



ST HELENA

(Chapter No. not allocated yet)

LIQUOR DUTY ORDINANCE

Non-authoritative Consolidated Text

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legallandlands.gov.sh]¹

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

LIQUOR DUTY ORDINANCE

(Ordinances 2 of 2014 and 14 of 2017)

AN ORDINANCE TO MAKE PROVISION FOR THE REGISTRATION OF DISTILLERIES, WINERIES AND BREWERIES; AND LEVYING OF DUTIES ON THE PRODUCTION OF LIQUOR; AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[1 April 2014]

Part 1

Introductory and interpretation

Citation and commencement

1. This Ordinance may be cited as the Liquor Duty Ordinance, 2014, and shall come into force on 1st of April 2014.

Interpretation

2. In this Ordinance, unless the context otherwise indicates,—

“**alcoholic product**” includes—

- (a) any spirits, liqueur and other spirit based beverages;
- (b) any wine, including fortified wine;
- (c) any beer, including lager, ale, stout and porter;
- (d) any other fermented beverage, including cider, perry and mead;

“**alcohol producing apparatus**” includes any still, and any brewing or winemaking equipment;

“**Controller**” means the Controller of Customs & Excise referred to in section 3(1);

“**excise officer**” means an officer referred to in section 3(2);

“**liqueur**” means any distilled beverage bottled with added sugar and added flavorings;

“**registered person**” means a person listed in the Register under section 4;

“**registered premises**” means the distillery, winery or brewery registered under section 4(3)(a);

“**still**” means any an apparatus used or intended for being used for distilling spirits or liqueur, and includes any device or item attached or belonging thereto whether used for distilling or not;

“**spirits**” means any distilled beverage that contains no added sugar and has at least 20 per cent alcohol by volume.

Part 2

Controller of Excise and Excise Officers

Controller and excise officers

3. (1) The Collector of Customs and Excise appointed under section 4 of the Customs Ordinance, Cap. 145, shall be the Controller of Excise.

(2) Any customs officer appointed under the Customs Ordinance, Cap. 145, shall be an excise officer for purposes of this Ordinance and may exercise the powers granted to such officer under this Ordinance.

Part 3 Registration

Register of persons producing alcoholic products

4. (1) Unless expressly otherwise provided in this Ordinance, no person shall produce with intent to sell or offer for sale any alcoholic product (or having produced it shall sell it or offer it for sale), whether such production is by way of distillation, fermentation or brewing, unless such person is registered under this Ordinance.

(2) A person who wishes to register shall submit an application to the Controller in the prescribed form and shall pay the prescribed fee.

(3) The Register of persons authorised to produce alcoholic products shall contain—

(a) details of the distillery, winery or brewery where such person produces any alcoholic product; and

(b) the date from which such registration takes effect.

(4) A registered person shall inform the Controller of any changes in information contained in the Register.

Part 4 Records, storage and returns

Requirement to keep stock books

5. (1) A registered person shall keep a stock book in the prescribed form, in which he shall enter details of all alcoholic products produced and deposited in or removed from the registered premises, which shall include—

(a) the quantity and strength of all alcoholic products produced daily;

(b) the description of the packages in which such alcoholic products have been put;

(c) the quantity by volume of alcoholic products sold with description of product, its alcoholic content by volume, date of sale and the details, including name and address of the buyer.

(d) and such other particulars as may be prescribed.

(2) If a registered person wishes to redistill, mix or blend any alcoholic product which has been entered in the stock book, such alcoholic product to be redistilled, mixed or blended shall be accounted for in the stock book as disposed of and the alcoholic product resulting from such redistillation, mixing or blending shall be entered in the stock book as alcoholic product produced.

(3) The stock book shall be kept on the registered premises and shall be produced for inspection whenever so required by the Controller or an excise officer.

Storage of alcoholic products

6. (1) A registered person shall provide sound and proper packages for the storage of all alcoholic products on the registered premises.

(2) Each package containing alcoholic products shall be so stored as to be readily examined by the Controller or an excise officer and in such manner so any leakage or damage can be readily ascertained.

Returns

7. Within seven days after the end of every month, the registered person shall submit to the Collector a return in the prescribed form setting out the quantity and strength of all alcoholic products—

- (a) produced during that month;
- (b) sold, including name and address of the buyer, during that month; and
- (c) still stored on such registered premises
- (d) an account of any differences between figures in paragraphs (a) and (b) and those in paragraph (c).

Part 5 Liquor Duty

Liquor Duty

8.² (1) There shall be levied and paid into the Consolidated Fund, a duty to be known as Liquor Duty, which will be set under regulation as determined by Governor in Council.

(2) The duty shall be paid with the return submitted under section 7 in respect of the sale of alcoholic products during the relevant month.

(3) Liquor duty payable under this Ordinance, and not paid, may be recovered by action against the person liable to pay it.

Part 6 Powers of Controller and excise officers

Inspection

9. (1) The Controller or an excise officer who has reasonable cause to suspect that any alcohol producing apparatus is kept by a person on any premises with the intention of producing an alcoholic product for sale, or which has been, or is being, used to produce an alcoholic product for sale, and such person is not registered under section 4, he may enter such premises and seize such apparatus.

