

## BEER EXCISE.

### No. 11 of 1957.

An Act to amend the *Beer Excise Act* 1901-1951.

[Assented to 24th April, 1957.]

[Date of commencement, 22nd May, 1957.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation.

- 1.—(1) This Act may be cited as the *Beer Excise Act* 1957.  
 (2) The *Beer Excise Act* 1901-1951\* is in this Act referred to as the Principal Act.  
 (3) The Principal Act, as amended by this Act, may be cited as the *Beer Excise Act* 1901-1957.

Definitions.

2. Section five of the Principal Act is amended—  
 (a) by inserting after the definition of “Brewer” the following definition:—  
     “ ‘Brewery’ means the brewery in which a brewer is licensed to make beer, and includes all premises adjacent to that brewery which are used in connexion with that brewery or with the business of the brewer.” ; and  
 (b) by omitting the definition of “Licensed Brewery”.

Licence fees.

3. Section eleven of the Principal Act is amended by omitting sub-section (2.).

Applicant to  
pay licence fee  
and give  
security.

4. Section thirteen of the Principal Act is amended by omitting sub-section (2.).

Duty of  
brewers.

5. Section twenty-one of the Principal Act is amended by omitting from paragraph (a) the word “licensed”.

Transfer of  
beer to  
another  
brewery or  
delivery store.

6. Section twenty-nine of the Principal Act is amended by omitting from sub-section (1.) all the words from and including the words “A brewer” to and including the words “the Collector” (second occurring) and inserting in their stead the words—

“A brewer may, subject to any prescribed conditions, transfer beer in vessels or bottles from a brewery occupied and carried on by him—

- (a) to another brewery occupied and carried on by him; or  
 (b) to a delivery store used by him in connexion with the brewery and approved by the Collector”.

\* Act No. 7, 1901, as amended by No. 23, 1912; No. 31, 1918; No. 7, 1923; No. 38, 1928; Nos. 20 and 85, 1947; No. 80, 1950; and No. 40, 1951.

7. Sections thirty and thirty-one of the Principal Act are repealed and the following section is inserted in their stead:—

“ 30.—(1.) Beer transferred under section twenty-nine of this Act shall, while in course of transit, be accompanied by a cart-note in accordance with the prescribed form. Cart-note to accompany transferred beer.

“ (2.) Where the last preceding sub-section is not complied with, the brewer by whom the beer is transferred is guilty of an offence and is punishable, upon conviction, by a fine not exceeding One hundred pounds.

“ (3.) It is a defence to a prosecution for an offence against this section if the defendant proves—

- (a) that at the time the beer left his brewery it was accompanied by a cart-note in accordance with the prescribed form; and
- (b) that he took all reasonable action to ensure that the beer would be accompanied by the cart-note while the beer was in course of transit.”

8. Section thirty-seven of the Principal Act is amended— Penalty for refusal or neglect to cut stamp.

- (a) by omitting from sub-section (1.) the word “ Immediately ” and inserting in its stead the words “ Subject to sub-section (4.) of this section, immediately ” ; and
- (b) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“ (4.) Where a licensed publican sells beer in a vessel, being a vessel to which a stamp is affixed, to a person not licensed to sell beer by retail, the licensed publican shall, immediately before the vessel is removed from his premises, cut the stamp in the manner specified in sub-section (1.) of this section.

Penalty: Fifty pounds.”

9. Section forty of the Principal Act is amended by omitting the words “ which ought to have paid duty ” and inserting in their stead the words “ on which duty ought to have been paid ”. Deficiency in duty.

10. After section forty of the Principal Act the following section is inserted:—

“ 40A.—(1.) Where a person who has, or has been entrusted with, the possession, custody or control of beer which is dutiable but on which duty has not been paid— Person having control of certain beer to keep it safely.

- (a) fails to keep the beer safely; or
- (b) when so requested by a Collector, does not account for the beer to the satisfaction of the Collector,

that person shall, on demand in writing made by the Collector, pay to the Commonwealth an amount equal to the amount of the duty which, in the opinion of the Collector, would have been

payable on the beer if it had been removed from the brewery by the brewer, otherwise than in pursuance of section twenty-nine or twenty-nine A of this Act, on the day on which the Collector made the demand.

