



Western Australia.

ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. IV.

AN ACT to impose an Excise Duty on Beer.

[Assented to, 9th September, 1898.]

WHEREAS it is expedient to impose an Excise Duty on Beer: Preamble.
Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Beer Duty Act, 1898, and shall come into operation on the eighteenth day of August, One thousand eight hundred and ninety-eight. Short title.
Commencement.

2. IN this Act, unless inconsistent with the context or subject matter,— Interpretation.

“Act” includes regulations made pursuant to this Act:

“Beer” means and includes ale, porter, and all other malt liquor or fermented beverage made in imitation of beer or

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malt liquor, and containing not less than three per centum of proof spirit:

“Brewer” means any person who occupies, carries on, or conducts any brewery, and includes any agent, superintendent, managing director, secretary, manager, principal officer, foreman, or any person acting or apparently acting in the general management, control, or working of any brewery where the owner is not personally conducting the same, and also any company or association of persons, whether incorporated under any Act or not, exclusively or partially engaged in carrying on or conducting any brewery:

“Brewery” means and includes any place or premises where any beer is made, and all offices, granaries, mash rooms, cooling rooms, vaults, cellars, bottling rooms, warehouses, store rooms, and premises adjacent thereto, or in which any material to be used in the manufacture of beer is kept or stored, or where any process of manufacture is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the materials for or products of brewing or fermentation are stored or kept, shall be held to be included in and to form part of the brewery in connection with which they are used, or to which they are attached or appurtenant:

“Collector” includes the Collector or any officer of Customs, and every person appointed by the Minister to be a collector for the purposes of this Act:

“Gallon” means an imperial gallon:

“Minister” means the Colonial Treasurer of Western Australia or the responsible Minister of the Crown for the time being appointed by the Governor to administer this Act:

“Prescribed” means prescribed by this Act or any regulations made hereunder:

“Vessel” means any hogshead, barrel, cask, or receptacle.

Excise Duty on
beer.
First Schedule.

3. FROM and after the coming into operation of this Act there shall be charged, raised, collected, levied, and paid to Her Majesty, upon all articles enumerated or included in the First Schedule to this Act, the Duty of Excise specified in the said First Schedule.

Quantity of beer
dutiable.

4. (1.) EVERY hogshead of beer capable of containing at least fifty gallons, but not more than fifty-four gallons, shall not be chargeable with duty on more than fifty gallons of beer.

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(2.) Every barrel of beer capable of containing at least thirty-three gallons, but not exceeding thirty-six gallons, shall not be chargeable with duty on more than thirty-three gallons of beer.

(3.) Every half-hogshead of beer capable of containing at least twenty-five gallons, but not exceeding twenty-seven gallons, shall not be chargeable with duty on more than twenty-five gallons of beer.

(4.) Every kilderkin of beer capable of containing at least sixteen and a half gallons, but not exceeding eighteen gallons, shall not be chargeable with duty on more than sixteen and a half gallons.

(5.) All such duty shall be paid by stamps by the brewer, by or on behalf of whom such beer is made, in the manner and at the time prescribed by this Act.

Duty payable in stamps.

5. THE said duty of Excise on Beer shall be collected and levied in the manner provided by, and subject and according to the provisions of any Act for the time being in force for the general regulation of the Customs of the Colony.

Mode of levying beer duty.

6. (1.) EVERY person carrying on the trade or business of a brewer at the time of the commencement of this Act, or who after such commencement desires to carry on the trade or business of a brewer, shall, before continuing or commencing to carry on such trade or business, send to the collector a notice, in writing, in the form or to the effect in the Second Schedule to this Act, setting forth the name or names and place or places of abode of the person or persons carrying on or proposing to carry on such trade or business, a description of the brewery premises, and the further particulars enumerated in the said Second Schedule.

Brewers to send notice to collector with certain information.

Second Schedule.

(2.) Every such notice shall be verified by the declaration of the person sending or giving such notice, or, if sent by more than one person, then by one of such persons, or if such notice be sent in regard to a company, then the same shall be verified by the manager, managing director, secretary, or principal officer of such company; and every such declaration shall be in the form or to the effect in the Third Schedule to this Act.

