



DANGEROUS GOODS

No. 24 of 1976

AN ACT to repeal the Explosives Act 1916 and the Inflammable Liquids Act 1929 and to regulate the manufacture, keeping, conveyance, use, and sale of explosives, inflammable liquids, and other dangerous goods and matters incidental thereto.

[21 June 1976]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Dangerous Goods Act* 1976. Short title and commencement.

(2) This Act shall commence on a day to be fixed by proclamation.

Repeal.

2 The Acts that are specified in the Schedule are repealed.

Interpretation.

3—(1) In this Act, unless the contrary intention appears—

“Chief Inspector” means the Chief Inspector of Explosives appointed under section 5;

“dangerous goods” includes explosives, inflammable liquids, and any other substance declared, pursuant to subsection (2), to be dangerous goods for the purposes of this Act;

“explosive” means any substance manufactured or used with a view to producing a practical effect by explosion or a pyrotechnic effect, and includes—

(a) fuses and any adaptation or preparation of that substance; and

(b) any substance declared, pursuant to subsection (2), to be an explosive under this Act;

“inflammable liquid” means any liquid (not being a liquid ordinarily intended for human consumption) which is combustible or the vapour of which is combustible;

“inspector” means an inspector of explosives appointed under section 5;

“manufacture” includes refining, distilling, making, remaking, breaking-up, sorting-out, reconditioning, and any other process of manufacture other than the making, for the purpose of chemical experiment only, of dangerous goods of a quantity not exceeding 100 grams;

“marine authority” means the Navigation and Survey Authority of Tasmania constituted under the *Marine Act* 1921 and any marine board or harbour trust exercising jurisdiction under that Act;

“master” has the meaning assigned to that expression by the *Marine Act* 1921;

“owner”, in relation to a vessel or cargo, has the meaning assigned to that expression by the *Marine Act* 1921;

“premises” includes any place;

“vessel” has the meaning assigned to that expression by the *Marine Act* 1921.

(2) The Governor may by order declare any substance of whatsoever nature or kind to be an explosive or dangerous goods for the purposes of this Act.

(3) Any substance declared to be an explosive or dangerous goods under subsection (2) may be so declared either specifically or by incorporating, adopting, or referring to any regulation, rule, by-law, proclamation, notice, or list specifying, declaring, or relating to explosives or dangerous goods made or issued by the Standards Association of Australia, the Intergovernmental Maritime Consultative Organisation, the Board of Trade, or any other like body or authority specified in the order.

4 This Act binds the Crown.

Act binds Crown.

5—(1) The Governor may, under and subject to the provisions of the *Public Service Act* 1973, appoint, for the purposes of this Act, a person to be the Chief Inspector of Explosives, inspectors of explosives, and such other officers as the Governor may determine.

Appointment of Chief Inspector and officers.

(2) The Chief Inspector of Explosives, inspectors of explosives, and other officers holding office under the *Explosives Act* 1916 immediately before the commencement of this Act shall be deemed to have been so appointed under the authority of this section.

6—(1) For the purposes of this Act, the Chief Inspector may establish public magazines in such places, buildings, or hulks as, in his opinion, may be suitable for that purpose.

Public magazines.

(2) A public magazine established under this section may be used for keeping explosives by such persons, upon payment of such fees, and subject to such terms and conditions as may be prescribed.

(3) Any place, building, or hulk which has been appointed, or is being used, as a public magazine under the *Explosives Act* 1916 immediately before the commencement of this Act shall be deemed to have been established under this section.

7—(1) No person shall manufacture any dangerous goods unless he is licensed under this section to manufacture those goods.

Manufacture of dangerous goods prohibited.

Penalty: \$1 000.

(2) The Chief Inspector, in his discretion, may, on an application in the prescribed form by a person and on payment by that person of the prescribed fee, grant to that person a licence to manufacture dangerous goods.

(3) A licence under subsection (2)—

(a) shall be in the prescribed form;

- (b) may be granted unconditionally or subject to such conditions and restrictions as the Chief Inspector determines and as are specified in the licence; and
- (c) while in force, has effect to authorize the holder thereof, subject to compliance with the provisions of this Act and the conditions and restrictions specified in the licence, to manufacture at the premises specified in the licence such dangerous goods and in such quantities as may be specified therein.

