

The Explosives Act, 1895.

(59 Vic., No. 38.)

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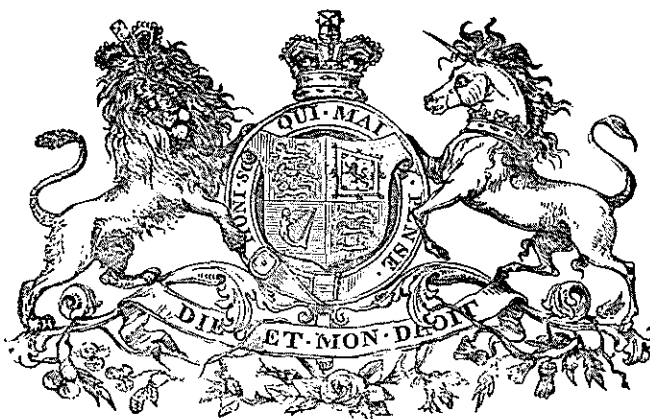
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SCHEDULE.



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

No. XXXVIII.

AN ACT to regulate the Importation, Carriage,
Storage, Manufacture, and Sale of Explosives.

[Assented to, 12th October, 1895.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as “The Explosives Act, 1895.”

Short title.

2. THIS Act shall come into operation on the first day of January, 1896, in this Act referred to as the commencement of this Act; but any Order of the Governor in Council, regulations, 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 till after the commencement of this Act.

Commencement of Act.

3. FROM the commencement of this Act “The Explosives Act, 1885,” is repealed: Provided that this repeal shall not affect any contract made, or right accrued, or civil or criminal liability incurred

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under the said repealed Acts, or any of them; and all proceedings in respect of any such contract, right, or liability may be commenced and continued as if this Act had not been passed.

Substances to which this Act applies. **4.** THIS Act shall apply to gunpowder and other explosives, as defined by this Section.

The term "explosive" in this Act—

Explosives Act,
1875 (Imperial) s. 3.

- (1.) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury, or other metals, coloured 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, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all kinds, and every adaptation or preparation of an explosive, as above defined.

Incorporation and
extension of 57 & 58
Viet., c. 60, ss.
446-450.

See Imperial Explo-
sives Act, 1875, s. 42.

5. SECTIONS four hundred and forty-six to four hundred and fifty, inclusive, of "The Imperial Merchant Shipping Act, 1894," shall be incorporated with this Act, and shall apply to every explosive within the meaning of this Act in like manner as they apply to gunpowder.

General definitions.

6. IN this Act, unless the context otherwise requires,—

The expression "this Act" includes any license, certificate, by-law, regulation, and order granted or made in pursuance of this Act.

The word "boat" means any vessel not a ship as in this section defined, which is used in navigation in any inland water or any harbour, whether propelled by oars or otherwise.

The expression "canal company" means any person or persons working, charging tolls for, or carrying on any canal or inland water.

The word "canal" includes every canal and inland water under the control of any canal company, and also every wharf, pier, jetty, or landing place where passengers or goods are shipped or unshipped by such company, and any area of land or water under the company's control.

The word "carriage" includes any vehicle used for conveying passengers or goods by land, and however drawn or propelled.

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The word "carrier" includes every person carrying passengers or goods for hire by land or water.

The expression "danger building" means every building in which any process of the manufacture of any explosive, or in which an explosive or any ingredients thereof, either mixed or partially mixed, are kept, or in the course of manufacture are likely to be.

The expression "factory magazine" means a building used for keeping the finished explosive made in the factory, and includes, if such explosive is not gunpowder, any building for keeping the partly manufactured explosive or the ingredients of the explosive which is mentioned in that behalf in the license.

The expression "Government Railway authority" means the person for the time being having control of the traffic on a railway belonging to the Government. The expression "railway authority" means any person or corporation having general control of any railway not belonging to the Government.

The word "manufacture" shall include any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, or the process of remaking, altering, or repairing any explosive, and every person so doing shall be deemed a manufacturer.

The word "Inspector" means the Inspector of Explosives to be appointed under this Act.

The word "magazine" includes any ship or other vessel used for keeping any explosive.

The word "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, means the person having command or charge of such boat.

The word "Minister" means the responsible Minister of the Crown for the time being administering this Act.

The word "occupier" includes any number of persons, and a corporation, and the licensee or person in charge of any factory, magazine, or store, and, in the case of any manufacture or trade, includes any person carrying on the same.

The word "person" includes a corporation.

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The word “prescribed” means prescribed by regulations or by order of the Governor-in-Council.

The word “regulations” means regulations made in pursuance of this Act.

The expression “safety cartridges” means cartridges for small arms, of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges.

The word “ship” includes every kind of vessel used in sea navigation, whether propelled by oars or otherwise.

The word “store” means a place where explosives are kept for sale.

The expression “tidal water” means any part of the sea or of a river within ebb and flow of the tide at ordinary spring tides.

The word “warehouseman” includes all persons occupying or managing any warehouse, store, wharf, or other place in which goods are deposited.

PART I.—LAW RELATING TO GUNPOWDER.

General Law as to Manufacture and Keeping of Gunpowder.

Gunpowder to be
manufactured only
at certain authorised
places.
Ibid. s. 4.

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

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

If any person manufactures gunpowder, 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 gunpowder at an unauthorised place.

Where gunpowder is manufactured at an unauthorised place—

- (1.) All or any part of the gunpowder or the ingredients of gunpowder which may be found in or about such place, or in the possession or under the control of any person convicted under this Section, may be forfeited; and

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

8. GUNPOWDER shall not be kept at any place except as follows, that is to say—

Gunpowder (except for private use) to be kept only in licensed premises.
Ibid s. 5.

- (1.) Except in the factory (licensed for the same under this Act) in which it is manufactured; or
- (2.) Except in a magazine or store for gunpowder licensed under this Act for keeping gunpowder.

Provided that this Section shall not apply—

- (1.) To a person keeping for his private use and not for sale gunpowder to an amount not exceeding on the same premises thirty pounds; or
- (2.) To the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of gunpowder.

Any gunpowder kept in a place other than as above, in this Section mentioned, shall be deemed to be kept in an unauthorised place.

Where any gunpowder is kept in an unauthorised place—

- (1.) All or any part of the gunpowder 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 gunpowder, shall each be liable to a penalty not exceeding two shillings for every pound of gunpowder so kept.

Licensing of Factories and Magazines for Gunpowder.

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

Application for license for factory or magazine.
Ibid s. 6.

An applicant for such a license shall submit to the Minister the draft of a license, accompanied by a plan (drawn to scale) of the proposed factory or magazine and the site thereof (which plan shall be deemed to form part of and to be in this Act included in the expression “the license”).

