

WESTERN AUSTRALIA

EXPLOSIVES AND DANGEROUS GOODS.

10° Elizabeth II., No. XXXVIII.

No. 38 of 1961.¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 78 of 1966,² assented to 12th December, 1966:

No. 22 of 1967,³ assented to 23rd October, 1967:

and reprinted pursuant to the Amendments Incorporation Act 1938.]

AN ACT to consolidate and amend the Law relating to Explosives; to regulate the storage of Dangerous Goods; and for other incidental purposes.

[Assented to 6th November, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY PROVISIONS.

1. This Act may be cited as the *Explosives and Dangerous Goods Act, 1961-1967*.

Short title
and citation.
Amended by
No. 22 of
1967, s.1.

¹ Proclaimed to come into operation 23/3/62: See G.G. 23/3/62, p. 759.

² Proclaimed to come into operation 10/11/67: See G.G. 10/11/67, p. 3101.

³ Came into operation 10/11/67.

Explosives and Dangerous Goods.

Arrange-
ment.

2. This Act is arranged as follows:—

PART I.—PRELIMINARY PROVISIONS, ss. 1-7.

PART II.—ADMINISTRATION, ss. 8-12.

PART III.—EXPLOSIVES, ss. 13-41.

Division 1.—Classification of Explosives, ss. 13-14.

Division 2.—Importation of Explosives, ss. 15-18.

Division 3.—Manufacture of Explosives, ss. 19-21.

Division 4.—Storage of Explosives, ss. 22-27.

Division 5.—Sale of Explosives, ss. 28-33.

Division 6.—Use of Explosives, ss. 34-36.

Division 7.—Carriage of Explosives, ss. 37-41.

PART IV.—DANGEROUS GOODS, ss. 42-49.

Division 1.—Classification, s. 42.

Division 2.—Storage of Dangerous Goods, ss. 43-46.

Division 3.—Miscellaneous Provisions relating to Dangerous Goods, ss. 47-49.

PART V.—GENERAL PROVISIONS, ss. 50-63.

Commence-
ment.

3. This Act shall come into operation on a day to be fixed by proclamation.

Severability.

4. This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being that when any enactment in this Act would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Repeal of
Acts men-
tioned in
First
Schedule.

Cf. No. 30
of 1918 as
amended.

5. (1) The Acts mentioned in the First Schedule are repealed.

(2) The provisions of sections fifteen and sixteen of the Interpretation Act, 1918, apply in respect of the repeals effected by subsection (1) of this section, but this express inclusion of the application of the

provisions of those sections does not exclude the application to this Act of the other provisions of that Act.

(3) When in any other Act reference is made to any repealed Act, or to any provision thereof, it shall be taken, unless the context otherwise indicates or requires, that the reference is to this Act or, as the case requires, to the corresponding provision of this Act, and that reference shall be read and construed accordingly.

6. (1) Unless otherwise expressly provided, the provisions of this Act shall be in addition to and not in substitution for or diminution of the provisions of—

Saving of
other Acts.
Cf. Qld. 1
Eliz. II,
No. 34, s. 6.

- (a) the Criminal Code;
- (b) the Fire Brigades Act, 1942;
- (c) the Fremantle Port Authority Act, 1902;
- (d) the Health Act, 1911;
- (e) the Police Act, 1892;
- (f) the Western Australian Marine Act, 1948;
- (g) any other Act so far as the same relate to explosives or dangerous goods.

(2) Where inconsistency exists between the provisions of this Act and the provisions of any Act referred to in subsection (1) of this section, the provisions of this Act shall prevail.

(3) In subsection (1) of this section, reference to the provisions of the Acts mentioned includes reference to the provisions of Acts amending or substituted for them and includes also the provisions of Orders in Council, proclamations, rules, regulations, by-laws, notices or other matters which are promulgated pursuant to authority delegated by those Acts and which are in operation.

(4) Nothing in this Act shall prejudice or otherwise affect any by-law not inconsistent with the provisions of this Act made by a local authority

under or pursuant to the provisions of the Municipal Corporations Act, 1906, the Road Districts Act, 1919, or the Local Government Act, 1960.

(5) Nothing in this Act shall prejudice or in any way interfere with the powers of inspection and the regulation of explosives in any mine within the meaning of the Coal Mines Regulation Act, 1946, or the Mines Regulation Act, 1946, except when any such power or regulation is contrary to or inconsistent with any provision of this Act, in which case the provision of this Act shall prevail.

Inter-
pretation.

7. In this Act unless the context requires otherwise—

“authorised explosive” means any explosive which under section fourteen of this Act has been declared an authorised explosive for the purposes of this Act;

“blasting agent” means any material or mixture intended for blasting, not otherwise classified as an explosive and none of the ingredients of which is classified as an explosive; provided that the finished product cannot be detonated when tested in a manner laid down by the Chief Inspector;

“Chief Inspector” means the Chief Inspector of Explosives appointed under this Act; and includes any person who is for the time being discharging the duties of the office of Chief Inspector;

“container” means any case, barrel, box, drum, tank, canister, tin or other receptacle, and includes every package in or by which explosives or dangerous goods may be cased, covered, enclosed, contained or packed;

“dangerous goods” means any substance declared under the provisions of section forty-two of this Act to be dangerous goods and classified in the Third Schedule to this Act;

- “depot”, in relation to dangerous goods which are liquid at atmospheric temperatures and pressures, means any pit, excavation, or enclosed place, whether situated in a building or not, which is constructed in such manner, or surrounded by walls of such character, that liquid dangerous goods stored therein cannot escape from that place either under the action of fire or otherwise, and in relation to any other dangerous goods, means a building or place prescribed or approved by an inspector as a depot for the storage of dangerous goods;
- “explosive” means any substance manufactured or used with a view to producing a practical effect by explosion or a pyrotechnic effect, and without limiting the generality of the foregoing the term includes fireworks, coloured fires, fog signals, fuses, rockets, and every adaptation or preparation of an explosive;
- “factory” means any area of land, or any building, licensed under this Act for the manufacture of any explosive, and includes any building or place within a factory site in which any explosive or partly manufactured explosive is stored;
- “flash point”, in relation to any substance, means the lowest temperature at which the substance, when tested in a prescribed type of apparatus, liberates vapour at a rate sufficient to produce an explosive mixture with the air that is in immediate contact with the substance;
- “inspector” means an inspector of explosives appointed under this Act, and includes the Chief Inspector;
- “lighter” means any vessel however propelled used for the transport of goods between a ship at anchor off shore in any port, harbour or roadstead and any other vessel or the quays, wharves or shore of that port, harbour or roadstead;

“local authority” means the council of a municipality, or a local board of health appointed under the Health Act, 1911;

“magazine” means any area of land, building or other structure, receptacle, or other place approved by the Chief Inspector, where explosives or partly manufactured explosives are kept or stored;

“manufacture”, in relation to any explosive, includes, without limiting the ordinary meaning of the term, the blending together of any substances to make an explosive, the breaking up or unmaking of an explosive, and the re-making, altering or repairing of an explosive;

“master” includes the person (except a pilot) having command or charge of a vessel, and in relation to any boat belonging to a vessel, means the master of the vessel;

“premises” means any land, house, storehouse, storehouse, warehouse, shop, factory, store, cellar, yard, building, or enclosed space, or any part thereof;

“safety cartridges” means cartridges for guns, rifles, pistols, revolvers or other 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;

“sale” includes barter and exchange and supply, and also offering or attempting to sell, or receiving for sale, or exposing or having in possession for sale, or sending, forwarding or delivering for or on sale, or causing, suffering, permitting or allowing to be sold or offered or exposed for sale;

“store”, in relation to explosives, means retain the explosives on any premises; and, in relation to dangerous goods, means retain

the dangerous goods on any premises for a period of not less than one hour; and "storage" has a corresponding meaning in each case;

"substance" includes, but without limiting the generality of its meaning, any gas, any liquid, any gas mixture and any liquid mixture;

"vessel" means a ship, lighter, hulk, boat, and every other kind of vessel used in navigation whatever may be the means of its propulsion.

