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This Act has "Not in Force" sections. See the Table of Legislative Changes.

Liquor Distribution Act

[RSBC 1996] CHAPTER 268

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Definitions

1 (1) In this Act:

"acquired liquor" means liquor to which the government holds title acquired under section 6 (1) or (3);

"agency store" means a liquor store operated by an agent;

"agent" means a person appointed under section 18 (5);

"alcohol" means the product of distillation of a fermented liquid of any origin, that is rectified at least once, and includes synthetic ethyl alcohol;

"allowable shrinkage" means, in relation to acquired liquor for which a manufacturer, manufacturer's agent, distributor or authorized importer is required to account under section 4 (3), the quantity of that acquired liquor that, in the opinion of the general manager having regard to all of the applicable circumstances, could reasonably be expected to be lost by breakage, spillage or otherwise while that acquired liquor was at the risk of that manufacturer, manufacturer's agent, distributor or authorized importer;

"authorized importer" means a person, other than a manufacturer, manufacturer's agent or distributor, who

(a) brings liquor or causes liquor to be brought within the boundaries of British Columbia, and

(b) is authorized by the general manager to possess that liquor in British Columbia;

"authorized vendor" means

(a) the branch or an agent of the branch, including, without limitation,

(i) a warehouse or distribution centre owned or operated by or leased to the branch or an agent of the branch, and

(ii) a liquor store,

(b) a person whom the minister appoints as agent or contracts with to act as agent under section 18 (5),

(c) a person, other than a manufacturer, to whom a licence is issued under section 7 or 12 of the Liquor Control and Licensing Act,

(c.1) a person authorized to sell liquor by auction under section 7.2 or 7.3 of the Liquor Control and Licensing Act,

(d) a duty free liquor store, including a ship chandler, or

(e) in relation to a manufacturer, manufacturer's agent or distributor, any other person to whom the manufacturer, manufacturer's agent or distributor is, under this section or an agreement in force between that person and the branch, entitled to sell or otherwise dispose of liquor;

"branch" means the Liquor Distribution Branch continued under section 2;

"distributor" means a person, other than a manufacturer's agent, appointed by a manufacturer or by a manufacturer's agent for the purpose of doing one or more of the following:

(a) ordering liquor through the branch;

(b) storing or distributing liquor;

(c) selling liquor as the agent of the branch;

(d) conducting financial matters relating to a matter referred to in paragraph (a), (b) or (c);

"establishment" means a place or premises that may comply with the requirements of the Liquor Control and Licensing Act and regulations under it prescribing the qualifications of a place or premises for which licences may be issued;

"general manager" means the general manager of the branch appointed under section 12;

"grain alcohol" means alcohol manufactured from grain;

"independent importer" means a person who

(a) brings liquor or causes liquor to be brought within the boundaries of British Columbia, and

(b) contrary to section 4 (1), possesses that liquor in British Columbia;

"licensee" means a person licensed under the Liquor Control and Licensing Act to sell liquor;

"liquor" means

(a) fermented, spirituous and malt liquors,

(b) combinations of liquors, and

(c) drinks and drinkable liquids that are intoxicating,

and includes beer, or a substance that, by being dissolved or diluted, is capable of being made a drinkable liquid that is intoxicating and which substance is declared by order of the Lieutenant Governor in Council to be liquor;

"liquor store" means a government liquor store, government beer store or government wine store, or an agency established by the general manager under this Act;

"listing committee" means the listing committee appointed under section 15;

"manufacture" includes, in relation to liquor,

(a) the packaging or other enclosing of the liquor in containers in or out of which the liquor is intended to be distributed to consumers,

(b) the blending of the liquor,

(c) the flavouring of the liquor, and

(d) the brewing, distilling or fermenting of the liquor

but does not include, in relation to prescribed liquor, any of the processes referred to in paragraphs (a) to (d) or any other manufacturing processes;

"manufacturer" means, in relation to liquor, the person who manufactures the liquor;

"manufacturer's agent" means a person who

(a) is an agent within the meaning of the Liquor Control and Licensing Act, and

(b) holds a valid agent's licence under section 52 of that Act;

"products" means goods or articles other than liquor;

"retail price" means, in relation to liquor, the price fixed under section 18 (1) as the price at which liquor of that type is to be sold at a liquor store;

"store manager" means a person appointed under section 24 (1);

"unlicensed manufacturer" means a person who manufactures liquor that the person is not licensed to manufacture under section 12 or 57 of the Liquor Control and Licensing Act;

"warehouse" means a warehouse owned or occupied by the branch or by an agent or person acting on behalf of the branch.

(2) For the purposes of this Act, liquor that contains more than 1% alcohol by volume is conclusively deemed to be intoxicating.