The draft license shall contain the terms which the applicant proposes to have inserted in the license, and shall specify such of the following matters as are applicable, namely:—

- (a.) The boundaries of the land forming the site of the factory or magazine, and either any belt of land surrounding the site which is to be kept clear, and the buildings and works from which it is to be kept clear, or the distance to be maintained between the factory or magazine or any part thereof, and other buildings and works; and
- (b.) The situation, character, and construction of all the mounds, buildings, and works on or connected with the factory or magazine, and the distances thereof from each other; and
- (c.) The nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture and each kind of work connected with the factory or magazine is to be carried on, and the places in the factory or magazine at which gunpowder and any ingredients of gunpowder, and any articles liable to spontaneous ignition or inflammable or otherwise dangerous, are to be kept; and
- (d.) The amount of gunpowder and of ingredients thereof, wholly or partly mixed, to be allowed at the same time in any building or machine, or any process of the manufacture, or within a limited distance from such building or machine, having regard to the construction of such building, and to the distance thereof from any other building or any works; and
- (e.) The situation, in the case of a factory, of each factory-magazine, and, in the case of another magazine, of each building forming part of such magazine in which gunpowder is to be kept, and the maximum amount of gunpowder to be kept in each factory-magazine, and in each such building as aforesaid; and
- (f.) The maximum number of persons to be employed in each building in the factory; and
- (g.) Any special terms which the applicant may propose, by reason of any special circumstances arising from the locality, the situation or construction of any buildings or works, or the nature of any process or otherwise.

The Minister, after examination of the proposal, may reject the application altogether, or may approve of the draft license, with or without modification or addition.

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10. IF the proposed site is within, or within a mile of the boundary of any municipality, the Minister shall give notice to the Council of such municipality of the application, and of the proposed site, and shall withhold his approval of the draft license until the Council consents to the same being granted, or for a month after the receipt of such notice fails to give notice to the Minister of its objection to the grant of such license. On the receipt of any such notice of objection, the same shall be dealt with and decided as prescribed by regulations, and, in so far as regulations do not provide, shall be dealt with and decided by the Minister or by such person as he may appoint.

Objections by municipalities to the grant of licenses in certain cases.

See *Ibid* ss. 7 & 8.

Regulation of Factories and Magazines for Gunpowder.

11. IN every gunpowder factory and magazine:

- (1.) The factory or magazine, or any part thereof, shall not be used for any purpose not in accordance with the license; and
- (2.) The terms of the license shall be duly observed, and the manufacture or keeping, or any process in, or work connected with, the manufacture or keeping of gunpowder shall not be carried on except in accordance with those terms; and
- (3.) The factory or magazine, and every part thereof, shall be maintained in accordance with the license; and any material alteration in the factory or magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, shall not be made except in pursuance of an amending license granted under this Act.

Regulation of factories and magazines for gunpowder.

Ib. s. 9.

In the event of any breach (by any act or default) of this section in any factory or magazine,

- (a.) All or any part of the gunpowder or ingredients thereof in respect to which, or being in any building or machine in respect to which, the offence was committed, may be forfeited; and
- (b.) The occupier shall be liable to a penalty not exceeding in the case of the first offence Fifty pounds, and in the case of a second or any subsequent offence One hundred pounds, and in addition Fifty pounds for every day during which such breach continues.

The occupier of a factory shall not be deemed guilty of a breach of this section for using, in a case of emergency, or temporarily, one

building or part of a building in which any process of the manufacture is, under the terms of the license, carried on, for another process of the manufacture, if he do not carry on in such building or part more than one process at the same time, and if the quantity of gunpowder or ingredients thereof in such building or part do not exceed the quantity allowed to be therein or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on; and if, upon such use being continued after the lapse of twenty-eight days from the first beginning of such use, he send notice of such use to the inspector, and the inspector do not require the discontinuance of such use.

General rules for
factories and
magazines.

Ib. s. 10.

12. IN every gunpowder factory and magazine the following general rules shall be observed :—

- (1.) In a factory every factory-magazine, and in any other magazine every building in which gunpowder is kept, shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder ; and
- (2.) The interior of every building in which any process of the manufacture is carried on or in which gunpowder or any of the ingredients thereof, either mixed or partially mixed, are kept, or in the course of manufacture are liable to be (in this Act referred to as a) danger building, and the benches, shelves, and fittings therein (other than machinery) shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel, or the detaching of any grit, iron, steel, or similar substance, in such manner that such iron, steel, or grit, or similar substance may come into contact with the explosives or ingredients thereof in such danger building; and the interior of every such danger building, and the benches, shelves, and fittings therein shall, so far as is reasonably practicable, be kept free from grit and otherwise clean ; and
- (3.) Every factory-magazine and expense magazine in a factory, and every danger building in a magazine shall be protected by a sufficient lightning conductor ; and
- (4.) No charcoal, whether ground or otherwise, and no oiled cotton, oiled rags, or oiled waste, nor any articles whatever liable to spontaneous ignition, shall be taken into any danger building except for the purpose of immediate supply and work or immediate use in such building, and upon the cessation of such work or use shall be forthwith removed ; and

- (5.) There shall be constantly kept affixed to every danger building, either outside or inside, in such manner as to be easily read, a statement of the quantities of explosives or ingredients allowed to be in the building, and a copy of these rules, and of any other part of these regulations and orders required by the Minister to be affixed thereto, and of such part of the license for the factory and special rules prescribed in accordance with this Act as apply to the danger building, with the addition of the name of the building, or words indicating the purpose for which it is used ; and
- (6.) Before any repairs are done to or in any room in or other part of a danger building, that room or part shall, so far as practicable, be cleaned by the removal therefrom of all explosives and of any wholly or partly mixed ingredients thereof, and by the thorough washing out of such room or part ; and such room or part of the building, after being so cleaned, shall not be deemed to be a danger building within the meaning of these regulations and orders until explosives or any wholly or partly mixed ingredients thereof are again taken into it ; and
- (7.) Except after such cleaning, all tools and implements used in any repairs to or in a danger building shall be made only of wood, or copper, or brass, or some soft metal or material, or shall be covered with some safe and suitable material ; and
- (8.) Due provision shall be made by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into any danger building of fire, lucifer matches, or any substance or article likely to cause explosion or fire, and for preventing the introduction of any iron, steel, or grit into any part of a danger building where it would be likely to come into contact with explosives, or the wholly or partly mixed ingredients thereof ; but this rule shall not prevent the introduction of any artificial light of such construction, position, or character as not to cause any danger of fire or explosion ; and
- (9.) No person shall smoke in any part of the factory, except in such part (if any) as may be allowed by the special rules prescribed under the provisions of this Act.
- (10.) Every carriage, boat, or other receptacle in which explosives, or any wholly or partly mixed ingredients thereof, are conveyed from one building to another in a

factory, or from any such building to any place outside of such factory, shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the explosives and ingredients, and shall be closed or otherwise properly covered over; and the explosives and ingredients shall be so conveyed with all due diligence, and with such precautions, and in such manner as will sufficiently guard against any accidental ignition; and

- (11.) No person under the age of sixteen years shall be employed in or enter any danger building except in the presence and under the supervision of some grown-up person; and
- (12.) The ingredients in course of manufacture into explosives shall be removed with all due diligence from each working building so soon as the process connected with those ingredients which is carried on in such building is completed, and all finished explosives shall with all due diligence either be removed to a factory-magazine, or sent away immediately from the factory, and such ingredients and explosives shall be loaded and unloaded with all due diligence.
- (13.) All ingredients to be made or mixed into explosives shall, before being so made or mixed, be carefully sifted for the purpose of removing therefrom, so far as practicable, all dangerous foreign matter.