PART II.—ADMINISTRATION.

8. Subject to its provisions, this Act shall be administered by the Minister through the Department of the State known as the Mines Department.

Administra-
tion.

9. The Governor shall appoint a person to the office of Chief Inspector of Explosives, which office shall be subject to the provisions of the Public Service Act, 1904, and may also appoint a Deputy Chief Inspector and such inspectors and other officers as are necessary for carrying this Act into effect.

Chief
Inspector
and
inspectors
to be
appointed.
Amended by
No. 22 of
1967, s. 3.

10. The Chief Inspector shall in every year make to the Minister, in such manner and form as the Minister directs, a report upon the administration of this Act and such report shall be laid before Parliament.

Annual
Report.

11. The cost of the administration of this Act shall be paid out of moneys to be appropriated by Parliament to the purpose.

Cost of ad-
ministration.

12. (1) An inspector may at any time—

(a) enter, inspect and examine any premises, magazine, vehicle, vessel or aircraft where he has reason to believe or suspect explosives or dangerous goods may be found: provided that, unless he has reason to believe that

Powers of
inspectors.
Cf. 59 Vict.
No. 38, s. 43;
N.Z. 1957,
No. 19, s. 9;
Qld. 1
Elliz. II,
No. 34, s. 14.

*Explosives and Dangerous
Goods.*

imminent danger to the public or to any person exists, an inspector shall not enter a dwelling-house except by authority of a search warrant of a justice issued under section fifty-three of this Act;

- (b) make any general or particular inquiries as to the observance of this Act or which are necessary for the purposes of this Act;
- (c) take without payment such samples of any substance which he believes to be an explosive or an ingredient thereof or dangerous goods as are necessary for the examination and testing thereof;
- (d) seize, remove or detain any explosives or dangerous goods, and any container, vehicle, vessel or aircraft in which the explosives or dangerous goods are being kept or carried, if he has reason to believe or suspect that there has been a contravention of this Act in respect of those explosives or dangerous goods;
- (e) require, for the purposes of paragraph (d) of this subsection, the occupier of the premises where the explosives or dangerous goods are seized, or the owner of the explosives or dangerous goods, to retain them in those premises, or in such place under the control of the occupier or of the owner of the explosives or dangerous goods as will, in the opinion of the inspector, least endanger the public safety;
- (f) with the consent of the Minister, and at the cost of the owner or person in possession of any explosive or dangerous goods, destroy or render harmless, or give directions for the destruction or rendering harmless of, the explosive or dangerous goods in any case where he believes it necessary in the public interest or for the safety of any person so to do:

Provided nevertheless that an inspector may so act without the consent of the Minister in cases of imminent danger or

where the owner of the explosive or dangerous goods authorises him in writing so to act;

- (g) open or cause to be opened any container of explosive or dangerous goods and take samples thereof without payment;
- (h) require the production of any license or any book, record or writing required by this Act to be held or kept, and inspect, examine and take copies of or extracts from the same;
- (i) call upon any member of the police force to enforce his requirements in any case where he has called upon any person to comply with any provision of this Act and the person has failed to comply and he believes that grave danger to the public or to any person exists, and in such case that member of the police force may arrest the person without warrant and take such steps as may be necessary to enforce compliance with those requirements.

(2) Every person arrested without warrant under paragraph (i) of subsection (1) of this section shall be detained in custody until he can be brought before a justice to be dealt with according to law, or until he shall have given bail for his appearance before a justice in accordance with the provisions of the Justices Act, 1902.

(3) No action shall lie against the Crown or any inspector in respect of the destruction or rendering harmless of any explosive or dangerous goods under the powers conferred by paragraph (f) of subsection (1) of this section.

PART III.—EXPLOSIVES.

Division 1.—Classification of Explosives.

13. (1) for the purposes of this Act, explosives are hereby divided into the several classes and divisions specified in the Second Schedule to this

Explosives
divided into
classes.
Cf. N.Z. 1957.
No. 19, s. 4.

Act, and a reference in this Act to any specified class, or any specified division of a class, of explosive shall be deemed to be a reference to that class or to that division of a class according to the classification in that Schedule.

(2) The Governor may from time to time by order made by him, amend the Second Schedule to this Act by deletion, addition or other alteration.

(3) Notice of every order made under the provisions of subsection (2) of this section shall be published in the *Government Gazette*, and the order shall take effect on the day specified for that purpose in the notice, or if no day be specified, on the seventh day following the day of publication, whereupon the Second Schedule, as so amended, shall have full force and effect as if the amendment effected by the order had been enacted in this Act.

Explosives
may be
classified, or
declared
authorised
explosives.
Amended by
No. 22 of
1967, s. 4.
Cf. Qld. 1
Eliz. II,
No. 34, s. 17.

14. (1) The Governor may from time to time by order in council—

- (a) classify explosives;
- (b) declare any specified explosive to be an authorised explosive for the purposes of this Act.

(2) The Governor shall not so classify or declare any explosive until the Chief Inspector has defined the composition, quality and character of that explosive; but such definition in respect of the explosive is not required to be published in the order in council classifying that explosive.

(3) Notice of any order in council made under the provisions of subsection (1) of this section shall be published in the *Government Gazette*, and shall state in such notice the day on which the order shall take effect, and thereupon that order shall take effect on the day so stated.

(4) For the purposes of this Act no explosive shall be, or be deemed to be, an authorised explosive unless—

- (a) the explosive is specified in an order in council classifying explosives made under

this section and in force at the relevant time; or

- (b) the composition, quality or character of the explosive in no way differs (whether by deterioration or otherwise) from that defined by the Chief Inspector for the explosive which it is alleged to be.

(5) An order in council made under this section may be cancelled or from time to time varied by a subsequent order in council.

Division 2.—Importation of Explosives.

15. (1) No person shall import or bring into the State any authorised explosive unless he is the holder of a license under this Act authorising him to import explosives.

Explosives not to be imported without license or permit. Cf. Qld. 1 Eliz. II, No. 34, s. 18.

(2) No person shall import or bring into, or manufacture, store, convey, sell or use in the State an unauthorised explosive except under and in accordance with the authority of a permit granted under this Act.

(3) A permit under the provisions of subsection (2) of this section may be granted by the Chief Inspector on such terms and conditions as he thinks fit; and the Chief Inspector shall specify in the permit the kind and quantity of the explosive to be imported or brought into, or manufactured, stored, conveyed, sold or used in the State.

(4) The Chief Inspector may refuse to grant a permit under subsection (2) of this section in any case where he is of opinion that storage, conveyance or use of the explosive in respect of which the permit is sought is or is likely to be a danger to the public safety.

16. (1) No person shall import or bring into the State any explosive, unless—

- (a) he is the holder of a license under this Act to import explosives, or of a permit under

Conditions for importing explosives. Cf. Qld. 1 Eliz. II, No. 34, ss. 19 and 21.

this Act authorising him to import that explosive; and

- (b) the explosive is contained in a package or container constructed, packed and labelled as prescribed; and
- (c) he has, before so importing or bringing into the State the explosive, notified in the prescribed manner the Chief Inspector of his intention so to do.