“(2.) An amount payable under the last preceding sub-section is a debt due to the Commonwealth and may be sued for and recovered in a court of competent jurisdiction by proceedings in the name of a Collector.

“(3.) In proceedings under the last preceding sub-section, a statement or averment in the complaint, claim or declaration of the Collector is evidence of the matter or matters so stated or averred.

“(4.) This section does not affect the liability of a person arising under or by virtue of—

- (a) any other provision of this Act; or
- (b) a security given under this Act.”.

Power under writ of assistance.

11. Section fifty-two of the Principal Act is amended by omitting the words “not having paid duty” and inserting in their stead the words “the duty on which has not been paid”.

12. After section fifty-eight of the Principal Act the following sections are inserted:—

Removal of beer when licence ceases to be in force, &c.

“58A. Where a licence has been cancelled, or has expired and has not been renewed, or a licence has, by virtue of section ten of this Act, ceased to be in force, a person shall not, except with the written permission of the Collector, remove or cause to be removed from the premises that constituted the brewery of the holder of the licence, beer the duty on which has not been paid.

Penalty: One hundred pounds.

Disposal of beer by Collector on cancellation, &c., of licence.

“58B.—(1.) Where, at the expiration of one month after a licence has been cancelled, or has expired and has not been renewed, or has, by virtue of section ten of this Act, ceased to be in force, beer on which duty has not been paid remains on the premises that constituted the brewery of the holder of the licence, the Collector may sell the beer and any vessels and bottles in which it is contained.

“(2.) If, in the opinion of the Collector, any such beer is unsaleable or is unlikely to realize on sale an amount equal to the duty payable on it plus the expenses of its removal, storage and sale, the Collector may destroy it.

“(3.) For the purposes of exercising his powers under either of the last two preceding sub-sections, the Collector may, after the expiration of the period referred to in sub-section (1.) of this section, cause the beer, and any vessels and bottles in which it is contained, to be removed from the premises referred to in that sub-section to such other place as the Collector thinks fit.

“(4.) Subject to the next succeeding section, the rate of duty applicable to beer remaining on premises referred to in sub-section (1.) of this section is the rate in force at the time when the duty is paid.

“58c.—(1.) This section applies to and in relation to the sale of goods being beer, vessels and bottles which the Collector is authorized by the last preceding section to sell.

Sale by  
Collector of  
beer on which  
duty has not  
been paid.

“(2.) The goods shall not be sold except by auction or by tender and after such public notice as is prescribed or, if no such notice is prescribed, after reasonable public notice.

“(3.) The goods may be sold either free of duty or subject to duty.

“(4.) The conditions on which the goods are offered for sale shall include conditions that no bid or tender shall necessarily be accepted and that upon the acceptance of a bid or tender the successful bidder or tenderer shall pay the price in cash forthwith.

“(5.) If no bid or tender satisfactory to the Collector is made or received, the goods may be re-offered for sale until such a bid or tender is made or received.

“(6.) The proceeds of the sale of the goods shall be applied—

- (a) in payment of the expenses of the sale;
- (b) unless the goods are sold subject to duty, in payment of the duty on the goods;
- (c) in payment of any expenses of removal of the goods in pursuance of the last preceding section; and
- (d) in payment of any storage charges in respect of the goods,

in that order, and the balance, if any, shall be paid to the Treasurer on account of the person entitled to it.

“(7.) The rate of duty applicable to beer sold in accordance with this section is the rate in force at the time of the sale.”.

13. Section fifty-nine of the Principal Act is repealed and the following section inserted in its stead:—

“59. Except as permitted by, or in pursuance of, this Act, a person other than a brewer shall not have in his possession beer which is dutiable but on which duty has not been paid.

Unlawful  
possession of  
beer.

Penalty: Fifty pounds.”.

14. The Fourth and Fifth Schedules to the Principal Act are repealed.

Repeal of  
Fourth and  
Fifth  
Schedules.