

Approved for Reprint, 5th September, 1979.

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;

No. 15 of 1974, assented to 16th October, 1974;

No. 101 of 1978,⁴ assented to 30th November, 1978,

and by Orders in Council published in the *Government Gazette* on 26th April, 1974 and 14th July, 1978, and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the Law relating to Explosives; to regulate the manufacture, importation and use of Explosives, and the classification, marking, storage, carriage, and sale of Explosives and Dangerous Goods; and for other incidental purposes.

Long title.
Amended by
No. 101 of
1978, s. 3.

[Assented to 6th November, 1961.]

BE it enacted—

PART I.—PRELIMINARY PROVISIONS.

1. This Act may be cited as the *Explosives and Dangerous Goods Act, 1961-1978*.

Short title
and citation.
Amended by
No. 101 of
1978, s. 1.

¹ Came into operation 23/3/62; see G.G. 23/3/62, p. 759.

² Came into operation 10/11/67; see G.G. 10/11/67, p. 3101.

³ Came into operation 10/11/67; see s.2 of Act 22/67.

⁴ Came into operation 31/8/79; see G.G. 31/8/79, p. 2602.

Explosives and Dangerous Goods.

Arrange-
ment.
Amended by
No. 101 of
1978, s. 4.

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 2A.—Carriage of Dangerous Goods, ss. 46A-46B.

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.¹

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.

¹ See footnote ¹ on page 1.

Explosives and Dangerous Goods.

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 (1) The Acts mentioned in the First Schedule are repealed.

Repeal of Acts mentioned in First Schedule. Cf. No. 30 of 1918 as amended.

(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) Where any provision of this Act is inconsistent with any provision relating to explosives or dangerous goods contained in any other Act, or in any regulation, by-law, rule, order in council, proclamation, notice or other law made under or pursuant to authority delegated under any other Act, the provision of this Act shall prevail.

Relationship to other laws. Amended by No. 15 of 1974, s. 2; No. 101 of 1978, s. 5. "This Act" includes regulations. Cf. s. 4 Act No. 30 of 1918.

(2) Subject to subsection (1) of this section, where by or under any other Act any provision is made relating to explosives or dangerous goods the provision so made shall, unless otherwise expressly provided, be observed in addition to and not in substitution for or diminution of the provisions of this Act.

(3) Subsection (1) of this section does not apply to, or in relation to, any radioactive substance in so far as specific provision therefor is made by or under any other Act.

[Former (3) Repealed by No. 15 of 1974, s.2.]

(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

*Explosives and Dangerous
Goods.*

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.**
Amended by
No. 101 of
1978, s. 6.

7. (1) 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 and Dangerous Goods 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;

*Explosives and Dangerous
Goods.*

“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

Explosives and Dangerous Goods.

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.

(2) A reference, however expressed, in any other Act or in any regulation, notice, proclamation or statutory instrument of any kind made, published or in force under this or any other Act, to the Chief Inspector of Explosives shall, unless the context requires otherwise, be read and construed as a reference to the Chief Inspector of Explosives and Dangerous Goods appointed or deemed to have been appointed under this Act.

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. (1) The Governor shall appoint a person to the office of Chief Inspector of Explosives and Dangerous Goods, 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;
No. 101 of
1978, s. 7.

*Explosives and Dangerous
Goods.*

(2) The person who was the Chief Inspector of Explosives immediately before the coming into operation of the Explosives and Dangerous Goods Act Amendment Act, 1978 shall be deemed to have been appointed to the office of Chief Inspector of Explosives and Dangerous Goods under subsection (1) of this section.

Annual
Report.

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.

Cost of ad-
ministration.

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

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

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 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;

*Explosives and Dangerous
Goods.*

- (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;

*Explosives and Dangerous
Goods.*

- (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 shall be dealt with and described by reference to the classification system specified in the Second Schedule to this Act, and a reference in this Act to the classification of any explosive shall be deemed to be a reference to the classification of that explosive according to 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.

Classification of explosives. Amended by No. 101 of 1978, s. 8.

(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.

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

(a) classify any specified explosive by reference to the system specified in the Second Schedule to this Act;

(b) declare any specified explosive to be an authorised explosive for the purposes of this Act.