(2) The Minister may from time to time by notice in the *Government Gazette* exempt any specified explosive or class of explosives from the requirements of a license or permit.

Notice of arrival of imported explosive.
Cf. Qld. 1 Eliz. II, No. 34, s. 20.

17. (1) On the arrival in the State of any explosive, the person importing or bringing into the State that explosive shall forthwith give to the Chief Inspector notice as prescribed of the arrival of the explosive.

(2) The owner and the person having command or charge of a vessel, aircraft or vehicle having on board or carrying any such explosive shall not permit the same to be unloaded and delivered to any person who does not hold a license or permit under this Act authorising him to import that explosive, and for the purposes of this section any transshipment shall be deemed to be delivery.

(3) The unloading and conveyance to magazines of any imported explosive shall be carried out at such places and times and in such manner, and subject to such inspection and selection of samples of the explosive, as the Chief Inspector may direct.

(4) All explosives, other than explosives exempted by the Minister under section sixteen of this Act, imported into the State shall, subject to the rights and powers of the Comptroller-General of Customs of the Commonwealth, be and remain under the control of the Minister until an order for their release is issued by an inspector.

(5) No person shall remove any such explosives from the control of the Minister without an order for their release signed by an inspector.

18. A person commits an offence against this Act if he—

- (a) imports or attempts to import into the State any explosive (not being an explosive exempted under subsection (2) of section sixteen of this Act) without having obtained a license or, as the case may be, a permit therefor; or
- (b) having obtained a license or permit, imports any explosive other than the explosive or explosives in respect of which the license or permit was granted, or in excess of the quantity specified in the license or permit.

Importation
of explosives
without
license an
offence.
Cf. N.Z. 1957,
No. 19, s. 15.

Division 3.—Manufacture of Explosives.

19. (1) Subject to the provisions of subsection (3) of this section, no person shall manufacture any explosive unless he is the holder of a license granted by the Minister authorising him so to do.

Explosives
to be manu-
factured
only under
license.
Cf. N.Z. 1957,
No. 19, s. 16.

(2) The holder of a license to manufacture any explosive shall not manufacture the explosive at any place other than the factory specified in the license.

(3) Nothing in this Division shall apply to—

- (a) the manufacture of a quantity of explosive not exceeding an amount reasonably necessary for the purpose of chemical experiment at Government or industrial laboratories or laboratories of technical institutes, technical colleges or universities, provided that such manufacture is under the supervision of a qualified person and the explosive is not intended for practical use or for sale;
- (b) the filling of cartridges for small arms where those cartridges are intended solely

for the personal use of the person filling the same and not for use by any other person nor for sale;

- (c) the reconditioning of explosives under the supervision of an inspector;
- (d) the blending, at or near the places of use, of the inexplusive components of any explosive or blasting agent provided that such blending and use is carried out under the authority of a permit or such other authority as the Minister deems necessary and the components are stored, conveyed and blended in the prescribed manner.

Application for license to manufacture explosives.
Cf. N.Z. 1957, No. 19, s. 17.

20. (1) An application for a license to manufacture any explosive shall be made to the Chief Inspector, and shall be accompanied by such information and particulars as are prescribed and such further details as the Minister may consider necessary for proper consideration of the application.

(2) The Minister may—

- (a) grant the license in accordance with the application; or
- (b) grant the license subject to such modifications of the proposals as he thinks fit, having regard to the interests of safety of persons or of buildings adjacent to the proposed factory; or
- (c) refuse to grant the license if he thinks the interests of public safety so require.

Manufacturer of explosives to comply with terms of license.

21. (1) The holder of a license to manufacture explosives shall at all times comply with the provisions of this Act, and with all the terms and conditions of the license, and with all requirements prescribed by regulations made under this Act.

(2) A person who manufactures any explosive without first obtaining a license in that behalf commits an offence against this Act.

Division 4.—Storage of Explosives.

22. (1) A person shall not store or keep, or permit or allow to be stored or kept, any explosive in any place other than —

Where
explosives
may be
stored.
Amended by
No. 22 of
1967, s. 5.
Cf. Qld. 1
Edit. II,
No. 34, s. 26.

- (a) a factory specified in a license granted under this Act for the manufacture of explosives;
- (b) a magazine licensed under this Act for the storage of explosives;
- (c) a storage place specified in a license to sell explosives;
- (d) a magazine at any mine within the meaning of the Mines Regulation Act, 1946, or of the Coal Mines Regulation Act, 1946, if the magazine or place is inspected and approved under the authority of either of those Acts;
- (e) any place approved by the Chief Inspector and specified in an instrument in writing under his hand, as being suitable for the temporary storage of any explosive or class of explosives so specified.

(2) Notwithstanding the provisions of paragraph (d) of subsection (1) of this section, the Chief Inspector may at any time, if he considers it necessary or expedient in the interests of public safety, by notice in writing require the owner of a mine referred to in that paragraph to license under the provisions of this Act any magazine at that mine, and thereupon the owner shall within the time to be specified in such notice comply with the requirements of the notice.

(3) Where any explosive is in the possession of a person for the purpose of being conveyed from one place to another, that explosive shall for the purposes of this section be deemed not to be stored while being conveyed in such manner as may be prescribed.

Exemptions from license to store.
Cf. N.Z. 1957, No. 19, s. 26.

23. (1) Nothing in this Act shall be deemed to make unlawful the storage for private use only, and not for sale, of explosives in the quantities prescribed by regulations made under this Act.

(2) A person who stores any explosive for private use in quantities so prescribed shall store the explosive in the prescribed manner and to the approval of an inspector.

Storage in unauthorised place an offence.
Cf. N.Z. 1957, No. 19, s. 29.

24. (1) Where an explosive is stored in contravention of the provisions of section twenty-two of this Act, the person occupying the place in which it is stored, and any person storing the explosive, and the owner of the explosive each commits an offence against this Act.

(2) Any person who stores any quantity of explosives in any place, whether that place is licensed under this Act or not, in any manner other than that prescribed by regulations made under this Act commits an offence against this Act.

(3) Any person who without lawful authority stores or has in his possession any explosive, or who on being requested so to do by an inspector or a member of the police force fails or refuses to produce a license or permit granted under this Act authorising that person to store or have in his possession any explosive, commits an offence against this Act.

Public magazines may be appointed.
Cf. N.Z. 1957, No. 19, s. 30.

25. The Minister may from time to time appoint as a public magazine for the storage of explosives any place, building, or cave, or any hulk or other floating vessel, which in his opinion is suitable for the purpose, subject to such terms and conditions as may be prescribed.

Private magazines to be licensed.
Cf. N.Z. 1957, No. 19, s. 31.

26. (1) The Chief Inspector may grant licenses for the storage of explosives in private magazines, upon such terms and conditions as he considers necessary in the interests of safety of the public and of persons employed therein.

(2) Every application for a license to establish a private magazine shall be made to the Chief Inspector and shall be accompanied by such information and particulars as are prescribed.

Cf. N.Z. 1957,
No. 19, s. 32.

27. The holder of a license granted under this Act to store explosives shall maintain the magazine in accordance with its description in the license and shall comply at all times with all requirements prescribed by regulations made under this Act.

Magazine
to be main-
tained as
described in
license.

Division 5.—Sale of Explosives.

28. (1) A person shall not sell, or keep for sale, any explosive, unless he is—

License
required to
sell
explosives.

