



Western Australia.

ANNO QUADRAGESIMO NONO

VICTORIÆ REGINÆ.

No. XVI.

AN ACT to consolidate and amend the law with respect to the manufacturing, importing, keeping, carrying, and selling of Gunpowder, and other Explosive and Dangerous Substances.

[Assented to, 24th September, 1885.]

BE it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. THIS Act may be cited as “The Explosives Act, 1885.”

Short Title.

2. THIS Act shall come into operation on the first day of January, 1886, in this Act referred to as the commencement of this Act; but any order of the Governor in Council, order, general rules, and by-laws, and any appointment to an office may be made under this Act at any time after the passing thereof, but shall not take effect until the commencement of this Act.

Commencement of Act.

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Interpretation.

3. IN this Act, unless the context otherwise requires:—

“Explosive” (1.) means gunpowder, blasting powder, petroleum, nitro-glycerine, dynamite, gun-cotton, fulminate of mercury or of other metals, colored fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(2.) Includes fog signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive, as above defined.

“Petroleum” includes all such kerosene oil, rock oil, Rangoon oil, Burmah oil, any produce of them, and any oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any other produce of them as gives off an inflammable vapour at a temperature of less than one hundred and ten degrees of Fahrenheit’s Thermometer.

“Municipality” means any Municipality constituted under the Municipal Institutions Acts, 1871 or 1876, or any Act or Acts amending the same.

“Harbor” includes any port, dock, navigable river, canal, pier, or other works in or at which vessels ship or discharge goods or passengers.

“Warehouse owner” includes all persons or bodies of persons owning or managing any warehouse, store, quay, or other premises in which goods are deposited.

“Carrier” includes all persons or bodies of persons carrying goods or passengers for hire by land or water.

“Carriage” includes any carriage, waggon, cart, truck, vehicle, or other means of conveying goods or passengers by land, in whatever manner the same may be propelled.

“Ship” includes every description of vessel used in sea navigation, whether propelled by oars or otherwise.

“Boat” means every vessel, not a ship as above defined, which is used in navigation in any inland water or any harbor, whether propelled by oars or otherwise.

“Master” includes every person (except a pilot) having command or charge of a ship, and in reference to any boat belonging to a ship means the master of the ship, and when used in reference to any other boat includes every person having command or charge of such boat.

“Local authority” means: (1.) In any municipality the council of such municipality.

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(2.) In any port or harbor, whether situate or not within the jurisdiction of any local authority hereinbefore mentioned, the harbor master or any person or persons appointed by the Governor to perform the duties of harbor master.

(3.) In any place within the Colony in which there is no local authority, as hereinbefore defined, if the same be within the district of a Resident or Police Magistrate's Court, any Resident or Police Magistrate thereof; and if the same be not within the district of a Resident or Police Magistrate's Court, then any two Justices of the Peace.

4. THE manufacture of explosives shall not nor shall any process of such manufacture be carried on, except at a factory licensed for the same under this Act. Manufacture of explosives.

Provided that nothing in this section shall apply to the making of a small quantity of explosives for the purpose of chemical experiment and not for practical use or for sale.

If any person manufactures explosives or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, he shall be deemed to manufacture such explosives at an unauthorised place.

5. WHERE explosives are manufactured at an unauthorised place: Penalty for manufacture of explosives in unauthorised places.

(1.) All or any part of the said explosives or the ingredients of the same which may be found either in or about such place or in the possession or under the control of any person convicted under this section may be forfeited; and

(2.) The person so manufacturing shall be liable to a penalty not exceeding One hundred pounds a day for every day during which he so manufactures.

6. EXPLOSIVES shall not be kept at any place except as follows, that is to say: Keeping of explosives.

(1.) Except in the factory licensed for the same, under this Act, in which it is manufactured; or

(2.) Except in premises licensed under this Act for keeping explosives.

Provided that this section shall not apply—

(1.) To a person keeping, within the limits of a municipality, gunpowder to an amount not exceeding on the same premises five pounds, or keeping, without

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the limits of a municipality, gunpowder to an amount not exceeding on the same premises thirty pounds, or to a person keeping, without the limits of a municipality, blasting powder to an amount not exceeding on the same premises one hundred pounds.

(ii.) To the keeping of any explosives by a carrier or other person for the purpose of conveyance, when the same are being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of explosives. Any explosives kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

Penalties for keeping of explosives in unauthorised places.

