller has contravened a term or condition of a licence or with any provision of this Act or any regulations made under this Act.

(2) Subject to section 24, the suspension or variation of a licence takes effect on the expiration of 14 days beginning on the date of service on the distiller of the notice suspending or varying the licence, as the case may be.

(3) Any licence that is suspended shall be deemed not to be a valid licence during the period the suspension is in force and any distiller who operates a distillery while suspended commits an offence.

(4) Where a licence is suspended, a distiller may, at any time during the suspension, apply to the licensing authority to have the licence restored and the licensing authority shall have the power to reinstate, subject to such conditions as it may in the circumstance consider desirable, such licence and the licensing shall return the licence.

(5) The licensing authority shall cause notice of any suspension or reinstatement to be published in the Gazette.

(6) Where the licensing authority decides to vary a licence, a new licence shall be issued on payment of the prescribed fee.

**Notice of intention to revoke, suspend or vary a licence**

18 The licensing authority shall, before the revocation, suspension or variation of a licence—

- (a) give the distiller notice in writing of the ground or grounds on which it intends so to do;
- (b) give the distiller an opportunity to object in writing within the period of 14 days after receipt of the notice; and
- (c) take any such objection into consideration,

and, if the licensing authority decides to revoke, suspend or vary a term or condition of the licence, it shall notify the distiller, in writing, that it is revoking or suspending the licence or varying a term or condition of the licence.

**Transfer of a licence**

19 (1) Subject to section 24, the licensing authority may transfer a licence on application made by the distiller.

(2) An application under subsection (1) shall contain—

- (a) a detailed document outlining the proposed transfer as well as any additional relevant information to the proposed transfer; and
- (b) the original licence.

(3) The application for a transfer shall be accompanied by the prescribed fee.

(4) A distiller may withdraw an application for the transfer of a licence at any time before a decision is made on the application, but the prescribed fee shall not be refundable.

(5) The licensing authority shall decide to transfer or refuse to transfer the licence and shall notify the applicant, in writing, of its decision.

(6) A new licence shall be issued where the licensing authority decides to transfer a licence on payment of the relevant licence fee.

**Surrender of a licence**

20 (1) A distiller may surrender a licence by giving notice in writing to the licensing authority and the surrender of such licence shall take effect on a date approved by the licensing authority.

(2) The licensing authority shall not approve the surrender of a licence unless it is satisfied that the distiller has ceased all activities under the licence.

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(3) Where the licensing authority approves the surrender of a licence it shall inform the distiller, in writing, and once the approval is received, the distiller shall immediately—

- (a) dispose of any still, unused products or distilled spirits in the manner provided for in any regulations or guidance issued by the licensing authority;
- (b) return the licence to the licensing authority within 7 days.

(4) The surrender of a licence is irrevocable but does not prevent the former distiller from applying for a new licence.

### **Lost or destroyed licence**

21 In the event a licence is lost or destroyed, a distiller shall immediately notify the licensing authority, in writing, and request a replacement licence which may be issued on payment of the prescribed fee.

### **Permission; change in address**

22 (1) A distiller shall immediately notify the licensing authority, in writing, of an intended change in the address of a distillery and shall obtain the permission of the licensing authority before the address can be changed.

(2) A written notification in subsection (1) shall be accompanied by the information provided in section 9(1)(c) and (e).

(3) The licensing authority shall consider the written notification and may in its discretion grant permission to change the address of the distillery.

(4) Where permission is granted to change the address of a distillery, the licensing authority shall issue a new licence with the address of the new distillery.

(5) A distiller who fails to notify the licensing authority commits an offence.

### **Distillery warehouse**

23 (1) A distiller may have, in connection with a distillery, a place of security for the storage of spirits produced at that distillery which shall be known as the distillery warehouse.

(2) A distillery warehouse location may be appurtenant to or separate from a distillery, and suitability shall be approved in writing by the licensing authority.

(3) A distiller who warehouses distilled spirits at or in a place other than a distillery warehouse commits an offence.