- (a) the holder of a license under this Act to sell explosives;
- (b) the holder of a license under this Act to manufacture explosives and the explosive was manufactured by him under such license;
- (c) the holder of a license or permit under this Act to import or bring into the State that explosive; or
- (d) given special approval by the Chief Inspector to sell that explosive, which approval shall be given in respect of one transaction only and on such terms and conditions as the Chief Inspector may deem necessary or expedient.

(2) The holder of a license under this Act to sell explosives may store such quantity of explosives as is specified in that license, provided that the explosives are stored in a building or receptacle approved by an inspector as being suitable for their storage.

29. (1) The holder of a license under this Act to sell explosives, or any person in his employ, shall at the time of sale and before delivery of any explosive, enter in a book prescribed for that purpose to be kept by the holder of the license, the sale of

Sales of
explosives to
be recorded.
Cf. N.Z. 1957,
No. 19, s. 24.

that explosive so as to show the description and quantity sold of that explosive, the date of the sale, and the full name, address and occupation of the purchaser.

(2) The holder of a license or permit under this Act to import or bring into the State explosives shall furnish to the Chief Inspector not later than the tenth day of each month a return of all sales of those explosives made by him during the preceding month, and in such return shall specify, in respect of each sale so made,—

- (a) the date the sale was made;
- (b) the type and quantity of explosives sold; and
- (c) the name and address of the purchaser.

Provisions
as to sale of
explosives.
Amended by
No. 78 of 1966,
s. 3; No. 22 of
1967, s. 6.

30. (1) A person shall not—

- (a) hawk, sell, or expose or offer for sale any explosive in or upon any street, road, public thoroughfare, highway, or public place; or
- (b) exhibit or expose for sale any explosive on any premises.

(2) A person shall not sell or deliver any explosive unless the package or container in which it is contained is labelled, branded or marked in the manner prescribed by regulations made under this Act.

(3) Subject to subsection (4) of this section, a person shall not sell any explosive to any person who is apparently under eighteen years of age, or to any other person unless—

- (a) he is the holder of a mining tenement under the provisions of the Mining Act, 1904;
- (b) he is the holder of a license under this Act for the storage of explosives in private magazines;

- (c) he is in possession of a permit under this Act authorising him to purchase explosives; or
 - (ca) in the case of manufactured fireworks, he is the holder of a permit under section thirty A of this Act authorising him to purchase the fireworks; or
 - (d) the sale is one exempted from the provisions of this Division under section thirty-three of this Act.
- (4) Nothing in subsection (3) of this section applies to the sale of an explosive—
- (a) to a person who is apparently under eighteen years of age, if the explosive is a manufactured firework of the shop goods class known as a snap for bon bon crackers, amorces or toy caps or streamer bombs or other prescribed manufactured fireworks of the shop goods class;
 - (b) to any person of or above the age of eighteen years, if the explosive is—
 - (i) any of the manufactured fireworks of the shop goods class referred to in paragraph (a) of this subsection or other prescribed manufactured fireworks of the shop goods class; or
 - (ii) any distress signal rocket or other distress or signalling device of any kind or any other prescribed manufactured firework.

30A. (1) The Chief Inspector may grant a permit under this Act authorising the holder to purchase manufactured fireworks of the kind and quantity specified in the permit and use them for the purpose of holding a display of fireworks for public entertainment.

Permits
to purchase
manufac-
tured
fireworks
for public
displays.
Added by No.
78 of 1966,
s. 4.

(2) A permit under the provisions of subsection (1) of this section—

- (a) may be granted on such terms and conditions as the Chief Inspector thinks fit;
- (b) may be refused where in the opinion of the Chief Inspector the display in respect of which the permit is sought is likely to be a danger to public safety or where in his opinion there is other reasonable cause for refusal.

Provisions as to keeping of book recording sales.

31. (1) The prescribed book which under the provisions of subsection (1) of section twenty-nine of this Act the holder of a license to sell explosives is required to keep, shall be kept in a secure place and such holder shall keep every record of the sale by him of explosives for such period as may be prescribed.

(2) An inspector, or any member of the police force, may at any time inspect any book required to be kept as aforesaid and make copies of any records therein as he may think fit.

(3) Where a member of the police force is of opinion that a person is contravening any provision of this Act relating to the sale or keeping of an explosive, such member shall have and may exercise all or any of the powers of an inspector under this Act in regard to that contravention, but any act done by a member of the police force pursuant to the provisions of this subsection shall as soon as practicable thereafter be reported by him to the Chief Inspector.

Offences.

32. (1) A person who commits a breach of any provisions of section twenty-eight, twenty-nine, thirty or thirty-one of this Act, and a person on whose behalf any explosive is sold or delivered in breach of any of those sections, each commits an offence against this Act.

(2) A person who obstructs an inspector, or a member of the police force, authorised under section thirty-one of this Act commits an offence against this Act.

33. Nothing in this Division shall apply—

Application
of this
Division.
Amended by
No. 78 of
1966, s. 5.

- (a) to the sale or supply of any explosive by the owner or person in control of a mine to contract workers or piece workers for use in that mine; or
- (b) in respect of any transaction involving the sale of explosives (other than fireworks of the shop goods class), if the Minister exempts, as in his discretion he is hereby authorised to do, the transaction from the provisions of this Division.

Division 6.—Use of Explosives.

34. (1) A person shall not use or permit to be used any explosive, unless—

Use of
explosives
restricted.
Amended by
No. 78 of
1966, s. 6;
No. 22 of
1967, s. 7.

- (a) he is the holder of a permit issued to him by the prescribed issuing authority, or of a magazine license to store explosives;
- (b) he uses the explosive under the immediate supervision of the holder of a permit or of a magazine license;
- (c) he uses the explosive in a mine, quarry or other place subject to inspection and regulations for the use of explosives made and in force under an Act other than this Act; or
- (ca) in the case of manufactured fireworks, he is either the holder of a permit under section thirty A of this Act or uses the fireworks under the immediate supervision of the holder of such a permit; or
- (d) he is a person approved and authorised by any lawful authority of the Commonwealth or of the State to use explosives.

(2) A permit shall not be issued by the prescribed issuing authority unless the applicant satisfies that authority that he may safely be entrusted with the use of explosives and that there is a necessity for such use.

(3) A permit shall remain in force for a period not exceeding one year from the date of issue, and the date of expiry of the permit shall be marked on it at the time of issue.

(4) In this section "a permit" means a permit to purchase explosives.

(5) Nothing in subsection (1) of this section applies to an explosive that is a manufactured firework of the shop goods class known as a snap for bon bon crackers, amorces or toy caps or streamer bombs or any other prescribed firework.

Conditions under which use prohibited.
Cf. Qld. 1 Eliz. II, No. 34, s. 35.

35. (1) A person shall not prepare for use, fire, detonate or cause to be otherwise exploded, any explosive under conditions which endanger life or property.

(2) A person who uses explosives in any place shall ascertain and observe and duly comply with the regulations (if any) for the use of explosives at that place, but where no such regulations are provided or are applicable, blasting shall be carried out in accordance with a standard code approved by the Chief Inspector and prescribed by regulations made under this Act.

Application of this Division.

36. Nothing in this Division shall apply so as to prevent or restrict the use of explosives in the course of his employment and under competent supervision by any person employed by any Department of Works, or similar department, of the Commonwealth or of the State.

Division 7.—Carriage of Explosives.

Provisions as to carriage of explosives.
Cf. N.Z. 1957, No. 19, s. 39.

