



ANNO SEXTO

GEORGII V REGIS.

A.D. 1915.

No. 1202.

An Act to prohibit the Use of White Phosphorus in the Manufacture of Matches, and to prohibit the Sale of Matches made with White Phosphorus, and for other purposes.

[Assented to, November 18th, 1915.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the “White Phosphorus Matches Prohibition Act, 1915.” Short title.

2. This Act shall come into force on the first day of July, one thousand nine hundred and sixteen. Commencement of Act.

3. In this Act— Interpretation.

“Justice” means Justice of the Peace for the said State :

“Minister” means Minister of the Crown to whom the administration of this Act is, for the time being, committed by the Governor :

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

4. No person shall—

(a) make, or cause to be made, any matches in the making of which white phosphorus is used; or

(b) sell

Prohibition of manufacture or sale of white phosphorus matches.
N.S.W. 1, 1915, ss. 3, 4.
Tas. 4, 1911, ss. 4, 5.

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(b) sell or offer or expose for sale, or cause to be sold or offered or exposed for sale, or have in his possession for sale, any matches made with white phosphorus.

(2) Any person who is guilty of any contravention of this section shall be liable, if the offence is a contravention of subdivision (a) of subsection (1) hereof, to a penalty not exceeding Fifty Pounds, or, if of subdivision (b) of the said subsection, to a penalty not exceeding Ten Pounds.

(3) The Magistrate or Justices by whom any person is convicted of any such offence may, in addition to imposing any penalty, forfeit any white phosphorus, or any matches made with white phosphorus, which is or are apparently in the possession or custody or control of such person; and the phosphorus or matches so forfeited shall be destroyed or otherwise dealt with as such Magistrate or Justices direct.

Inspector may take sample for analysis.

No. 945 of 1907.
No. 711 of 1898.

5. The occupier of any premises or place within which, or within the precincts of which, the making of matches is carried on shall allow any inspector under the Factories Act, 1907, or the Health Act, 1898, or any person appointed in writing by the Minister in that behalf, to enter at any time such premises, place, or precincts, and to open any package therein and examine the contents thereof, and, without payment, to take for analysis sufficient samples of any material therein in use or mixed for use, or any matches therein; and in default thereof such occupier shall be guilty of an offence against this Act, and be liable to a penalty not exceeding Twenty Pounds.

Obstruction of officers.

6. Any person who, in any way, resists, hinders, obstructs, or interferes with any inspector or other person in the exercise of any of his powers under this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding Twenty Pounds.

Procedure for taking sample.

Cf. Insecticides Act, 1910, s. 13.

7. When an inspector takes a sample for analysis under section 5, he shall, if required so to do by the occupier of the premises or place or the person in charge or apparently in charge thereof, and on such occupier or person providing the necessary appliances—

- i. divide the sample into three parts;
- ii. place each part in a separate package, and seal or fasten each package in such manner as its nature will permit;
- iii. place on each package a label or mark stating the name, so far as known to him, of the occupier of the premises or place;
- iv. deliver one of such parts to such occupier, or to the person in charge or apparently in charge of the premises or place; and
- v. retain one of such parts for future comparison.

The other of such parts may be utilised for analysis.

8. When

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8. When in any proceedings a contravention of any provision of this Act is proved with regard to a sample of any material, such contravention shall be deemed to have been proved with regard to the whole lot from which the sample was taken.

Offence as to sample deemed offence as to whole lot.
Ibid., s. 18.

9. (1) At the hearing of any proceedings with regard to any sample taken under this Act, or any part of such sample, which sample or part is alleged to have been analysed by the Government Analyst, or with regard to the lot from which such sample was taken, the production of a certificate purporting to be signed by the Government Analyst shall, without proof of the signature thereto, be sufficient evidence—

Certificate of analyst.
Cf. *ibid.*, s. 17.

- I. of the identity of the thing analysed;
- II. of the result of the analysis; and
- III. of the matters stated in such certificate,

unless the defendant, by at least three clear days' (exclusive of Sundays and public holidays) notice in writing delivered to the informant and by a like three clear days' (exclusive as aforesaid) notice delivered, with a witness fee of One Guinea, to the said Analyst, requires that the said Analyst shall attend as a witness.

(2) In any case where the attendance of the Analyst is required as mentioned in this section, the Magistrate or Justices may, in addition to any other order as to costs, make such order as he or they deem proper as to the witness fee paid to the Analyst and as to the expenses of and the remuneration to be paid for the analysis.

10. (1) All proceedings in respect of offences against this Act shall be heard and determined in a summary way by a Special Magistrate or two Justices, and shall be regulated by the Ordinance No. 6 of 1850 and any amendments thereof, or by any Act or Acts for the time being in force relating to the duties of Justices with respect to summary proceedings.

Summary proceedings

(2) All convictions and orders made by such Magistrate or Justices may be enforced as provided by the said Ordinance or any other Act.

11. (1) There shall be an appeal—

Appeal to Local Court.

- (a) from any order of a Special Magistrate or Justices,
- (b) from any conviction by a Special Magistrate or Justices, and
- (c) from any order dismissing an information or complaint,

under this Act.

(2) Such appeal shall be to the Local Court of Adelaide in its Full Jurisdiction.

(3) Such appeal shall be regulated by the Ordinance No. 6 of 1850 and any amendments thereof, or any Act or Acts for the time being in force regulating appeals to Local Courts. (4) Such

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(4) Such Local Court may make such order as to costs as it thinks just, and the amount of costs ordered may exceed Ten Pounds.

Local Court may state a case for opinion of Supreme Court.

12. (1) Such Local Court may state a special case or cases for the opinion of the Supreme Court.

(2) The Supreme Court shall deal with any such special case according to the practice of the Supreme Court on special cases and may make such order therein, including any order as to the costs of the proceedings in that Court and in the Court below, as to the said Supreme Court appears just.

(3) The Supreme Court may send the special case back for amendment, or may itself amend the same.

(4) The Magistrate or Justices, or the Local Court, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the Supreme Court, or a Judge thereof.

(5) Such order of the Magistrate or Justices, or Local Court, shall be enforced in manner provided by section 10 of this Act or otherwise by law.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.