7. WHERE any explosives are kept in an unauthorised place:

- (1.) All or any part of the explosives found in such place may be forfeited; and
- (2.) The occupier of such place and also the owner of or other person guilty of keeping the explosives shall each be liable to a penalty not exceeding Fifty pounds.

Licenses for new Factories.

8. A NEW factory magazine or store for explosives shall not be established except on the site and in the manner specified in a license for the same granted under this Act.

Grant of licenses.

9. LICENSES for the manufacture or keeping of explosives may be granted by any local authority to any person authorising the manufacture or keeping by him of the explosives mentioned in such licenses on premises within the district of such authority; such licenses may be granted subject to all such conditions as to their duration or renewal, the nature and condition of the said premises, the mode of manufacture, the mode of storage, and as to the manufacture or keeping of such explosives or any of them as may seem fit to the local authority for diminishing the risk or danger that may arise from explosions, fires, or accidents, or from any other cause whatever.

In case of refusal of license the applicant may memorialise the Governor in Council.

10. IF on any application for a license under this Act the local authority refuses the license, or grants the same only on conditions with which the applicant is dissatisfied, the local authority shall, if required by the applicant, certify in writing, under the hand or hands of one or more of the persons constituting the local authority, the grounds on which it refused the license or annexed conditions to the grant thereof, and shall deliver the certificate to the applicant, who may thereupon, within fifteen days from the time of the delivery thereof, transmit the same to the Governor in Executive Council, together with a memorial praying that notwithstanding such refusal the license may be granted, or that such conditions may not be

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imposed, or may be altered or modified in such manner and to such extent as may be set forth in such memorial; and it shall be lawful for the Governor in Executive Council, if he think fit, on consideration of such memorial and certificate, and if he think it necessary or desirable after due inquiry from and a report by such person as he may appoint for that purpose, to grant the license prayed for, either absolutely or with such conditions as he thinks fit, or to alter or modify the conditions imposed by the local authority; and the license so granted or altered and modified, as the case may be, when certified under the hand of the said Governor, shall be to all intents as valid as if granted by the local authority.

11. EVERY person licensed as aforesaid who shall wilfully or negligently fail to comply with or do anything contrary to the conditions of his license shall be guilty of an offence under this Act, and shall upon conviction thereof before any two or more Justices of the Peace be liable to pay a penalty not exceeding Twenty pounds; and the said justices may also in their discretion declare such license to be void, and such license shall thereupon become void and of no effect.

Penalties for breach of conditions of license.

12. THE master of every ship arriving in any of the harbors of the Colony having explosives on board of such ship as cargo shall immediately make a distinct and separate report of the same, specifying the nature and quantity of such explosives and the mode in which they are stored or packed, to the collector or other principal officer of customs of such harbor.

Master of ship carrying explosives to report to Customs Officer.

The said ship shall conform to all such regulations, as to the place at which she is to be moored, as may from time to time be made by the Governor in Council, by notice published in the *Government Gazette*. If the master of any such ship shall omit to make such a report as aforesaid, he shall be liable, on conviction thereof before any two or more justices, to a penalty not exceeding Twenty pounds, or if he shall cause his vessel to be moored at any place contrary to any of the said regulations, he shall be liable, on conviction thereof as aforesaid, to a penalty not exceeding Twenty pounds for each day during which the said ship shall remain moored as aforesaid, and it shall be lawful for the harbor master or any other person acting under his orders to cause such ship to be removed at the expense of the owner or master thereof to such place as may be in conformity with the said regulations, and all expenses incurred in such removal may be recovered in a summary way.

13. THE Governor in Council may from time to time, by notice published in the *Government Gazette*, direct and order the hours and the places at which and the mode in which and the

Governor in Council may make regulations as to the mode and times of landing explosives.

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conditions under which explosives shall be landed from or shipped upon any ship, within any of the harbors of the Colony, and the warehouse store or magazine in which they shall be deposited and kept in the first instance after they shall have been landed, and the precautions which shall be taken in and about the landing, deposit, keeping, and shipping of the same; and every master of a ship, importer, consignee, or owner of any explosives landed, deposited, kept, or shipped as aforesaid, who shall disobey or contravene any directions or orders as aforesaid shall be liable, on conviction thereof before any two or more Justices of the Peace, to a penalty not exceeding One hundred pounds.