Liquor Distribution Branch continued

2 (1) The Liquor Distribution Branch is continued.

(2) The branch has the sole right to purchase, both in and out of British Columbia, liquor for resale and reuse in British Columbia in accordance with the provisions of the Importation of Intoxicating Liquors Act (Canada).

Application of the Act

3 This Act does not apply to or prevent the manufacture, importation, sale, purchase or possession of any of the following:

(a) a pharmaceutical preparation referred to in section 60 (1) (a) of the Liquor Control and Licensing Act;

(b) [Repealed 2003-77-42.]

(c) wood alcohol or denatured alcohol to which the Liquor Control and Licensing Act does not apply under section 60 (1) (c) of that Act;

(d) vinegar;

(e) a medicinal preparation referred to in section 62 (1) of the Liquor Control and Licensing Act;

(f) a preparation referred to in section 62 (3) of the Liquor Control and Licensing Act;

(g) wine referred to in section 63 of the Liquor Control and Licensing Act;

(h) wine, beer or cider in an establishment licensed under section 12.1 of the Liquor Control and Licensing Act.

Government to maintain control of liquor in British Columbia

4 (1) A person must not possess liquor in British Columbia unless

(a) the person is, in respect of the liquor, the person referred to in section 55 (2) of the Liquor Control and Licensing Act,

(a.1) the person is in possession of the liquor pursuant to a licence issued under section 12.1 of the Liquor Control and Licensing Act;

(b) the liquor was manufactured in British Columbia but has not been packaged or otherwise enclosed in containers in or out of which the liquor is intended to be distributed to consumers, and the person possessing the liquor is the manufacturer of the liquor or intends to further manufacture the liquor,

(c) the liquor is acquired liquor and

(i) the person is the manufacturer of that liquor, or

(ii) the person is a manufacturer's agent or distributor and acquires and retains possession of the liquor in that capacity,

(d) the liquor is liquor referred to in section 3 (2) of the Importation of Intoxicating Liquors Act (Canada),

(e) the liquor was purchased from an authorized vendor,

(f) the liquor was sold and released to the person by a customs officer under section 19 (3),

(g) the person is, under terms and conditions specified by the general manager, authorized by the general manager to possess the liquor in British Columbia, or

(h) the liquor is, in prescribed circumstances, in the possession of a prescribed person or of a member of a prescribed class of persons.

(2) Each person who possesses in British Columbia liquor referred to in subsection (1) (d), each person who has control of liquor referred to in subsection (1) (d) while that liquor is in British Columbia, each independent importer who possesses in British Columbia liquor in relation to which the person is an independent importer and each authorized importer who possesses in British Columbia liquor in relation to which the person is an authorized importer must

(a) immediately after that liquor comes within the boundaries of British Columbia, notify the branch of the importation of that liquor, and

(b) if that person is authorized to export that liquor from British Columbia, notify the branch of the exportation of that liquor immediately after that liquor leaves British Columbia.

(3) Each manufacturer of acquired liquor, each person who is appointed as a manufacturer's agent or distributor in relation to that acquired liquor, the authorized importer of the liquor and every other person who at any time had possession or control of that acquired liquor must keep records accounting for that acquired liquor in the manner and with the content required by the general manager.

(4) The general manager may provide to an independent importer or an unlicensed manufacturer directions respecting the liquor in relation to which that person is an independent importer or unlicensed manufacturer, as the case may be, including, without limitation, directions that the

independent importer or unlicensed manufacturer destroy or otherwise dispose of that liquor, and the independent importer or unlicensed manufacturer

(a) must, promptly after receiving directions from the general manager under this subsection, comply with those directions, and

(b) must not make any use whatsoever of the liquor in relation to which that person is the independent importer or unlicensed manufacturer other than a use specifically authorized by the general manager.

(5) The directions provided to and the obligations imposed on an independent importer or unlicensed manufacturer under subsection (4) do not relieve that person from any other liability.

Agreements

5 The branch may, on behalf of the government, enter into an agreement with any person respecting any matter relating to or arising from the acquisition, possession or disposition of liquor by that person or by any other person on that person's behalf, including, without limitation, an agreement with any one or more of the following:

(a) a person who is or will be the manufacturer of the liquor;

(b) a person who is or will be appointed as manufacturer's agent or distributor in relation to the liquor;

(c) a person who does or may possess the liquor in British Columbia.

Government acquires title to liquor

6 (1) The government acquires title to any liquor coming within the boundaries of British Columbia at the earlier of

(a) the time that that liquor comes within the boundaries of British Columbia, and

(b) the time that the government acquires title to the liquor under any agreement entered into by the branch in relation to the liquor under section 5.