Explosives may be classified, or declared authorised explosives.

Amended by No. 22 of 1987, s. 4; No. 101 of 1978, s. 9.

Cr. Ord. 1 Eliz. II, No. 34, s. 17.

(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*¹, 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

¹ See G.G. 14/7/78, p.p. 2409-10 (erratum G.G., 28/7/78, p. 2701); G.G. 8/9/78, p. 3296 and G.G. 6/10/78, p. 3625.

*Explosives and Dangerous
Goods.*

- (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.

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

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.

(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.

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

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 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.

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.

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

(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 transhipment 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.

*Explosives and Dangerous
Goods.*

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

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.

Division 3.—Manufacture of Explosives.

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

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.

(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.

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.

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

(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.

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.

Manufacturer of explosives to comply with terms of license.

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

*Explosives and Dangerous
Goods.*

Division 4.—Storage of Explosives.

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

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 —

- (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.

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.

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

(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.

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.

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

(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.

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.

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

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.

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

Explosives and Dangerous Goods.

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

(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.

Magazine
to be main-
tained as
described in
license.

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.

Division 5.—Sale of Explosives.

License
required to
sell
explosives.

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

- (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.

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

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

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.

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.

Provisions
as to sale of
explosives.
Amended by
No. 78 of 1966,
s. 3; No. 22 of
1967, s. 6;
No. 15 of
1974, s. 3.

(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 owner or manager of a mine within the meaning of the Mines Regulation Act, 1946, or of the Coal Mines Regulation Act, 1946, or an agent authorised in writing by such a person to purchase explosives for use in that mine;
- (b) he is the holder of a license under this Act for the storage of explosives in private magazines;

*Explosives and Dangerous
Goods.*

- (c) he is in possession of a permit under this Act authorising him to purchase explosives;
- (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.

Permits
to purchase
manufac-
tured
fireworks
for public
displays.
Added by No.
78 of 1986,
s.4.

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.

(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.

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.

Provisions as to keeping of book recording sales.

(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.

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.

Offences.

(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.

Explosives and Dangerous Goods.

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

33. Nothing in this Division shall apply—

- (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.

Use of explosives restricted. Substituted by No. 15 of 1974, s.4.

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

- (a) he is the holder of a permit to purchase explosives issued by the prescribed issuing authority or is acting under the immediate and direct supervision of a holder of such a permit and he uses the explosives only in prescribed areas or places;
- (b) he is the holder of a Shotfirer's Permit issued by the Chief Inspector in the prescribed manner or is acting under the immediate and direct supervision of the holder of a Shotfirer's Permit;
- (c) he uses the explosives in a mine within the meaning of the Mines Regulation Act, 1946, or of the Coal Mines Regulation Act, 1946;
- (d) he is a person approved and authorised by a lawful authority of the Commonwealth to use explosives; or
- (e) in the case of manufactured fireworks, he is either the holder of a permit under section 30A of this Act or uses the fireworks under the immediate supervision of the holder of such a permit.

(2) A permit to purchase explosives—

- (a) shall not be issued by the prescribed issuing authority unless the applicant satisfies that authority that he has a lawful necessity for using explosives in prescribed areas or places;
- (b) shall be issued for such period of time not exceeding twelve months as is prescribed; and
- (c) shall be a valid authority to purchase at any one time such quantity of explosives and detonators as is stated on the permit together with such fuses and accessories as are required.

(3) The date of expiry of a permit to purchase explosives shall be marked on the permit at the time of issue of the permit.

(4) A Shotfirer's Permit shall—

- (a) be issued by the Chief Inspector in the prescribed manner to a person who is considered competent to discharge the duties of a shotfirer at any place other than a mine within the meaning of the Mines Regulation Act, 1946, or of the Coal Mines Regulation Act, 1946;
- (b) remain valid for a period of twelve months from the date of issue and may be renewed for the same period;
- (c) be a valid permit to purchase such a quantity of explosives as may be required by the holder for use in the course of his work; and
- (d) be subject to such conditions as may be prescribed or as the Chief Inspector may specify in writing on the permit.

(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.

Explosives and Dangerous Goods.

