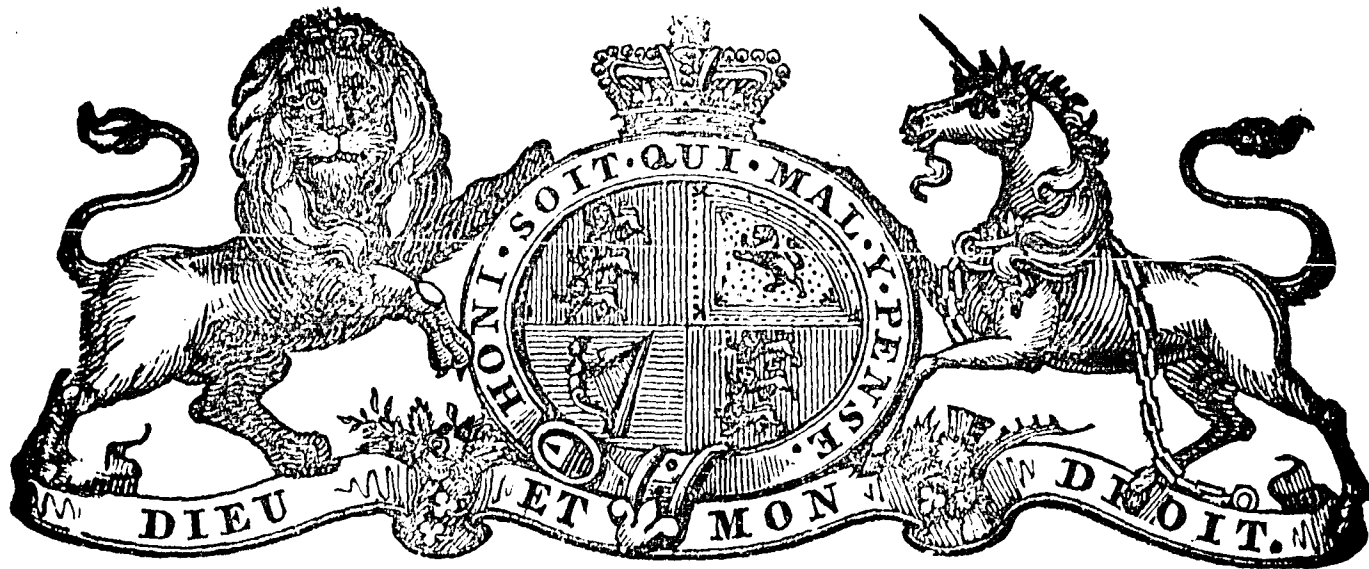


VICTORIA.



ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. DCLXIX.

An Act to impose a Duty upon Beer.

[29th October 1880.]

MOST GRACIOUS SOVEREIGN—

WHEREAS we Your Majesty's most dutiful and loyal subjects the Legislative Assembly of Victoria in Parliament assembled did in the year of our Lord One thousand eight hundred and eighty freely and voluntarily vote that a supply be granted to Your Majesty: And whereas towards raising such supply we did vote that the duty hereinafter mentioned be charged: We do therefore most humbly beseech Your Majesty that it may be enacted: And be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):— Preamble.

1. This Act may be cited as "*The Beer Duty Act 1880*," and so far as is consistent with the tenor thereof shall be construed as one with "*The Customs Act 1857*" and shall commence and come into operation on the first day of November One thousand eight hundred and eighty. Short title and construction and commencement of Act.

2. In the construction of this Act and any regulations to be made hereunder and of any Act incorporated herewith unless inconsistent with the context or subject-matter— Interpretation.

"Beer" means and includes ale porter and all other malt liquor or fermented beverage made in imitation of beer or malt liquor and brewed in whole or in part from any other substance than malt:

"Brewer"

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“Brewer” means any person who occupies carries on or conducts any brewery as hereinafter defined, and includes any agent superintendent manager foreman or other 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 such brewery as aforesaid :

“Brewery” means and includes any place or premises where any beer as hereinbefore defined is made ; and all offices granaries mash-rooms cooling-rooms vaults cellars warehouses store-rooms and other 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, and where any of the 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 :

25 Vict. No. 3.

“Collector” includes any Collector of Customs and any officer or other person appointed by the Commissioner of Trade and Customs for the purposes of this Act :

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

“This Act” includes regulations made as by this Act provided.

Grant of duty on beer.

3. Upon and after the First day of November One thousand eight hundred and eighty, there shall be charged collected and paid for the use of Her Majesty her heirs and successors upon all beer brewed or manufactured within Victoria on or after such date and sold or removed for consumption or sale an excise duty of twopence per gallon, which duty shall be paid by the brewer by whom such beer is made in the manner and at the time hereafter specified.