(2) Subsection (1) does not apply to liquor referred to in section 3 (2) of the Importation of Intoxicating Liquors Act (Canada).

(3) The government acquires title to any liquor manufactured in British Columbia if and at the time that that liquor, while in British Columbia, is packaged or otherwise enclosed in containers in or out of which the liquor is intended to be distributed to consumers.

(4) Acquisition by the government of title to liquor under this section does not prevent the manufacturer of that liquor, a manufacturer's agent or distributor in relation to that liquor or an authorized importer of that liquor from doing any one or more of the following:

(a) selling and delivering the liquor to a purchaser outside British Columbia;

(b) using the liquor in a manner provided for in any applicable agreement entered into by the branch and that person under section 5;

(c) using the liquor in the manufacture by that person of liquor to which the government will acquire title under subsection (3);

(d) delivering the liquor to or to the order of a manufacturer for the use by that manufacturer in the manufacture of liquor to which the government will acquire title under subsection (3).

(5) The government ceases to hold title to acquired liquor

(a) if the liquor is sold and shipped to a purchaser outside British Columbia, at the time that the liquor ceases to be within the boundaries of British Columbia,

(b) at the time that the liquor is sold or otherwise disposed of by the branch,

(c) at the time that the liquor is sold or otherwise disposed of by

(i) the manufacturer of the liquor who packages or otherwise encloses the liquor in containers in or out of which the liquor is intended to be distributed to consumers, or

(ii) a person who is appointed as manufacturer's agent or distributor in relation to the liquor

in accordance with the terms of an applicable agreement entered into by the branch and that person under section 5,

(d) at the time that the liquor is sold or otherwise disposed of to

(i) an authorized vendor referred to in paragraph (b) of the definition of "authorized vendor" other than a manufacturer of the liquor, or

(ii) an authorized vendor referred to in paragraphs (c) or (d) of the definition of "authorized vendor", or

(e) at the time that the liquor is used or delivered in accordance with subsection (4) (c) or (d).

Government not liable

7 (1) In this section, "government representative" means an individual appointed to a position with or otherwise employed in the government.

(2) Despite the acquisition of title to liquor by the government under section 6, until the liquor is delivered to an authorized vendor in accordance with the instructions of the branch, neither the government nor any government representative is liable for any loss, costs, damages, liability or expenses of any kind in any way relating to the liquor including, without limitation,

(a) any loss or theft of the liquor or any container in which it is or is to be placed,

(b) any damage to or destruction of the liquor or any container in which it is or is to be placed,

(c) any loss, damage, injury or death resulting from or arising out of any manufacture, consumption or other use of the liquor, and

(d) any loss, damage, injury or death resulting from or arising out of any damage to or loss, theft or destruction of the liquor or any container in which it is or is to be placed.

(3) Nothing in section 6 or this section renders the government or any government representative liable for any loss, costs, damages, liability or expenses of any kind in any way relating to liquor that the government or the government representative would not have been liable for had section 6 or this section not been brought into force.

(4) Despite the acquisition of title to liquor by the government under section 6, the government is not obligated to pay any money in respect of the liquor to any person until

(a) the date set for payment under any applicable agreement entered into by the branch and that person under section 5, or

(b) if there is no date set for payment in accordance with paragraph (a), the date set for payment in the regulations.

(5) Despite subsection (4), the government is not obligated to pay any money in respect of liquor that is treated as allowable shrinkage for the purposes of section 9 (2) (d).

Government may sell liquor

8 (1) Without limiting any other rights of the government, the government may, in respect of acquired liquor, do one or more of the following:

(a) sell a quantity of that liquor to the manufacturer of that liquor;

(b) sell a quantity of that liquor to a person appointed as manufacturer's agent in relation to that liquor;

(c) sell a quantity of that liquor to a person appointed as distributor in relation to that liquor;

(d) sell a quantity of that liquor to the person who is the authorized importer of that liquor.

(2) A manufacturer, manufacturer's agent, distributor or authorized importer to whom liquor is sold under subsection (1) must purchase the liquor in accordance with section 10.

Liquor not accounted for

9 (1) If the general manager determines, from a review of the records kept by a manufacturer, manufacturer's agent, distributor or authorized importer, that a quantity of acquired liquor is unaccounted for, the general manager may treat the quantity of the acquired liquor that is unaccounted for as having been sold to that manufacturer, manufacturer's agent, distributor or authorized importer under section 8.

