



WESTERN AUSTRALIA.

ANNO TRICESIMO QUINTO

VICTORIÆ REGINÆ.

No. V.

AN ACT for the Carriage and Safe-keeping of Explosive
and Dangerous Goods.

[Assented to, 4th August, 1871.]

WHEREAS it is expedient to provide for the carriage and
safe-keeping of explosive and dangerous goods: 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 for all purposes as “The Dangerous Goods Act, 1871.” Short Title.

2 FOR the purposes of this Act “Petroleum” shall include all
such rock oil, Rangoon oil, Burmah oil, any product of them, and
any oil made from Petroleum, Coal, Schist, shale, peat, or other
bituminous substance, and any such product of them as gives off an
inflammable vapour at a temperature of less than one hundred
degrees of Fahrenheit’s Thermometer. Interpretation.

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“Municipality” shall mean any Municipality constituted under “The Municipal Institutions’ Act, 1871.”

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

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

And the word “Carrier” shall include all persons or bodies of persons carrying goods or passengers for hire by land or water.

Nitro-Glycerine to be
deemed specially dan-
gerous.

3 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, and petroleum as herein defined shall be deemed to be dangerous within the meaning of this Act.

Other goods may be de-
clared specially dangerous
by Order in Council.

4 THE Governor may from time to time by Order in Council 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.

Regulations to be observed
by a ship carrying Petro-
leum and specially danger-
ous goods.

5 EVERY vessel carrying a cargo consisting wholly or in part of goods which are specially dangerous, or of petroleum, on entering any harbour within Western Australia, shall conform to such regulations in respect to the place at which she is to be moored as may from time to time be issued by the Governor in Council with respect to such harbour. If any vessel is moored at any place in contravention of such regulations, the owner or master of such vessel shall incur a penalty not exceeding Twenty Pounds for each day during which the vessel remains moored, and it shall be lawful for the Harbour Master, or any other person acting under his orders, to cause such vessel 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.

After 1st October, 1871,
Specially dangerous goods

6 FROM and after the first day of October, 1871, no goods which are specially dangerous, and no petroleum except

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petroleum to the extent of ten gallons kept for private use and not for sale, shall be kept within fifty yards of a dwelling house or of a building in which goods are stored, except in pursuance of a license under this Act. Any petroleum or specially dangerous goods kept in contravention of this section shall be forfeited, and in addition thereto the occupier of the place in which such petroleum or specially dangerous goods are kept shall be liable to a penalty of Twenty Pounds a day for each day during which petroleum or specially dangerous goods are so kept in contravention of this Act.

or petroleum except to the extent of ten gallons for private use not to be kept except under license.

7 THE following bodies shall respectively be the local authority to grant licenses under this Act in the districts hereinafter mentioned, that is to say—

Definition of local authority.

1. In any Municipality constituted under "The Municipal Institutions' Act, 1871," the Council of such Municipality.
2. In any port or harbour, whether situate or not within the jurisdiction of any local authority hereinbefore mentioned, the Harbour Master or any person or persons appointed by the Governor to perform the duties of Harbour 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 Magistrate or Police Magistrate's Court, any Resident Magistrate or Police Magistrate thereof; And if the same be not within the district of a Resident Magistrate or Police Magistrate's Court, then any two Justices of the Peace.

8 LICENSES in pursuance of this Act shall be valid if signed by two or more of the persons constituting the local authority, or executed in any other way in which other licenses, if any granted by such authority, are executed. They may be granted for a limited time, and there may be annexed thereto any conditions as to renewal or otherwise which the local authority thinks necessary for diminishing the risk of damage from explosion or fire; and any licensee violating any of the conditions of his license shall be deemed to be an unlicensed person.

Mode of granting licenses.

9 THERE may be annexed to any such license such conditions as to the mode of storage, as to the nature of the goods with which dangerous or specially dangerous goods may be stored, and generally

What conditions may be annexed to license.

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as to the safe-keeping of dangerous and specially dangerous goods, as may seem expedient to the local authority. Any such license may be for dangerous goods alone, or for specially dangerous goods alone, or for both, and the conditions aforesaid may be made applicable to any specified articles being dangerous, or specially dangerous, or to all such goods generally.

In case of refusal of license the applicant may memorialize 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 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.

Specially dangerous goods to be marked and notice of character of such goods to be given to carrier, &c.,

11 NO person shall deliver any goods which are specially dangerous 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 "specially dangerous," is distinctly written printed or marked on the outside of the package; 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 specially dangerous. 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

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without hard labour 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 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 relates, and that he could not with reasonable diligence have obtained such knowledge.

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

As to forfeiture of goods.

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

Warehouse-owners, &c., not bound to receive such goods.

14 THE penalties enjoined by the eleventh section of this Act shall be recoverable only upon indictment or information in the Supreme Court and not in a summary way, and all other penalties shall be recoverable in a summary way before any two or more Justices of the Peace, 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.

Penalties how recoverable.

15 IT shall be lawful for any Inspector of Weights and Measures at all reasonable times to inspect and test all petroleum kept offered or exposed for sale, and if upon such inspection and test any description of petroleum shall be found kept or offered or exposed for sale as aforesaid, contrary to the provisions of this Act, the same shall be liable to be seized and upon conviction forfeited; and such person so examining the same shall retain a sample

Inspector of weights &c., may test petroleum.

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thereof; and the person or persons so offending shall be liable for any such offence to any penalty not exceeding Five pounds. Provided always that if the person or persons in whose possession such petroleum shall be found as aforesaid shall claim to have a further test made on their behalf, the Magistrate before whom complaint of the said offence may be laid shall call before him some person having competent chemical knowledge, who shall test a portion of the sample so retained as aforesaid in the manner hereinafter provided and shall give evidence of the result of such test, and the Magistrate shall direct payment to be made to the analyst of a sum not less than five shillings nor more than twenty shillings; and in case of conviction the person convicted shall pay the cost of such analysis; and in case of acquittal such cost shall be paid by the Colonial Treasurer out of the General Revenue.

Search for petroleum, &c.,
kept contrary to this Act.

16 ANY Justice of the Peace of the Colony or of any district or place in which any petroleum or specially dangerous goods is or are suspected to be kept contrary 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 petroleum or specially dangerous goods 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 petroleum and specially dangerous goods, 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 any thing is seized under this provision proceedings for the forfeiture thereof shall be commenced within twenty-eight days after the seizure.

Mode of testing petroleum.

17 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 Schedule hereto.

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18 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 powers as to inflammable substances.

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

FRED. A. WELD, Governor.