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### **Appeal to court**

- 24 (1) An applicant may appeal against a decision not to grant or renew a licence.
- (2) A distiller may appeal against the following—
- (a) a decision to revoke, suspend or vary any term or condition of a licence;
  - (b) a refusal to transfer a licence.
- (3) Any applicant or distiller who is aggrieved by any decision of the licensing authority referred to in subsection (1) or (2) may, within 14 days after receipt of notification of the decision, appeal to the court against the decision by notice in writing setting out the grounds of appeal.
- (4) On any appeal under this section the court may—
- (a) may confirm, reverse, vary or modify the decision of the licensing authority or may remit the matter to the licensing authority with the opinion of the court; or
  - (b) make such order, including an order for costs, as it thinks fit.

## **PART 3 SPIRITS**

### **Use of stills**

- 25 (1) A still shall only be used by a distiller in a distillery for the distillation of spirits pursuant to this Act.
- (2) No person shall, without a licence—
- (a) have, make or set up a still;
  - (b) have or use a still for distilling, rectifying or compounding spirits;
  - (c) sell or purchase a still by itself or with other property or as part of any distillery;
  - (d) import a still.
- (3) A person who contravenes subsection (2) commits an offence.

### **Responsibility of a distiller**

- 26 (1) A distiller is responsible for the safe custody of all material, wort, wash, low wines and spirits in his distillery, and for the observation of this Act within his distillery.
- (2) A distiller who contravenes subsection (1) commits an offence.

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### **Import of spirits**

27 Any imported spirits are subject to any customs duty payable on such import as prescribed by the Customs Tariff Act 1970 or any regulations made under that Act.

## **PART 4**

### **IMMATURE SPIRITS**

#### **Restriction on release by Customs of immature spirits**

29 (1) No spirits imported into Bermuda shall be released by the Customs Department or delivered out of bond for consumption in Bermuda unless they have been warehoused for a period of at least three years subject to the payment of duty and to compliance with such conditions as the Collector of Customs may impose.

(2) The restrictions imposed by subsection (1) shall not apply to imported gin, Geneva, Schnapps, rum, alcohol, denatured alcohol and methylated spirits, and foreign liquors.

(3) Any period which, in the case of imported spirits, is shown to the satisfaction of the Collector of Customs to have elapsed between the dates of distillation and importation shall be treated, for the purposes of this Act, as a period during which the spirits have been warehoused.

(4) Any immature spirits so delivered may be seized by a customs officer and shall be forfeited.

(5) Any person who procures, or attempts to procure the delivery of immature spirits in contravention of this section or who fails to comply with any conditions imposed by the Collector of Customs in pursuance of section 29(1) commits an offence.

(6) For the purposes of this Part, any spirit imported into Bermuda which has not been warehoused for at least three years shall be considered an "immature spirit".

## **PART 5**

### **INSPECTORS AND ENFORCEMENT**

#### **Inspectors**

30 For the purposes of this Act, inspectors appointed by the Minister under section 43A of the Liquor License Act 1974 may act as inspectors under this Act and shall have the same duties as provided in section 43B of the Liquor Licence Act 1974.

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### **Police Assistance**

31 A police officer shall assist in the enforcement of this Act and shall, in relation to the duties assigned to an inspector, have the same powers under this Act as an inspector.

### **Power of police to enter**

32 (1) Any police officer when on duty may, for the purpose of preventing or detecting the commission of any offence under this Act, at all times enter a distillery or distillery warehouse, and may remain at such place for so long as he may deem necessary for the carrying out of his duties.

(2) A distiller, his servant or agent, or any other person acting with his knowledge or consent, who fails or unreasonably delays to admit a police officer demanding to enter in pursuance of this section commits an offence.

### **Powers of search**

33 (1) Any magistrate having reason to believe, from the information or evidence upon oath of any credible person, that a distilled spirit is being unlawfully stored or kept for sale in any premises which is not a distillery or a distillery warehouse may issue a warrant to any police officer, authorizing him, with or without assistance, to enter and search those premises at any hour, for the purpose of ascertaining whether an offence under this Act is being or has been committed.

(2) If, upon such search, any distilled spirit is found in an unlicensed distillery or a place that is not a distiller's warehouse so as to satisfy the police officer that it is kept for the purpose of unlawful sale, then he, and any person assistant to him, shall seize and carry away or otherwise secure the distilled spirits.

