

Adulteration of Liquors.

Act No. 22, 1899.

ADULTERATION OF
LIQUORS.An Act to consolidate certain Acts relating to
the adulteration of Liquors. [20th November,
1899.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.—*Preliminary.*

Short title.

1. (1) This Act may be cited as the "Adulteration of Liquors Act, 1899," and is divided into Parts as follows:—

PART I.—*Preliminary.*—s. 1.

PART II.—*Adulteration of malt liquors.*—ss. 2-12.

PART III.—*Adulteration of spirituous or fermented liquors.*—
ss. 13-14.

(2) The Acts mentioned in the Schedule to this Act are hereby repealed.

(3) Nothing in this Act contained shall be construed so as to repeal or affect the operation of any of the provisions of the Public Health Act, 1896, or of the Liquor Act, 1898.

PART II.

*Adulteration of malt liquors.*Penalty on any
brewer adulterating
malt liquors.

14 Vic. No. 4, s. 1.

2. Every public brewer or maker of ale, beer, or porter for sale, who uses or causes or permits to be used in the brewing of any such ale, beer, or porter, or puts into, or mixes with, any such ale, beer, or porter, or the worts thereof respectively, any vitriol, cocculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, or any other deleterious or poisonous substance whatsoever, shall for every such offence forfeit and pay the sum of two hundred pounds. All such ale, beer, porter, or worts respectively may be seized by any inspector of distilleries, or officer of customs, and shall be forfeited.

3.

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3. Every person who, after having been once convicted under the next preceding section, offends against any of the provisions of the said section shall be guilty of a misdemeanour, and shall, on conviction thereof, be fined in any sum not exceeding five hundred pounds, and imprisoned for any period not exceeding two years, besides being liable to the other penalties imposed by this Part.

Penalty on subsequent conviction.
14 Vic. No. 4, s. 2.

4. Every brewer or retailer of ale, beer, or porter who has in his possession any vitriol, cocculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, otherwise than for some medicinal purpose, the proof of which shall lie on such brewer or retailer, shall forfeit and pay the sum of fifty pounds.

Penalty on brewers, &c., having poisonous or deleterious substances in their possession.
Ibid. s. 3.

All such vitriol, cocculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or such extract or preparation thereof respectively may be seized by any inspector of distilleries or officer of customs, and shall be forfeited.

5. Whosoever knowingly sells, disposes of, sends, or delivers to any brewer or retailer of ale, beer, or porter, any vitriol, cocculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, otherwise than for some medicinal purpose, the proof of which shall lie on the person so selling, disposing of, sending, or delivering as aforesaid, shall forfeit and pay the sum of fifty pounds.

Penalty on persons selling, &c., to brewers or retailers of ale, &c., certain poisonous or deleterious substances.
Ibid. s. 4.

6. Whosoever knowingly sells or disposes of any ale, beer, or porter in which there is any vitriol, cocculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, or any other deleterious or poisonous substance whatsoever, shall for every such offence forfeit and pay the sum of fifty pounds.

Penalty on persons selling adulterated malt liquor.
Ibid. s. 5.

7. For the purpose of enforcing the observance of this Part, any inspector of distilleries, or officer of customs may, at any hour in the daytime, inspect any part of any public brewery, and any of the utensils therein, and may, for the purpose of summarily enforcing such inspection, call, if necessary, for the aid of the police.

Inspector of distilleries or officer of customs to inspect breweries.
Ibid. s. 6.

8. (1) All fines, penalties, or forfeitures imposed or incurred under this Part may be sued for and recovered in a summary way as hereinafter mentioned.

Recovery of penalties, &c.
Ibid. s. 7.

(2) Any person may exhibit an information in writing, before any one justice of the peace, informing of any offence against the provisions of this Part, not being a misdemeanour; and on perusal of such information, if the same is a valid one, such justice is hereby required to grant a summons in writing under his hand, directing the attendance of the party informed against, at a time and place to be therein mentioned, to appear before any two or more justices of the peace, to answer the charge contained in the said information.

Information.

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Service of summons
and hearing.

(3) If such summons is served personally on the person so informed against, or is left at his last known or usual place of abode, a reasonable time, but in no case less than twenty-four hours, before the time therein mentioned for such person's appearance, then upon the appearance of the party so summoned at such time and place as aforesaid, or on proof to be then given viva voce, on the oath of the person by whom the summons was so served as aforesaid, and the production of the original summons, any two or more justices of the peace then and there being, or any two or more justices of the peace at any future time to which the matter may be adjourned by any one justice if two are not present, may proceed to hear and determine in a summary manner the matter informed of in the said information.

Distress.

(4) On conviction of the person informed against, either of the convicting justices, on non-payment of the penalty and such costs as such justices may award, may issue at any time, not more than fourteen days from the day of conviction, under his hand, a warrant of distress returnable on such day as he may think proper to insert therein, such return not being more than fourteen days from the date of such warrant, authorising any constable to proceed to levy on the goods of the person so convicted, if any such can be found, for the amount of such penalty and costs, together with the sum of five shillings for such distress, and to seize and carry the said goods forthwith to the nearest police office; and the said goods so seized shall be sold at noon on the third day after the same have been carried to the said police office, unless the full amount of penalty and costs be sooner paid; and the surplus, if any remains after the payment of such penalty and costs, shall be paid to the person so convicted, if demanded within three months, and if not so demanded shall be paid to the Colonial Treasurer for the general purposes of the Government of New South Wales, as may be appointed by any Act.