Explosive goods to be marked and notice of character of such goods to be given to carrier.

14. NO person shall deliver any explosives to any warehouse-owner or carrier, or send or carry or cause to be sent or carried any such goods upon a railway or in any ship to or from any port of Western Australia, or deposit any such goods in or upon any warehouse or quay, unless the true name or description of such goods, with the addition of the words "dangerous explosives," and in the case of goods declared to be specially dangerous, as hereinafter mentioned, unless the words "specially dangerous explosives" are distinctly written, printed, or marked on the outside of the package containing such explosives; nor, in the case of delivery to or deposit with any warehouse-owner or carrier, without also giving notice in writing to him of the name or description of such goods and of their being dangerous, or specially dangerous as the case may be. And any person who commits a breach of this enactment shall be liable to a penalty not exceeding Five hundred pounds, or at the discretion of the Court to imprisonment with or without hard labor for any term not exceeding two years. Provided always as follows:

- (1.) Any person convicted of a breach of the last foregoing enactment shall not be liable to imprisonment or to a penalty of more than Two hundred pounds if he shows to the satisfaction of the Court and jury before whom he is convicted that he did not know the nature of the goods to which the indictment or information relates.
- (2.) Any person accused of having committed a breach of the said enactment shall not be liable to be convicted thereof if he shows to the satisfaction of the Court and jury before whom he is tried that he did not know the nature of the goods to which the indictment or information relates, and that he could not with reasonable diligence have obtained such knowledge.

Forfeiture of explosives.

15. WHERE goods are delivered, sent, carried, or deposited in contravention of the last preceding enactment, the same shall be forfeited, and shall be disposed of in such manner as the Governor

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shall direct, whether any person is liable to be convicted of a breach of the said enactment or not.

16. NO warehouse-owner or carrier shall be bound to receive or carry any explosives which are specially dangerous.

Warehouse-owners not bound to receive specially dangerous goods.

17. NOT more than four hundred weight of gunpowder shall be conveyed at any one time in any cart or other carriage, except in a properly constructed railway powder van, and any person who shall convey any greater quantity of gunpowder in any cart or other carriage, except as aforesaid, shall forfeit and pay for any such offence a sum not exceeding Ten pounds.

No more than four cwt. to be carried at one time.

18. ALL boats or carriages used for the conveyance of any explosives shall be provided with safe and proper coverings for the same, and every person who shall wilfully or negligently carry any explosives in any boat or carriage, not being provided with such coverings as aforesaid, shall forfeit for every such offence a sum not exceeding Ten pounds.

Explosives in boats or carriages to be safely covered.

19. IT shall be lawful for the Governor of the said Colony, with the advice of the Executive Council thereof, by proclamation, to appoint and fix, and from time to time to vary the rate of storage rent (not exceeding, nevertheless, the rate contained in the First Schedule to this Act annexed) which shall be paid for any gunpowder deposited in any Government magazine, and such rent shall accordingly be paid by the importer or proprietor of such gunpowder.

Storage rent in Government Magazines.

20. ALL storage rent paid under the provisions hereinbefore contained shall be appropriated to the use of Her Majesty, her heirs and successors, for the public uses of the said Colony and the support of the Government thereof.

Storage rent to belong to public revenue.

21. NO colonial or coasting ship shall clear out or proceed to sea, if there shall be on board thereof as cargo any gunpowder or other explosives; unless such gunpowder shall be packed in small casks, cases, or boxes, tightly covered over with canvas and placed in an outer cask, box, or case, or such other explosives shall be safely secured, packed, and stored; and the master or owner of any such ship who shall allow the same to clear out or proceed to sea, contrary to this provision, shall forfeit and pay for every such offence the sum of Twenty pounds.

Carriage of explosives in coasting vessels regulated.

22. ALL mineral oils imported into the Colony shall be examined before being landed, or immediately after being landed, and before being delivered to the owners or consignees thereof, or to their agents.

Mineral oils imported to be examined before being landed.

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23. THE Governor may from time to time appoint inspectors for the purpose of carrying out the provisions of the Act as to the examination and testing of mineral oils.

Appointment of mineral oil inspectors.