(2) For the purposes of subsection (1), the quantity of acquired liquor that is unaccounted for in relation to a manufacturer, manufacturer's agent, distributor or authorized importer is that quantity of the acquired liquor for which the person is required to account under section 4 (3) less the aggregate of the following:

(a) the quantity of that liquor that is accounted for to the satisfaction of the general manager as having been delivered to an authorized vendor in accordance with the instructions of the branch;

(b) the quantity of that liquor that is accounted for to the satisfaction of the general manager as having been

(i) sold and delivered,

(ii) used, or

(iii) delivered

in accordance with section 6 (4);

(c) the quantity of that liquor that is accounted for to the satisfaction of the general manager as being in the inventory of that person;

(d) the quantity of the allowable shrinkage in respect of that liquor for that person.

(3) If the general manager decides, under subsection (1), to treat a quantity of liquor as having been sold to a manufacturer, manufacturer's agent, distributor or authorized importer under section 8, the general manager must give written notice of that decision to that person.

Purchase of liquor sold by government

10 A manufacturer, manufacturer's agent, distributor or authorized importer referred to in section 8 (2) must, promptly after the sale referred to in section 8 (1), and a manufacturer, manufacturer's agent, distributor or authorized importer referred to in section 9 (1) must, promptly after the date of the notice given under section 9 (3), pay to the branch in respect of the sale

(a) the retail price for the liquor that is the subject matter of the sale or such other price for that liquor as may be provided for in any applicable agreement entered into by the branch and that manufacturer, manufacturer's agent, distributor or authorized importer under section 5, or

(b) at the option of the branch, the difference between the amount payable for that liquor under paragraph (a) and the amount, if any, owing by the government to that manufacturer, manufacturer's agent, distributor or authorized importer.

Definitions

10.1 (1) In this section and sections 11 to 11.5:

"applicant" means a person who applies for approval under section 11.3 (1);

"approved operator" means a person approved under section 11.3 (1);

"associate", in relation to an applicant or an approved operator, means

(a) any person, or any person in one or more classes of persons that may be prescribed for this definition, that has a financial interest in the applicant's or approved operator's business or in the premises in which non duty paid packaged liquor is or is intended to be stored,

(b) if the applicant or approved operator is an individual or a partnership in which one or more of the partners is an individual,

(i) the spouse of the individual,

(ii) any relative of the individual or the spouse referred to in subparagraph (i) if the relative has the same residence as the individual,

(iii) any corporation controlled by the individual, any of the corporation's officers and directors and any person that has a financial interest in the corporation, and

(iv) any corporation that is affiliated with the corporation referred to in subparagraph (iii), the affiliated corporation's officers and directors and any person having a financial interest in the affiliated corporation, or

(c) if the applicant or approved operator is a partnership in which one or more of the partners is a corporation, or is a corporation, any other corporation that is affiliated with the applicant or approved operator, any of the affiliated corporation's officers and directors and any person that has a financial interest in the affiliated corporation;

"duty" means the duty imposed under the Excise Act, 2001 (Canada) and the duty levied under section 21.1 or 21.2 of the Customs Tariff (Canada), but does not include "special duty" as defined in section 2 of the Excise Act, 2001 (Canada);

"non duty paid" means the duty payable has not been paid;

"packaged liquor" means liquor, other than beer and malt liquor, that is packaged in a container of a capacity of not more than 100 L that is ordinarily sold to consumers without the liquor being repackaged.

(2) For the definition of "associate" in subsection (1), a corporation is affiliated with another corporation if it is an affiliate of the other corporation within the meaning of the Business Corporations Act.

Inspections

11 (1) For the purpose of ensuring compliance with this Act and the regulations, the general manager or a person authorized by the general manager may conduct an inspection, including an audit, under this section and may, for that purpose,

(a) require any person who has possession of or control over any records and things that may be relevant to the inspection to produce those records and things,

(b) inspect any of the records and things produced under paragraph (a), and

(c) remove any of the records and things produced under paragraph (a) for the purpose of making copies or extracts.

(2) A person conducting an inspection under this section

(a) may enter the business premises of a manufacturer, manufacturer's agent, distributor, authorized importer, independent importer, applicant, approved operator or a director, officer, employee or associate of an applicant or approved operator during business hours for the purposes of

(i) inspecting any records and things that may be relevant to the inspection, and

(ii) ascertaining the quantities of liquor on hand or sold by the manufacturer, manufacturer's agent, distributor, authorized importer, independent importer, applicant, approved operator or a director, officer, employee or associate of an applicant or approved operator, and

(b) must, on request, present identification to the owner or occupant of the premises.

(3) A person referred to in subsection (1) (a) must produce all records and things that a person conducting an inspection under this section may require for the purposes of this section and must

answer all questions of the person conducting the inspection regarding the matters relevant to the inspection.