37. (1) A person shall not load or unload any explosive on to or from any vehicle or vessel, or carry or convey, or cause to be carried or conveyed, any explosive on or in any vehicle or vessel, except in accordance with, and in the manner prescribed by, regulations made under this Act.

(2) Every person engaged in the loading, unloading, carriage or conveyance of explosives shall at

all times take such precautions as are necessary for the prevention of accident by fire or explosion and to prevent access by unauthorised persons to the explosives or into the vicinity of the explosives.

38. (1) A person shall not carry or convey on or in any vehicle or vessel any explosive of a class which the Minister may from time to time notify in the *Government Gazette* unless he is the holder of a license under this Act authorising him to carry that explosive.

Certain explosives not to be carried except under license.
Cf. N.Z. 1957, No. 19, s. 40.

(2) A license under this section shall be issued by the Chief Inspector and be upon such terms and conditions as the Chief Inspector thinks fit.

39. Nothing in section thirty-seven or section thirty-eight of this Act shall apply with respect to the carriage in any vessel arriving in the State from any other State or from any other country of any explosive intended for importation pursuant to a license in that behalf issued under this Act.

Exemption of vessels importing explosives.

40. A person shall not carry or convey or cause to be carried or conveyed in any vehicle or vessel carrying or plying for the carriage of passengers for hire or reward—

Restrictions on carriage of explosives with passenger vehicles.
Cf. N.Z. 1957, No. 19, S. 41.

- (a) any prescribed explosive prohibited by regulations made under this Act from being so carried or conveyed; or
- (b) any other explosive, unless the quantity carried does not exceed five pounds weight, and is so protected as to prevent unauthorised access thereto or danger from fire or explosion.

41. A person shall not deliver to any other person any explosive for carriage or storage, or carry or store any explosive, unless the explosive is packed and labelled, branded or marked in manner prescribed, and the failure so to pack or to label, brand or mark as required shall be deemed a breach of this section.

Explosives to be packed and marked.
Cf. N.Z. 1957, No. 19, s. 43.

PART IV.—DANGEROUS GOODS.

Division 1.—Classification.

Dangerous
goods
divided into
classes.
Amended by
No. 22 of 1967,
s. 8.
Cf. N.Z. 1957,
No. 20, s. 3.

42. (1) For the purposes of this Act dangerous goods are hereby divided into the several classes set out in the Third Schedule to this Act, and references in this Act to any specified class of dangerous goods shall be deemed to be references to that class of dangerous goods according to the classification in the Schedule.

(2) The Governor may from time to time by order in council, notice of which shall be published in the *Government Gazette*—

- (a) amend the Third Schedule to this Act by deletion, addition or other alteration;
- (b) declare any substance to be dangerous goods and classify that substance in the Third Schedule to this Act,

and every such order shall take effect on the day specified for that purpose in the notice, or if no day be specified, three months after the date of publication, whereupon the Third Schedule, as so amended, shall have full force and effect as if the amendment effected by the order had been enacted in this Act.

(3) A substance may be declared and classified pursuant to subsection (2) of this section if that substance—

- (a) is considered by the Minister to be a danger to public safety because of explosive, flammable or other similar properties of the substance, or because of especially corrosive properties of the substance;
- (b) may because of the properties of that substance be likely during its storage, conveyance or use to contribute to the danger of explosion or fire;
- (c) is a substance which can be used to manufacture any explosive or flammable product which would endanger life or property.

(4) A substance may be declared and classified pursuant to the provisions of subsection (2) of this section when that substance—

(a) is being applied or used for prescribed purposes or in prescribed quantities;

(b) is contained in prescribed containers; or

(c) is stored or kept in prescribed quantities,

but nothing in this section applies to the substance when it is not being so applied, used, contained, stored or kept.

(5) If in any case it appears to him necessary or desirable, the Governor may in any order in council made under subsection (2) of this section, order that the same shall apply only, or, as the case may be, shall not apply, in a certain area or areas to be specified in the order.

(6) An order in council made under this section may be cancelled or from time to time varied by a subsequent order in council.

Division 2.—Storage of Dangerous Goods.

43. (1) A person shall not store or keep dangerous goods, except—

(a) in premises licensed under this Act for the storage of dangerous goods;

(b) in depots established as public places of deposit for dangerous goods; or

(c) in such quantities and in such manner and subject to such conditions as to safety as may be prescribed.

(2) A person who stores or keeps dangerous goods contrary to the provisions of this section, and the owner of the goods, and the person in occupation of the premises where the goods are so stored or kept, each commits an offence against this Act.

Restrictions
as to storage
and use of
dangerous
goods.
Cf. N.Z. 1957,
No. 20, s. 13.

(3) It is a defence to a charge against the owner of the goods of an offence under this section if he proves that the goods were stored or kept contrary to the provisions of this section without his knowledge.

Packing of dangerous goods.
Cf. N.Z. 1957, No. 20, ss. 14 and 15.

44. A person shall not—

- (a) pack any dangerous goods for carriage or storage except in packages or containers of a type prescribed; or
- (b) store, carry, sell, or offer for sale any dangerous goods except in a package or container labelled, branded or marked as prescribed.

Licenses for storage of dangerous goods.
Cf. N.Z. 1957, No. 20, s. 16.

45. (1) The Chief Inspector may issue licenses for the storage of dangerous goods in premises specified in the license, and any such license shall be issued in accordance with the regulations and may be subject to such terms and conditions as the Chief Inspector may see fit to impose in the interests of safety of life and protection of property.

(2) The Chief Inspector may refuse to grant a license under this section in any case where he thinks the interests of the public safety so require.

Depots may be established by local authorities.
Cf. N.Z. 1957, No. 20, s. 21.

46. (1) A local authority may establish and maintain any premises approved by the Chief Inspector as being suitable for the purpose as a depot for the storage of dangerous goods, and for the purposes of this section may apply such of its ordinary revenue as it may deem necessary and may make by-laws fixing the charges to be paid for the storage of dangerous goods in the depot.

(2) A local authority which establishes or maintains a depot under this section shall comply with the regulations made under this Act relating to the construction, situation and maintenance of depots for the storage of dangerous goods.

*Division 3.—Miscellaneous Provisions relating to
Dangerous Goods.*

47. (1) The Chief Inspector and every inspector of explosives appointed under this Act shall be an inspector of dangerous goods.

Inspectors
of dangerous
goods.

(2) At any time when it appears to him necessary, the Chief Inspector may, with the approval of the Minister, appoint any person who in his opinion is suitable for the purpose, to carry out under the direction and control in all things of the Chief Inspector, all or any of the provisions of Part IV of this Act in such areas, such places and for such periods as the Minister may specify.

(3) A person appointed under this section shall have and may exercise, subject to the provisions of this section, all or any of the powers of an inspector appointed under this Act insofar as those powers relate to the storage, keeping and carriage of dangerous goods.

48. (1) Where, upon any inspection by an inspector of any magazine or premises in respect of which a license is in force under this Act, or of any vehicle, vessel or aircraft used for the carriage or storage of explosives or dangerous goods, or in any other case involving the manufacture, storage, carriage, or use of explosives or dangerous goods, the inspector considers that any matter or thing or practice connected with that manufacture, storage, carriage or use is defective or unnecessarily dangerous so as in his opinion to endanger the public safety or the safety of any person or to endanger any property, he may require the holder of the license or his agent or the person carrying out that practice to remedy that defect or cease that practice within such time as the inspector specifies in writing: but if the inspector is of opinion that any defect or practice is of such a nature as to be of immediate danger, he may require the person responsible to remedy the defect or cease the practice forthwith.