24. SUCH inspectors shall examine and test in manner hereinafter provided all mineral oils imported as aforesaid, and they shall have the power of entering, inspecting, and examining at any time any ship arriving within the Colony for the purpose of ascertaining whether any mineral oils are in or about such ship, and of examining and testing the same; and if any master or other person shall wilfully refuse to admit on to such ship, or shall wilfully obstruct in the performance of his duty, any such inspector, such master or other person shall be guilty of an offence, and shall be liable to a penalty not exceeding Ten pounds.

Duties of mineral oil inspectors.

25. IF any mineral oils imported into the Colony shall be found, upon being examined and tested as aforesaid, to be in such a condition as to give off an inflammable vapour at a temperature of less than one hundred and ten degrees of Fahrenheit's Thermometer, such oils shall be seized by the inspector, who shall take a sample thereof; and upon complaint being made in a summary manner before two or more Justices of the Peace, and upon proof to the satisfaction of the said Justices being given that the oils are in such a condition as aforesaid, such oils shall be liable, if landed, to be forfeited and destroyed. Provided that if the master of the ship upon which such oils were imported, or the owner, consignee, or agent of the owner or consignee of such oils shall claim to have a further test of such oils made, or shall desire to produce further evidence as to the condition of the same, the said Justices shall allow such further test to be made, and shall hear such evidence upon such terms as to adjournment of the case, costs, and otherwise, as to the said Justices shall seem fit.

Explosive mineral oils liable to be forfeited and destroyed.

26. EVERY inspector who shall examine and test any mineral oils as aforesaid shall forthwith report in writing the result of such examination and test to the Collector or other principal officer of Customs of the port or place where such oils shall have been examined and tested, and the Collector, or other officer as aforesaid, shall as soon as possible transmit such report to the Colonial Secretary.

Mineral oil inspectors to report result of examination of oils.

27. THE temperature at which petroleum gives off an inflammable vapour shall for the purposes of this Act be tested in manner set forth in the Second Schedule hereto.

Mode of testing petroleum.

28. ANY Justice of the Peace of the Colony or of any district or place in which any explosives are suspected to be kept contrary

Search for explosives kept contrary to this Act.

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to the provisions of this Act, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching for any explosives in any house, storehouse, warehouse, magazine, shop, cellar, yard, wharf, or other place, or any ship, boat, or vessel in which the same is suspected to be kept or carried contrary to the provision of this Act; and every person acting in the execution of every such warrant shall seize all such explosives and also barrels and other receptacles in which the same shall be kept contrary to the provisions of this Act, and shall convey everything so seized with all convenient speed after the seizure to some proper place and there detain the same, and the barrels and other receptacles in which the same shall be, till it shall be adjudged on a hearing before two or more justices whether the same shall be forfeited, and any two such justices are hereby empowered to hear and determine whether the same shall or shall not be forfeited; and such searcher or seizer shall not be liable to any suit for such detainer or for any loss of or damage which may happen to any thing seized other than by his wilful act or neglect. Provided that where anything is seized under this provision proceedings for the forfeiture thereof shall be commenced within twenty-eight days after the seizure.

29. NOTHING in this Act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance, and all powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local authority by an Act of the Legislative Council, and any local authority may exercise such other powers in the same manner as if this Act had not been passed.

Reservation of previous liabilities.

30. NOTWITHSTANDING anything in this Act, the Governor in Council from time to time, by order published in the *Government Gazette*, may prohibit either absolutely or except in pursuance of a license of the Governor as aforesaid, or may subject to conditions or restrictions the manufacture, keeping, importation from any place out of the Colony, conveyance, and sale, or any of them, of any explosive which is of so dangerous a character that in the judgment of the Governor as aforesaid it is expedient for the public safety to make such order.

Power to Governor in Council to prohibit manufacture, importing or keeping of specially dangerous explosives.

Any explosive manufactured or kept in contravention of any such order shall be deemed to be manufactured or kept, as the case may be, in an unauthorised place.

Any explosive conveyed in contravention of any such order shall be deemed to be conveyed in contravention of this Act.

If any explosive is imported, conveyed, or sold in contravention of any such order—

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- (1.) All or any part of such explosive may be forfeited; and
- (2.) The owner or master of the ship in which it was imported shall be liable to a penalty not exceeding Ten shillings for every pound of such explosive brought in the ship; and
- (3.) The person to whom it was delivered, and the person conveying or selling the same shall be liable to a penalty not exceeding Ten shillings for every pound of such explosive delivered, conveyed, or sold, or found in his possession.

