

REPEALED: See Act, 19 No.



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">LICENSING</p> <p>2. Classes of licences</p> <p>3. Unlawful to distil without a licence</p> <p>4. Application for licence</p> <p>5. Grant or refusal of licence</p> <p>6. Licence to distil spirits</p> <p>7. Licence to rectify and compound spirits</p> <p>8. Licence to distil spirits for fortifying wine</p> <p>9. Licences to distil substances other than spirits</p> <p>10. Premises where licensed business operated</p> <p>11. Licence fees</p> <p>12. Duration of licence</p> <p>13. Renewal of licence</p> <p>14. Revocation and suspension of licences</p> <p>15. Licensee not to hold licence under Licensing Act 1908</p>	<p>16. Permits to manufacture or have stills for sale</p> <p>17. Permits to use certain apparatus for distillation</p> <p>18. Securities</p> <p>19. Existing licences</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT</p> <p>20. Interpretation</p> <p>21. Districts</p> <p>22. Chief Inspector</p> <p>23. Appointment of Inspectors</p> <p>24. Modification of provisions as to course of distillation</p> <p>25. Produce to be returned to distiller</p> <p>26. Rate of duty</p> <p>27. Denaturing of spirits</p> <p>28. Delivery of spirits from bond for rectifying</p> <p>29. Erection of still</p> <p>30. Keeping of books</p> <p>31. Repeals</p> <p style="text-align: center;">Schedule</p>
--	---

1959, No. 97

An Act to amend the Distillation Act 1908

[22 October 1959]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Distillation Amendment Act 1959, and shall be read together with and deemed part of the Distillation Act 1908 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty.

PART I
LICENSING

2. Classes of licences—Licences may be granted under this Act of the following descriptions:

- (a) Licences to distil spirits:
- (b) Licences to rectify and compound spirits:
- (c) Licences to distil spirits for fortifying New Zealand wine:
- (d) Licences to distil any liquid or substance other than spirits.

3. Unlawful to distil without a licence—(1) Subject to the provisions of the principal Act, it shall not be lawful after the commencement of this Act in any part of New Zealand to—

- (a) Distil spirits;
 - (b) Rectify or compound spirits;
 - (c) Distil spirits for fortifying New Zealand wine; or
 - (d) Distil any liquid or substance other than spirits,—
- otherwise than pursuant to the authority and in conformity with the terms and conditions of the appropriate licence granted under this Act.

(2) Subject to the provisions of the principal Act, every person who carries on any operations in respect of which a licence is required under this section without being the holder of the appropriate licence, or who carries on any operations authorised by any such licence contrary to the terms and conditions of the licence, commits an offence and shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred pounds, or to both.

(3) If any company carries on any operation contrary to the provisions of this section, every director or other person acting in the management of the operation shall, in addition to any penalty to which the company may be liable, be liable to a fine not exceeding fifty pounds for every day on which the operation is carried on.

(4) Notwithstanding the provisions of this section, no licence under this Act shall be required for the distillation of products from petroleum within the meaning of the Petroleum Act 1937 and nothing in the principal Act shall apply to any such distillation.

4. Application for licence—(1) Every application for a licence under this Act shall be in the prescribed form and shall be made to the Minister.

(2) The application shall be accompanied by the prescribed fee and by such plans and particulars as may be prescribed in that behalf or as may be required by the Minister in any particular case.

(3) Every application shall be forwarded in the first instance to the Chief Inspector, who shall transmit it to the Minister.

Cf. 1908, No. 46, s. 4

5. Grant or refusal of licence—(1) In considering any application for a licence referred to in paragraph (a) or paragraph (b) of section two of this Act, the Minister shall take into consideration—

- (a) The output at that time, and the possible future output, of every holder of any such licence for the time being in force; and
- (b) The economic circumstances of the industry or the branch of the industry to which the application relates; and
- (c) The public interest.

(2) No person shall be granted any licence referred to in section two of this Act if in the opinion of the Minister he is not a fit and proper person to hold the licence by reason of the fact that he is not of good character and reputation.

(3) Subject to the provisions of this section, the Minister may, in his discretion, grant or refuse any application for a licence.

(4) Any licence granted under this section shall be subject to such terms and conditions as may be prescribed by regulations under this Act or as the Minister thinks fit to impose.

(5) The Minister shall in each year cause to be published in the *Gazette* a notice setting out prescribed particulars of all licences referred to in paragraph (a) or paragraph (b) of section two of this Act and for the time being in force.