Notice to be verified by declaration.

Third Schedule.

(3.) So far as relates to persons carrying on the trade or business of brewers at the commencement of this Act, this section shall be deemed to be complied with if such notices are sent to the collector within seven days after such commencement, or such further period (if any) as may be granted by the Minister.

(4.) Every person who carries on the trade or business of a brewer and fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Omission to send notice as an offence.

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Brewer to enter into bond to pay duty and comply with Act.

7. (1.) EVERY brewer shall, within one month after the commencement of this Act and in the first week of the month of January in each succeeding year, execute a bond to Her Majesty, Her heirs and successors, to be approved by the Minister, in a sum equal to twice the estimated amount of the duty such brewer will be liable to pay during any one month, and conditioned,—

(a.) That he shall pay or cause to be paid, as prescribed by this Act, the duty payable on all beer made by or for him before the same is sold or removed for consumption or sale, or for the purpose of being bottled, or before the same is bottled at the brewery, except as otherwise provided in this Act;

(b.) And that he shall in all respects faithfully comply, without fraud or evasion, with the requirements of this Act.

The Minister to fix amount of bond.

(2.) The Minister shall from time to time fix the sum for which such bond is to be given, and shall be guided therein by reference to the number of gallons of beer which such brewery produces or is capable of producing in each month, and any brewer who fails or neglects to enter into such bond within the time specified in this section shall be liable to a penalty of not less than Two pounds nor more than Ten pounds for every day such bond remains unexecuted.

Beer to be sold, etc., in certain vessels.

8. (1.) ALL beer shall be sold, or removed, or kept for consumption, or sale, or bottling only in vessels of such description and sizes as may be approved by the Minister.

(2.) Any beer liable to duty contained in vessels other than those approved by the Minister, shall, together with such vessels, be liable to be forfeited, and may be seized by any collector.

Books to be kept by brewer in which daily business to be entered.

9. (1.) EVERY brewer shall from day to day make or cause to be made, in books approved by the Minister, and kept by such brewer at the brewery, entries,—

(a.) Showing the estimated quantity in gallons of beer made from day to day by or for him, and the actual quantity sold or removed for consumption or sale, or bottling, and the actual quantity bottled at the brewery:

(b.) Specifying the respective vessels containing such beer.

Books to be open for inspection.

(2.) The books required to be kept by this section, and all books relating to the brewing of beer and the purchase of material and the delivery and returns of beer, shall be open at all hours in the

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daytime to the inspection of any collector, who may take extracts therefrom or transcripts thereof.

10. (1.) THE entries made in the books required by the next preceding section to be kept shall, at the end of each month, be verified, by the declaration of the person by whom they were made. Entries to be verified by declaration.

(2.) Such declaration shall be written in the books at the end of such entries and be signed by the person making such declaration, and the same shall be in the following form or to the effect thereof :—

“ I declare that the foregoing entries, relating to the month of _____, One thousand eight hundred and ninety-_____, were made by me, and that they are true and correct in every particular ; and further, that I have no knowledge of any matter or thing required by law to be stated in such entries which has been omitted therefrom.”

(3.) Every brewer, or, in the case of a company, the manager, managing director, secretary, or principal officer thereof shall also, if the original entries in his books were not made by himself, subjoin thereto and sign the following declaration :—

“ I declare that, to the best of my knowledge and belief, the foregoing entries fully set forth all the matters required by law, and that the same are true in the several particulars thereof.”

11. EVERY brewer, or, in the case of a company, the manager, managing director, secretary, or principal officer thereof, shall also render to the collector, on or before the tenth day of each month, a true statement in writing, in duplicate, taken from the said books required to be kept as aforesaid, showing in gallons,— Account to be rendered to collector of quantity brewed.

- (a.) The estimated quantity of beer brewed ;
- (b.) The actual quantity sold or removed from the brewery for consumption, or sale, or bottling ;
- (c.) The actual quantity bottled at the brewery ;

The above particulars to apply to the calendar month next preceding the day of making such statement.

12. IF any brewer—

- (a.) Evades or attempts to evade the payment of any duty payable under this Act, or any part of any such duty ; or
- (b.) Fraudulently neglects or refuses to make true and exact entry and report of any matter or thing in the manner Penalty for evasion of duty.