The Collectors of Customs and their officers shall have the same power with respect to any such explosive, and the ship containing the same, as they have for the time being with respect to any article prohibited to be imported by the law relating to the Customs, and the ship containing the same, and the enactments for the time being in force relating to the Customs and any such article or ship shall apply accordingly.

Search for explosive when in place in contravention of this Act, or offence being committed with respect to it.

31. WHERE it appears to an Inspector, Sub-Inspector, or Sergeant or other officer of police of equal or superior rank, that the case is one of emergency and that the delay in obtaining a warrant would be likely to endanger life, and such officer has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat, or ship), or that any explosive is in any such place in contravention of this Act, or that the provisions of this Act are not duly observed in any such place, such officer may enter at any time, and if needs be by force, and as well on Sunday as on other days, the said place, and every part thereof, and examine the same, and search for explosives therein, and take samples of any explosive and ingredient of an explosive therein, and any substance reasonably supposed to be an explosive, or such ingredient which may be found therein.

Any person who, by himself or by others, fails to admit into any place occupied by or under the control of such person any officer demanding to enter in pursuance of this section, or in any way obstructs such officer in the execution of his duty under this section, shall be liable to a penalty not exceeding Fifty pounds, and shall also be liable to forfeit all explosives, and ingredients thereof, which are at the time of the offence in his possession or under his control at the said place.

Where an officer enters and searches as above provided, a special report in writing of every act done by such officer, and of the grounds on which it is done, shall be forthwith sent by the person by whom or under whose authority it was done to the Colonial Secretary.

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32. WHERE any such officer has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act, he may seize and detain the same until some court of summary jurisdiction has determined whether the same is or is not so liable to be forfeited, and with respect thereto the following provisions shall have effect:

Seizure and detention of explosives liable to forfeiture.

- (1.) The officer seizing may either require the occupier of the place in which it was seized (whether a building or not, or carriage, boat, or ship) to detain the same in such place or in any place under the control of such occupier, or may remove it in such manner and to such place as will in his opinion least endanger the public safety, and there detain it, and may, where the matter appears to him to be urgent and fraught with serious public danger, cause the same to be destroyed or otherwise rendered harmless; but before destroying or rendering harmless the same he shall take and keep a sample thereof, and shall, if required, give a portion of the sample to the person owning the explosive, or having the same under his control at the time of the seizure; and any such occupier who, by himself or by others, fails to keep the same when he is required in pursuance of this section to detain it, and any such occupier or other person who, except with the authority of the officer seizing the same, or in case of emergency for the purpose of preventing explosion or fire, removes, alters, or in any way tampers or deals with the same while so detained, shall be liable to a penalty not exceeding Fifty pounds, and shall also be liable to forfeit all explosives and ingredients thereof which are at the time of the offence in his possession or under his control at the said place:
- (2.) The proceedings before a court of summary jurisdiction for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure; and
- (3.) The receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof; and
- (4.) The officer seizing the same may use for the purposes of the removal and detention thereof any ship, boat, or carriage in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements belonging to or drawing or provided for drawing such ship, boat, or carriage, and shall pay to the owner a reasonable compensation for such use, to be determined,

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in case of dispute, by a court of summary jurisdiction, and to be recovered in like manner as penalties under this Act; and

- (5.) The same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accident; but the person seizing, removing, detaining, keeping, or conveying the same shall not be liable to any penalty, punishment, or forfeiture under this or any other Act, or to any damages, for keeping or conveying the same, so that he use all such due precautions as aforesaid; and
- (6.) The officer seizing the same, or dealing with the same in pursuance of this section, shall not be liable to damages or otherwise in respect of such seizure or dealing, or any act incidental to or consequential thereon, unless it is proved that he made such seizure without reasonable cause, or that he caused damage to the article seized by some wilful neglect or default.

Inspection of wharf, carriage, boat, &c., with explosives in transitu.