(6) Before any licence is granted under this section the Minister may require the applicant to give security to the satisfaction of the Minister for the due and faithful observance of the provisions of this Act.

(7) Any decision of the Minister under this section shall be final and conclusive:

Provided that any person who is refused a licence under subsection two of this section may, within fourteen days after the decision has been communicated to him, appeal from the decision to the Supreme Court.

(8) Every person intending to appeal under this section shall, within the said period of fourteen days, file in the office of the Supreme Court a notice in writing stating his intention to appeal. It shall not be necessary to state in the notice the grounds of the appeal.

(9) A copy of the notice of appeal shall be delivered or sent to the Minister forthwith after the filing of the notice.

(10) The Supreme Court may, on hearing the appeal, confirm or reverse the decision appealed against, and, if the decision is reversed, it shall be referred back to the Minister who shall grant the application subject to such terms and conditions as he thinks fit and as he is authorised to impose under the principal Act.

(11) For the purpose of hearing and determining the appeal the Supreme Court shall have all the powers vested in it in its ordinary civil jurisdiction, including the power to make an order as to costs.

Cf. 1908, No. 46, ss. 12 (4), 14 (1); 1934, No. 14, s. 28 (1); 1958, No. 39, s. 4

6. Licence to distil spirits—(1) A licence referred to in paragraph (a) of section two of this Act to distil spirits shall authorise the holder to distil spirits or any specified spirit or any specified class or classes of spirits.

(2) Any such licence may relate to spirits intended for consumption in New Zealand, or to spirits intended for export, or to both.

(3) Notwithstanding anything in the Licensing Act 1908, but subject to the provisions of the principal Act and to any conditions or restrictions specified in the licence, every such licence shall authorise the holder—

- (a) In the case of a licence to distil spirits intended for consumption in New Zealand, to sell spirits distilled pursuant to the licence to holders of wholesale licences for the time being in force under the Licensing Act 1908, or to other distillers (including the holders of licences to which section seven of this Act applies), or to persons authorised to produce goods in a manufacturing warehouse under the Customs Act 1913:
- (b) In the case of a licence to distil spirits for the purposes of export, to export spirits distilled pursuant to the licence.

Cf. 1908, No. 46, s. 5; 1958, No. 39, s. 2

7. Licence to rectify and compound spirits—(1) A licence to rectify and compound spirits shall authorise the holder to rectify and compound spirits or any specified spirit or any specified class or classes of spirits:

Provided that the authority conferred by any such licence may be limited to the rectification or to the compounding of spirits.

(2) Any such licence may relate to spirits intended for consumption in New Zealand, or to spirits intended for export, or to both.

(3) Notwithstanding anything in the Licensing Act 1908, but subject to the provisions of the principal Act and to any conditions or restrictions specified in the licence, every such licence shall authorise the holder,—

- (a) In the case of a licence to rectify and compound spirits intended for consumption in New Zealand, to sell spirits rectified and compounded pursuant to the licence to holders of wholesale licences for the time being in force under the Licensing Act 1908, or to other distillers (including the holders of licences to which this section applies), or to persons authorised to produce goods in a manufacturing warehouse under the Customs Act 1913:
- (b) In the case of a licence to rectify and compound spirits for the purposes of export, to export spirits rectified and compounded pursuant to the licence.

Cf. 1908, No. 46, s. 5; 1958, No. 39, s. 2

8. Licence to distil spirits for fortifying wine—(1) A licence to distil spirits for fortifying New Zealand wine shall authorise the holder to distil spirits from wine produced in New Zealand from grapes grown in New Zealand or from the lees of that wine.

(2) No licence to which subsection one of this section applies shall be granted to any person other than the holder of a grape wine licence issued under Part II of the Licensing Amendment Act (No. 2) 1953:

Provided that any licence to which subsection one of this section applies may be granted to a combination of persons each of whom is the holder of a grape wine licence.

(3) Subject to the provisions of subsection five of this section, no spirits distilled under any such licence shall be used for any purpose other than to fortify wine produced

from fruit grown in New Zealand and no wine shall be so fortified to such an extent as to make the wine contain more than forty per cent proof spirit.

(4) All wines so fortified that are found to contain more than forty per cent proof spirit shall be forfeited.