The Governor in Council may, from time to time, by order, make, and when made rescind and alter, such modifications in the foregoing general rules as may appear to him to be necessary for adapting the same to floating magazines, and such modifications shall have effect as if they were contained in this section.

Penalty for breach. In the event of any breach (by any act or default) of any regulation in any factory—

- (a.) All or any part of the explosives or ingredients thereof in respect to which or being in any building or machine in respect to which the offence was committed may be forfeited; and
- (b.) The occupier shall be liable to a penalty not exceeding Ten pounds, and in addition (in the case of a continuing offence) Ten pounds for every day during which such breach continues.

Special rules for regulation of workmen in factory.

13. EVERY occupier of a factory shall, with the sanction of the Minister, make special rules for the regulation of the persons

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managing or employed in or about such factory with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

There may be annexed to any breach of special rules made in pursuance of this section such penalties, not exceeding Forty shillings, for each offence as may be deemed just. *Ibid s. 11.*

The occupier may, and if required by the Minister shall, with the sanction of the Minister, repeal, alter, or add to any special rules made in pursuance of this section.

If an occupier is required by the Minister to make, repeal, alter, or add to any rules under this section, and fail within three months after such requisition to comply therewith to the satisfaction of the Minister, the Minister may make, repeal, alter, or add to the special rules, and anything so done by the Minister shall have effect as if done by the occupier with the sanction of the Minister.

Supplemental as to Factories and Magazines for Gunpowder.

14. WHERE the occupier of any gunpowder factory or magazine desires that any alteration should be made in the terms of his license, or any material alteration made in the factory or magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, he may apply for an amending license. *Alteration of terms of license and enlargement of factory or magazine. Ibid s. 12.*

If he satisfy the Minister that the alteration may be properly permitted, having regard to the safety of the persons employed in the factory or magazine, and will not materially either increase the danger to the public from fire or explosion, or diminish the distance of any danger building in the factory or magazine from any building or work outside and in the neighbourhood of the factory or magazine, or increase the amount of gunpowder allowed to be kept in the factory magazine or in any building in the magazine, the Minister may grant the amending license of his own authority ; but, save as aforesaid, the provisions of this Act with respect to the application for and grant of a new license shall apply to such amending license.

15. A GUNPOWDER factory or magazine license shall not be avoided by any change in the occupier of the factory or magazine ; but notice of the name, address, and calling of the new occupier shall be sent to the Minister within three months after the change, and in default such new occupier shall be liable to a penalty not exceeding Twenty shillings for every week during which such default continues. *Devolution and determination of license. Ibid s. 13.*

A factory or magazine license shall be determined by a discontinuance of the business carried on in pursuance of any such license if such discontinuance endures for a period of two years or more, or if the factory or magazine is used for any purpose not authorised by the license.

CONSUMERS' STORES FOR GUNPOWDER.

Licensing and Regulation of Stores.

Store licenses, how
to be obtained.
See Ibid s. 15.

16. ANY person may apply to the Minister for a license for a gunpowder store, stating his name, address, and calling, the proposed site and construction of the store, and the amount of gunpowder he proposes to store therein, and the Minister may grant the license on payment of the fee mentioned in that behalf in the Schedule to this Act.

Non-transferability
and renewal of
license.

Ibid s. 18.

17. A GUNPOWDER store license shall be valid only for the person named in it, and, unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be annually renewed by indorsement or otherwise on payment of the prescribed fee, and unless so renewed shall expire.

General Rules for
gunpowder stores.

18. THE following General Rules shall be observed with respect to a gunpowder store:—

*Ibid s. 22, slightly
altered.*

(1.) The gunpowder shall be kept in a house or building, or in a fire-proof safe or other suitable receptacle, and such safe, if not within a house or building, to be at a safe distance from any highway, street, public thoroughfare or public place; and

(2.) The amount of gunpowder in the same store shall not—

(a.) Exceed two hundred pounds if it is kept in a substantially constructed building approved by the Inspector, and exclusively appropriated for the purpose, and detached from a dwelling-house, or in a fire-proof safe outside a dwelling-house, and detached therefrom, and at a safe distance from any highway, street, public thoroughfare, or public place, such building or safe being closed so as to prevent unauthorised persons having access thereto and to secure it from danger from without, and being exclusively appropriated to the keeping of gunpowder; or

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- (b.) Exceed a hundred pounds if it is kept in a receptacle approved by the Inspector, exclusively appropriated to the keeping of explosives, and placed inside a dwelling house, or in any building other than as last aforesaid.
- (3.) An article of an explosive or highly inflammable nature shall not be kept in a fire-proof safe with the gunpowder, and in every case shall be kept at a safe distance from the gunpowder or the safe containing the same; and
- (4.) Neither the building exclusively appropriated for the purpose of keeping the gunpowder, nor the fire-proof safe, shall have any exposed iron or steel in the interior thereof; and
- (5.) All gunpowder exceeding one pound in amount shall be kept in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping.

In the event of any breach (by any act or default) of such general rules in any gunpowder store,—

- (a.) All or any part of the gunpowder in respect to which, or being in any house, building, safe, place, or receptacle in respect to which, the offence was committed may be forfeited; and
- (b.) The occupier shall be liable to a penalty not exceeding Two shillings for every pound of gunpowder in respect of which, or being on the premises in which the offence was committed.

Supplemental Provisions.

19. THE proprietor of every factory, magazine, and gunpowder store, and every person employed in or about the same, shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory, magazine, or store, or to the gunpowder therein, and shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of the work in such factory, magazine, or store.

Precautions against fire or explosion to be taken by occupier.

Ibid s. 23.

Any breach (by any act or default) of this section in any factory, magazine, or store shall be deemed to be a breach of the general rules applying thereto.

20. WHERE any provision of this Act limits the quantity of gunpowder, or ingredients of gunpowder, to be allowed in any

Explanation as to quantities of gunpowder allowed in buildings.

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Ibid s. 24 slightly
abridged.

building at one time, all gunpowder and ingredients within the radius of twenty yards from the building, and in course either of removal from the building or of removal to the building, for the supply and work thereof, shall be deemed to be in the building: Provided that if, while gunpowder or ingredients so in course of removal are within the radius, every machine and manufacturing process in the building is wholly stopped, there may, in addition to the quantity so allowed as aforesaid to be in the building, be within the radius a further quantity of gunpowder and ingredients so in course of removal as aforesaid, not exceeding the quantity specified in that behalf in the license.

Where any provision of this Act limits the quantity of gunpowder, or ingredients of gunpowder to be allowed in any machine at any one time, but does not limit the quantity to be in the building containing such machine, the foregoing provisions of this section shall apply, so far as circumstances admit, as if such machine were a building.

Where the quantity allowed to be in any building is limited to what is required for the immediate supply and work of such building, or by words not specifying the exact quantity, the Inspector who considers the quantity in any such building to be in excess may, after hearing the explanation of the occupier, require the occupier to diminish such quantity to the maximum named in the requisition.

The occupier, if he feel aggrieved by such requisition, may refer the matter to the Minister.

Fees for Licenses.
Ibid. s. 26, slightly
altered.