(3) If upon a hearing before a court of summary jurisdiction the court adjudges and determines that such distilled spirits has been kept for the purpose of unlawful sale, then the court may adjudge the distilled spirits to be forfeited.

(4) Distilled spirits adjudged to be forfeited shall be destroyed or otherwise disposed of in such manner as the Authority may direct.

(5) Before a hearing under subsection (3), every person who is, or who appears to the police officer to be the owner of such intoxicating liquor shall be summoned to appear at such hearing.

### **Obstruction of a police officer**

34 (1) Any person who interrupts or obstructs any police officer while in the execution of any duty imposed on him, or any power conferred on him under this Act, commits an offence.

(2) Any person who intentionally obstructs an officer acting within the powers conferred by a warrant issued under section 33 commits an offence.



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### **Forfeiture**

35 (1) Any spirits distilled contrary to the provisions of this Act may be seized and forfeited, and such spirits shall be destroyed or otherwise disposed in such manner as the Authority may direct.

(2) Where any spirits or materials for making spirits are forfeited under this Act they may be seized by an officer.

(3) Where any spirits, or materials for making spirits, are forfeited under this Act, all casks and other utensils containing the same shall be forfeited.

### **Warrant issued by magistrate**

36 (1) A magistrate may issue a warrant under this section to an officer if satisfied on information on oath that there are reasonable grounds to suspect that a person is unlawfully keeping or depositing in any house or place any—

- (a) still;
- (b) vessel;
- (c) utensil;
- (d) spirits; or
- (e) materials for the production of spirits.

(2) A warrant issued under this section may authorize an officer, to enter any distillery specified in the warrant, using reasonable force required, to search and seize any still, vessel, utensil, spirits or materials for the production of distilled spirits found in the distillery and either detain them or remove them to a place of safe custody.

(3) If any damage is done by an officer entering the distillery and the search is unsuccessful, the damages shall be made good at the public expense, and any magistrate shall at the request of the Collector of Customs or the Commissioner of Police, or of the party complaining of the damage, appoint two competent and indifferent persons to assess the damage and the decision of such persons as to the amount of the damage shall be final; and the amount, if any, of the damage so assessed, and a fee of two dollars and forty cents to each of the assessors, shall be paid out of the Consolidated Fund.

(4) A warrant issued under this section shall continue to be in force for one month from the date on which it is issued.

**PART 6**  
**OFFENCES**

**Unlicensed activities**

- 37 (1) No person shall, except in accordance with a licence granted under this Act—
- (a) distil spirits;
  - (b) distil low wines;
  - (c) have or use a still;
  - (d) sell or supply distilled spirits.
- (2) No person shall produce or distil moonshine.
- (3) A person who contravenes subsection (1) or (2) commits an offence.

**Offence of removing from distillery**

38 Any person who removes wort, low wines or distilled spirits from a distillery with the intent to attempt sell or supply the distilled spirit without a licence commits an offence.

**Unlawful purchase or removal of illicit spirits**

- 39 (1) Any person who knowingly buys, removes or receives any wort, low wines or distilled spirits made or brewed in contravention of this Act commits an offence.
- (2) All such wort, low wines, or distilled spirits so purchased, removed or received shall be forfeited.

**Unlawful sale of spirits**

40 Any person who is not a retailer who sells or attempts to sell any distilled spirits otherwise than in a distillery commits an offence.

**Sale of spirits for unlawful purposes**

41 Any person who knowingly sells or delivers, or who causes to be sold or delivered, any spirits so that they may be unlawfully retailed or consumed commits an offence.

**Unlawful purchase of spirits**

42 Any person who knowingly receives, buys or procures any spirits from a person who is not licensed to sell spirits commits an offence.

**Possession of spirits unlawfully distilled**

43 Any person who knowingly buys or receives or has in his possession any spirits distilled in contravention of the provisions of this Act commits an offence.

**PART 7  
TICKETING**

**Interpretation of Part 7**

44 In this Part—

“offence” means a contravention of this Act or regulations made under this Act;

“ticket” means a ticket referred to in section 46.

**Authorisation of ticketing**

45 Without prejudice to the procedure set out in the Criminal Jurisdiction and Procedure Act 2015 for the laying of an information and for issuing a summons, an information may be laid and a summons issued for offences specified in Schedule 2 by means of a ticket issued in accordance with this Part.