33. ANY inspector or other officer of police as aforesaid may, for the purpose of ascertaining whether the provisions of this Act with respect to the conveyance, loading, unloading, and importation of an explosive are complied with, enter, inspect, and examine at any time, and as well on Sundays as on other days, the wharf, carriage, ship, or boat of any carrier or other person who conveys goods for hire, or of the occupier of any factory, magazine, or store, or of the importer of any explosive, on or in which wharf, carriage, ship, or boat he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance, but so as not to unnecessarily obstruct the work or business of any such carrier, person, occupier, or importer.

Any such officer, if he find any offence being committed under this Act in any such wharf, carriage, ship, or boat, or on any public wharf, may seize and detain or remove the said carriage, ship, or boat, or the explosive, in such manner and with such precautions as appear to him to be necessary to remove any danger to the public, and may seize and detain the said explosive, as if it were liable to forfeiture.

Any officer above mentioned in this section, and any officer of police, or officer of the local authority who has reasonable cause to suppose that any offence against this Act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading, or unloading any explosive, and that the case is one of emergency, and that the delay in obtaining a warrant will be likely to endanger life, may stop, and enter, inspect, and examine, such carriage or boat, and by detention or removal thereof or otherwise take such

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precautions as may be reasonably necessary for removing such danger, in like manner as if such explosive were liable to forfeiture.

Every officer shall for the purpose of this section have the same powers and be in the same position as if he were authorised by a search warrant granted under this Act, and any person failing to admit, or obstructing such officer shall be liable to the same penalty.

34. WHEN any officer in pursuance of this Act takes samples of any explosive, or ingredient, or substance, he shall pay for or tender payment for the same to such amount as he considers to be the market value thereof, and the occupier of the place in which, or the owner of the bulk from which, the sample was taken, may recover any excess of the real value over the amount so paid or tendered, and any amount so tendered, from the officer taking the sample as a debt in the small debts court of the district within which the sample was taken.

Payment for samples of explosives.

35. ANY person who is found committing any act for which he is liable to a penalty under this Act, and which tends to cause explosion or fire in or about any factory, magazine, store, railway, canal, harbor, or wharf, or any carriage, ship, or boat, may be apprehended without a warrant by a constable or an officer of the local authority, or by the occupier of or the agent or servant of or other person authorised by the occupier of such factory, magazine, store, or wharf, or by any agent or servant of or other person authorised by the railway or canal company or harbor authority, and be removed from the place at which he is arrested, and conveyed as soon as conveniently may be before a court of summary jurisdiction.

Arrest without warrant of persons committing dangerous offences.

36. WHERE any person is guilty of any offence which under this Act is punishable by a pecuniary penalty only, and which, in the opinion of the court that tries the case, was reasonably calculated to endanger the safety of or to cause serious personal injury to any of the public or the persons employed in or about any factory, magazine, store, or registered premises, or any harbor, railway, canal, wharf, ship, boat, carriage, or place where such offence is committed, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labor, for a period not exceeding six months.

Imprisonment for wilful act or neglect endangering life or limb.

37. THE penalties enjoined by the fourteenth section of this Act shall be recoverable only upon indictment or information in the

Penalties how recoverable.

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Supreme Court, or in the Courts of General Quarter Sessions established under the provisions of the 9th Victoria, No. 4, or of the Acts amending the same and not in a summary way, and all other penalties shall be recoverable, and all other offences shall be heard and determined in a summary way before any two or more Justices of the Peace, according to the provisions of the Act relating to the performance of the duties of Justices of the Peace out of sessions with respect to summary orders and convictions, and one moiety of the penalty shall belong to Her Majesty, her heirs and successors, and be paid to the Colonial Treasurer for the public use of the said Colony and in support of the Government thereof, and the other moiety to the informer, except where the informer is a member of the police force, in which case the whole of the penalty shall be paid to the Colonial Treasurer as aforesaid.

Incorporation of sections of Shortening Ordinance, 1853.

38. SECTIONS C, F, G, H, and I of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Nitro-Glycerine to be deemed specially dangerous.

Other goods may be declared specially dangerous by Order in Council.

39. THE goods or article commonly known as nitro-glycerine or glonoine oil shall be deemed to be specially dangerous within the meaning of this Act. The Governor may from time to time by Order in Council, which shall be published in the *Government Gazette*, declare that any goods named in such order other than nitro-glycerine or glonoine oil are to be deemed specially dangerous within the meaning of this Act, and may from time to time amend or repeal any such order; And any goods which are by any such order declared to be specially dangerous shall, so long as such order is in force, be deemed to be specially dangerous within the meaning of this Act.