Imprisonment in
default of sufficient
distress.

(5) If sufficient goods cannot be found before the return day of the said warrant whereon to levy for the said penalty and costs, it shall be lawful, on the same being certified by writing on the back of such warrant to the convicting justices or one of them, under the hand of the person appointed to execute the same, for either of the said convicting justices forthwith by warrant under his hand, to commit the person so convicted to the common gaol nearest to the place where the conviction took place, for any period not exceeding six months, such term of imprisonment to be computed from the time of arrest:

No conviction unless
within three months
of offence.

(6) Provided that no conviction shall take place under this Part, unless within three months after the commission of the offence complained of:

Information need not
be in writing.

(7) Provided also, that all such proceedings by summons may be had and done without a formal information in writing being exhibited;

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exhibited; and such proceedings shall be as good, valid, and effectual, to all intents and purposes, as if a formal information in writing had been exhibited:

(8) Provided further that in every such summons the general nature of the complaint shall be succinctly stated. Summons to state nature of complaint.

9. (1) Any justice issuing any summons under this Part, or any one of the justices before whom the matter of any information may come on to be heard and determined, may issue a summons, under his hand, for the attendance of any person, at a time and place to be therein mentioned, to appear and give evidence at the hearing of any such matter, and to bring with him, and produce at such hearing, any necessary documents under his control, that may be specified in such summons. Power of summoning witnesses, and mode of compelling them to attend and answer. H Vic. No. 4, s. 9.

(2) Every such summons shall be served by delivering a copy thereof personally to the person so summoned, and showing the original at the time of such service, which service shall be at a reasonable time, and in no case less than twenty-four hours before the time specified therein for the attendance of such witness.

(3) If any person, having been so summoned, fails, without reasonable cause, to attend at the time and place mentioned in his summons, or, having attended there, refuses to be sworn, or to affirm, or refuses to answer any question which he may lawfully be required to answer, such person shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds.

10. Any person convicted of any offence under this Part may appeal to the next Court of General or General Quarter Sessions, to be holden in the district, or nearest to the district, in which such conviction takes place, in the manner and form prescribed by any Act now or hereafter to be in force for the regulation of appeals to such Courts. Appeal to Quarter Sessions given. Ibid. s. 10.

11. No information, conviction, or other proceedings, before or by any justice of the peace, or on appeal therefrom, for any offence under this Part, shall be quashed or set aside, or judged void or insufficient for want of form only, or be removed or removable, by certiorari, or any other writ or process whatsoever into the Supreme Court. No conviction or information to be void for want of form. Ibid. s. 11.

12. All actions for anything done under this Part shall be commenced within six months after the fact was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in such action the defendant may plead the general issue, and give this Part and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court, after such action brought, by or on behalf of the defendant, Limitation of actions. Ibid. s. 12. General issue.

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defendant, together with costs incurred up to that time; and if a verdict passes for the defendant, or the plaintiff becomes nonsuited, or discontinues such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client.

PART III.

Adulteration of spirituous and fermented liquors.

Mixing or selling, or keeping for sale, any liquor in which there is any deleterious substance whatsoever.
19 Vic. No. 19, s. 1.

13. Every dealer in spirituous or fermented liquors, licensed publican, or other person who puts into or mixes, or causes to be put into or mixed, with any spirituous or fermented liquors any poisonous, deleterious, or pernicious substance whatsoever, or sells or otherwise disposes of or keeps for sale any spirituous or fermented liquors so adulterated, shall be guilty of a misdemeanour, and on conviction thereof be fined in any sum not exceeding two hundred pounds, or be imprisoned for any period not exceeding two years, with or without hard labour.

Penalty on person knowingly having in his possession any spirituous liquor so adulterated as aforesaid.
Ibid. s. 2.

14. If any dealer in spirituous or fermented liquors, licensed publican, or any other person knowingly has in his possession any spirituous or fermented liquors so adulterated as aforesaid, or if any such dealer or publican knowingly has in his possession, otherwise than for a lawful purpose, any poisonous, deleterious, or pernicious substance, such person, upon proof thereof, shall forfeit and pay any sum not exceeding one hundred pounds, to be sued for and recovered in a summary way before any two justices of the peace in petty sessions assembled; and all fermented or spirituous liquors so adulterated as aforesaid, and all poisonous, deleterious, or pernicious substances found in the possession of any such dealer or publican shall be seized by any inspector of distilleries, officer of customs, or by any constable acting under a warrant from a justice of the peace, and shall be forfeited and destroyed.

SCHEDULE.

Reference to Acts.	Title or short title.	Extent of repeal.
14 Vic. No. 4 ...	An Act to prevent the adulteration of malt liquors.	The whole Act.
19 Vic. No. 19 ...	An Act to prevent the adulteration of spirituous and fermented liquors.	The whole Act.