(4) Before the Chief Inspector grants a licence to any person under this section he shall satisfy himself that the premises at which the goods are proposed to be manufactured by that person pursuant to the licence comply with the prescribed requirements.

(5) Where the holder of a licence issued under this section proposes to alter the premises at which the licence authorizes him to manufacture dangerous goods, he shall submit a plan of the proposed alterations to the Chief Inspector for his approval and the Chief Inspector shall, if he is satisfied that the premises altered in accordance with the plan would continue to comply with the prescribed requirements, approve the carrying out of the proposed alterations.

(6) Upon completion of any alterations approved by the Chief Inspector under subsection (5), the holder of the licence relating to the premises which have been altered shall produce the licence to the Chief Inspector, and the Chief Inspector shall, after satisfying himself that the premises have been altered in accordance with the plan approved by him, amend the licence by substituting the premises so altered in the place of the premises specified therein.

(7) A licence under this section or under section 9, unless sooner cancelled, continues in force from the day on which it is granted until 30th June next following, but may be renewed annually, on the application of the holder of the licence and on payment for each renewal of the fee prescribed in relation to the renewal thereof.

(8) The Chief Inspector, in his discretion, may at any time alter the conditions and restrictions on and subject to which a licence is granted under this section or under section 9, or substitute new conditions and restrictions for the conditions and restrictions specified therein, and, if he does so, he shall cause the licence to be amended accordingly or may issue a new licence in the place of that licence.

8—(1) Subject to this section, no person shall keep or have in his possession any dangerous goods. Keeping of dangerous goods prohibited except in certain cases.

Penalty: \$500.

(2) Any person who is convicted under subsection (1) for keeping or having in his possession dangerous goods that are explosives is liable to a penalty of—

(a) \$10 for every detonator and \$2 for every kilogram of explosives (other than detonators) or any ingredient of explosives kept in contravention of that subsection; or

(b) \$500,

whichever is the greater sum.

(3) Any person may keep or have in his possession, if he complies with the prescribed requirements, any dangerous goods—

(a) in any premises for such purpose and in such quantity as may be prescribed;

(b) in any premises licensed for that purpose under section 9;

(c) in or on a vehicle or vessel for the purpose of conveying those goods; or

(d) in any premises in respect of which an authority has been issued by the Chief Inspector under subsection (4).

(4) The Chief Inspector, in his discretion, may, on an application of the owner or occupier of any premises not within a city, town, or a prescribed area, grant the applicant an authority to keep in those premises such dangerous goods and in such quantities as may be specified in the authority for any purpose other than for the purpose of its sale if he is satisfied that those premises are suitable for the purpose for which the application is made.

9—(1) The Chief Inspector, in his discretion, may, on an application in the prescribed form by a person and on payment by that person of the prescribed fee, grant a licence to that person in respect of the premises for which the application is made, if the premises comply with the prescribed requirements, authorizing him to keep in those premises such dangerous goods and in such quantities as may be specified in the licence. Licensing of premises for keeping dangerous goods.

(2) A licence under subsection (1)—

(a) shall be in the prescribed form; and

(b) may be granted unconditionally or subject to such conditions and restrictions as the Chief Inspector determines and as are specified in the licence.

(3) In relation to a licence granted under this section, section 7 (5) and (6) has effect as if for the words "to manufacture" were substituted the words "to keep".

Cancellation of licences, &c.

10—(1) The Chief Inspector may—

(a) cancel a licence granted under this Act if—

- (i) the person to whom it is issued is convicted of an offence under this Act;
- (ii) that person commits a breach of any condition subject to which the licence is granted or fails to comply with any requirements thereof or of the Act; or
- (iii) the premises specified in the licence are no longer suitable for the purpose for which the licence was granted; or

(b) at any time withdraw—

- (i) an authority granted under section 8 (4); or
- (ii) a permit issued under the regulations.

(2) Upon cancellation of a licence or withdrawal of an authority or a permit the licence, authority, or permit, as the case may be—

(a) ceases to have effect; and

(b) shall be surrendered to the Chief Inspector by the person to whom it is issued.

