

Western Australia

White Phosphorus Matches Prohibition Act 1912

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White Phosphorus Matches Prohibition Act 1912

Contents

1.	Short title	1
2.	Interpretation	1
3.	Minister of Public Health to administer	2
4.	Prohibition of manufacture of matches with white phosphorus	2
5.	Prohibition of sale	3
6.	Powers of inspectors	3
7.	Penalty for obstructing inspectors, etc.	4
8.	Incorporation of certain provisions of <i>Health Act 1911</i> , as to taking sample for analysis	4
9.	Evidence	4
10.	Protection to officers acting under the Act	5
11.	Impersonating inspector	5
12.	Regulations	5
13.	Expenses of administration	5
Notes		
	Compilation table	6

White Phosphorus Matches Prohibition Act 1912

An Act to prohibit the use of White Phosphorus in the Manufacture of Matches; to prohibit the Sale of Matches made with White Phosphorus; and for purposes consequent thereon or incidental thereto.

[Assented to 3 September 1912.]

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

1. Short title

This Act may be cited as the *White Phosphorus Matches Prohibition Act 1912*, and shall come into operation on a day to be fixed by Proclamation not earlier than the first day of June, one thousand nine hundred and thirteen.

2. Interpretation

In this Act —

Analyst means and includes the Government Analyst and any person appointed or registered as an analyst for the purposes of “The *Health Act 1911*”;

Inspector means any inspector for the time being appointed or acting under “The *Health Act 1911* ”;

s. 3

Package includes every means by which goods may be cased, covered, enclosed, contained, or packed;

To sell includes —

- (1) To barter or exchange;
- (2) To agree to sell, barter, or exchange;
- (3) To offer, expose, store, have in possession, send or deliver for or on sale;
- (4) To receive for sale;
- (5) To cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged;
- (6) To cause or suffer to be offered, exposed, stored, had in possession, sent or delivered for or on sale;
- (7) To cause or suffer to be received for sale; and
- (8) To attempt to do any of such acts or things;

This Act includes regulations made under this Act;

White phosphorus means the substance usually known as white or yellow phosphorus.

3. Minister of Public Health to administer

The Minister of Public Health is hereby charged with the administration and enforcement of this Act throughout the State.

4. Prohibition of manufacture of matches with white phosphorus

- (1) Any person who manufactures or causes to be manufactured any matches in the manufacture of which white phosphorus is used shall be guilty of an offence against this Act, and shall on conviction be liable to a penalty not exceeding one hundred pounds.
- (2) The Court of summary jurisdiction imposing any such penalty upon any person contravening this section may in addition forfeit any white phosphorus or any matches made with white

phosphorus which is or are apparently in the possession or under the control of the said person.

5. Prohibition of sale

It shall not be lawful for any person to sell any matches made with white phosphorus.

If any person contravenes the provisions of this section he may, on being charged before a court of summary jurisdiction, be ordered to forfeit any such matches in his possession.

Any matches so forfeited shall be destroyed or otherwise dealt with as the Court may think fit.

[Section 5 amended by No. 84 of 2004 s. 80.]

6. Powers of inspectors

Any inspector may enter any place where he believes matches to be manufactured or sold, and —

- (1) May inspect and examine any matches and any material he believes or suspects may be white phosphorus, or may be for use in the manufacture or preparation of matches, and may examine and open any package, and, on payment or tender of the current market value thereof, take for analysis sufficient samples of such matches or material or both:
- (2) Make any general or particular inquiries as to the observance of this Act:
- (3) Seize, detain, and remove any matches or material, and any package in which the same is contained, if he has reasonable cause to believe that there has been a contravention of this Act in respect of such matches or material:
- (4) do any act or thing required or permitted by regulation to be done in connection with or for the purposes of anything authorized by this section or the analysis of samples taken under this section:

s. 7

- (5) Shall, if requested by any person apparently in charge of such place, or any work carried on therein, produce his appointment as inspector, or the portion of the *Government Gazette* in which his appointment is published.

7. Penalty for obstructing inspectors, etc.

If any person —

- (1) Obstructs, molests, resists, or hinders any inspector in the course or carrying out any of the provisions of this Act; or
- (2) to give information, or wilfully or knowingly gives false information, in answer to any reasonable inquiry made by any inspector for the purposes of this Act —

he shall be guilty of an offence against this Act, and shall on conviction be liable to a penalty of not more than five pounds for a first offence, and of not less than two pounds or more than fifty pounds for every subsequent offence.

8. Incorporation of certain provisions of *Health Act 1911*, as to taking sample for analysis

Section one hundred and eighty-nine of “The *Health Act 1911*,” is hereby incorporated with this Act as part thereof, and shall be read and construed with all necessary alterations, and as if the words “article or thing” were substituted throughout the said sections for the words “food or drug.”

9. Evidence

In any proceedings, unless the contrary is proved —

- (1) Parol evidence that any person is an inspector or analyst shall be deemed sufficient;
- (2) Authority to do any act or take any proceeding shall be presumed.

10. Protection to officers acting under the Act

No inspector or other officer shall be liable, except in respect of wilful misconduct or neglect, to any legal proceedings for anything done or omitted in the exercise or execution of any of his powers or duties under this Act.

11. Impersonating inspector

Whoever falsely represents himself to be or personates an inspector, shall be guilty of an offence against this Act, and on conviction shall be liable to a penalty of not less than five pounds and not exceeding one hundred pounds, or to imprisonment for not exceeding six months.

12. Regulations

- (1) The Governor may make regulations for giving effect to this Act, and for, amongst others, the following things —
 - (a) Forms to be used:
 - (b) With respect to taking samples:
 - (c) With respect to the analysis of samples:
 - (d) The manner in which the powers and duties of inspectors and analysts are to be exercised and discharged, and generally such things as may be necessary or convenient for enabling inspectors and analysts to exercise and discharge such powers and duties, and to carry out the objects of this Act.
- (2) The regulations may impose a penalty not exceeding ten pounds for any breach thereof.

13. Expenses of administration

The expenses of administering and enforcing this Act shall be defrayed out of moneys from time to time appropriated by Parliament for the purpose.

[14. Deleted by No. 59 of 2004 s. 141.]

Notes

- ¹ This is a compilation of the *White Phosphorus Matches Prohibition Act 1912* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>White Phosphorus Matches Prohibition Act 1912</i>	25 of 1912	3 Sep 1912	22 July 1933 (see s. 1 and <i>Gazette</i> 18 July 1933 p. 2291)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))