(4) A person conducting an inspection under this section may request the production of all records of a manufacturer, manufacturer's agent, distributor, authorized importer, independent importer, applicant, approved operator or a director, officer, employee or associate of an applicant or approved operator that may be relevant to the inspection, including, without limitation,

(a) accounting books,

(b) cash, negotiable instruments or other receipts or evidence of payments received,

(c) bank account records,

(d) vouchers,

(e) correspondence,

(f) contracts entered into with clients,

(g) manufacturing, production, inventory, shipping and receiving records,

(h) advertising contracts and related records and material,

(i) bonding and insurance records and contracts, and

(j) any other records that touch on any of the matters referred to in sections 4 to 10 and 11.1 to 11.5.

(5) A person conducting an inspection under this section who removes any records or things

(a) may make copies of, take extracts from or otherwise record them,

(b) must give a receipt for them to the person from whom they are taken, and

(c) must return them within a reasonable time.

(6) A person must not obstruct a person conducting an inspection under this section or withhold, destroy, tamper with, conceal or refuse to produce any information, record or thing that is required by the person conducting the inspection or that is otherwise relevant to any of the matters in respect of which the inspection may be conducted.

Movement and storage of packaged liquor

11.1 (1) A person may move non duty paid packaged liquor, or cause non duty paid packaged liquor to be moved, from

(a) the location in the Province where it is packaged as packaged liquor,

(b) the location where it comes within the boundaries of the Province, or

(c) a location where it is stored

to another location only if the premises at the new location meet the requirements established by the general manager under section 11.2 and are operated by an approved operator.

(2) A person may store non duty paid packaged liquor at premises or a portion of those premises only if

(a) the portion of the premises where it is stored meets the requirements established by the general manager under section 11.2, and

(b) an approved operator operates the premises.

(3) Only an approved operator may operate premises where non duty paid packaged liquor is stored.

Requirements of the general manager

11.2 (1) The general manager may establish requirements respecting

(a) the physical structure, operation and security measures of premises that are, or are intended to be, used to store non duty paid packaged liquor,

(b) information, affidavits and documents that

(i) an applicant for approval under section 11.3, and

(ii) the approved operator of premises

must create, keep and provide to the general manager at the times required by the general manager, and

(c) bonding that must be held by a person described in paragraph (b).

(2) The requirements under subsection (1) (b) may include

(a) requirements relating to the creation, transmission and keeping of records in an intangible form by electronic, magnetic, optical or other means, and

(b) if the general manager considers it necessary in order to make a decision under sections 11.3 to 11.5, requirements relating to background information respecting

(i) the applicant or approved operator, and

(ii) employees, partners and associates of the applicant or approved operator.

Granting of approval

11.3 (1) Subject to subsection (2), the general manager may, with or without conditions, approve a person to operate premises that store non duty paid packaged liquor if

(a) the general manager has received

(i) an application from the person who operates or intends to operate the premises,

(ii) the information, affidavits and documents required by the general manager under section 11.2, and

(iii) any additional information or documents that the general manager requests for the application,

(b) the applicant has submitted to a background investigation and a written report of it is on file with the general manager, and

(c) the general manager considers it appropriate to grant approval taking into account the application and the information referred to in paragraphs (a) (ii) and (iii) and (b).

(2) The general manager may refuse to approve a person who has applied under subsection (1) if

(a) the requirements of the general manager established under section 11.2 are not met,

(b) the applicant has breached or is in breach of a provision of this Act,

(c) the applicant has made a material misrepresentation, omission or misstatement in the application for approval,

(d) the applicant has been convicted of an offence, inside or outside British Columbia, that in the opinion of the general manager calls into question the honesty or integrity of the applicant,

(e) the applicant or any person who is a director, officer, employee or associate of the applicant is considered by the general manager, on reasonable grounds, to be a detriment to the lawful operation or management of premises where non duty paid liquor is intended to be stored, or

(f) the applicant

(i) has been refused permission in another jurisdiction in Canada to operate premises in which non duty paid liquor was to be stored, or

(ii) held in another jurisdiction in Canada a similar approval or permission to operate premises where non duty paid liquor was or was to be stored, and that similar approval or permission was suspended or cancelled.

Suspension, cancellation and termination of approval

11.4 (1) For any of the reasons stated in section 11.3 (2), the general manager may issue a warning to a person who has been approved or may cancel, suspend for a period of time, impose new conditions on or vary existing conditions of an approval granted under section 11.3.

(2) For the purpose of subsection (1), section 11.3 (2) applies as if an approved operator is an applicant.

(3) The approval for an approved operator to operate premises automatically terminates if

(a) the approved operator ceases to operate the premises, or

(b) the approved operator operates the premises with a person who is not approved under section 11.3.