**Form of ticket**

46 (1) A ticket shall, subject to this Part, be in the form prescribed in regulations made under section 53 and shall consist of three parts: an information, a summons and a record of conviction.

(2) The use on a ticket of any word or expression in Schedule 2 describing the offence, or any word or expression substantially to the same effect, in relation to an offence under this Act is sufficient for all purposes in connection with proceedings for that offence to describe the offence.

**Issue of ticket**

47 Where an inspector has reasonable cause to suspect that a person has committed an offence under this Act, he may issue a ticket under this Part.

**Delivery of summons**

48 (1) Upon completing the ticket the issuing inspector shall affix his signature to the summons portion and shall deliver the summons portion to the person charged with an offence under this Act.

(2) The issuing inspector shall request the person charged with an offence under this Act to enter his signature on the information portion of the ticket and such signature shall be sufficient proof of receipt of the summons.

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(3) A person charged with an offence under this Act who refuses without reasonable excuse to accept delivery of the summons part of the ticket under subsection (1) commits an offence.

### **Payment of penalty out of court**

49 (1) Subject to this section, there may be endorsed upon a summons a notice that the person to whom the summons is directed may, within seven days of the service of the summons, pay out of court a specified penalty.

(2) Where a summons is endorsed under subsection (1), it shall provide for a plea of guilty in the following form—

#### **“PLEA OF GUILTY**

I am aware that I have a right to a hearing in respect of the offence with which I am charged and that by signing this plea of guilty I am waiving my right to a hearing and my signature may result in a conviction against me without a hearing. I hereby plead guilty to the offence as charged and consent to be convicted of the offence in my absence.

*[blank]*

Signature of Defendant”

(3) A signature affixed to the form of Plea of Guilty purporting to be that of the person to whom the summons is directed is prima facie proof that it is the signature of that person.

(4) Upon receipt of a summons duly signed with a plea of guilty and of the amount of the penalty specified in the summons, an officer of the court shall issue an official receipt for the amount of that penalty and shall place the summons before the court.

(5) The court shall formally convict the person charged with an offence under this Act specified in the summons and no further penalty may be imposed in respect of the offence.

(6) If a person charged with an offence under this Act does not plead guilty to the offence and pay the penalty specified in the summons, the person shall appear at the time and place specified in the summons for the hearing of the charge, and if he fails to appear, the court may proceed in accordance with section 3 of the Criminal Jurisdiction and Procedure Act 2015.

### **Information**

50 (1) The information part of the ticket shall be—

- (a) signed by the inspector who issues the ticket;

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- (b) sworn before a justice of the peace or a magistrate; and
- (c) deposited with the court, together with the record of conviction part of the ticket.

(2) The information part of the ticket need not be sworn before the summons part is delivered or served and the inspector who signed, swore and issued the ticket need not be the person who delivers or serves the summons.

### **Amount of penalty**

51 Nothing in this Act prevents the court from imposing any penalty authorized by law in regards to offences under this Act if—

- (a) no amount is entered on the summons; or
- (b) the person charged does not plead guilty to the offence and pay the penalty specified in the summons.

### **Record of conviction**

52 Where the court makes a conviction on a ticket information in respect of an offence under this Act, the court shall complete the record of conviction part of the ticket and an officer of the court shall cause a copy of it to be forwarded to the Commissioner of Police.

### **Prescription of ticket by the Minister**

53 The Minister may make regulations prescribing the form of ticket for the purposes of this Act.

## **PART 8**

### **MISCELLANEOUS**

#### **Review of the Act**

54 The Minister shall carry out a comprehensive review of this Act within two years of its coming into operation, and shall submit a report to the both Houses of the Legislature within 12 months after beginning the review.