Administration of Act.

4. The Commissioner of Trade and Customs shall be charged with the administration of this Act, and shall have and may exercise the like powers and authorities in relation to the collection and management of the duty imposed by this Act as he now has and may exercise in relation to the collection of duties of Customs under any Acts in force for the collection and management of such duties in so far as the same are applicable to the several matters and things in this Act provided.

Brewers to send notice to collectors with certain information.

5. Every brewer at present carrying on or who shall hereafter desire 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

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a notice in writing in the form or to the effect in the First 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 Schedule.

First Schedule.

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; and every such declaration shall be in the form or to the effect in the Second Schedule.

Second Schedule.

6. Nothing contained in this Act shall be deemed to repeal alter or affect any provision contained in "*The Licensing Act 1876*" or any Act amending the same.

Nothing in this Act to affect the Act No. 566.

7. Every brewer within one month after the commencement of this Act, and in the first week of the month of January in each succeeding year, shall execute a bond to Her Majesty her heirs and successors, to be approved by the Commissioner, 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—

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

(1.) That he shall pay or cause to be paid as directed by this Act or as prescribed the duty payable on all beer made by or for him before the same is sold or removed for consumption or sale, except as hereinafter provided :

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

The Commissioner shall fix the sum for which such bond shall be given, and shall be guided therein by reference to the number of barrels of beer which such brewery produces or is capable of producing in each month.

Commissioner to fix amount of bond.

8. All such beer shall be sold or removed for consumption or sale only in hogsheads or barrels or in casks vessels or packages of such smaller sizes as may be approved by the Commissioner.

Beer to be sold in certain vessels.

Any beer contained in casks other than hogsheads or barrels or casks or vessels of sizes other than those approved by the Commissioner shall be forfeited, and may be seized by any collector or constable.

9. Every brewer shall from day to day enter or cause to be entered in books to be kept by him for that purpose the kind and estimated quantity, in barrels, of beer made by him, and the actual quantity sold or removed for consumption or sale, specifying whether in hogsheads barrels or casks or vessels or packages of smaller size.

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

10. The books required to be kept by the last preceding section shall be open at all reasonable hours in the daytime to the inspection of any collector, who may take extracts therefrom or transcripts thereof.

Books to be open for inspection.

11. The

Entries to be verified
by declaration.

11. The entries made in such books shall at the end of each month be verified by the declaration of the person by whom they were made.

Such declaration shall be written in the book 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 were made by me, and that they state truly, according to the best of my knowledge and belief, the estimated quantity of the whole amount of beer brewed, the actual quantity sold, and the actual quantity removed from the brewery occupied by
at _____ from the first day of the month of _____
to the last day of such month ; 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.”

And every brewer shall also, in case 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.”

Account to be ren-
dered to collector
of quantity brewed.

12. Every brewer 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 the estimated quantity, in barrels, of beer brewed, and the actual quantity sold or removed for consumption or sale during the preceding month.

Penalty for evasion
of duty.

13. Every brewer who evades or attempts to evade the payment of any duty or amount of duty payable under this Act, or fraudulently neglects or refuses to make true and exact entry and report of any matter or thing in the manner required by law, or to do or cause to be done any of the things by law required to be done by him as aforesaid, or who intentionally makes any false entry in the said books or either of them or in the said statement, or knowingly allows or procures the same to be done, shall forfeit for every such offence all the beer made by him or for him and then in his custody or possession, and all the vessels utensils and apparatus used in making the same, and in addition be liable to a penalty of not less than One hundred nor more than Two hundred pounds.

Penalty for not
keeping books.

14. Every brewer who neglects to keep books, or refuses to furnish the statement and duplicate thereof, as provided by this Act, or refuses to permit the collector to examine the books and take extracts therefrom or transcripts thereof in the manner herein provided, shall for

for every such refusal or neglect be liable to a penalty not exceeding Fifty pounds.

15. Suitable stamps shall be provided by the Commissioner denoting the amount of duty required to be paid on the hogsheads barrels casks vessels or packages of beer respectively liable to duty under this Act, and such stamps shall be sold only to brewers carrying on business. Stamps.

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

16. Every brewer shall obtain from a collector the proper stamps and shall do the following things:— Brewer to affix stamp upon spigot or tap-hole of cask.

(1.) Affix upon the spigot or tap-hole of every hogshead barrel cask vessel or other receptacle 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 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 liquor from such hogshead barrel cask vessel or other receptacle or upon the introduction of a faucet or other instrument for that purpose:

(2.) At the time of affixing such stamp cancel the same by writing or imprinting thereon the name of the brewer by whom such beer was made or the initial letters thereof and the date when cancelled.