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required by this Act, or to do or cause to be done any of the things by this Act required to be done by him; or

- (c.) Intentionally makes any false, imperfect, or incorrect entry in the said books, or either of them, or in the said statement, or allows or procures the same to be done:

Then all the beer made by or for him and in his custody, possession, or control, and all the vessels containing the same, shall be liable to be forfeited, and in addition such brewer shall, for every such offence, be liable to a penalty of not less than Twenty pounds nor more than One hundred pounds.

Penalty for not
keeping books, etc.

13. EVERY brewer who neglects to keep books, or who neglects or refuses to furnish the statement or duplicate thereof, as provided by this Act, and every person who refuses to permit a collector to examine the books or take extracts therefrom or transcripts thereof, in the manner provided in this Act, or who obstructs a collector in so doing, shall, for every such refusal, or neglect, or obstruction, be guilty of an offence against this Act.

Stamps.

14. (1.) SUITABLE stamps shall be provided by the Minister, denoting the amount of duty required to be paid on the vessels of beer respectively liable to duty under this Act, and such stamps shall be sold only to brewers carrying on business.

(2.) It shall not be lawful for any person to use, for the purposes of this Act, any stamps other than the stamps so provided.

Brewer to affix
stamp upon spigot or
tap-hole.

15. EVERY brewer shall obtain from a collector the proper stamps, and shall do or cause to be done the following things,—

- (a.) Affix upon the spigot, or tap-hole, or prescribed part of every vessel in which any beer is contained when sold or removed from such brewery (except in case of removal under permit or bond as hereinafter provided) a stamp as prescribed, denoting the amount of duty payable upon such beer, in such a way that the said stamp will be destroyed upon the withdrawal of the liquid from such vessel or upon the introduction of a faucet or other instrument for that purpose, or when the vessel is breached or opened for the purpose of cleaning; and
- (b.) At the time of affixing such stamp cancel the same, by writing or imprinting thereon the name of the brewer by or for whom such beer was made, or the initial letters thereof, and the date when cancelled.

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16. EVERY brewer who refuses or neglects to affix or cause to be affixed, or to cancel or cause to be cancelled, the stamp as prescribed, or who affixes a false or fraudulent stamp or a stamp which has previously been used, to any vessel containing beer, or who knowingly permits the same to be done, shall be guilty of an offence against this Act.

Penalty for refusal or neglect to affix and cancel stamp.

17. EVERY person who shall open any vessel to which a stamp is affixed shall, when doing so, cut such stamp into two or more pieces at the time of such opening, and if any person refuses or neglects so to do he shall be guilty of an offence against this Act for each vessel in respect of which there is any such refusal or neglect.

Penalty for refusal or neglect to cut stamp.

18. WHENEVER any person withdraws or aids in the withdrawal of any beer from any vessel containing the same without destroying or defacing the stamp affixed thereon, or knowingly withdraws or aids in the withdrawal of any beer from any vessel upon which the proper stamp has not been affixed, or on which a false or fraudulent stamp, or a stamp which has previously been used, is affixed, he shall be guilty of an offence against this Act.

Penalty for withdrawing beer without destroying stamp.

19. (1.) WHENEVER beer is being conveyed from a brewery, depôt, warehouse, or place of storage, the vessels containing such beer shall be so placed upon the cart, wagon, truck, or vehicle conveying such vessels, that the stamps thereon may readily and easily be inspected.

Mode of conveyance of beer.

(2.) Any carrier or carter or person who conveys any beer contrary to the provisions of this section shall be guilty of an offence against this Act.

20. (1.) THE Minister shall cause permits to remove beer to be prepared in such form as he may think suitable.

Minister to prepare permits.

(2.) Any brewer may, upon obtaining a permit to remove from his brewery to a depôt, warehouse, or other place occupied by him, and used exclusively for storage or sale of beer in bulk, any quantity of beer of his own manufacture, not less than one hundred and fifty gallons at a time, without affixing the proper stamps on the vessels containing such beer at the brewery.

Beer may in certain cases be removed upon permits issued by collector.