21. THERE shall be payable to the Consolidated Revenue of the Colony, in respect of licenses granted by the Minister, such fees as he may fix from time to time not exceeding those in the Schedule to this Act, and the Minister may also require any applicant for a new license to pay such sum as the Minister may think reasonable, but not exceeding three times the license fee, for expenses incurred by inquiries being made with respect to the grant of such license.

Adjoining places
occupied together to
be one place.
Ibid. s. 27.

22. FOR the purposes of this Act, with respect to the manufacture and keeping of gunpowder, all buildings and places adjoining each other and occupied together shall be deemed to be the same factory, magazine, or store, and shall accordingly be included in one license.

Provision in case of
death, bankruptcy,
etc., of occupier of
store.
Ibid. s. 29.

23. IF the occupier of a store dies or becomes bankrupt, or has his affairs liquidated by arrangement, or becomes mentally incapable or otherwise disabled, the person carrying on the business of such occupier shall not be liable to any penalty or forfeiture

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under this Act for carrying on the business or acting under the license during such reasonable time as may be necessary to enable him to obtain a store license.

Sale of Gunpowder.

24. GUNPOWDER shall not be hawked, or sold, or exposed for sale upon any highway, street, public thoroughfare, or public place.

Restrictions on sale of gunpowder in highways, &c.

If any gunpowder is hawked, sold, or exposed for sale in contravention of this section—

Ibid. s. 30.

- (1.) The person hawking, selling, or exposing for sale the same shall be liable to a penalty not exceeding Forty shillings; and
- (2.) All or any part of the gunpowder which is so hawked, or exposed for sale, or is found in the possession of any person convicted thereof, may be forfeited.
- (3.) Gunpowder shall not be sold to any child apparently under the age of thirteen years; and any person selling gunpowder in contravention of this sub-section shall be liable to a penalty not exceeding Five pounds.

Penalty for sale of gunpowder to children.

Ibid. s. 31.

25. ALL gunpowder exceeding one pound in weight, when publicly exposed for sale or sold, shall be in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping, and (except when the same is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on such property), the outermost receptacle containing such gunpowder shall have affixed the word “gunpowder” in conspicuous characters, by means of a brand, or securely attached label, or other mark.

Sale of gunpowder to be in closed packages, labelled.

Ibid. s. 32.

If any gunpowder is sold or exposed for sale in contravention of this section—

- (1.) The person selling or exposing for sale the same shall be liable to a penalty not exceeding Forty shillings; and
- (2.) All or any part of the gunpowder so exposed for sale may be forfeited.

Conveyance of Gunpowder.

26. THE following general rules shall be observed with respect to the packing of gunpowder for conveyance:—

General rules as to packing of gunpowder for conveyance.

- (1.) The gunpowder, if not exceeding five pounds in amount, shall be contained in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping; and

Ibid. s. 33.

- (2.) The gunpowder, if exceeding five pounds in amount, shall be contained either in a single package or a double package. A single package shall be a box, barrel, or case of such strength, construction, and character as may be for the time being approved by the inspector as being such that it will not be broken or accidentally opened or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape. If the gunpowder is packed in a double package, the inner package shall be a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping, and the other package shall be a box, barrel, or case of wood or metal or other solid material, and shall be of such strength, construction, and character that it will not be broken or accidentally opened or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape; and
- (3.) The interior of every package, whether single or double, shall be kept free from grit and otherwise clean; and
- (4.) Every package, whether single or double, when actually used for the package of gunpowder, shall not be used for any other purpose; and
- (5.) There shall not be any iron or steel in the construction of any such single package or inner or outer package, unless the same is effectually covered with tin, zinc, or other material; and
- (6.) The amount of gunpowder in any single package, or, if there is a double package, in any one outer package shall not exceed One hundred pounds, except with the consent of and under conditions approved by the inspector; and
- (7.) On the outermost package there shall be affixed the word "Gunpowder" in conspicuous characters, by means of a brand or securely attached label, or other marks.

In the event of any breach (by any Act or default) of any general rule in this section, the gunpowder in respect of which the breach is committed may be forfeited, and the person guilty of such breach shall be liable to a penalty not exceeding Twenty pounds.

The Governor in Council may from time to time make, and when made, repeal, alter, and add to, rules for the purpose of rescinding, altering, or adding to the general rules contained in this section, and the rules so made by the Governor shall have the same effect as if they were enacted in this section.

27. THE Governor in Council may from time to time make, alter, and repeal by-laws for regulating the conveyance, loading and unloading of gunpowder within any harbour, and in particular for declaring or regulating all or any of the following matters within the harbour, namely,—

By-laws for harbours as to conveyance, loading, &c., of gunpowder.

Ibid s. 34.

- (1.) Determining the notice to be given by ships and boats conveying, loading, or unloading gunpowder as merchandise within the harbour; and
- (2.) Regulating the navigation and place of mooring of such ships and boats; and
- (3.) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder on board any such ship or boat, and of giving notice by brands or labels, or otherwise, of the nature of the package containing the gunpowder; and
- (4.) Regulating the description, construction, fitting up, and licensing of the ship's boats, or carriages to be used for the conveyance of gunpowder and the licensing and dress of the persons having charge thereof; and
- (5.) Prohibiting, or subjecting to conditions and restrictions, the conveyance of gunpowder with any explosive, or any articles or substances, or in passenger ships, boats, or trains, or carriages; and
- (6.) Prohibiting, in cases where the loading or unloading of gunpowder within the jurisdiction of such authority appears to be specially dangerous to the public, such loading or unloading, and fixing the place and time at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one ship, boat, or carriage; and
- (7.) Regulating the mode of, and the precautions to be observed in, conveying any gunpowder, and in the loading or unloading any ship, boat, or carriage conveying gunpowder as merchandise, and the time during which gunpowder may be kept during such conveyance, loading, or unloading; and
- (8.) Fixing the times at which lights or fires are to be allowed on board such ships or boats as before mentioned, or at which a constable or officer of the harbour authority is to be on board them; and
- (9.) Providing for the publication and supply of copies of the by-laws; and

- (10.) Enforcing the observance of this Act both by persons in the service of the Government and also by other persons when within the harbour; and
- (11.) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

The penalties to be annexed to any breach or attempt to commit any breach of any such by-laws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just according to the gravity of the offence, and according as it may be a first or second or other subsequent offence; that is to say, pecuniary penalties not exceeding Twenty pounds for each offence, and Ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found in the ship, boat, or carriage in respect of which the breach of by-law has taken place.

In the event of any breach of a by-law under this section, in the case of any ship, boat, carriage, or gunpowder, whether there has or has not been any conviction for such breach, it shall be lawful for the harbour master, or other officer named by the by-law, or any person acting under his orders, to cause such ship, boat, carriage, or gunpowder, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the by-laws; and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section, and any person resisting such harbour master, or officer, or other person in such removal shall be liable to the same penalties as a person is liable to for obstructing the harbour master in the execution of his duty.