Government Gazette to be evidence.

40. A COPY of the *Government Gazette* purporting to be printed by the Government Printer containing any proclamation, notice, order, or regulations under this Act, shall be received in all courts of justice and elsewhere as sufficient evidence in all respects of the same.

Repeal of Acts.

41. FROM and after the commencement of this Act, the Acts mentioned in the Third Schedule hereto are repealed; provided always, that this repeal shall not affect any contract made or right accrued or liability incurred under the said repealed Acts or any of them, and all proceedings in respect of any such contract, right, or liability may be commenced and continued as if this Act had not passed.

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42. NO conviction, payment of penalty, endurance of punishment, or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by the acts or defaults of any other person in dealing with any explosives, and nothing in this Act shall interfere with the provisions of the Acts of the Imperial Parliament relating to malicious injuries to property, and the other Acts adopted by "The Criminal Law Consolidation Ordinance, 1865," nor with the liabilities attached to the commission of any crimes or offences at common law, or under any Act of Parliament or of Council.

Saving of other remedies and proceedings.

43. THE provisions of this Act shall not extend to any of Her Majesty's ships of war, nor to the keeping of explosives at any storehouse or magazine belonging to Her Majesty, nor to the carriage, keeping, or use of explosives under the control or management of any officer of Her Majesty's Army, Navy, Ordnance, or of the Government of the Colony.

Saving of the rights of Her Majesty.

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

F. NAPIER BROOME, Governor.

SCHEDULES.

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The Explosives Act, 1885.

SCHEDULES REFERRED TO.

No. 1.

Rates of Storage.

	<i>s.</i>	<i>d.</i>
For each and every barrel or package containing fifty pounds and not exceeding one hundred pounds of Gunpowder, for any period not exceeding six weeks	1	0
Ditto, above six weeks, per week	0	2
For each and every barrel or package containing less than fifty pounds, for any period not exceeding six weeks	0	6
Ditto, above six weeks, per week	0	2

No. 2.

Directions for applying the Flashing Test to Samples of Petroleum Oil.

THE vessel which is to hold the oil shall be of thin sheet iron; it shall be two inches deep and two inches wide at the opening, tapering slightly towards the bottom. It shall have a flat rim with a raised edge one quarter of an inch high round the top. It shall be supported by this rim in a tin vessel four inches and a-half deep and four and a-half inches in diameter. It shall also have a thin wire stretched across the opening, which wire shall be so fixed to the edge of the vessel that it shall be a quarter of an inch above the surface of the flat rim. The thermometer to be used shall have a round bulb about half-an-inch in diameter, and is to be graduated upon the scale of Fahrenheit, every ten degrees occupying not less than half-an-inch upon the scale.

The inner vessel shall be filled with the petroleum to be tested, but care must be taken that the liquid does not cover the flat rim. The outer vessel shall be filled with cold or nearly cold water. A small flame shall be applied to the bottom of the outer vessel, and the thermometer shall be inserted into the oil so that the bulb shall be immersed about one and a-half inch beneath the surface. A screen of pasteboard or wood shall be placed round the apparatus, and shall be of such dimensions as to surround it about two thirds, and to reach several inches above the level of the vessels.

When heat has been applied to the water until the thermometer has risen to about ninety degrees Fahrenheit, a very small flame shall be quickly passed across the surface of the oil, on a level with the wire. If no pale blue flicker or flash is produced, the application of the flame is to be repeated for every rise of two or three degrees in the thermometer. When the flashing point has been noted the test shall be repeated with a fresh sample of the oil, using cold or nearly cold water as before, withdrawing the source of heat from the outer vessel when the temperature approaches that noted in the first experiment, and applying the flame test to every rise of two degrees in the thermometer.

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No. 3

Act No. 9 of 1850 (14 Victoria No. 9); An Ordinance to regulate the keeping and carriage of Gunpowder.

Act No. 3 of 1854 (17 Victoria No. 3), An Ordinance for further regulating the storage of Gunpowder.

Act No. 10 of 1861 (25 Victoria No. 10), An Ordinance to amend an Ordinance intituled An Ordinance to regulate the keeping and carriage of Gunpowder.

Act No. 5 of 1871 (35 Victoria No. 5), An Act for the carriage and safe keeping of explosive and dangerous goods.