17. Every brewer who refuses or neglects to affix and cancel the stamp required by this Act in the manner aforesaid or who affixes a false or fraudulent stamp to any hogshead barrel cask vessel or other receptacle containing beer or knowingly permits the same to be done shall upon conviction pay a penalty not exceeding Twenty pounds for each hogshead barrel cask vessel or other receptacle in respect of which there is any refusal or neglect or any fraud. Penalty for refusal or neglect to affix and cancel stamp.

18. Every person who shall open any hogshead barrel cask vessel or other receptacle to which any stamp is affixed shall 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 upon conviction pay a penalty not exceeding Twenty pounds for each hogshead barrel cask vessel or other receptacle in respect of which there is any such refusal or neglect. Penalty for refusal or neglect to cut stamp.

19. Whenever any retail dealer in beer knowingly and wilfully withdraws or aids in the withdrawal of any beer from any hogshead barrel cask vessel or other receptacle containing the same without destroying or defacing the stamp affixed thereon, or withdraws or aids in the withdrawal of any beer from any hogshead barrel cask vessel or Penalty for withdrawing beer without destroying stamp.
other

other receptacle upon which the proper stamp has not been affixed or on which a false or fraudulent stamp is affixed, he shall be liable to a penalty not exceeding Fifty pounds.

Commissioner to prepare permits.

20. The Commissioner shall cause permits to be prepared in such form as he may think suitable, and shall cause a sufficient supply thereof to be kept on hand by each collector.

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

21. Any brewer may upon obtaining a permit to remove or cause to be removed 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 five barrels at a time without affixing the proper stamps on the vessels containing such beer at the brewery.

Every such permit shall be granted upon application by a collector under such regulations as may be prescribed.

To be stamped when leaving depôt.

The brewer of such beer shall stamp every cask or vessel containing the same when it leaves such depôt or warehouse in the same manner and under the same penalties as he would be liable to if no such permit had been granted.

How permit to be affixed to cask.

22. A permit must be affixed to every vessel or cask removed as aforesaid, and must be cancelled or destroyed under the same penalties and liabilities as provided herein as to stamps, and in like manner and under such regulations as may be prescribed.

Penalty for certain offences.

23. Whenever any brewer carrier or other person knowingly sells removes receives or purchases or in any way aids in the sale removal receipt or purchase of any beer contained in any hogshead barrel cask vessel or other receptacle from any brewery upon which the proper stamp or permit in case of removal required by law has not been affixed or on which a false or fraudulent stamp or permit is affixed or on which a stamp or permit once cancelled is again used, he shall be liable to a penalty not exceeding Fifty pounds.

Beer removed without notice to be forfeited.

24. If any beer be knowingly delivered carried or conveyed from any brewery or place of storage contrary to this Act and any regulations prescribed in respect of the removal of beer the duty on which has not been paid, then such beer the packages containing the same and the boat cart carriage or other conveyance in which the same may be found together with all horses or other animals made use of in such removal or conveyance, and any chattels articles or things made use of for the purposes of such removal carriage or conveyance, shall be forfeited and may be seized by any collector or constable.

Forging stamps or dies a felony.

25. Every person who makes sells or uses 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 of the kind before mentioned in this Act, or who procures the same to be

be done, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding Seven years.

26. When beer has become sour or damaged so as to be incapable of use as such, brewers may sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes in casks or other vessels containing respectively not less than Twenty-five gallons each, and having the nature of their contents plainly and legibly marked upon them without affixing thereon the permit or stamps required.

Provision for disposal of damaged beer.

27. Every brewer shall by branding mark or cause to be marked upon every hogshead barrel cask vessel or other receptacle containing the beer made by him before it is sold or removed from the brewery the name of the brewer by whom such beer was brewed and the place where it was brewed.

All casks &c. to be branded with name of brewer.

Every brewer who fails to comply with the requirements of this section shall be liable to a penalty not exceeding Ten pounds for each cask or other vessel not branded by him as aforesaid.

Every person other than the owner of such cask or some person lawfully authorized by him so to do who knowingly and wilfully removes or defaces such marks therefrom shall be liable to a penalty not exceeding Ten pounds for each cask or other vessel from which the mark is so removed or defaced.

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 and the place where his brewery is situated to be filled with beer so purchased and to be so removed, but the proper stamps shall be affixed and cancelled as required by this Act by the brewer selling the same before removal.

Brewer may purchase beer from another brewer.

29. When malt liquor or tun liquor in the first stages of fermentation known as unfermented 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 transfer shall be subject to such restrictions as may be prescribed.

Certain kinds of liquor not liable to duty.

30. The absence of the proper stamps from any hogshead barrel cask vessel or other receptacle containing beer after its sale or removal from the brewery where it was made 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.

Absence of stamps notice that duty not paid.