Powers of general manager

11.5 (1) The general manager may conduct inspections for the purposes of

(a) assessing applications for approval under section 11.3, and

(b) monitoring an approved operator's compliance with this Act.

(2) For the purposes of subsection (1), the general manager may conduct background investigations, including but not limited to criminal record checks and inquiries as to financial integrity, of the following:

(a) applicants;

(b) approved operators;

(c) directors, officers, employees or associates of applicants or approved operators.

Appointment of general manager and other employees

12 (1) The minister must appoint under the Public Service Act a general manager of the branch and must set the remuneration of the general manager.

(2) The general manager is responsible for administering this Act, including the general control, management and supervision of liquor stores, subject to the orders, directions and supervision of the minister.

(3) Store managers and other employees required for the purposes of this Act may be appointed under the Public Service Act.

Duties and powers of general manager

13 Subject to this Act and regulations the general manager has the following responsibilities:

(a) to determine the localities in which liquor stores are to be established in British Columbia and the number, kind and situation of the liquor stores in each locality;

(b) to establish all necessary warehouses for storing and bottling stocks of liquor and products for the purposes of this Act;

(c) to provide for constructing, acquiring or leasing in the name and on behalf of the government premises for warehouse and store purposes, and for obtaining furnishings, fixtures and supplies;

(d) to appoint or designate a person the general manager considers advisable as an analyst for the purposes of this Act;

(e) to perform all other acts required to properly and efficiently administer the general manager's responsibilities as defined by the minister and under this Act.

Delegation of powers, duties or functions

13.1 The general manager may authorize in writing any person referred to in section 12 (3) to carry out any of the powers, duties or functions of the general manager under this Act.

Warehouses

14 (1) The general manager, with the minister's approval must build, purchase, lease, furnish and equip warehouses required in the administration of this Act.

(2) The general manager may authorize 2 or more breweries to have a common warehouse and to make deliveries from it, subject to the orders made by the general manager.

(3) Subject to the Litter Act and the regulations under it, the general manager may

(a) make orders respecting the return and recycling of bottles obtained by the branch, and

(b) establish and operate bottle return depots or make agreements with other persons to establish and operate them.

Listing committee

15 (1) The minister or person designated in writing by the minister for the purposes of this subsection must appoint a listing committee to consist of members appointed by the minister or person designated in writing by the minister for the purposes of this subsection.

(2) The members of the listing committee are entitled to receive the remuneration set by the minister and to be reimbursed for travelling and out of pocket expenses in attending meetings of the listing committee.

(3) The listing committee must advise the general manager respecting the following:

(a) the addition of new listings to the inventory of liquor products for sale to the public;

(b) the delisting of a liquor product already listed;

(c) the size, nature, form and capacity of containers and packages used for liquor products kept for sale under this Act.

(4) The general manager has sole power and authority over matters referred to in subsection (3).

(5) [Repealed 2002-48-43.]

Repealed

16 [Repealed 2002-48-44.]

Purchase of liquor

17 (1) An order for the purchase of liquor by the government must be authorized and signed by the general manager, or an officer of the branch appointed by the general manager in writing.

(2) An order under subsection (1) is not valid unless authorized and signed.

(3) A duplicate of every order under subsection (1) must be kept on file in the office of the general manager.

(4) This section does not apply to liquor acquired by the branch under section 19.

Establishment of liquor stores and prices

18 (1) The general manager

(a) must establish and maintain, at places throughout British Columbia the general manager considers advisable, stores to be known as "government liquor stores", "government beer stores" and "government wine stores" for the sale of liquor and products in accordance with this Act and regulations, and

(b) may set the price or a range of prices at which the liquor must be sold.

(2) If a new liquor store is opened, the general manager may place an advertisement in a newspaper circulating in the area advising the public of the opening.

(3) The general manager may set a special price at which grain alcohol may be sold to any of the following:

(a) hospitals assisted by government funds, for use only in those hospitals;

(b) universities, for use for scientific purposes;

(c) a branch, ministry, department or institution of the government or Canada.

(4) A minor must not be employed in a liquor store to sell or wrap liquor.

(5) If the minister or person designated in writing by the minister for the purposes of this subsection believes the public can be better served, the minister or person designated in writing by the minister for the purposes of this subsection may appoint a person as agent, or contract with a person to act as

agent, to serve an area on the terms and conditions, including remuneration, the minister or person designated in writing by the minister for the purposes of this subsection considers appropriate.

Casual import of liquor

19 (1) In this section and section 20:

"casual importer" means an individual who brings from outside Canada into British Columbia liquor that is intended

(a) for the individual's own consumption,

(b) for consumption by another individual at the first individual's expense, or

(c) on behalf of or as the agent for a principal for consumption by the principal or by another individual at the principal's expense;

"customs officer" means an officer as defined in section 2 of the Customs Act (Canada) who is employed at a customs office in British Columbia.