28. EVERY Government Railway authority, and every canal or carrying company over whose railway, canal, or course of carriage any gunpowder is carried, or intended to be carried, shall, with the sanction of the Minister, make by-laws for regulating the conveyance, loading, and unloading of such gunpowder on the Government Railways, or on the railway, canal, or course of carriage of the company, and in particular all or any of the following matters in the case of such railways, canal, or course of carriage; that is to say:—

- (1.) Determining the notice to be given of the intention to send gunpowder for conveyance as merchandise on the Government Railways or by the company; and
- (2.) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of storing and

By-laws by Government Railway authorities, and railway, canal, and carrying companies as to conveyance, loading, &c., of gunpowder.

Ibid. s. 35.

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- keeping gunpowder for conveyance and for giving notice, by brands, labels, or otherwise, of the nature of the package containing the gunpowder ; and
- (3.) Regulating the description and construction of carriages, ships, or boats to be used in the conveyance of gunpowder ; and
 - (4.) Prohibiting, or subjecting to conditions and restrictions, the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger trains, carriages, ships, or boats ; and
 - (5.) Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage, ship, or boat ; and
 - (6.) Determining the precautions to be observed in conveying gunpowder, and in loading or unloading the carriages, ships, or boats used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading, and unloading ; and
 - (7.) Providing for the publication and supply of copies of the by-laws ; and
 - (8.) Enforcing the observance of this Act, both by their servants and agents and also by other persons, when on the Government railways, or the railway, canal, or course of carriage of such company ; and
 - (9.) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

Such by-laws, when confirmed by the Minister, shall apply on the Government railways and on the railway, canal, and course of carriage of the company making the same, and to the persons there employed respectively, and to the persons using the Government railways or employing such company as carriers.

The penalties to be annexed to any breach, or non-observance, or attempt to commit any breach of such by-laws, may be all or any of the following penalties ; that is to say, pecuniary penalties not exceeding Ten pounds for a first offence, and for a subsequent offence not exceeding Twenty pounds for each offence, and Ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage, ship, or boat, or train of carriages, ships, or boats in respect of which, the breach of by-law has taken place.

By-laws as to
wharves and docks
where gunpowder is
loaded or unloaded.

Ibid. s. 36, abridged.

29. THE occupier of every wharf or dock on or in which gunpowder is loaded or unloaded (if such loading or unloading is not otherwise subject to any by-laws under this Act) may, and if so required by the Minister shall, from time to time, with the sanction of the Minister, make by-laws for regulating such loading or unloading, and may, by such by-laws, enact penalties not exceeding Ten pounds for a first offence, and not exceeding, for a subsequent offence, Twenty pounds, and Ten pounds for every day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found on the wharf or in the dock in respect of which, the breach of the by-law has taken place.

If an occupier fails, within three months after a requisition by the Minister, to make by-laws, the Minister may make such by-laws.

Where, by reason of a wharf or dock being a public wharf or dock or otherwise, there is no occupier thereof or the occupier is unknown, the Minister may make by-laws in respect to such wharf or dock.

By-laws as to con-
veyance, loading, and
unloading of gun-
powder.

Ibid. s. 37.

30. THE Minister may from time to time make, alter, and repeal by-laws for regulating the conveyance, loading, and unloading of gunpowder in any case to which by-laws made under any other provision of this Act do not apply, and in particular for declaring or regulating all or any of the following matters; that is to say,—

- (1.) Regulating the description and construction of carriages to be used in the conveyance of gunpowder as merchandise; and
- (2.) Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive or with any articles or substances, or in passenger carriages; and
- (3.) Fixing the places and times at which gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage; and
- (4.) Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading, and unloading; and
- (5.) Providing for the publication and supply of copies of the by-laws; and

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- (6.) Generally for protecting, whether by means similar to those above-mentioned or not, persons or property from danger; and
- (7.) Adopting, on good cause being shown, the by-laws in force under this Section to the circumstances of any particular locality.

The penalties to be annexed to any breach, or non-observance or attempt to commit a breach, may be all or any of the following penalties; that is to say, such penalties as are in Section twenty-seven of this Act provided in respect of the by-laws by that Section authorised.

For the purpose of any mode of conveyance other than by land, this Section shall be construed as if ship and boat were included in the term carriage.

31. ALL general rules and all by-laws proposed to be made under this Act by the Minister, or by any Government railway authority, or any railway, canal, or carrying company, shall, before receiving the authority of the Minister, be published in such manner as the Minister may direct, as being in his opinion sufficient for giving information thereof to all corporations, officers, and persons interested.

Publication of proposed by-laws, etc., and consideration of objections and suggestions.

Ibid. s. 38, abridged.

Every such by-law may from time to time be added to, altered, or rescinded by a by-law made in like manner as the original by-law.

The Minister shall receive and consider any objections or suggestions made by any corporation, officer, or person interested, and may, if it seem fit, amend any such general rules and by-laws with a view to meeting such objections or suggestions without again publishing the same.

PART II.—LAW RELATING TO OTHER EXPLOSIVES.

Application of Part I. to Other Explosives.

32. SUBJECT to the provisions hereinafter in this part of this Act contained, Part I. of this Act, relating to gunpowder, shall apply to every other kind of explosive, in like manner as if those provisions were herein re-enacted, with the substitution of that kind of explosive for gunpowder.

Part I. relating to gunpowder applied to other explosives.

Ibid. s. 39.

33. THE following modifications and additions shall be made in and to Part I. of this Act as applied to explosives other than gunpowder:—

Modifications of Part I. as applied to explosives other than gunpowder.

- (1.) The draft license for a factory or magazine submitted by an applicant to the Minister shall specify such particulars as the Minister may require; and

Ibid. s. 40.

- (2.) The prescribed general rules shall be substituted for the general rules in Part I. of this Act relating to factories, magazines, and stores respectively ; but no such general rule shall require the removal of any building or work in use at the date of the making of such rule ; and
- (3.) The Minister may from time to time alter the general rules relating to packing, contained in Part I. of this Act, for the purpose of adapting the same to the packing of any explosive other than gunpowder ; and
- (4.) For the maximum amount, limited by Part I. of this Act, to be kept for private use and not for sale, or in a store, and for the minimum amount, limited by Part I. of this Act, to be exposed for sale or sold otherwise than in a substantial case, box, canister, or other receptacle as therein mentioned, there shall be substituted, in the case of explosives other than gunpowder, the following amounts, namely :—
 - (a.) Where such explosive consists of safety cartridges made with gunpowder, an amount containing not more than five times the maximum or minimum amount of gunpowder, as the case may be, abovementioned ; and
 - (b.) In the case of any other explosive, the prescribed amount ; and
- (5.) Two or more kinds of explosive shall not be kept in the same store, except such kinds as may be prescribed in that behalf, and, when so kept, shall be kept subject to the prescribed conditions and restrictions ; and
- (6.) Where any explosive other than gunpowder is allowed to be kept in the same store with gunpowder, the maximum amount of gunpowder to be kept therein shall be the prescribed amount in lieu of the amount fixed by Part I. of this Act ; and
- (7.) Where any explosive other than gunpowder is allowed to be kept in the same magazine or store with gunpowder, the prescribed rules shall be observed, instead of the general rules in Part I. of this Act ; and
- (8.) There shall be, on the outermost package containing the explosive, in lieu of the word “ Gunpowder ” the name of the explosive, with the addition of the word “ Explosive ; ” and if such name is materially false, the person selling or exposing for sale such explosive, and also the owner of the explosive, shall be liable to a penalty not exceeding Fifty pounds.