(3.) Every such permit may be granted by a collector upon such form of application as may be prescribed.

(4.) A permit must be affixed to every vessel removed as aforesaid, and must be cancelled or destroyed under the same penalties and liabilities as provided in this Act as to stamps, and in like manner, or as may be prescribed.

How permit to be affixed to cask.

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Vessels to be stamped when leaving depôt.

21. THE brewer of such beer shall stamp every vessel containing the same when it leaves such depôt, warehouse, or place of storage in the same manner as he is by this Act required to do when beer is removed from a brewery, and shall, upon failure or neglect so to do, be subject to the same penalties as he would be liable to if such beer were removed from a brewery without the provisions of this Act having been previously complied with.

Penalty for certain offences.

22. EVERY person who has in his possession or custody, or under his control, or who knowingly sells, removes, receives, or purchases, or who in any way aids in the sale, removal, receipt, or purchase from any brewery, depôt, warehouse, or place of storage of any beer contained in any vessel upon which the prescribed stamp or permit in case of removal has not been affixed, or on which a false or fraudulent stamp or permit is affixed, or on which a stamp or permit once used is again used, shall be guilty of an offence against this Act.

Beer improperly removed to be forfeited.

23. IF any beer, the duty on which has not been paid, be knowingly delivered, carried, or conveyed from any brewery or depôt, warehouse, or place of storage contrary to this Act, then such beer, the vessels containing the same, and the ship, boat, cart, carriage, vehicle, or conveyance in which the same may be found, together with all horses or other animals made use of in such removal, carriage, or conveyance, and any chattels, articles, or things made use of for the purposes of such removal, carriage, or conveyance, shall be liable to be forfeited, and may be seized by any collector.

Forging stamps or dies a felony.

24. EVERY person who makes, sells, or uses, or has in his possession or custody, or under his control, any false or counterfeit stamp or permit, or any die for printing or making stamps or permits, which is in imitation of or purports to be a lawful stamp, permit, or die, under this Act, or who procures the same to be done, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years.

Disposal of damaged beer.

25. WHEN beer belonging to a brewer has become sour or damaged so as to be incapable of use as such, any brewer may, with the written consent of the collector, sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes in vessels containing not less than eighteen gallons each, and having the nature of their contents plainly and legibly marked upon them without affixing thereon the permit or stamps required.

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26. (1.) WHERE the Collector of Customs is satisfied by a declaration or otherwise that beer upon which duty has been paid has been wasted in the process, or in consequence of bottling, or has become spoiled or unfit for use after its removal from the brewery in which it was made, and has been returned to such brewery, he may, if he think fit, allow to the brewer who has paid duty on such beer stamps of such value as he may think fit, not exceeding in value the duty which has been paid upon the beer so returned: Provided that he shall send to the collector, on or before the tenth day of each month, a notice giving details of all beer upon which such allowance is claimed for the calendar month next preceding the date of notice.

Allowance to be made for beer wasted or spoiled.

- (2.) (a.) Every person who returns to any brewery as beer which has become spoiled or unfit for use any liquid not being portion of any beer purchased by him from such brewery; and
- (b.) Every brewer or person who adds any liquid to any beer, either before or after the same leaves the public-house or the residence of the person by whom it is returned as spoiled or unfit for use; and
- (c.) Every brewer who knowingly applies to the Minister or any collector for an allowance of stamps for any liquid not being solely beer brewed at his brewery, and sold by him and returned to him as spoiled or unfit for use; and
- (d.) Every brewer or person whosoever who prepares any declaration, statement, return, or document for the purpose or with the intention of fraudulently or wrongfully obtaining for himself or any other person an allowance of stamps pursuant to this section (whether he is or is not convicted or liable to be convicted of making a false declaration)—

Offences.

shall be guilty of an offence against this Act.

27. (1.) EVERY brewer shall, by branding, mark or cause to be marked upon every vessel containing the beer made by or for him, the name or initials of the brewer by or for whom such beer was brewed, and a distinguishing number or mark.

All vessels, etc., to be branded with name of brewer.

(2.) Every brewer who fails to comply with the requirements of this section shall be guilty of an offence against this Act.