(2) The Controller or an excise officer may at any reasonable time enter into any registered premises and gauge and take account of the quantity and strength of all alcoholic products stored therein and also examine and take account of any products set up for distillation, fermentation or brewing.

Discrepancy in quantity

² Section 8 amended by Ord. 14 of 2017

10. (1) If at any time the quantity of alcoholic products found at the registered premises exceeds the quantity which, according to the stock book, ought to be on such premises, the registered person shall, unless he can prove the contrary, be deemed to have produced alcoholic products without an entry made and such products so found in excess shall be forfeited.

(2) If the quantity of alcoholic products found at the registered premises is less than the quantity which, according to the stock book, should be on the premises, the registered person shall, unless he can prove the contrary, be deemed to have removed and sold, the difference from such premises.

(3) The registered person shall be liable to a penalty determined at a rate equal to twice the rate determined under section 8(1) in respect of the quantity of any excess or deficiency referred to in subsection (1) or (2).

Seized or forfeited goods

11. (1) All alcohol producing apparatus or alcoholic products seized, detained or forfeited under this Ordinance shall be taken and delivered into custody of the Controller:

Provided that in the case of alcohol producing apparatus, the seizing officer may, instead of immediately removing such apparatus, accept security from the owner or person in charge of such apparatus that it shall be considered as under seizure and shall not be used or removed until a final determination of such seizure has been made under subsection (3).

(2) The owner or person from whom any apparatus has been seized may, within 14 days after the seizure or forfeiture, give notice in writing to the Controller that he contests the seizure and claims the apparatus or products so seized.

(3) A notice of any contested seizure under subsection (2) shall be referred to the Magistrates' Court for adjudication and if the claimant—

(a) proves to the satisfaction of the Court that the apparatus or products seized are not liable to seizure or forfeiture, the Court shall order such apparatus or products to be restored;

(b) fails to prove to the satisfaction of the Court that the apparatus or products seized are not liable to seizure or forfeiture, the Court shall confirm the seizure and may order that such apparatus or products be sold.

(4) If on the expiration of the period referred to in subsection (2) no notice of contested seizure has been given, the Collector may deem the apparatus or alcoholic products to have been forfeited and may be sold.

(5) Where any goods are ordered to be forfeited under subsection (3)*(b)*, or deemed to have been forfeited under subsection (4), the Collector may dispose of them in such manner as he considers appropriate.

(6) Proceedings issued under subsection (3) shall be civil proceedings and any party to such proceedings aggrieved by a decision of the Magistrates' Court may appeal to the Supreme Court.

Part 7 Miscellaneous

Offences

- 12.³ (1)** Any person who—
- (a) produces any alcoholic beverage (or having produced it sells it or offers it for sale) in contravention of section 4(1);
 - (b) provides any false information for purposes of section 4;
 - (c) fails to keep stock books as required by section 5, makes any false entry therein or fails to provide it to the Controller when so required;
 - (d) fails to submit returns as required by section 7;
 - (da) fail to pay liquor duty as required by section 8;
 - (e) obstructs or hinders the Controller or an excise officer in exercising any power under this Ordinance,

is guilty of an offence for which the maximum penalty on conviction is a fine of £1000 or twice the value of the goods, whichever is greater, or imprisonment for a term of 12 months, or both such fine and imprisonment.

Regulations

13. (1) The Governor in Council may make Regulations generally for carrying into effect the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1), the Regulations may provide for—

- (a) circumstances where registration is not required for producing any alcoholic product;
- (b) forms to be used and fees to be paid under this Ordinance;
- (c) procedures to be adopted for or in connection with the operation of this Ordinance.

³ Section 12 amended by Ord. 14 of 2017

LIQUOR DUTY REGULATIONS – SECTIONS 8 AND 13

(Legal Notices 9 of 2014, 3 of 2015 and 10 of 2017)

Citation and commencement

1. These Regulations may be cited as the Liquor Duty Regulations, 2014, and shall come into force on 1 April 2014 and apply in respect of any alcoholic product sold on or after that date.

Liquor duty

2. Liquor duty shall be payable at the rate specified in the Schedule for each litre of alcoholic product produced on St Helena which is sold during the relevant month.

Circumstances where registration not required

3. Notwithstanding the provisions contained in section 4 of the Ordinance, a person shall not be required to register under the Ordinance if—

- (a) the total volume of alcohol produced, whether by way of distillation, fermentation or brewing, does not in total exceed 100 litres during any month;
- (b) such person does not intend selling any such alcohol produced; and
- (c) the alcohol so produced is used solely for purposes of own consumption.

Forms

4. The forms and returns required under the Ordinance shall be in the form determined by the Collector.

Fees

5. A fee of £50 shall be payable in respect of an application for registration under section 4(2) of the Ordinance.

SCHEDULE⁴**RATE OF DUTY**

Alcoholic product	Rate of Duty
Spirit based alcoholic products with an alcohol content exceeding 22%	£4.78
All other alcoholic products	£0.00

⁴ Schedule amended by L.N. 3 of 2015 and substituted by L.N. 10 of 2017