(5) If at any time the holder of any licence to which subsection one of this section applies has in his possession more spirits than he requires for fortifying wine in accordance with the provisions of this section, the Chief Inspector may permit him to sell or dispose of any such spirits in one lot, upon payment of the excise duty at the time payable on the like spirits; or may permit or require him to remove the spirits to a warehouse licensed under the Customs Act 1913, there to be dealt with under the provisions of that Act.

(6) In granting any licence to which subsection one of this section applies, the Minister may exclude the holder of the licence from such of the provisions of the principal Act or of regulations under that Act as he thinks fit in the circumstances of the particular case.

Cf. 1908, No. 46, ss. 12, 111; 1948, No. 77, s. 11; 1949, No. 52, s. 13

9. Licences to distil substances other than spirits—(1) A licence to distil any liquid or substance other than spirits shall authorise the holder to distil such liquid or substance, including any chemical compound of which spirits form a part, as may be specified in the licence.

(2) Any liquid or substance distilled under any such licence shall be used only for such purposes as may be prescribed by regulations under the principal Act or as may be specified in the licence.

Cf. 1908, No. 46, ss. 9, 10

10. Premises where licensed business operated—(1) Every licence issued under this Act shall specify the premises in which the operations authorised by the licence shall be carried on.

(2) Every person who carries on any operations authorised by a licence under this Act in premises other than those specified in the licence commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. 1908, No. 46, s. 7

11. Licence fees—There shall be paid by the holder of any licence under this Act an annual licence fee of such amount as may be prescribed by regulations under the principal Act.

Cf. 1908, No. 46, s. 13 (2)

12. Duration of licence—Subject to the provisions of the principal Act, every licence under this Act shall remain in force until the thirty-first day of December in the year in respect of which it was granted or renewed, as the case may be.

Cf. 1908, No. 46, s. 13 (1)

13. Renewal of licence—(1) Every application for the renewal of a licence shall be made to the Minister in the prescribed form before the first day of December in the year in which the licence expires:

Provided that where the Minister is satisfied that failure to make any such application within the specified period is due to justifiable mistake or other reasonable cause, he may accept an application made at any time before the expiration of the licence.

(2) The Minister, unless he is satisfied that the licence should be revoked under section fourteen of this Act, shall grant a renewal subject to such conditions as he thinks fit and is authorised to impose when granting a new licence.

(3) Every such renewal shall commence with the first day of January in the year next following the year in which the application for renewal is made, but the renewal may be granted at any time before that date.

(4) In granting any renewal of a licence the Minister may either endorse the existing licence or issue a new licence, but any such licence shall show on the face thereof that it is in renewal of a licence.

(5) The Minister may refuse to renew any licence referred to in paragraph (a) of section two of this Act if the holder fails to distil at least five thousand gallons of proof spirit during the year immediately before the year in which the renewed licence is to have effect. If any such licence was not in force for a full year, the holder of the licence shall be required to distil an amount of proof spirit in proportion to the period for which the licence was in force.

Cf. 1908, No. 46, s. 13 (4) ; 1958, No. 39, s. 4 (3)

14. Revocation and suspension of licences—(1) The Minister may at any time revoke any licence under this Act if he is satisfied—

- (a) That any provision of the principal Act or regulations thereunder has been contravened or not complied with by the holder of the licence; or
- (b) That the holder of the licence has not carried on any operation authorised by the licence in all respects in conformity with the terms and conditions of the licence.

(2) Instead of revoking any licence as aforesaid, the Minister may suspend the licence for such period as he thinks fit.

Cf. 1908, No. 46, s. 14; 1958, No. 39, s. 4

15. Licensee not to hold licence under Licensing Act 1908—

(1) Subject to the provisions of this section, no person who is the holder of a licence under this Act, whether alone or in partnership, or who owns the whole or any part of any business in respect of which a licence has been granted under this Act shall be the holder of a licence under the Licensing Act 1908:

Provided that the holder of a licence under this Act shall not be disqualified by this subsection from holding a licence under the Licensing Act 1908 if he has the written permission of the Minister and complies with any terms and conditions prescribed by the Minister in the written permission.

(2) Nothing in this section shall apply to the holder of a licence under the Licensing Act 1908 who owns shares in any company owning any business in respect of which a licence has been granted under this Act.

(3) Nothing in this section shall apply to the holder of a wine-maker's licence under Part II of the Licensing Amendment Act (No. 2) 1953 whether or not that licence is held in conjunction with any other licence under that Act.