(3.) Every person other than the owner of such vessel, or some person lawfully authorised by him so to do, who knowingly and wilfully removes or defaces any of such marks therefrom, shall be guilty of an offence against this Act.

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Brewer may purchase
beer from another
brewer.

28. WHEN a brewer purchases beer finished and ready for sale from another brewer in order to supply the customers of such purchaser, the purchaser may, upon written notice to a collector of his intention so to do and under such regulations as may be prescribed, furnish his own vessels, branded with his name or initials, and a number or mark, to be filled with beer so purchased; but the proper stamps shall be affixed and cancelled, as required by this Act, by the brewer selling the same before removal.

Certain kinds of
liquor not liable to
duty.

29. WHEN malt liquor or tun liquor in the first stages of fermentation known as fermenting worts, of whatever kind, is sold by one brewer to another for the purpose of producing fermentation or enlivening old or stale beer or other fermented liquors, it shall not be liable to the duty imposed by this Act upon the seller thereof, but such sale or use of such liquor shall be subject to such restrictions as may be prescribed.

Absence of stamps
notice that duty not
paid.

30. (1.) THE absence of the proper stamps from any vessel containing beer, after its sale or removal from the brewery where it was made, or while being used for the purpose of bottling beer upon the brewery, shall be notice to all persons that the duty has not been paid thereon, and shall be *prima facie* evidence of the non-payment thereof.

(2.) If any vessel containing beer is found, after sale or removal from the brewery where it was made or while being used for the purpose of bottling beer upon the brewery, not having the proper stamps thereon as required by this Act, every such vessel and the beer contained therein, and all beer taken therefrom and the vessels and bottles containing the same, shall be liable to be forfeited, and every person in whose custody, possession, or control the same is so found shall be guilty of an offence against this Act; but this subsection shall not apply to any vessel containing beer removed or sold under permit issued under this Act, or liquor not liable to duty under this Act.

Persons improperly
defacing stamp liable
to penalty.

31. EVERY person who, in any manner not authorised by this Act, knowingly removes or defaces the stamp or permit affixed upon any vessel in which any beer is contained, shall be guilty of an offence against this Act, and shall render compensation to the owner of such beer for all damages sustained by and penalties imposed on him by reason of such removal or defacement.

Persons withdrawing
beer from unstamped
vessels liable to
penalty.

32. IF any person withdraws any beer liable to duty from any vessel upon which the proper stamp has not been affixed, or upon which a fraudulent stamp or a stamp previously used is used, for the purpose of bottling the same, or carries on or attempts to carry on

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the business of bottling beer in any brewery or upon any premises having communication with such brewery except as may be prescribed, all beer and vessels used in such bottling or business shall be liable to be forfeited, and such person shall be guilty of an offence against this Act.

33. EVERY brewery and every warehouse, store, shop, or premises, whether connected with a brewery or not, and every ship, boat, cart, wagon, truck, or vehicle, where or in which any collector shall have reason to believe any beer liable to duty under this Act is stored, kept, or sold, or is being conveyed or carried, and every licensed public-house, and every store or cellar adjacent thereto, and all the premises thereof, shall be open at all times to inspection by any collector, who, without further or other authority than this Act, shall have power at any time in the daytime, and with or without assistants, to enter into and search every such brewery, warehouse, store, shop, public-house, cellar, or place herein mentioned, and to examine and take an account of all vessels in which beer is contained or is supposed to be contained, and to take samples of such beer without payment therefor; and, if he thinks fit, such collector may seize and mark, bring, or carry away, or impound, any vessels or beer which, in the opinion of such collector, are liable to be forfeited.

Power of entry on breweries, public-houses, and warehouses, ships or carts, where beer kept, or sold, or being carried.

34. (1.) EVERY person who obstructs, resists, or molests any collector or his assistant in making any search as aforesaid, or prevents the same being made, or any examination, or taking of any account or sample, or in marking, seizing, or taking away of any vessels as aforesaid, and every person who fails to comply with any provisions of this Act, shall be guilty of an offence against this Act.

Penalty on person causing obstruction or guilty of an offence against this Act.