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- (9.) With respect to the importation from any place out of this Colony of either dynamite or gun-cotton, or any explosive (other than gunpowder, cartridges made with gunpowder, percussion caps, fireworks, and any prescribed explosive) the following provisions shall have effect, that is to say:—
- (a.) The owner and the master of any ship having on board any such explosive shall not permit the same to be unloaded and delivered to any person who does not hold a license to import the same (in this Act called an importation license) from the Minister, and any transshipment shall, for the purpose of this Section, be deemed to be delivery; and
 - (b.) The Minister may grant an importation license for any such explosive, and may annex thereto any prohibitions and restrictions with respect to the composition and quality of the explosive, and the unloading, landing, delivery, and conveyance thereof, and such further provisions and restrictions as he may think fit, for the protection of the public from danger; and
 - (c.) The license shall be of such duration as the Minister may fix, and shall be available only for the person named in the license; and
 - (d.) In the event of any breach, by any act or default of the provisions of this section, with respect to the importation of an explosive, or of the provisions of any importation license, all or any part of the explosive with respect to which such breach is committed, or being in any ship or boat in connection with which such breach is committed, may be forfeited; and the owner and master of such ship or boat, and the licensee or person to whom the explosive is delivered, shall each be liable to a penalty not exceeding One hundred pounds, and to a further penalty not exceeding Two shillings for every pound of such explosive; and
 - (e.) The Collector of Customs and his 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 on the importation of which restrictions are for the time being imposed

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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 or any such article or ship shall apply accordingly.

Exemption of
making and carrying
safety cartridges for
private use.
Ibid. s. 41.

34. NOTHING in this Act shall apply to the filling or conveying for private use, and not for sale, of any safety cartridges to the amount allowed by this Act, to be kept for private use.

Specially Dangerous Explosives.

Power to prohibit
manufacture,
importation, storage,
and carriage of
specially dangerous
explosives.
Ibid. s. 43.

35. NOTWITHSTANDING anything in this Act, the Governor in Council may, by Order from time to time, prohibit absolutely, or may subject to conditions and restrictions the manufacture, keeping, importation from outside the Colony, and sale, or any of them, of any explosive which is of so dangerous a character that, in the judgment of the Governor in Council, it is expedient for the public safety to make such Order.

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 a by-law made under this Act with respect to the conveyance of explosives.

If an explosive is imported or sold in contravention of any such Order,—

- (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 selling the same, shall be liable to a penalty not exceeding Ten shillings for every pound of such explosive delivered or sold or found in his possession.

The Collector of Customs and his 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.

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36. THE occupier of a factory for any explosive who manufactures a new explosive or new form of explosive, similar to the one specified in his license, shall not be deemed to have manufactured the same in an unauthorised place if he manufactures the same on a small scale, and exclusively for the purpose of trial and not for sale, and he sends notice of the same, as soon as he has manufactured it, to the Minister, and if he observe the provisions of this Act as far as they are applicable.

Provision in favour of makers of new explosive for experiment.

Ibid. s. 45.

37. THE occupier of a magazine or store for any explosive shall not be required by this Act to take out a factory license by reason that in connection with such magazine or store he fills for sale or otherwise any cartridge for small arms with such explosive, so that he observe the following regulations, namely,—

Provision in favour of gunmakers, etc., making cartridges.

Ibid. s. 46.

- (1.) There shall not be in the room where such filling is being carried on more than five pounds of gunpowder, or the prescribed amount of any other explosive, except it is made up into safety cartridges; and
- (2.) Any work unconnected with the making of the cartridges shall not be carried on in the room while such filling is being carried on; and
- (3.) There shall not be in the room, where such filling is being carried on, any fire, nor any artificial light, except a light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (4.) In the case of a magazine or store, the room in which the filling is carried on shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and at such distance therefrom as may be specified, in the case of a magazine, by the license, and in the case of a store, by a regulation relating to stores; and
- (5.) The occupier shall give notice to the Inspector that he intends to carry on such filling of cartridges as is allowed by this Section.

The provisions of this Section shall be deemed to be general rules under this Act relating to the magazine and store, respectively, and the breach of them shall be punished accordingly.

38. THE occupier of a magazine or store for any explosive shall not be required by this Act to take out a factory license by reason that in connection with such magazine or store he, by filling cartridges, making charges, drying, sifting, fitting, or otherwise, adapts or prepares the said explosive for use exclusively in his mine or quarry, or in some excavation or work carried on by him or

Provision in favour of owners of mines and quarries as to making charges, etc., for blasting.

Ibid. s. 47.

under his control, so that he observes the following regulations, namely,—

- (1.) There shall not be in the workshop in which such adaptation or preparation is carried on more than one hundred pounds of gunpowder, or the prescribed amount of any other explosive ; and
- (2.) Any work unconnected with such adaptation or preparation shall not be carried on in the said workshop while such adaptation or preparation is being carried on ; and
- (3.) The said workshop shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and at such distance therefrom as may be specified by the license or by regulations ; and
- (4.) An explosive of one kind shall not be converted into an explosive of another kind, and shall not be unmade or resolved into its ingredients ; and
- (5.) The occupier shall give notice to the Inspector that he intends to carry on such adaptation or preparation as is allowed by this Section.

Licensing and regulation of firework factories.

Ibid. s. 49, altered.

39. ANY person may apply to the Minister for a license for a firework factory, stating his name, address, and calling, and the proposed site and construction of the factory, and the amount and kind of explosive he proposes to have therein, and in any building therein, and the Minister may grant such license on payment of the fee mentioned in that behalf in the schedule hereto.

Such license shall be valid only for the person named in it, and the provisions of this Act with respect to the renewal, expiration, and form of store licenses and the fees for such renewal, and to special rules for the regulation of persons managing or employed in or about stores, shall apply in like manner as if they were herein enacted, and in terms made applicable to firework factories.

Limit of explosives, etc., to be in any firework factory.

Ibid. s. 48, altered.

40. THERE shall not be kept, or at any one time be, in or about any firework factory,—

- (a.) More than one hundred pounds of any explosive other than manufactured fireworks or coloured fires or stars ;
or
- (b.) More than five hundred pounds of manufactured fireworks, either finished or partly finished ; or
- (c.) More than twenty-five pounds of coloured fires or stars not made up into manufactured fireworks.

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For breach or non-observance (by any act or default) of the requirements of this Section,—

- (a.) All or any part of the explosive, fireworks, or coloured fires or stars kept or being in or about any firework factory, in respect of which such breach or non-observance happened, may be forfeited; and
- (b.) The occupier shall be liable to a penalty not exceeding Ten pounds, and in addition (in the case of a subsequent offence) Ten pounds for every day during which such breach or non-observance continues.

41. A PERSON shall not be required to take out a license for any building or place for the keeping of percussion caps, or safety-fuses for blasting, or fog signals kept on land or buildings belonging to any railway for use on that railway, or any prescribed explosive.

Keeping without a license and conveyance of percussion caps.

Ibid. s. 50.