And if any hogshead barrel cask vessel or other receptacle containing beer is found after sale or removal from the brewery where it was made not having the proper stamps thereon as required by this Act

Act, every such hogshead barrel cask vessel or other receptacle shall be liable to seizure and forfeiture as hereinafter provided; but this provision shall not apply to any hogshead barrel cask vessel or receptacle containing beer removed or sold under permit issued under this Act.

Allowance to be made for beer spoiled after sale.

31. Where in any case a collector is satisfied by oath or affidavit or otherwise that beer upon which duty has been paid has been spoiled or rendered unfit for use after its removal from the brewery in which it was made, and has been returned to such brewery, such collector may at any time within thirty days after the return of such beer allow to the brewer who has paid duty on such beer stamps equal in value to the duty which has been paid upon the beer so returned.

Persons improperly defacing stamp liable to penalty.

32. Every person who knowingly removes or defaces the stamp or permit affixed upon any hogshead barrel cask vessel or other receptacle in which any beer is contained in any manner not authorized by this Act shall be liable to a penalty not exceeding Ten pounds for each such vessel from which the stamp or permit is so removed or defaced, and to render compensation to the owner of such beer for all damages sustained by him by reason of such removal or defacement.

Persons withdrawing beer from unstamped vessels liable to penalty.

33. Every person who withdraws any beer liable to duty from any hogshead barrel cask vessel or other receptacle upon which the proper stamp has not been affixed for the purpose of bottling the same, or who carries on or attempts to carry on the business of bottling beer in any brewery or upon any premises having communication with such brewery except as may be prescribed, shall be liable to a penalty of One hundred pounds, and all chattels and utensils used in such bottling or business shall be liable to forfeiture.

Power of entry on breweries public-houses and warehouses where beer kept or sold.

34. Every brewery and every warehouse store or premises whether connected with a brewery or not where any collector shall have reason to believe any beer liable to duty under this Act is stored kept or sold, and every public-house and every store or cellar adjacent thereto, shall be open at all times to inspection by a collector, who shall have power at any time in the daytime and with or without assistants to enter into and search every such brewery warehouse store public-house cellar or other place herein mentioned, and to examine and take an account of all vessels or packages in which beer is contained or is supposed to be contained.

Penalty on person causing obstruction.

35. Every person who shall obstruct resist or molest any collector in making any search as aforesaid or prevent the same being made or the taking of any account as aforesaid shall be liable to a penalty not exceeding One hundred pounds.

Before whom declaration to be made.

36. Every declaration required to be made by or under this Act may be taken before a collector or a justice, and every person knowingly and wilfully making a false declaration shall be deemed to be guilty of perjury and on conviction shall be liable to be punished accordingly.

37. In

37. In all legal proceedings taken against any person for any breach of or non-compliance with the provisions of this Act the onus of proving that such person was exempt from the operation of any penalty imposed by this Act shall in all such cases rest upon the defendant.

Onus of proof on party charged.

38. 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 same manner in all respects as drawback is claimed and paid upon goods imported into Victoria under any law in force relating to the Customs.

Drawback on beer exported.

39. The Governor in Council may from time to time make alter and revoke regulations for all or any of the purposes of this Act, and any such regulations may prescribe penalties not exceeding Fifty pounds for the breach thereof.

Regulations.

All such regulations shall be published in the *Government Gazette*, and shall take effect from a date to be named therein, and after such date shall have the force of law as if the same had been inserted in this Act, and copies thereof shall be laid before both Houses of Parliament forthwith if sitting, and if not sitting then within fourteen days after the commencement of next Session.

40. Unless renewed or continued, this Act shall expire on the thirty-first day of December One thousand eight hundred and eighty, and all duties paid hereunder shall be forthwith returned to the persons paying the same, and all duties which may have accrued due under this Act shall not be collected. If this Act be renewed or continued but the rates of duty be reduced, any duty paid in excess of the reduced rates of duty shall be returned to the persons paying the same, and any duty which may have accrued due in excess of the reduced rates of duty shall not be collected.

Duration of Act.

Refund of duty if this Act is not continued or if rates are reduced.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

NOTICE BY BREWERS.

To the Collector of Customs at

Date—

188 .

Section 5.

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 *Victoria*, intend under the name or style of _____ to carry on or engage in the business of brewing in the building owned by _____ situate in _____ street in [_____] in *Victoria* 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 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 }
 the brewery during the year imme- }
 diately preceding the date of this }
 notice. }

(Signed)

SECOND SCHEDULE.

DECLARATION VERIFYING NOTICE.

Section 5,

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

(Signature.)

Declared before me this _____ day
 of _____

188 .

Collector

[or
 a Justice of the Peace.]

MELBOURNE:

By Authority: JOHN FERRES, Government Printer.