Powers of
inspector
as to
defects.
Amended by
No. 113 of
1965, s. 8.
Cf. N.Z. 1957,
No. 20, s. 30;
No. 19, s. 46.

(2) Every person commits an offence against this Act who, when required by an inspector forthwith to remedy any such defect or to cease any such practice, fails to comply with that requirement.

(3) Every person commits an offence and is liable to a fine not exceeding twenty dollars for every day on which the failure has continued who, when required by an inspector to remedy any defect or to cease any such practice within a time specified in writing by the inspector, fails to comply with that requirement within that time.

(4) Notwithstanding the provisions of subsection (3) of this section, if the Court is satisfied that the defendant has within the time so specified taken steps to comply with the requirement but has been prevented by reasonable cause from completing within that time the work necessary for that compliance, the Court may adjourn the proceedings, and if the work is completed within a reasonable time, to be determined by the Court, the Court shall dismiss the charge.

Flash point to be ascertained as prescribed by regulations.
Cf. N.Z. 1957, No. 20, s. 29.

49. The flash point of petroleum or other flammable liquids or materials shall for the purposes of this Act be ascertained in the manner prescribed by regulations made under this Act.

PART V.—GENERAL PROVISIONS.

General provisions as to Licenses.

50. (1) Every license granted under this Act—

- (a) shall, except as provided in section twenty-eight of this Act, be valid and effective only for the purpose for which it was granted, and not for any other purpose for which a license is required under this Act;
- (b) shall be subject to the provisions of this Act and to all regulations made under this Act for the time being in force and applicable to that license.

(2) The Minister or, as the case may be, the Chief Inspector shall have the same powers to grant a

renewal of a license or permit (whether unconditionally or subject to conditions), or to refuse to grant a renewal, as are conferred on him by this Act in respect of an application for a new license or permit.

51. (1) Where the holder of a license or permit granted under this Act is charged with an offence against this Act or any regulation or by-law made under this Act, or has failed to comply with a lawful requirement of an inspector, the Chief Inspector may suspend the license or permit until the charge in respect of the offence has been disposed of or, as the case may be, until the requirement has been complied with.

Licenses
may be
cancelled or
suspended.

(2) Where the holder of a license or permit granted under this Act is convicted of an offence against this Act or any regulation or by-law made under this Act, the Chief Inspector may cancel the license or permit.

52. (1) Where any person is aggrieved by any decision of the Chief Inspector relating to the granting, issue, amendment, renewal, suspension or cancellation of a license or permit, he may, within fourteen days after receiving notice in writing of that decision, appeal against the decision to a Stipendiary Magistrate sitting in a court of petty sessions, whose order shall be final.

Appeals.

(2) On the hearing of the appeal the Court may reverse the decision appealed against, or may dismiss the appeal, or may make such other order as the case may require, and may order either party to the appeal to pay such costs as in its discretion the Court may think fit.

53. If a justice is satisfied by information on oath that there is reasonable ground for suspecting that any breach of this Act or of any regulations made under this Act has been or is being committed, or that preparation has been made to commit such a breach, within any dwelling-house, the justice may grant a search warrant authorising an inspector

Search
warrant.

named in the warrant together with a police constable at any time or times within fourteen days from the date of the warrant to enter, if need be by force, the dwelling-house named in the warrant, and to search that dwelling-house.

Inspector
not to be
hindered
in duties.
Cf. N.Z. 1957,
No. 19, s. 10;
No. 20, s. 11.

54. Every person in or about any premises or vehicle, vessel or aircraft inspected under the provisions of this Act shall—

- (a) facilitate the entry, inspection, and examination by an inspector;
- (b) answer to the best of his knowledge all inquiries made by the inspector as to the observance of this Act and of any regulations made under this Act, and as to the disposal by sale or otherwise of any explosives or dangerous goods:

Provided that no person shall, on an inquiry by an inspector under this paragraph, be required to answer any question tending to incriminate himself;

- (c) facilitate the taking of samples, or the seizure, detention, or removal of any explosives or dangerous goods, or of any container, vehicle, vessel or aircraft, or the destruction or rendering harmless of any explosives or dangerous goods;
- (d) comply with any requisition made by an inspector pursuant to section twelve of this Act.

Accidents.
Cf. N.Z. 1957,
No. 19, s. 51;
No. 20, s. 31.

55. (1) Where any accident by explosion or fire involving any explosive or dangerous goods occurs in, about or in connection with any factory, magazine or premises, the person in occupation shall forthwith give to the Chief Inspector notice in writing of the accident and of any loss of life, personal injury, or damage to property occasioned thereby.

(2) Where any accident by explosion or fire involving explosives or dangerous goods occurs in, about or in connection with any vehicle, vessel or aircraft carrying explosives or dangerous goods, or on or from which explosives or dangerous goods are being loaded, unloaded, held or carried, the master and the owner of the vessel, or, as the case may be, the person having command or charge of the vehicle or aircraft and the owner of the vehicle or aircraft, and the owner of the explosives or dangerous goods being so loaded, unloaded, held or carried, shall forthwith give to the Chief Inspector notice in writing of the accident and of any loss of life, personal injury, or damage to property occasioned thereby.

(3) When any depot or place where explosives or dangerous goods are stored is wholly or partially destroyed by an accident by explosion or fire, no person shall, without the permission in writing of the Chief Inspector, reconstruct that depot or place, or deposit any explosives or dangerous goods therein, or, except in the interests of the safety of any person or of the public or for the protection of any property, remove any explosives or dangerous goods therefrom.

(4) For the purpose of investigating any accident involving any explosive or dangerous goods, an inspector may make inquiries from any person who he has reason to believe is in possession of information that may lead to discovery of the cause of the accident, but no such person shall be required to answer any question tending to incriminate himself.

(5) Notwithstanding the provisions of this section, it shall be sufficient compliance with this section if the Chief Inspector is notified of any accident by fire or explosion by a member of the police force or by an inspector appointed under this or any other Act, and upon being notified as in this subsection mentioned the Chief Inspector may at his discretion make further inquiry or investigation concerning the accident.

Offences.
Amended by
No. 113 of
1965, s. 8.

56. (1) A person who—
- (a) does that which by or under this Act he is forbidden to do; or
 - (b) does not do that which by or under this Act he is required or directed to do; or
 - (c) otherwise contravenes or fails to comply with any provisions of this Act,

commits an offence against this Act.

(2) A person who commits an offence against this Act is liable on conviction to the penalty expressly mentioned as the penalty for the offence, but where a penalty is not expressly mentioned, is liable—

- (a) where the offence is not a continuing offence, to a penalty not exceeding two hundred dollars; and
- (b) where the offence is a continuing offence, to a penalty not exceeding twenty dollars for each day during which the offence continues.

(3) Offences against this Act may be prosecuted by complaint made under the Justices Act, 1902, at any time within six months from the time when the subject matter of the complaint arose, and are punishable summarily under that Act.

Forfeiture.
Cf. N.Z. 1957,
No. 19, s. 60;
No. 20, s. 35.

57. Where a person is convicted of an offence against this Act, or any regulations made under this Act, the Court may order forfeiture to the Crown of all or any part of the explosives or dangerous goods in respect of which the offence was committed, and the containers thereof if the property of the person so convicted, and the same shall thereupon be deemed forfeited to the Crown, and shall be disposed of as the Minister directs.

Disposal of
seized
explosives,
etc.
Cf. N.Z. 1957,
No. 19, s. 61;
No. 20, s. 36.