Cf. 1908, No. 46, s. 15; 1957, No. 105, s. 14

16. Permits to manufacture or have stills for sale—(1) The Chief Inspector may, upon or subject to such terms and conditions as he thinks fit, including a condition requiring the holder of the permit to give security for the observance of the provisions of the principal Act, by writing under his hand permit any person to manufacture or have in his possession for sale any still or other apparatus intended or suitable for the process of distillation.

(2) Any person who manufactures or has in his possession for sale any still, still head, worm, or other apparatus intended or suitable for any process of distillation without the permission of the Chief Inspector under this section, or otherwise than in accordance with the terms and conditions of the permit issued to him, commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. 1908, No. 46, s. 122

17. Permits to use certain apparatus for distillation—

(1) Notwithstanding the provisions of the principal Act, any person who wishes to use in his trade, business, or profession any still or other distilling apparatus the content and capacity of which is less than three gallons, or to use any worm for cooling or heating purposes, may apply to the Chief Inspector for permission to use the still or apparatus.

(2) The Chief Inspector, in his discretion, may grant or refuse any application under this section or may grant the application subject to such terms and conditions as he thinks fit, including a condition requiring the holder of the permit to give security for the observance of the provisions of the principal Act.

(3) Where any such application is granted, the Chief Inspector shall issue to the applicant a permit in writing specifying the still or apparatus to which it relates and setting out the terms and conditions to which the permit is subject.

(4) Where any such permit is issued in respect of any still or apparatus, no other authority shall be required for the use or possession thereof.

(5) Any permit under this section shall remain in force for one year after the date on which it was granted, but may from time to time be renewed pursuant to an application under this section in that behalf:

Provided that the Chief Inspector may, if he thinks fit, issue a permit under this section to have effect for a period longer than one year or to have effect until revoked under this section.

(6) The Chief Inspector shall cause to be compiled and kept, in such form as he thinks fit, a register of all stills and apparatus in respect of which permits have been issued under this section.

(7) Any such permit may be at any time revoked by the Chief Inspector if it appears to him that the still or apparatus to which it relates is not being used in accordance with the terms and conditions of the permit.

(8) Any person who uses any still or apparatus otherwise than in accordance with the terms and conditions of any permit under this section relating thereto commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. 1908, No. 46, s. 118

18. Securities—(1) With respect to any security given under the principal Act the following provisions shall apply:

- (a) Any such security may, as required by the Minister or officer requiring the security, be by bond (with or without sureties), or guarantee to Her Majesty, or by a deposit of cash, or by all or any of these methods:
- (b) Regulations under the principal Act may prescribe forms of bonds, guarantees, and other securities; and any security may be either in the prescribed form, or to the like effect, or in such other form as the Minister in any particular case approves:
- (c) Instead of a security being given in respect of a particular matter a general bond may be entered into for the performance of all obligations of a kind similar to those to which the security relates:
- (d) If the Minister or officer is at any time dissatisfied with the sufficiency of any security he may require a new security in substitution therefor or in addition thereto.

(2) A security may be required at any time after the grant of a licence or permit under the principal Act, notwithstanding that the licence or permit was granted without any security being required.

Cf. 1908, No. 46, s. 8; 1934, No. 14, s. 28

19. Existing licences—Every licence granted under the principal Act and in force on the commencement of this Act shall be deemed to have been issued under this Act, and shall continue in force accordingly.

PART II

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

20. Interpretation—Section two of the principal Act is hereby amended as follows:

- (a) By omitting the definition of the term "feints", and substituting the following definition:
" 'Feints' means any spirits which have been received into a feints receiver: ":
- (b) By omitting the definition of the term "low wines", and substituting the following definition:
" 'Low wines' means all spirits of the first extraction which have been received into a low-wines receiver: ":
- (c) By omitting the definition of the term "spent wash", and substituting the following definition:
" 'Spent wash' means the liquor remaining after spirits have been extracted by distillation: ".

21. Districts—The principal Act is hereby amended by inserting, after section two, the following section:

"2A. For the purpose of collecting the duties imposed by this Act, the Minister may appoint convenient districts; and may from time to time, as he thinks fit, alter the boundaries of any such districts; and may appoint a place or places in each district for the payment of any such duties."

22. Chief Inspector—The principal Act is hereby amended by repealing section three, and substituting the following section:

"3. (1) There shall be a Chief Inspector of Distilleries who shall be the person for the time being holding office as Comptroller of Customs.

"(2) In addition to the powers and functions conferred on him by this Act the Chief Inspector shall have all the powers and duties of an Inspector."