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. Amended by No. 15 of 1974, s.5.

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.

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.

Certain quantity of explosives not to be carried except under license. Amended by No. 15 of 1974, s.6. Cf. N.Z. 1957, No. 19, s.40.

38. (1) A person shall not carry or convey on or in any vehicle or vessel any authorised explosive, or any other explosive, in total quantity exceeding a prescribed quantity unless he is the holder of a license issued under this section authorising him to convey explosives on that vehicle or vessel.

(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.

- (a) any prescribed explosive prohibited by regulations made under this Act from being so carried or conveyed; or
- (b) any other explosive, except in accordance with, and in such quantity as may be prescribed by, regulations made under this Act.

Amended by No. 101 of 1978, s. 10.
Cf. N.Z. 1957, No. 19, s. 41.

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.

42. (1) For the purposes of this Act, dangerous goods shall be dealt with and described by reference to the classification system specified in the Third Schedule to this Act, and a reference in this Act to the classification of any dangerous goods shall be deemed to be a reference to the classification of such dangerous goods according to that schedule.

Classification of dangerous goods.

Amended by No. 22 of 1967, s. 8; No. 101 of 1978, s. 11.

*Explosives and Dangerous
Goods.*

(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 by reference to the system specified 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, in the case of an order under paragraph (a) of this subsection, 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 by reason of the properties of the substance giving rise to the risk of explosion, fire, corrosion or other hazard;
- (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) Where in respect of any dangerous goods the manner or any limitation on the quantity in which such goods shall be stored or kept is prescribed, a person shall store or keep such goods in the manner and within the limits of quantity prescribed in respect thereto.

Regulation
of storage
of dangerous
goods.
Amended by
No. 101 of
1978, s. 12.

(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.

(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.

*Explosives and Dangerous
Goods.*

Packing and
labelling of
dangerous
goods.
Repealed and
re-enacted by
No. 101 of
1978, s. 13.

44. (1) Where in respect of any dangerous goods a type of package or container is prescribed for the purposes of carriage or storage, a person shall not pack any such goods for any such purpose in a package or container of a type other than the type prescribed in respect thereto.

(2) A person shall not store, carry, sell or offer for sale any dangerous goods in a package or container unless that package or container is labelled, branded or marked so as to identify those goods.

(3) Where in respect of any dangerous goods a manner of labelling, branding or marking is prescribed, a person shall not store, carry, sell or offer for sale such goods unless those goods are, or the package or container is, labelled, branded or marked as prescribed in respect thereto.

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 2A.—Carriage of Dangerous Goods.

Heading added by No. 101 of 1978, s. 14.

46A. Where in respect of any dangerous goods the manner or any limitation on the quantity in which such goods shall be carried or conveyed is prescribed, a person shall carry or convey such goods in the manner and within the limits of quantity prescribed in respect thereto.

Regulation of carriage of dangerous goods. Added by No. 101 of 1978, s. 14.

46B. (1) Regulations may provide that a person shall not carry dangerous goods specified therein except on a vehicle in respect of which a license issued by the Chief Inspector for the purposes of this section is currently in force authorising such carriage.

Licensing of vehicles. Added by No. 101 of 1978, s. 14.

(2) The Chief Inspector may refuse to issue a license for the purposes of this section, or issue such license subject to such terms and conditions as he may see fit to impose, in the interests of public safety.

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. Amended by No. 15 of 1974, s. 7.

(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

*Explosives and Dangerous
Goods.*

Inspector, all or any of the provisions 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 explosives and dangerous goods.

(4) The appointment of a person under this section shall be notified in the *Government Gazette*.

Powers of
Inspector
as to
defects.
Amended by
No. 113 of
1965, s. 8;
No. 101 of
1978, s. 15.
Cf. N.Z. 1957,
No. 20, s. 30;
No. 19, s. 46.

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—

- (a) advise the Chief Inspector of his opinion, whereupon the Chief Inspector 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 Chief Inspector specifies in writing; or
- (b) where he is of the opinion that any defect or practice is of such a nature as to be of immediate danger, require the person responsible to remedy the defect or cease the practice forthwith.