58. (1) Any explosives or dangerous goods and the containers thereof seized by an inspector under this Act may be retained by the Minister pending the hearing of a charge against any person for an

offence in respect of which the same were seized, or may at the discretion of the Minister be returned to the person from whom they were seized.

(2) If the offender referred to in subsection (1) of this section is not traced within six months of the seizure, the explosives or dangerous goods, and the containers thereof if the property of the offender, shall be deemed forfeited to the Crown, and shall be disposed of as the Minister directs, but any containers not the property of the offender shall be returned to the owner or owners thereof.

(3) Where proceedings are taken against any person in respect of the offence, any explosives or dangerous goods and the containers thereof so retained by the Minister shall when the proceedings are completed be returned to the person from whom they were seized, unless the Court convicts the offender and orders those explosives or dangerous goods, and any containers thereof the property of the offender, forfeited to the Crown, in which case any containers not the property of the offender shall be returned to the owner or owners thereof.

59. A license, permit or other authority which is suspended or cancelled under this Act shall, on request being made by an inspector, be delivered forthwith to that inspector by the person to whom that license, permit or other authority was granted.

Suspended
or cancelled
licenses to
be returned.
Cf. Qld. 1
Ellz. II,
No. 34, s. 45.

60. No matter or thing done or omitted to be done by the Minister or by the Chief Inspector, or by any person acting with or under the authority of the Minister or the Chief Inspector, or done by any inspector or member of the Police Force in good faith for the purpose of carrying out this Act or in the exercise of his powers and duties under this Act, shall subject the Crown, or the Minister or Chief Inspector, or the person acting with or under the authority of the Minister or the Chief Inspector, or subject the inspector or member of the Police Force, to any liability in respect of such act or omission.

Protection
of officers.
Cf. Qld. 1
Ellz. II,
No. 34, s. 46.

Proof of
offence.
Cf. Qld. 1
Eliz. II,
No. 34, s. 47.

61. Where in a prosecution under this Act an offence is proved in regard to any sample or portion of explosives or ingredients or of dangerous goods, such offence shall be deemed to have been proved with regard to the whole of the explosives or ingredients or of the dangerous goods from which the sample or portion was taken.

Regulations.
Amended by
No. 113 of
1965, s. 3; No.
22 of 1967,
s. 9.

62. (1) The Governor may make regulations prescribing such matters as are contemplated, required or permitted to be prescribed by this Act, and such matters as appear to him to be necessary or desirable for public safety and for giving effect to the purposes and objects of this Act.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section, the Governor may make regulations—

- (a) prescribing the form and duration of licenses, permits or certificates issued under this Act, the terms and conditions upon which such licenses, permits and certificates shall be issued, and the fees payable therefor;
- (b) regulating the importation into the State of explosives or dangerous goods and the manner of packing and handling;
- (c) regulating the construction, management and licensing of factories and magazines or of any places where explosives or dangerous goods are stored or kept;
- (d) regulating the sale of explosives, and prescribing the records to be kept by vendors of explosives;
- (e) regulating the manner of dealing with explosives and dangerous goods which are dangerous to public safety or to property;
- (f) specifying the persons who may use explosives and prohibiting the use of explosives by any person not so specified except under a permit; prescribing the

permit to be issued and the terms and conditions on and circumstances under which such a permit may be issued;

- (g) regulating the loading, unloading and carriage of explosives and dangerous goods; prescribing the construction of and the fittings and appliances to be carried on or attached to vehicles carrying explosives or dangerous goods;
- (h) prescribing the packages and containers to be used for explosives and dangerous goods, the manner of packing, labelling, branding and marking of such containers, and the weights or volumes to be contained therein;
- (i) providing for the blending together of the inexplusive components of an authorised explosive or of a blasting agent at or near the place of use, and prescribing the permit or other authority for carrying out such blending and use, and the conditions under which such blending may be done;
- (j) providing for the classification of certain insensitive explosives as blasting agents and prescribing tests for them; prescribing the manner of keeping and dealing with such blasting agents;
- (k) prescribing the procedure for having an explosive declared an authorised explosive; providing for the inspection, examination and testing of explosives and dangerous goods; and prescribing fees therefor;
- (l) prescribing the construction of testing apparatus, the manner of testing petroleum or other flammable liquids or materials, and the method of ascertaining the flash point of such liquids and materials;
- (m) regulating and controlling the importation, storage and sale of fireworks of the

shop goods class and providing for inspection and testing of the same as may be considered necessary in the interests of public safety;

- (n) prescribing the amount of explosives or dangerous goods which may be kept in places other than licensed factories, magazines or depots, and prescribing the manner in which they shall be handled and stored in such places;
- (o) prescribing the fire-fighting equipment to be kept in any place licensed under this Act, or in depots established by local authorities, or in vehicles, vessels or aircraft used for the carriage of explosives and dangerous goods, and providing for the maintenance and periodic testing of that equipment;
- (p) providing for the taking of samples of explosives or dangerous goods required for examination or testing for the purposes of this Act;
- (q) prescribing fees or rents to be charged for the storage of explosives or dangerous goods in any public magazine or depot;
- (r) prescribing penalties for the breach of any regulation not exceeding two hundred dollars or if the breach is a continuing breach, not exceeding twenty dollars for each day during which the breach has continued;
- (s) for all matters required or permitted by this Act to be prescribed;
- (t) for such other purposes as he deems necessary or expedient in the interests of the public safety or the safety of any person, and for the protection of property from destruction or damage by or resulting from explosion.

(3) The regulations may prescribe that any act or thing shall be in accordance with a standard specified in the regulations or with the approval of, or to the satisfaction of, the Chief Inspector.

63. Nothing in this Act shall apply—

- (a) to any explosives or dangerous goods which are the property of Her Majesty's Military, Naval or Air Forces, or any other defence force, or volunteer defence force, or police force constituted or established under any Act;
- (b) to safety cartridges or other small arms ammunition for which licensing or control is provided by any other Act;
- (c) to the possession or conveyance of any explosives or dangerous goods by an inspector for any of the purposes of this Act, provided that the inspector shall take all proper precautions and safety measures while keeping or conveying the same;
- (d) subject to any provisions prescribed by the regulations, to the importation, storage or carriage of fireworks of the shop goods class;
- (e) to the storage, sale and conveyance of any safety fuse, or any small explosive devices when, in the opinion of the Minister, they are so constructed or packed as not to be a danger to life or property, and are declared exempt by the Minister or the Chief Inspector in writing;
- (f) to the conveyance of explosives or dangerous goods by the Commissioner of Railways on any railway under his control and management pursuant to the provisions of the Government Railways Act, 1904, where the Chief Inspector has approved of the manner of conveyance and is satisfied that adequate safety measures are being taken.

This Act
not to apply
in certain
cases.
Amended by
No. 78 of
1966, s. 7.

S. 5.

FIRST SCHEDULE.

The Explosive Substances Act, 1894 (58 Vict., No. 12).
 The Explosives Act, 1895 (59 Vict., No. 38).
 Explosives Act Amendment Act, 1902 (2 Edw. VII., No. 2).

S. 13.

SECOND SCHEDULE.

CLASSIFICATION OF EXPLOSIVES.

Class 1: Gunpowder.

The term "gunpowder" includes blasting powder and any explosive, consisting of a mixture of charcoal and sulphur with potassium nitrate or sodium nitrate or both.

Class 2: Nitrate Mixture.

The term "nitrate mixture" means any preparation (other than gunpowder) formed by the mechanical mixture of a nitrate or perchlorate with any form of carbon or with any carbonaceous substance not possessed of explosive properties, whether sulphur is or is not added to the preparation and whether the preparation is or is not mechanically mixed with any other non-explosive substance.