23. Appointment of Inspectors—The principal Act is hereby amended by inserting, after section three, the following section:

"3A. (1) There may from time to time be appointed under the provisions of the Public Service Act 1912 such number of fit persons to be Inspectors of Distilleries as may be deemed necessary.

"(2) Every Inspector shall be furnished with a certificate of his appointment in the prescribed form, and on entering any place or premises for the purposes of this Act he shall, if required, produce the certificate to the person in charge of the place or premises.

“(3) Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any certificate, or falsely pretends to be an Inspector, commits an offence and shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.”

24. Modification of provisions as to course of distillation—Section fifty of the principal Act is hereby amended by inserting, after subsection six, the following subsection:

“(6A) Notwithstanding the provisions of this section, in any case where the method of distillation in any distillery does not permit the observance of any provision of this section, the Chief Inspector, if he is satisfied that a modification of the provision will not facilitate the evasion of duty, may permit by writing under his hand such modification of the provision as may be prescribed in the permit.”

25. Produce to be returned to distiller—(1) Section fifty-seven of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:

“(2) Unless the Chief Inspector otherwise directs, the produce by distillation of any such sample shall be returned to the distiller.”

(2) Section fifty-eight of the principal Act is hereby amended by adding the following subsection:

“(5) Unless the Chief Inspector otherwise directs, any such sample, or the produce by distillation of any such sample, shall be returned to the distiller.”

26. Rate of duty—The principal Act is hereby amended by repealing section sixty-six, and substituting the following section:

“66. (1) Except as otherwise provided in this Act, there shall be levied, collected, and paid on every gallon of spirits made or distilled in New Zealand, from whatever material the spirits may have been made or distilled, an excise duty at a rate, not exceeding one hundred and twenty shillings the proof gallon, to be fixed from time to time by the Governor-General in Council:

“Provided that until a rate of duty is fixed by the Governor-General as aforesaid, the duty payable under this section shall be at the rate of one hundred and twenty shillings the proof gallon.

“(2) The duty payable under this section shall be paid in respect of the gallon standard measure of spirits of the strength of proof, and so in proportion for any greater or less strength than proof or on any quantity less than a gallon, and shall also be payable in respect of any deficiencies occurring in any distillery.

“(3) The liability of any spirits to duty and the rate of duty to which any spirits are liable shall be determined in accordance with the law in force at the time when the spirits are entered for home consumption.”

27. Denaturing of spirits—The principal Act is hereby amended by repealing section ninety-four, and substituting the following section:

“94. (1) The Chief Inspector may permit, by writing under his hand, spirits lodged in any distillery warehouse to be used for the purpose of dissolving resins and gums for varnishes and for like manufacturing and other purposes for which methylated spirits are used and required, and for that purpose the spirits to be so used shall be mixed with wood naphtha, or with any other substances, in such quantities and of such quality as may be prescribed by regulations made under the Customs Act 1913.

“(2) The spirits so mixed may be delivered out of the distillery warehouse without payment of duty.

“(3) The process of mixing referred to in this section shall be performed under the supervision and in the presence of an Inspector appointed to superintend the process.”

28. Delivery of spirits from bond for rectifying—Subsection one of section one hundred and one of the principal Act is hereby amended by adding the following proviso:

“Provided that an Inspector may, in special circumstances, permit an extension of any period specified in this subsection.”

29. Erection of still—Subsection one of section one hundred and twenty-four of the principal Act is hereby amended by inserting, after the word “brewery”, the words “vineyard, or vinegar factory”.

30. Keeping of books—Subsection one of section one hundred and eight of the principal Act is hereby amended by omitting the words “under section twelve hereof”.

31. Repeals—The enactments specified in the Schedule to this Act are hereby repealed.

Section 31

SCHEDULE

ENACTMENTS REPEALED

- 1908, No. 46—The Distillation Act 1908: Sections 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22 (3) (4), 80, 85, 111, 118, and 122.
- 1918, No. 12—The Distillation Amendment Act 1918.
- 1934, No. 14—The Customs Acts Amendment Act 1934: Sections 28, 29, 30, and 31.
- 1948, No. 77—The Statutes Amendment Act 1948: Section 11.
- 1949, No. 52—The Finance Act (No. 2) 1949: Section 13.
- 1957, No. 105—The Licensing Amendment Act 1957: Section 14.
- 1958, No. 39—The Distillation Amendment Act 1958.
-