(2.) Every person guilty of an offence against this Act, not otherwise specially provided for, shall be liable for every such offence to a penalty of not less than Two pounds, nor more than Twenty-five pounds, and in the case of a continuing offence, to a penalty of not less than Two nor more than Ten pounds for each day during which such offence is continued by such person; and where any such offence is committed in respect of more than one vessel, the person convicted shall be liable to such penalty for each and every vessel in respect of which such offence is committed; and where any person is guilty of a second or subsequent offence against any section of this Act the minimum and maximum limits of the penalty to which he shall be liable shall be twice the amount of the limits specified in this Act.

Penalties for offences against this Act.

(3.) In all legal proceedings taken against any person for any breach of or non-compliance with the provisions of this Act the

Onus of proof on party charged.

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onus of proving that such person was exempt from any penalty or forfeiture imposed by this Act shall in all such cases rest upon the defendant.

Before whom declaration to be made.

35. EVERY declaration required to be made by or under this Act may be taken before any collector, or a Justice of the Peace, or a Commissioner for taking Affidavits, and every person knowingly and wilfully making a false declaration shall be deemed to be guilty of wilful and corrupt perjury, and shall be punishable accordingly.

Informations may be heard and determined in a summary way.

36. (1.) ALL informations or actions for determining whether or not any beer, or vessels, or property shall be forfeited, or for the recovery of any penalty imposed by this Act, may be heard and determined in a summary manner according to the provisions of an Ordinance numbered five, passed in the fourteenth year of the reign of Her present Majesty, or any Act amending the same, before any two Justices of the Peace in Petty Sessions, or, at the option of any collector, before the Supreme Court.

(2.) Any such information or action shall and may be filed or instituted in the name of a law officer of the Crown or of any collector.

(3.) If any question arises as to whether any person is a collector, parol evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

Penalties to be sued for within one year after the offence.

(4.) All such proceedings shall be commenced and prosecuted at any time within one year after the offence was committed by reason whereof such penalty or forfeiture is incurred.

Appeal.

(5.) There shall be an appeal against any conviction or order by Justices under this Act, which appeal shall be brought in the manner provided by law in the case of appeals from summary convictions by Justices.

Collector may seize forfeitable beer, &c., and give notice to owner.

37. (1.) WHENEVER by this Act it is provided that any beer, or vessels, or property shall be liable to be forfeited, any collector may seize such beer, vessels, or property and mark, carry away, and store the same in any place, and give notice in writing of such seizure to the owner of such beer, vessels, or property, or his agent, or may mark and impound the same on the premises where the seizure is made; and if any person, without permission of a collector, takes away, removes, or interferes with any beer, vessels, or property so seized, such person shall be guilty of an offence against this Act.

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(2.) All beer, vessels, and property seized under the provisions of this Act shall, without further or other authority than this Act, be considered as forfeited and condemned, unless claimed in writing within ten days after being so seized, and shall be disposed of as the Minister may direct.

Property seized to be claimed within ten days.

(3.) If the beer, or vessels, or property be so claimed within the said time, then any collector may take proceedings to have the question whether the same shall be forfeited determined, as provided in the next preceding section.

38. (1.) NO action shall be commenced against any collector or assistant for anything done in the exercise of his office until one month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the party who intends to bring such action.

Collector to have notice of action.

(2.) Such notice shall clearly and explicitly state the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of business of his solicitor.

(3.) No evidence shall be allowed of any cause of action except that mentioned in such notice.

(4.) No verdict or judgment shall be given for the plaintiff unless he proves on the trial that such notice was given, and, in default of such proof, the defendant shall obtain in such action a verdict and judgment with costs.

(5.) Every such action shall be brought within three calendar months after the cause thereof.

Actions to be brought within three months.

39. (1.) IF any action against any collector or assistant is brought to trial on account of any seizure made under this Act and a verdict or judgment is found for the plaintiff, and the Judge or Court before whom the case shall have been tried shall certify that there was reasonable and probable cause of seizure, judgment shall be given for the defendant with costs.

Judge may certify probable cause of seizure.

(2.) If any action is brought to trial against any person on account of such seizure wherein a verdict or judgment is given against such defendant, and the Judge or Court before whom the case shall have been tried shall certify there was reasonable and probable cause of seizure, the plaintiff, besides the things seized or the value thereof, shall not be entitled to more than One shilling damages nor to any costs of action.