(2) A casual importer must immediately, at the time of bringing liquor into British Columbia,

(a) surrender the liquor to a customs officer as agent of the branch, and

(b) provide the customs officer with all information that is required by the customs officer regarding the liquor.

(3) Liquor surrendered under subsection (2) must be sold and released to the casual importer by the customs officer as agent of the branch if

(a) the casual importer complies with subsection (2) (b) and pays the customs officer the amount set under subsection (4) (a), and

(b) no restriction under subsection (4) (b) applies.

(4) The general manager may, by order,

(a) set amounts for the purposes of subsection (3) (a), and

(b) establish restrictions on the quantity of liquor that may be sold to a casual importer on any one entry of the casual importer into British Columbia unless the sale is specifically authorized in accordance with the order.

Agreements for collection of amounts at customs

20 (1) The minister, on behalf of the government, may enter into an agreement with the government of Canada respecting the administration and enforcement of this Act by customs officers in relation to liquor referred to in section 19.

(2) An agreement under subsection (1) may do the following:

(a) authorize payment from the consolidated revenue fund of a fee to be paid to or, despite section 14 (1) of the Financial Administration Act, retained by the government of Canada for its services under the agreement;

(b) authorize the government of Canada to make refunds to casual importers of amounts considered by a customs officer to be refundable in accordance with the agreement, which refunds must then be offset by the government of Canada from amounts collected under the agreement or repaid to the government of Canada from the consolidated revenue fund;

(c) provide for the detention of liquor surrendered under section 19 (2) and its release to the branch if the requirements of section 19 (2) (b) are not met or the amount referred to in section 19 (3) is not paid.

(3) A customs officer acting under an agreement under this section is an agent of the government for the purposes of this Act.

(4) An action or proceeding must not be brought against a customs officer referred to in subsection (3) for anything done or omitted to be done in good faith by the customs officer

(a) in the performance or intended performance of any duty under this Act or an agreement under this section, or

(b) in the exercise or intended exercise of any power under this Act or an agreement under this section.

(5) Subsection (4) does not absolve the government from vicarious liability because of an act or omission for which the government would have been liable had that subsection not been in force.

Duty free liquor stores

21 (1) The general manager may establish duty free liquor stores, which may include a ship chandler, in British Columbia to sell liquor solely to persons leaving Canada.

(2) The general manager may establish prices at which liquor may be sold in those stores and make the orders as to their operation the general manager considers necessary.

Distillery store or agency

22 (1) A brewery, winery or distillery may apply to the general manager to establish a liquor store at its manufacturing premises to sell its products to the general public.

(2) For the purposes of subsection (1), the general manager may establish the store or the minister may appoint an agent at those premises under section 18 (5).

Price reductions

23 If a particular brand or size of package of liquor has been delisted or is otherwise to be removed from the market, the general manager may reduce its retail price in order to clear the inventory.

Conduct of stores

24 (1) The sale of liquor and products at a liquor store must be conducted by a person appointed under this Act, to be known as a "store manager".

(2) Under the direction of the general manager the store manager is responsible for carrying out this Act and the regulations as they relate to the conduct of the liquor store and the sale of liquor and products.

(3) A store manager or a person acting as the clerk or employee of, or in any capacity for a store manager must not sell liquor in another place or at another time or otherwise than as authorized under this Act.

(4) A store manager may accept returned liquor and refund the purchase price if satisfied that

(a) liquor has not been opened or tampered with, and is being returned for a good reason, or

(b) the liquor is defective.

Sales by store managers

25 (1) Except as provided in this Act or the Liquor Control and Licensing Act, a store manager may sell to a person not disqualified under this Act the liquor that person requests.

(2) Liquor sold under this section must not be delivered to a purchaser until

(a) the purchaser has paid for the liquor,

(b) in the case of a licensee, the licensee has established a line of credit on terms satisfactory to the general manager, and the liquor is sold on those terms, or

(c) in the case of a person operating a delivery service, the person has entered into an operating agreement with the general manager on terms that include provision for the establishment of a line of credit satisfactory to the general manager, and the liquor is sold on those terms.

Direct shipping

26 The general manager may arrange to have liquor shipped direct from a manufacturer, warehouse or liquor store to a person, licensee, liquor store or agency store, subject to the orders the general manager makes.

Sales

27 (1) A store manager may sell liquor to a licensee or agent for an establishment for resale in accordance with the Liquor Control and Licensing Act and the regulations under it.

(2) The general manager may stipulate the liquor store at which a licensee or agent must place orders and take deliveries and the dates and times the licensee or agent must take deliveries.