Class 3: Nitro-compound.

The term "nitro-compound" means any chemical compound possessed of explosive properties, or capable of combining with metals to form an explosive compound, which is produced by the chemical action of nitric acid (whether mixed or not with sulphuric acid) or of a nitrate mixed with sulphuric acid upon any carbonaceous substance, whether the compound is mechanically mixed with other substances or not.

This class is in two divisions, namely;

Division 1 comprises such explosives as—

Nitroglycerine
 Dynamite
 Gelnignite
 Monobel
 Blasting Gelatine
 Gelatine Dynamite

and any chemical compound or mechanically mixed preparation which consists either wholly or partly of nitroglycerine or of some other liquid nitro-compound.

Division 2 comprises such explosives as—

Gun cotton
Picrates
Picric powder
Smokeless powder
Trinitrotoluene

and any nitro-compound as before defined
which is not comprised in Division 1.

Class 4: Chlorate Mixture.

The term "chlorate mixture" means any explosive containing a chlorate.

This class is in two divisions, namely:

Division 1: Any chlorate preparation which consists partly of nitroglycerine or some other liquid nitro-compound.

Division 2: Any other chlorate mixture.

Class 5: Fulminate.

The term "fulminate" means any chemical compound or mechanical mixture, whether included in the foregoing classes or not, which from its great susceptibility to detonation is suitable for employment in percussion caps or any other appliances for developing detonation, or which from its extreme sensibility to explosion, and from its great instability (that is, its readiness to undergo decomposition from very slight exciting causes) is especially dangerous.

This class is in two divisions, namely:

Division 1: Such compounds as the fulminates of silver and mercury, and preparations of those substances; and any preparation consisting of a mixture of a chlorate with phosphorus, or certain descriptions of phosphorus compounds with or without the addition of carbonaceous matter, and any preparation consisting of a mixture of a chlorate with sulphur, or a sulphide, with or without carbonaceous matter.

Division 2: Such substances as the chloride and the iodide of nitrogen, fulminating gold and silver, diazobenzol, and the nitrate of diazobenzol.

Class 6: Ammunition.

The term "ammunition" means any explosive of any of the foregoing classes when enclosed in any case or contrivance so as to form a cartridge, charge, fuse, firing tube,

percussion cap, detonator, fog signal, shell, torpedo, war rocket, or other like contrivance other than a firework, or any explosive so otherwise adapted or prepared as to form any contrivance other than a firework.

The term "detonator" means a capsule or case which is of such strength and construction, and contains an explosive of the fulminate-explosive class in such quantity, that the explosion of one capsule or case will communicate the explosion to other like capsules or cases.

The term "percussion cap" means a capsule or case of metal containing not more than 0.5 grain of an explosive of the fifth (fulminate) class, the explosive being covered or protected by a coating of tin foil or other approved material and the case or capsule not containing an anvil: provided that where the proportion of mercury fulminate in the composition does not exceed 25 per cent., the aforesaid limit may be increased to 0.6 of a grain; and provided also that the whole shall be of such strength that the ignition of one such cap will not ignite other like caps. The term "percussion cap" does not include a detonator.

The term "railway fog signal" means a railway fog signal enclosed in a case or contrivance of such strength and construction and containing an explosive in such quantity that the explosion of one railway fog signal will not communicate to other like railway fog signals.

The term "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 an explosion in one cartridge being communicated to other cartridges.

The term "safety fuse" means a fuse for blasting which—

- (a) burns and does not explode;
- (b) burns under all conditions of practical use at an approved even average rate;
- (c) does not contain its own means of ignition; and
- (d) is of such strength and construction and contains an explosive in such quantity that the burning of the fuse will not communicate laterally to other like fuses.

The term "containing its own means of ignition", as applied to ammunition, means having an arrangement, whether attached to it or forming part of it, which is adapted to explode or fire it by friction or percussion.

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This class is in three divisions, namely:

Division 1: This division consists of percussion caps, railway fog signals, safety cartridges, safety fuses, and other devices of a similar nature not capable of explosion en masse.

Division 2: Any ammunition which does not contain its own means of ignition and is not included in Division 1.

Division 3: Any ammunition which contains its own means of ignition and is not included in Division 1.

Class 7: Firework.

The term "firework" means any firework composition and any manufactured firework.

The term "firework composition" means any chemical compound or mechanically mixed preparation of an explosive or flammable nature which is used for the purpose of making manufactured fireworks and is not included in any of the foregoing classes; and includes any star and any coloured firework composition not included in Division 2 or Division 3 of this class.

The term "manufactured firework" means any explosive of any of the foregoing classes of firework composition enclosed in a case or contrivance or otherwise manufactured so as to form a squib, cracker, rocket (other than a war rocket), maroon, lance, wheel, Chinese fire, Roman candle, or other article specially adapted for the production of pyrotechnic effects or pyrotechnic signals or sound signals; and includes coloured fire compositions when those compositions are of a nature not liable to spontaneous combustion, and in a quantity not exceeding one pound, enclosed in a substantially constructed hermetically closed metal case.

This class is in three divisions, namely:

Division 1: Firework composition.

Division 2: Manufactured fireworks which either—

- (a) contain each more than 600 grains of firework composition or explosive of any other class; or
- (b) are liable to explode en masse; or
- (c) have not been approved by the Chief Inspector as suitable for unrestricted retail sale to the public.

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Division 3: Manufactured fireworks of the shop-
goods class which—

- (a) contain not more than 600 grains of firework composition or explosive of any other class enclosed in a case of paper or other suitable materials of such strength, construction, and character that the ignition or explosion of one such firework will not cause the explosion en masse of other like fireworks kept or conveyed therewith; and
- (b) are approved by the Chief Inspector in accordance with regulations under this Act as being suitable for unrestricted retail sale.

S. 42.
Amended by
G.G. 12/5/67,
p. 1222.

THIRD SCHEDULE.
DANGEROUS GOODS.

Class 1.

Liquid substances having a flash point of less than 73° F. and all mixtures, solutions or emulsions whether solid or liquid containing such liquid substances as ingredients thereof and having a flash point of less than 73° F.

Any liquid substance that is a flammable liquid having a flash point less than 73° F., when that substance comprises any one liquid volume that is greater than one gallon (but excluding any such liquid that is a potable liquid containing ethyl alcohol).

Class 2.

Liquid substances having a flash point of less than 150° F. but not less than 73° F. and all mixtures, solutions or emulsions whether solid or liquid containing liquid substances of class 1 or class 2 as ingredients thereof and having a flash point of less than 150° F. but not less than 73° F.

Any liquid substance that is a flammable liquid having a flash point less than 150° F., but not less than 73° F., when that substance comprises any one liquid volume that is greater than one gallon (but excluding any such liquid that is a potable liquid containing ethyl alcohol).

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Class 3.

Flammable oils, liquids or any flammable substances of which the flash point is not less than 150° F.

Any flammable oil that is a liquid substance having a flash point less than 300° F. but not less than 150° F., when that flammable oil comprises one liquid volume that is greater than four gallons.

Class 4.

Solid substances which may inflame or explode but which are not classified as explosives.

Class 5.

Substances which may contribute to combustion, fire or explosion of other substances with which they come in contact.

Class 6.

Substances not included in previous classes which can be dangerous on account of acid or corrosive properties.

Class 7.

Compressed liquefied or dissolved gases in cylinders or other containers or vessels.