Liability of owner or occupier of premises in which dangerous goods manufactured or kept.

11—(1) Where any person other than the owner or occupier of any premises manufactures or keeps any explosive at those premises contrary to this Act, the owner or occupier of those premises is guilty of an offence if he knows or ought to have known that that person—

- (a) manufactures or keeps; or
- (b) is likely to manufacture or keep, explosives at those premises.

(2) Any person who is guilty of an offence under subsection (1) is liable to a penalty of \$500.

Forfeiture of dangerous goods.

12—(1) Where a court convicts any person of an offence under this Act, it may—

- (a) order any dangerous goods in respect of which the offence was committed to be forfeited to the Minister; and

(b) in addition to any other penalty it may impose, order that person to pay such sum as it may determine—

- (i) by way of compensation for any damage caused to any wharf, work, thing, or other property within the jurisdiction of any marine authority arising from the commission of the offence; or
- (ii) by way of reimbursement of any costs or expenses incurred in the seizure, detention, and removal of—

(A) the dangerous goods in respect of which the offence was committed; or

(B) any package, vehicle, or vessel in which those goods were contained or kept,

or order payment of both the compensation and reimbursement.

(2) Where any dangerous goods have been forfeited to the Minister under this section, the Minister may cause the goods to be disposed of, destroyed, or otherwise dealt with in such manner as he may direct and, unless he otherwise directs, any proceeds therefrom shall be paid into the Consolidated Revenue.

13—(1) An inspector may—

Powers of inspectors.

- (a) at any time enter, inspect, and examine any premises, vehicle, or vessel for the purpose of ascertaining whether the provisions of this Act are being complied with;
- (b) make any general or particular inquiries as to the observance of this Act;
- (c) take, without payment, such samples of any substance, which he believes to be dangerous goods, as are necessary for the examination and testing thereof;
- (d) seize, detain, and remove any dangerous goods and any package, vehicle, or vessel in which any dangerous goods are contained or carried, if he has reasonable cause to believe that there has been a contravention of this Act in respect of those dangerous goods; and
- (e) inspect any dangerous goods upon their importation or introduction into this State and at such times thereafter as may to the inspector seem necessary.

(2) Any person in or about the premises, vehicle, or vessel which is being inspected by an inspector pursuant to subsection (1) shall, upon being requested by the inspector to do so, facilitate and assist

the inspector in the exercise of all or any of his duties in such manner as the inspector may require, and shall truthfully answer all questions put to him by the inspector in the exercise of those duties.

(3) No action shall be taken against any inspector in respect of anything lawfully done by him in the exercise of his duties under this Act.

(4) In such cases and for such purposes as may be prescribed, a prescribed officer of a marine authority may exercise the powers conferred on an inspector by this section, and subsections (2) and (3) have effect in relation to that officer as they have effect in relation to an inspector.

Power of Chief
Inspector to
destroy, &c.,
dangerous
goods.

14—(1) Where the Chief Inspector is of the opinion that any goods are dangerous to the public safety, he may, at the expense of the owner of those goods, destroy, recondition, or dispose of those goods or cause those goods to be destroyed, reconditioned, or disposed of, and for that purpose the Chief Inspector may seize or cause those goods to be seized from any person or premises.

(2) No compensation is payable to any person in respect of any loss arising from the destruction, reconditioning, or disposal pursuant to subsection (1) of any dangerous goods.

Offences.

15—(1) No person—

- (a) who has possession or control of any dangerous goods which have been ordered under this Act to be forfeited shall, when requested by an inspector or a prescribed officer of a marine authority to deliver those goods to him, fail to do so;
- (b) shall fail to assist an inspector or a prescribed officer of a marine authority in the exercise of any of his duties under this Act when requested to do so by that inspector or prescribed officer;
- (c) shall refuse or neglect to answer truthfully any question put to that person by an inspector or a prescribed officer of a marine authority in the exercise of any of the duties of the inspector or prescribed officer under the Act; or
- (d) who is the owner or occupier of any premises or vehicle shall knowingly use those premises or that vehicle or permit those premises or that vehicle to be used in contravention of this Act.

Penalty: \$500.