(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 two hundred dollars for every day on which the failure has continued who, when required by the Chief Inspector to remedy any defect or to cease any such practice within a time specified in writing by the Chief 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.

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.

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

PART V.—GENERAL PROVISIONS.

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

General provisions as to licenses.

- (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

*Explosives and Dangerous
Goods.*

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.

Licenses
or permits
may be
cancelled or
suspended.

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.

(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.

Appeals.

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.

(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.

Search
warrant.
Amended by
No. 101 of
1978, s. 16.

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 in the prescribed form

authorising an inspector 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.

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

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

- (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.

55. (1) Where any accident 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.

Accidents.
Amended by
No. 101 of
1978, s. 17.
Cf. N.Z. 1957,
No. 19, s. 51;
No. 20, s. 31.

*Explosives and Dangerous
Goods.*

(2) Where any accident 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, 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 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.

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
- (ba) fails to observe or comply with the terms and conditions of any license or permit issued to him under this Act within the time or in the manner thereby provided; or
- (c) otherwise contravenes or fails to comply with any provisions of this Act,

Offences.
Amended by
No. 113 of
1965, s. 8;
No. 15 of
1974, s. 8;
No. 101 of
1978, s. 18.

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 thousand dollars; and
- (b) where the offence is a continuing offence, to a penalty not exceeding two hundred 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.

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.

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

*Explosives and Dangerous
Goods.*

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.

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

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.

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

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.

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.

Proof of offence.
Cr. Qld. 1
Elizabeth II,
No. 34, s. 47.

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.

Regulations.
Amended by
No. 113 of
1965, s. 8; No.
22 of 1967,
s.9; No. 15 of
1974, s. 9;
No. 101 of
1978, s. 19.

(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;

*Explosives and Dangerous
Goods.*

- (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 thousand dollars or, if the breach is a continuing breach, not exceeding two hundred 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;

*Explosives and Dangerous
Goods.*

(u) providing for the issue of a license in respect of a vehicle authorising its use for the conveyance by road of specified dangerous goods under such terms and conditions as may be prescribed.

(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.

(4) The regulations may prescribe that any act or thing shall be done in a manner specified by reference to a code of practice or a standard which has been printed and published and which has been approved by the Minister for the purpose.

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

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.

FIRST SCHEDULE.

S. 5.

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).

SECOND SCHEDULE.

S. 13.

CLASSIFICATION OF EXPLOSIVES.

1. Class and Sub-classes.

For the purposes of this Act all explosives shall be of Class 1 of, and are divided into sub-classes by reference to, the system for classifying explosives and dangerous goods established by the Intergovernmental Maritime Consultative Organisation of the United Nations Organisation (I.M.C.O.), as set out hereunder:—

Second
Schedule
Amended by
G.G. 28/4/74,
p. 1369; G.G.
14/7/78,
pp. 2403-a.

Sub-
class

Predominant Hazard

- 1.1 Explosives which have a mass explosion hazard.
- 1.2 Explosives which have a projection hazard but not a mass explosion hazard.
- 1.3 Explosives which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.
- 1.4 Explosives which present no significant hazard.
- 1.5 Explosives which are very insensitive but when initiated have a mass explosion hazard.

*Explosives and Dangerous
Goods.*

2. Divisions of Classes.*

For the purposes of this Act explosives are divided into divisions defined by reference to the compatibility groups to which explosives may be assigned under the I.M.C.O. system for classifying explosives and dangerous goods as set out hereunder:—

Compatibility Group	Description
A	Primary explosive substance.
B	Article containing a primary explosive substance.
C	Propellant explosive or other secondary deflagrating explosive substance, or article containing such explosive substance.
D	Secondary detonating explosive substance or gunpowder or article containing a secondary explosive substance, in each case without means of initiation and without a propelling charge.
E	Article containing a secondary detonating explosive substance, without means of initiation, with a propelling charge.
F	Article containing a secondary detonating explosive substance, with means of initiation, with or without a propelling charge.
G	Pyrotechnic substance, or article containing a pyrotechnic substance, or article containing both an explosive and an illuminating, incendiary, lachrymatory or smoke producing substance (other than a water activated article or one containing white phosphorus, phosphide or flammable liquid or flammable gel).
H	Article containing both an explosive substance and white phosphorus.
J	Article containing both an explosive substance and a flammable liquid or flammable gel.
K	Article containing both an explosive substance and a toxic chemical agent.
L	Article containing an explosive substance and presenting a special risk needing isolation of each type.
S	Substance or article so packed or designed that any hazardous effects arising from accidental functioning are confined within the package unless the package has been degraded by fire, in which case all blast or projection effects are limited to the extent that they do not significantly hinder fire fighting or other emergency response efforts.