#### **Regulations**

55 (1) The Minister may, after consultation with the licensing authority, make regulations for or with respect to any matter that, by this Act, is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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(2) Without limiting the generality, regulations made under subsection (1) may make provision for or with respect to—

- (a) the form of licences granted under this Act;
- (b) the form of applications and notices required to be made or given under this Act;
- (c) prescribing particulars or information to be included in an application for the grant, renewal, variation or transfer of a licence;
- (d) the terms and conditions for the different classes of licence;
- (e) health and safety requirements for distilleries including the bottling of spirits;
- (f) the distillation of spirits;
- (g) the safe custody, storage and security of distilled spirits;
- (h) the supervision and inspection of a distiller's warehouse;
- (i) the inspection of a distillery and records relating to the distillation of spirits;
- (j) the removal of spirits from a distillery;
- (k) the disposal of distilled spirits and any unused products.

(3) Regulations may provide for the imposition of penalties on summary conviction to a fine not exceeding \$20,000.

(4) Regulations made under this section are subject to the negative resolution procedure.

## **PART 9 FINAL PROVISIONS**

### **Repeals**

- 56 (1) The Spirits Act 1890 is repealed.  
(2) The Immature Spirits Restriction Act 1921 is repealed.

### **Consequential amendments**

- 57 (1) The Liquor Licensing Act 1974 is amended—  
(a) in section 2(1)—

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- (i) by inserting “or the Distilleries Licensing Act 2023,” after “this Act” ;  
and
  - (ii) by deleting “thereunder” and substituting “under this Act or the Distilleries Licensing Act 2023”;
  - (b) in paragraph 1 of the Fifth Schedule—
    - (i) by inserting after subparagraph (e)—
      - “(ea) a person with knowledge and experience in distilleries and the distillation process;”;
      - (ii) in paragraph (f) by deleting “two other suitable persons” and substituting “a suitable person”.
- (2) The Revenue Act 1898 is amended in section 84A(5) by deleting paragraph (i).

### **Saving**

58 Nothing in this Act shall interfere with the supply of rectified spirits for the purpose of making medicine to any registered medical practitioner, to any hospital, residential care home, nursing home, clinic or dispensary, or to any person entitled to carry on the business of a chemist and druggist in Bermuda.

### **Transitional**

59 A person using or operating a place to distil spirits by use of a still prior to the commencement of this Act, shall, within three months of this Act coming into operation, apply for the relevant licence and shall be subject to the provisions of this Act.

### **Commencement**

60 This Act shall come into operation on such day as the Minister may appoint by notice in the Gazette.

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### **SCHEDULE 1**

(Section 2)

#### **FEES**

*Application Fee (non-refundable)*

Distillery Licence	\$500
Commercial Distillery Licence	\$1,000
Transfer of a licence	\$500

*Licence Fee*

Distillery Licence	\$1,250
Commercial Distillery Licence	\$8,000

*Renewal Fee*

Distillery Licence	\$1,250
Commercial Distillery Licence	\$4,000

*Other Fees*

Variation of a licence	\$250
Replacement of a lost or destroyed licence	\$100



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**SCHEDULE 2**

(Section 45)

**OFFENCES AND PENALTIES**

<b>DESCRIPTION OF OFFENCE</b>	<b>PROVISION</b>	<b>PENALTY</b>
Failing to display licence	section 14(2)	\$2,000
Operating while licence suspended	section 17(3)	\$3,000
Failing to notify change of address	section 22(5)	\$1,000
Storing outside a distillery warehouse	section 23(3)	\$4,000
Using, importing, selling a still without a licence	section 25(3)	\$3,000
Distiller failing to safely store spirits in a distillery	section 26(2)	\$3,000
Import or delivery of immature spirits	section 29(5)	\$12,000
Failing or delay police officer entry	section 32(2)	\$2,500
Obstructing a police officer	section 34(2)	\$3,000
Obstructing a police officer with powers under a warrant	section 34(2)	\$4,000
Distilling, having or using a still, selling or supplying without a licence	section 37(3)	\$5,000
Producing or distilling moonshine	section 37(3)	\$7,500
Selling distilled spirits without a licence	section 38	\$5,000
Unlawful purchase or removal of illicit spirits	section 39	\$2,000

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Selling spirits outside a distillery	section 40	\$2,000
Selling or delivering spirits to be sold or consumed unlawfully	section 41	\$3,000
Unlawful purchase of spirits	section 42	\$1,500
Possession of unlawfully distilled spirits	section 43	\$2,000

[Assent Date: 17 October 2023]