(2) No person—

- (a) who is the owner or master of a vessel shall cause or permit any dangerous goods to be loaded into or upon, or unloaded from, or conveyed by, or kept in or on, that vessel contrary to any provision of this Act; or
- (b) shall fail to observe any precaution which he is required by this Act to observe for the prevention of fire or explosion in the loading into or upon, or the unloading from, or the conveyance by, or the keeping in or on, any vessel, of any dangerous goods.

Penalty: \$5 000.

(3) No person shall, on demand by an inspector or a prescribed officer of a marine authority for the delivery of a licence, permit, authority, or other document for the purpose of its cancellation under this Act, fail to deliver the licence, permit, authority, or other document to the inspector or prescribed officer making the demand.

Penalty: \$50.

16 In any proceedings under this Act—

(a) any allegation in the complaint—

- (i) that any person named therein holds a specified office;
- (ii) that the defendant is, or is not, the person to whom a licence, permit, or authority has been granted or any other document issued;
- (iii) that any article, substance, or container is dangerous goods or contains any dangerous goods, as the case may be; or
- (iv) that any goods are dangerous goods of a specified class or kind,

shall be *prima facie* evidence of the fact so alleged; and

(b) the certificate of the Government Analyst shall be evidence of the facts stated therein, but the defendant, by notice in writing served on the clerk of the court and the Government Analyst at least 24 hours before the time appointed for the hearing of the proceedings, may require the Government Analyst to attend the proceedings for cross-examination.

Facilitation
of proof of
certain
matters.

Proceedings
by marine
authorities.

17—(1) Proceedings for an offence against this Act may be taken and prosecuted by a marine authority in such cases as may be prescribed.

(2) Where any proceedings are taken and prosecuted by a marine authority under subsection (1), any penalty imposed, notwithstanding section 143 of the *Justices Act 1959*, shall be paid to that marine authority, and any penalty or other sum paid to or recovered by a marine authority shall be deemed to form part of the revenue of that marine authority.

General
penalty.

18—(1) A person who is guilty of an offence against this Act for which no other penalty is expressly prescribed elsewhere in this Act is liable to a penalty of \$200.

(2) A person who is convicted of an offence of the same nature for the third time against this Act shall be liable, in addition to any other penalty, to imprisonment for six months.

Regulations.

19—(1) The Governor may make regulations for the purposes of this Act, and in particular may prescribe—

- (a) the mode and conditions of the issue of licences and the alteration or transfer of those licences with power to discriminate in respect of the nature of dangerous goods manufactured or kept, or to be manufactured or kept, under a licence, and in respect of the quantity of the dangerous goods kept or to be kept under a licence or the number of containers or storing places used or to be used thereunder;
- (b) the fees to be paid in respect of any licence, approval, permission, certificate, inspection, or test required or authorized under this Act;
- (c) the precautions to be observed and the methods to be employed in different cases or classes of cases respectively in the manufacture, storing, keeping, conveying, or use of any dangerous goods, and generally for the preservation of public safety;
- (d) the persons by, and from, whom, the times at which, and the matters in respect of which, notices, returns, or other information may be required;
- (e) the materials to be used, and the nature and form of construction to be adopted in the construction or erection of any building, structure, or container used or to be used for

the manufacture, storing, keeping, or conveying of any dangerous goods, and the relative positions in which any such buildings, structures, or containers may be built or kept in relation to one another or to other buildings or structures;

- (f) the precautions to be observed, the methods to be employed, and the requirements to be complied with, in or in connection with the installation, in or on structures, buildings, vessels, and vehicles of equipment or apparatus of any prescribed kind that is designed for containing or supplying any prescribed kind of dangerous goods and the precautions to be observed in relation to the use in or on buildings, structures, vessels, or vehicles of that equipment, apparatus, or goods; and
- (g) for the registration, as prescribed and by prescribed persons, of distinctive colouring for certain prescribed inflammable liquids, and for prohibiting the use or possession without lawful authority of any such liquid coloured as prescribed, under this Act.