40. (1.) ANY collector may, within one calendar month after notice in writing of intention to bring an action, tender amends to the party complaining or his solicitor, and such tender shall bar any

Collector may tender amends.

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action, and may be used as a defence to such action together with other defences; and if the Court, or Judge, or Jury shall find the amends sufficient, judgment shall be given for the defendant with costs.

(2.) It shall be lawful for such defendant, where any action shall be brought at any time before issue joined, to pay money into Court as in other cases.

Drawback on beer
exported.

41. THERE shall be allowed upon the exportation of beer manufactured in the Colony, a drawback of the duty paid thereon under this Act; and such drawback shall be claimed and paid in the manner prescribed by the regulations to this Act.

Powers of inspector
as to bad beer or beer
containing other than
hops, malt, sugar,
and water, and
quantity in vessel.

42. ANY collector may take samples and measure any vessel containing beer, and may, if fully satisfied that the beer is bad or contains other ingredients than hops, malt, sugar, and water, or any other ingredients approved of by an inspector appointed under this Act, or that the vessel contains less than, in the case of a hogshead, fifty-three gallons; a barrel, thirty-five and one-half gallons; half-hogshead, twenty-six and one-half gallons; kilderkin, seventeen and one-half gallons; seize the same; and any brewer found guilty of selling or offering to sell or supplying either bad beer or beer containing other than the above-mentioned ingredients, or vessels containing less than the above-stipulated quantities, shall be liable to a fine of not exceeding Ten pounds for each offence.

Penalty.

Regulations.

43. (1.) THE Governor in Council may make regulations for all or any of the purposes of this Act, or for making allowances for drawback, or for spoiled stamps, or for beer which has been returned to the brewery in which it was brewed or which has become wasted, spoiled, or unfit for use, or for the disposal of damaged beer, or for altering the form of the Second and Third Schedules to this Act, and any such regulations may prescribe penalties not exceeding Fifty pounds for the breach thereof.

(2.) All such regulations shall be published in the *Government Gazette*, and a copy thereof shall be laid before both Houses of Parliament forthwith, if then sitting, and, if not then sitting, then within fourteen days after the commencement of the next Session; and such regulations, if not previously disallowed by resolutions of both Houses, shall have the force of law from the expiration of thirty days after such regulations have been so laid before both Houses.

In the name and on behalf of the Queen I hereby assent
to this Act.

GERARD SMITH, Governor.

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SCHEDULES.

First Schedule.

Section 3.

The duty of Excise mentioned in this Schedule shall be charged upon the articles specified therein when entered for home consumption.

Article.	Rate of Duty.
On all Beer, Ale, or Stout brewed or manufactured in Western Australia.	2d. per gallon.

Second Schedule.

Section 6.

NOTICE BY BREWERS.

To the Collector of Customs at _____, Western Australia.

Date— 189 .

Notice is hereby given that [*state the full Christian and surname of the person giving the notice, or all the names of such if a co-partnership, or the corporate name if a corporate body*] of _____ in the Colony of Western Australia, intend under the name or style of _____ to carry on or to engage in the business of brewing in the building owned by _____ situate in _____ street in _____ in the Colony aforesaid.

Name of every person carrying on the }
business, with place of residence. }

Description of all buildings on the }
brewery premises, and description of }
wall, fence, or other outside boundary }
of premises. }

Number of wort boilers and other per- }
manent vessels through which the }
wort passes, and capacity of each. }

Manner of boiling worts, whether by }
direct action of fire or by steam. }

Average number of brewings per month, }
statement of the total quantity of }
beer made and sold or removed from }
or bottled at the brewery during }
the year immediately preceding the }
date of this notice. }

[Signed]

Beer Duty Act, 1898.

Third Schedule.

I, _____ of _____
in _____ declare that the several statements set forth in the
foregoing notice are true and correct in the several particulars thereof.

Declared at _____ in the Colony of Western Australia, before me this
day of _____ 189 .

(or
a Justice of the Peace)

By Authority : A. CURTIS, Acting Government Printer, Perth.