It shall not be obligatory on any railway, canal, or carrying company, or occupier of a wharf, to make any by-laws with respect to the conveyance, loading, or unloading of any explosives to which this Section applies.

The Governor in Council, by Order, may exempt any explosive to which this Section applies, or any kind thereof, from any other of the provisions of this Act, or may declare that a license shall be required for keeping any explosive to which this Section applies, or any kind thereof, or that by-laws shall be made with respect to the loading, unloading, and conveyance thereof.

PART III.—ADMINISTRATION OF THE LAW.

Inspection.

42. THE Governor may from time to time appoint and remove an inspector of explosives under this Act, and may assign him his duties.

Appointment of inspector.

Ibid. s. 53.

A notification of every such appointment and removal shall be published in the *Government Gazette*.

43. THE inspector shall have power to make such examination and inquiry as may be necessary to ascertain whether this Act is complied with; and for that purpose,—

Powers of inspector.

Ibid. s. 55.

- (1.) He may enter, inspect, and examine any factory, magazine, or store, and every part thereof respectively at all times by day and night, but so as not to unnecessarily impede or obstruct the work in such factory, magazine, or store, and may make inquiries as to all matters and things relating to the safety of the public or of the persons employed

Victorian Explosives Act, 1890, s. 33.

employed in or about such factory, magazine, or store, and as to the observance of this Act therein; and

- (2.) He may require the occupier of any factory, magazine, or store, which he is entitled under this Section to enter, or a person employed therein by any such occupier, to give him samples of any explosive or ingredients of an explosive therein, or of any substance therein the keeping of which is restricted or regulated by this Act, or of any substance therein which the inspector believes to be an explosive or such ingredients or substance.

Every such occupier as aforesaid, his agents, and servants, shall furnish the means required by the inspector as necessary for every such entry, inspection, examination, and inquiry.

Any person who fails to permit the inspector to enter, inspect, examine, or make inquiries in pursuance of this Section, or to comply with any requisition of such inspector in pursuance of this Section, or who in any manner obstructs such inspector in the execution of his duties under this Act, shall be liable to a penalty not exceeding One hundred pounds for each offence.

Notice by
inspector to
remedy dangerous
practices, etc.,
and penalty for
non-compliance.

Ibid. s. 56.

Victorian Act, s. 34.

44. IF in any matter the inspector finds any factory, magazine, or store, or any part thereof, or any thing or practice therein or connected therewith, to be unnecessarily dangerous or defective so as, in his opinion, to tend to endanger the public safety, or the bodily safety of any person, he shall, in the case of a public magazine, immediately report the same to the Minister, and in the case of any private magazine, factory, or licensed premises, may require the keeper, occupier, or licensed person to remedy the same.

No person shall be precluded by any contract from doing such acts as may be necessary to comply with a requisition under this section, and no person shall be liable under any contract to any penalty or forfeiture for doing those acts if he gave notice of such contract to the inspector at or before the time at which the inspector made the requisition.

If the occupier fail to comply with the requisition within twenty days, he shall be liable to a penalty not exceeding Twenty pounds for every day during which he so fails to comply.

Provided that the justices, if satisfied that the occupier has taken active measures for complying with the requisition or award, but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before them for punishing such failure, and if the works are completed within a reasonable time, in the opinion of the justices, no penalty shall be inflicted.

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45. A REPORT of the proceedings under this Act shall be made annually to the Minister by the inspector, and in such manner and form as may be directed by the Minister, and shall be laid before both Houses of Parliament.

Annual report
of inspector's
proceedings.

Ibid. s. 57.

Victorian Act, s. 35.

46. WHENEVER there occurs any accident by explosion or by fire in or about, or in connection with any factory, magazine, or store, or any accident by explosion or by fire causing loss of life or personal injury in or about, or in connection with any other premises occupied with any such factory, magazine, or store, the occupier shall forthwith send or cause to be sent to the Minister notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby.

Notice to be given of
accidents connected
with explosives.

Imperial Explosives
Act, 1875, s. 63.

Victorian Act,
1890, s. 36.

Where in, about, or in connection with any carriage, ship, or boat either conveying an explosive, or on, or from which an explosive is being loaded or unloaded, there occurs any accident by explosion or by fire causing loss of life or personal injury, the owner or master of such carriage, ship, or boat, and the owner of the explosive conveyed therein, or being loaded or unloaded therefrom, or one of them, shall forthwith send or cause to be sent to the Minister notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby.

Every such occupier or master as aforesaid who fails to comply with this section shall be liable to a penalty not exceeding Twenty pounds.

Penalties and Procedure.

47. ANY person who enters without permission, or otherwise trespasses upon any factory or magazine, whether licensed or not, or the land immediately adjoining thereto which is occupied in connection with such magazine, or by the occupier of such factory, shall for every such offence, if not otherwise punishable, be liable to a penalty not exceeding Five pounds, and may be forthwith removed from such factory, magazine, or land by any constable, or by the occupier of such factory or magazine, or any agent or servant of, or other person authorised by such occupier.

Penalty on and
removal of
trespassers.

Ibid. s. 77.

Ibid. s. 37.

Any person other than the occupier of any factory or magazine, or a person employed by him, who is found committing any act which tends to cause explosion or fire in or about such factory or magazine, shall be liable to a penalty not exceeding Fifty pounds.

The occupier of any such factory or magazine shall post up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under this section, but the

absence of any such notice or notices shall not exempt a person from a penalty under this section.

Arrest without
warrant of persons
committing danger-
ous offences.

Ibid. s. 78.

Ibid. s. 38.

48. 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, railway, harbour, or wharf, or any carriage, ship, or boat, in, upon, or about which there is any explosive, may be apprehended without a warrant by a constable or by the occupier of, or the agent, or servant of, or other person authorised by the occupier of such factory, magazine, or wharf, or by any agent or servant of or other person authorised by the railway authority or harbourmaster, and be removed from the place at which he is arrested, and conveyed as soon as conveniently may be before any two justices.

Imprisonment for
wilful act or neglect
endangering life or
limb.

Ibid. s. 79.

Ibid. s. 39.

49. 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 justices that try 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 or magazine, or any harbour, railway, wharf, ship, boat, carriage or place in, upon, or about which there is any explosive 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 justices are of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding six months.

Exemption of occu-
pier from penalty
upon proof of another
being real offender.

Ibid. s. 87.

Ibid. s. 40.

50. WHERE any offence under this Act, for which the occupier of any factory or magazine is liable to a penalty, has in fact been committed by some other person, such other person shall be liable to a penalty not exceeding Twenty pounds.

Where such occupier is charged with an offence so committed by some other person, the keeper or occupier shall be exempt from any penalty and forfeiture upon proving that he had supplied proper means, and issued proper orders for the observance, and used due diligence to enforce the observance of this Act, and that the offence in question was actually committed by some other person without his connivance.

Where the inspector is satisfied, before instituting a proceeding for any offence under this Act against an occupier, that such occupier, if such proceedings were instituted against him, would, under the foregoing provisions of this section, be exempt from any penalty and forfeiture, and the occupier gives all facilities in his power for proceeding against and convicting the person whom the

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inspector believes actually to have committed the offence, the inspector shall proceed against that person in the first instance without first proceeding against the occupier.