(2) Any such regulations may—

- (a) classify dangerous goods into various classes and categories;
- (b) make different provision with respect to different dangerous goods or with respect to different classes of dangerous goods and prescribe the method by which it is to be ascertained into which of any such classes any dangerous goods fall;
- (c) confer powers and rights, and impose duties and obligations, on a marine authority or a prescribed officer thereof;
- (d) impose penalties not exceeding—
 - (i) \$500 for a breach of regulations made under paragraph (1); or
 - (ii) \$200 for a breach of any other regulation;
- (e) authorize the Chief Inspector to prohibit, either absolutely, or except in pursuance of a permit and subject to such conditions as the Chief Inspector may impose, the importation of any dangerous goods that, in the opinion of the Chief Inspector, are of such a character as to be dangerous to the public, and regulate the exercise by the Chief Inspector of any authority so conferred on him;

(f) prohibit—

(i) the installation, in or on structures, buildings, vessels, or vehicles, of any prescribed kind of equipment or apparatus for containing or supplying any dangerous goods or any prescribed kind of dangerous goods, or the alteration or repair of that equipment or apparatus;
or

(ii) the sale, supply, or distribution of dangerous goods,

except by persons who hold a subsisting licence of a prescribed kind issued under the regulations or a subsisting licence or certificate of registration of a prescribed kind issued under an Act other than this Act;

(g) incorporate or adopt, either specifically or by reference and either wholly or in part—

(i) any of the standard codes, rules, classifications, or specifications of the bodies known as the Standards Association of Australia, the Intergovernmental Maritime Consultative Organisation, or the Board of Trade, or any other like authority, specified in the regulations; or

(ii) any regulation, rule, by-law, proclamation, notice, or list specifying, declaring, or relating to dangerous goods made or issued under a Commonwealth Act;

(h) prescribe the precautions to be observed in relation to, and regulate, control, and restrict generally the use of explosives in places other than places to which the *Mines Inspection Act 1968* applies;

(i) exempt from the operation of this Act, either wholly or partly any dangerous goods under such conditions (if any) as he may impose;

(j) require licences and permits to be taken out for specified purposes, and prescribe and provide for the granting, issue, and transfer of licences and permits under this Act or the regulations; prescribe conditions upon which licences and permits may be granted, suspended, or cancelled;

- (*k*) require notice to be given of accidents by explosion or fire at factories or during the conveyance of dangerous goods, and make provision for holding inquiries into such accidents;
- (*l*) regulate the exportation and importation or landing of dangerous goods, including (without limiting the operation of this power), regulations prescribing the harbours and places through which dangerous goods may be handled, and prescribing the particulars, information, and certificates to be furnished in respect of dangerous goods, and by whom and to whom the same shall be furnished;
- (*m*) define the composition, quality, character, and condition of dangerous goods which may lawfully be exported, imported, manufactured, kept, or used;
- (*n*) regulate the management and use of magazines licensed or established under this Act, and the terms and conditions on which explosives may be kept therein and removed therefrom; prescribe the fees or rents to be charged for keeping explosives in public magazines, and the rents to be charged for magazines erected on land the property of Her Majesty; prohibit trespass on factories, magazines, and magazine areas and premises;
- (*o*) regulate the manner in which dangerous goods which are dangerous to the public safety shall be dealt with;
- (*p*) regulate the conveyance of dangerous goods;
- (*q*) regulate the sale of dangerous goods; and
- (*r*) regulate the manner of packing dangerous goods, and of marking packages containing dangerous goods, and regulating the quantities to be contained in those packages.

20 A licence, permit, or permission in writing, granted or given under one or the other of the Acts repealed by this Act or under the regulations made under those Acts, that is in force immediately before the commencement of this Act shall continue to have effect until its expiry by effluxion of time or sooner cancellation.

Transitional provisions.

THE SCHEDULE

(Section 2)

ACTS REPEALED

Year and number of Act	Short title of Act
7 Geo. V No. 9	<i>Explosives Act</i> 1916
No. 41 of 1963 ..	<i>Explosives Act</i> 1963
No. 5 of 1971	<i>Explosives Act</i> 1971
20 Geo. V No. 7 ..	<i>Inflammable Liquids Act</i> 1929
No. 8 of 1963	<i>Inflammable Liquids Act</i> 1963
No. 4 of 1965	<i>Inflammable Liquids Act</i> 1965
No. 16 of 1970 ..	<i>Inflammable Liquids Act</i> 1970