(3) Subject to the regulations and on special order, a person or licensee may purchase, and the general manager may process the purchase of,

(a) a liquor that is not listed on the liquor store's list of liquors for sale, or

(b) a size of package that is not available at a liquor store.

Opening of liquor stores

28 The general manager must, by order, specify for each liquor store or agency store the days and hours that store must remain open for the sale of liquor.

General manager and others prohibited from liquor interests

29 (1) A member of the listing committee, an officer or employee of the branch or the general manager must not solicit or receive, directly or indirectly, a commission, remuneration or gift from a person who has sold, is selling or is offering for sale liquor or other products or services offered for purchase or purchased by the branch.

(2) A person selling or offering for sale liquor or other products or services to, or purchasing liquor or other products or services for resale or reuse from, the general manager must not directly or indirectly offer to pay a commission, profit or remuneration or make a gift to the general manager, members of the listing committee or an officer or employee of the branch.

Annual report

30 (1) The general manager must report to the minister as to the administration or enforcement of this Act as the minister requires.

(2) The general manager must also prepare and forward annually to the minister a report for the 12 month period ending on March 31 of the year in which the report is made.

(3) The annual report must contain the following:

(a) a report of the operations of the branch for that period;

(b) a financial statement of the branch showing its assets and liabilities at the end of that period and the results of its operations for that period, prepared in accordance with generally accepted accounting principles applied on a basis satisfactory to the Comptroller General;

(c) other information requested by the minister.

(4) The minister must lay the report before the Legislative Assembly if it is then sitting, and, if it is not sitting, within 15 days after the start of the first session in the following calendar year.

Receipts and financial management

31 (1) Money received from

(a) sale of liquor, and

(b) otherwise arising out of the administration of this Act,

must at the close of each day's business be applied, first, for the administration of or for any of the purposes of this Act, and after that application, any balance remaining must be paid promptly into the consolidated revenue fund.

(2) If money received under subsection (1) is insufficient for the administration or any of the purposes of this Act, the amount of the deficiency must be advanced from the consolidated revenue fund in accordance with arrangements made by the Minister of Finance.

(3) For the purposes of subsection (2)

(a) each advance from the consolidated revenue fund must be recorded to the satisfaction of the Minister of Finance and reported to that minister, and

(b) the Comptroller General may direct the methods and procedures to be employed in administering this section.

(4) This section applies despite any other Act, including the Financial Administration Act.

Orders

32 If authorized by this Act, the minister or the general manager may make orders.

Administration of oaths

33 The general manager, a store manager and an official authorized by the general manager to issue permits and licences under this Act or the Liquor Control and Licensing Act may administer an oath and take an affidavit required under this Act.

Certified copies of documents as evidence

34 A certified copy of an order of the general manager purporting to be signed by the general manager must be received in a court in British Columbia as evidence of the original order of which it purports to be a copy.

General offence and penalty

35 A person who contravenes a provision of this Act or the regulations commits an offence, and if no other penalty is provided, is liable on conviction to the penalties provided in the Offence Act.

Access to information

36 For the purposes of section 21 (1) (b) of the Freedom of Information and Protection of Privacy Act, information in the custody or under the control of the branch, whether or not supplied to the branch, is deemed to be supplied to the branch implicitly or explicitly in confidence, if the information concerns the branch's

(a) acquisition of liquor from a manufacturer, manufacturer's agent, distributor, authorized importer of liquor or other person who supplies liquor to the branch, or

(b) sale of liquor acquired by the branch from a person referred to in paragraph (a).

Power to make regulations

37 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) respecting appeals under section 16;

(b) respecting any matter considered by the Lieutenant Governor in Council to be necessary or advisable to carry out the intent and purpose of an agreement under section 20.

No refunds — money paid in respect of liquor

38 (1) A person who, before February 9, 1995, paid money to the government under this Act in respect of liquor that was brought within the boundaries of or sent into or received in British Columbia for use, sale or other disposition by the person in or in relation to the person's commercial airline business, is not entitled, whether or not the use, sale or other disposition occurred or was intended to occur within the boundaries of British Columbia, to a refund of or any restitution for the money that was so paid.

(2) For the purpose of subsection (1), a person paid money to the government under this Act if the person paid money in respect of liquor, whether or not

(a) there was a legal liability to pay the money under this Act, or

(b) the money was paid under protest.

(3) Subsection (1) applies despite any enactment or any judgment, order, direction or declaration of a court in Canada to the contrary, and an action or other proceeding must not be brought or continued to recover any refund of or restitution for the money referred to in that subsection.

(4) Money referred to in subsection (1) is deemed to be the property of the government.

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