The defendant in any proceeding under this Act when charged in respect of any offence by another person, may, if he think fit, be sworn and examined as an ordinary witness in the case.

Where any offence under this Act for which any warehouseman, carrier, or occupier of a wharf or dock, or owner or master of any ship, boat, or carriage, is liable to a penalty or forfeiture, has, in fact, been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, occupier of a wharf or dock, owner or master were such an occupier as above in this section mentioned.

51. If any explosive be kept, landed, carried or shipped contrary to this Act, it shall be forfeited, and if any person violate any of the provisions of this Act with respect to which no penalty (or confiscation only) is specified, he shall, on conviction, forfeit a sum not exceeding One hundred pounds.

Penalty on offences against this part of of this Act not otherwise provided for.

Victorian Explosives Act, 1890, s. 41.

52. WHERE any of the following officers—namely, the inspector, or the collector, or principal officer of customs, or any constable, if such constable is specially authorised either (*a.*) by a warrant of a justice, or (*b.*) (where it appears to a superintendent or an inspector of police, or to the inspector, or the collector, or principal officer of customs that the case is one of emergency, and that the delay in obtaining a warrant would be likely to endanger life) by a written order from the inspector, or such superintendent, inspector of police, or collector, or principal officer of customs—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, on producing if demanded, in the case of the inspector, or the collector, or principal officer of customs, a copy of his appointment, and, in the case of any other officer, his authority, 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.

Search on suspicion that explosives are in place in contravention of this Act, or that offence is being committed.

Imperial Explosives Act, 1875, s. 73.

Victorian Act, s. 42.

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 a constable specially authorised by written authority, other than a warrant of a justice, enters and searches as above provided, a special report, in writing, of every act done by such constable in pursuance of that authority, 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 Minister and to the Inspector of Explosives.

Seizure and detention
of explosives liable
to forfeiture.

Ibid s. 74.

Ibid s. 43.

53. WHERE any of the following officers—namely, the inspector, or the collector, or principal officer of customs, or any constable—has reasonable cause to believe that an 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 it has been determined by any two justices whether the same is or is not so liable to be forfeited; and with respect thereto the following provisions shall have effect:—

- (1.) The officer seizing may either require the occupier of the place in which it was seized (whether a building or not, or a 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, and he is the inspector, or the collector, or principal officer of customs, or is authorised by an order from the inspector, or the collector, or principal officer of customs, or a justice, or from a superintendent or inspector of police, 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 of the inspector, or the collector, or principal officer of customs, or except in case of emergency for the purpose of preventing explosion or fire) removes, alters, or in any

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- 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 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, in case of dispute, by any two justices; 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.

54. WHERE the justices before whom a person is convicted of an offence against this Act have power to forfeit any explosive owned by or found in the possession, or under the control of such person, the justices may, if they think it just and expedient, in lieu of forfeiting such explosive, impose upon such person, in addition to any other penalty or punishment, a penalty not exceeding such sum as appears to the justices to be the value of the explosive so liable to be forfeited.

Supplemental provisions as to forfeiture of explosive.

Ibid s. 89.

Ibid s. 44.

Where any explosive, or ingredient of an explosive, is alleged to be liable under this Act to be forfeited, any information or com-

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plaint may be laid against the owner of such explosive or ingredient for the purpose only of enforcing such forfeiture; and where the owner is unknown or cannot be found, the justices may cause a notice to be advertised stating that, unless cause is shown to the contrary at the time and place named in the notice, such explosive will be forfeited, and at such time and place the justices, after hearing the owner, or any person in his behalf (who may be present), may order all or any part of such explosive or ingredient to be forfeited.

Miscellaneous.

Extension of definition of explosive to other explosive substances.

Ibid s. 104.

Ibid s. 45.

55. THE Governor in Council may by Order declare that any substance which appears to be specially dangerous to life or property by reason of its explosive properties, or any component of such substance, shall be deemed to be an explosive within the meaning of this Act, and the provisions of this Act (subject to such exceptions, limitations, and restrictions as may be specified in the Order) shall accordingly extend to such substance in like manner as if it were included in the term "explosive" in this Act.

Definition and classification of explosives by order.

Ibid s. 106.

Ibid s. 49.

56. THE Governor in Council may from time to time by Order define, for the purposes of this Act, the composition, quality, and character of any explosive, and may classify explosives.

Where the composition, quality, or character of any explosive has been defined by such Order, any article alleged to be such explosive which differs from such definition in composition, quality, or character, whether by reason of deterioration or otherwise, shall not be deemed, for the purposes of this Act, to be the explosive so defined.

Exemption of ammunition the property of Her Majesty or used for sporting purposes.
Victorian Explosives Act, 1890, s. 51.

57. NOTHING in this Act shall extend to or be construed to apply to any ammunition the property of Her Majesty, or of Her Majesty's Government of Western Australia, nor to the carriage of ammunition to or from any of the Queen's ships, or to or from any ships belonging to or used in the service of Her Majesty's Government of Western Australia, or the Queen's magazines under a special order of the Governor or the Minister, or the principal military or naval officer in Western Australia, nor to the making, keeping, or selling, or carrying of cartridges and other ammunition used only for sporting purposes.

Municipal Council may make by-laws prohibiting storage of inflammable materials.

Ibid s. 54.

58. SUBJECT to the provisions of this Act, any Municipal Council may make, alter, and repeal by-laws for the purpose of regulating or prohibiting the establishment of a factory of explosives, or magazine for explosives within the limits of the municipality. Such council may, by any such by-law, impose a penalty for any breach thereof not exceeding One hundred pounds, or in case of a continuing

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offence, in addition to any such penalty as aforesaid, a penalty of Twenty pounds for every day during which, or a part of which, such breach continues.

59. ALL orders, regulations, and by-laws made by the Governor in Council under this Act shall be published in the *Government Gazette*, and shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament be then sitting, and, if Parliament be not then sitting, within fourteen days after its next meeting, and, when so published, shall have the force of law as part of this Act, and shall continue in force, unless repealed or altered by the Governor in Council, or disallowed by both Houses of Parliament.

Orders, etc., to be
gazetted and laid
before Parliament.

60. ALL fines, penalties, and forfeitures authorised or directed to be imposed by virtue of this Act shall, and may, be recovered in a summary way before any two or more justices of the peace in petty sessions.

Fines, forfeitures,
and penalties.

61. SECTIONS A, B, G, and H of the Schedule to "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.

Incorporation of
secs. A, B, G, & H
of Schedule of
"Shortening
Ordinance, 1853."

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

ALEX. C. ONSLOW, Administrator.

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THE SCHEDULE.

Maximum Fees for Licenses granted by the Treasurer.

Factory License (original)	Ten pounds.
Ditto (amending)	...	...	...	Five pounds.
Ditto (renewal)	...	...	...	Five shillings.

Magazine License (original)	...	...	...	Five pounds.
Ditto (amending)	...	...	...	Two pounds.
Ditto (renewal)	...	...	...	Five shillings.

Store License (original)	...	...	...	One pound.
Ditto (annual renewal)	...	...	...	One shilling.

License to import	...	...	...	Two pounds.
Ditto renewal	...	...	...	Five shillings.