3. Definitions.

Notwithstanding that it is classified or capable of classification under the foregoing provisions of this schedule an explosive may, for the purposes of this Act, come within any of the following definitions:—

“Detonator” means a capsule or case which is of such strength and construction and contains a primary explosive substance having a mass explosion hazard in such quantity that the explosion of one capsule or case will communicate the explosion to other capsules or cases.

“Firework” includes any firework composition and any manufactured firework.

“Firework composition” means any chemical compound or mechanically mixed preparation of an explosive or flammable nature which is used for the purpose of making a manufactured firework.

“Manufactured firework” means an explosive composition enclosed in a case or contrivance or otherwise manufactured so as to form an article specially adapted for the production of pyrotechnic effects.

“Manufactured fireworks of the shopgoods class” or “fireworks of the shopgoods class” means fireworks which—

- (a) contain not more than 40 grams of firework composition and are constructed in such a manner that explosion of one such firework will not cause explosion en masse of other like fireworks kept or conveyed therewith in other packages; or
- (b) are approved by the Chief Inspector as being suitable for unrestricted retail sale.

“Safety fuse” means a fuse for blasting explosives 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.

Explosives and Dangerous Goods.

S. 42.

THIRD SCHEDULE.

CLASSIFICATION OF DANGEROUS GOODS.

Third Schedule
substituted by
No. 101 of
1978, s. 20.

Class 1—Explosives.

Explosives shall be classified in accordance with the provisions of the Second Schedule to this Act.

Class 2—Compressed Gases.

Compressed, liquefied or dissolved gases in cylinders or other containers or vessels, comprising:

Sub-class.

- 2.1 Flammable gases.
- 2.2 Poisonous gases.
- 2.3 Gases that are neither flammable nor poisonous.

Class 3—Flammable Liquids.

All liquid substances, including mixtures, solutions or emulsions having a flash point below 150°C comprising:

Sub-class.

- 3.1 Flammable liquids having a flash point less than 23°C.
- 3.2 Flammable liquids having a flash point less than 61°C but not less than 23°C.
- 3.3 Flammable liquids having a flash point less than 150°C but not less than 61°C.

Class 4—Flammable Substances.

Any solid or liquid which may readily ignite or explode but is not classified as an authorised explosive or in any other class of dangerous goods, comprising:

Sub-class.

- 4.1 Flammable solids which are readily combustible.
- 4.2 Substances liable to spontaneous combustion.
- 4.3 Substances which, on contact with water, will become spontaneously combustible or emit flammable gases.

Explosives and Dangerous Goods.

45

Class 5—Oxidizing Substances.

Substances which—

- (a) may contribute to combustion, fire or explosion of other substances with which they come into contact; or
- (b) when heated, produce oxygen or otherwise decompose,

comprising:

Sub-class.

- 5.1 Oxidizing substances other than organic peroxides.
- 5.2 Organic peroxides.

Class 6—Poisonous or Infectious Substances.

Substances that are likely to cause death or serious injury to human health if swallowed or inhaled, or by skin contact, and substances containing disease-producing micro-organisms, comprising:

Sub-class.

- 6.1 Poisonous substances.
- 6.2 Infectious substances.

Class 7—Radioactive Substances.

Substances which spontaneously emit ionizing radiation.

Class 8—Corrosive Substances.

Acids, caustic alkalis, or other substances which, when in contact with living tissue, will cause severe damage to such tissue, or which, in the case of leakage, may cause damage to life, health or property by chemical action.

Class 9—Miscellaneous Dangerous Substances.

Any substance which presents some danger to life, health or property and is not otherwise classified in accordance with this Act.

