

## No. VII.

GUNPOWDER.

An Act for better regulating the keeping and carriage of Gunpowder. [11th August, 1836.]

Preamble.

**W**HEREAS it is expedient that the keeping and carriage of Gunpowder imported into New South Wales should be better regulated by Law in order to prevent the mischiefs which may arise from explosions occasioned by the improper exposure or carriage thereof and for these purposes it is expedient and necessary that the Act of the Governor and Council passed in the ninth year of the reign of  
of

*Gunpowder.*

of His late Majesty King George the Fourth intituled “ *An Act to regulate the keeping and carriage of Gunpowder imported into the Colony of New South Wales*” should be repealed. Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That the same shall from and after the commencement of this Act or Ordinance be and the same is hereby repealed.

9 Geo. IV. No. 7  
repealed.

2. And be it enacted That from and after the first day of October next all and every person or persons who shall import Gunpowder into this Colony shall immediately when it shall arrive in the harbour of Port Jackson report the same to the Collector or Controller of Customs and also to the Ordnance Storekeeper for the time-being and as soon as the same shall be reported to the Ordnance Storekeeper for the time-being he shall and he is hereby authorized to grant a permit or permits to the importer of Gunpowder as aforesaid or to the proprietor thereof in order that the same may be deposited in one of the magazines belonging to the Government and the said Ordnance Storekeeper shall receive the same into his custody and charge and enter in a book to be kept by him for that purpose the name of such importer or proprietor together with the particulars of the packages of the Gunpowder so to be deposited.

Gunpowder on  
arrival to be reported.

Permits to be given  
for depositing the  
same in the Govern-  
ment Magazines.

3. And be it further enacted That in case any such importer or proprietor of Gunpowder as aforesaid should at any time whilst it shall be deposited in manner aforesaid sell or transfer the whole or any part of the same to any other person or persons such sale or transfer shall be immediately reported in writing to the Ordnance Storekeeper and a certificate of such sale or transfer from the original importer or proprietor shall also be produced to the said Ordnance Storekeeper in order that the same may be duly registered and in case of failure thereof it shall be lawful for the said Ordnance Storekeeper to refuse to deliver up the said Gunpowder so in his charge.

Sale or transfer to be  
reported to the  
Ordnance Store-  
keeper.

4. And be it further enacted That any Gunpowder which may be so permitted to be deposited in the Government Magazines as aforesaid shall be removed between the hours of sunrise and sunset from the ship or vessel in which the same may be imported and when and as often as any quantity or quantities of Gunpowder shall be so removed the same shall be brought direct from such ship or vessel to the Government Magazine by and at the expense of the importer or proprietor thereof.

Gunpowder to be  
landed between the  
hours of sunrise and  
sunset.

5. And be it further enacted That all Gunpowder so removed as aforesaid shall be in packages or barrels closely joined or hooped without any iron about them and not containing in any one package or barrel more than one hundred pounds in weight and the said packages or barrels shall be so secured that no part of the Gunpowder can be scattered in the removal thereof and in case of failure thereof the Ordnance Storekeeper for the time-being or other person who may receive the same on his behalf shall be and is hereby authorized and empowered to remove the contents of the said packages or barrels into secure and proper packages and to charge the expense attending the same to the importer or proprietor thereof and the said Ordnance Storekeeper may refuse to deliver the Gunpowder so removed into fresh packages until the said expenses shall be first paid.

Packages of Gun-  
powder to be properly  
secured.

6. And be it further enacted That all applications for the delivery of the whole or any part of the Gunpowder so deposited in the Government Magazines as aforesaid shall be made to the Ordnance Storekeeper for the time-being who shall deliver the same accordingly to the person properly authorized to receive the same at the magazine Provided always that no such delivery shall be made until all storage rent and other expenses which may have been incurred of and concerning

Delivery of Gun-  
powder out of the  
magazine.

*Gunpowder.*

cerning the depositing of such Gunpowder as aforesaid shall have been paid and discharged.

Regulating storage rent.

7. And be it further enacted That the storage rent for the depositing of Gunpowder in the Government Magazine as aforesaid and to be paid by the importer or proprietor of such Gunpowder shall be fixed at the rate contained in the Schedule marked A hereunto annexed.

Penalty for landing or removing gunpowder contrary to Act.

8. And be it further enacted That if any person who shall import any Gunpowder into this Colony or who shall be the proprietor of any such Gunpowder or if any other person or persons shall land or cause to be landed or removed any Gunpowder otherwise than is provided for by this Act any person being convicted thereof shall forfeit the sum of five pounds for each and every barrel or package that shall be landed or removed other than aforesaid.

Amount of rent how to be applied.

9. And be it further enacted That all payments made for the storage of Gunpowder under and by virtue of this Act shall be applied for and towards the erection and keeping in repair of the Government Storehouses and Magazines as also for and towards the payment of the officers or persons in charge of such Storehouses or Magazines respectively.

Dealers not to keep more than two hundred weight in their own possession.

10. And be it further enacted by the authority aforesaid That no person or persons shall have or keep within any town in the said Colony at any one time being a dealer or dealers in Gunpowder more than two hundred weight of Gunpowder and not being such more than one hundred weight of Gunpowder in any house storehouse warehouse shop cellar yard wharf or any other building or place occupied by the same person or persons on pain of forfeiting all the Gunpowder beyond the quantity hereby allowed to be kept and the barrels in which such Gunpowder shall be and also the sum of two shillings for every pound of Gunpowder beyond such allowed quantity.

Justice on information on oath to issue a search warrant.

11. And for the more easy discovery of the keeping and carriage of Gunpowder contrary to the provisions hereinbefore contained be it further enacted That it shall be lawful for any Justice of the Peace within and for the Territory of New South Wales or any district thereof on demand made and a reasonable cause assigned upon oath by any person or persons to issue a warrant or warrants under his hand and seal for searching in the day-time any house storehouse warehouse shop cellar yard wharf or other building or place in which Gunpowder is suspected to be kept contrary to this Act and that all Gunpowder found upon search to be kept contrary to this Act and also the Gunpowder-barrels shall be immediately seized by the searcher or searchers who shall with all convenient speed after the seizure remove the same to such proper places as they in conformity with the restrictions of this Act shall think fit and may detain such Gunpowder and the barrels containing the same until it shall be adjudged on a hearing before any two or more of such Justices whether the same shall be forfeited and such searcher or searchers seizer or seizers shall not be liable to any suit for such detainer or for any loss or damage which may happen to the said Gunpowder or barrels other than by wilful acts or neglects of them or the persons with whom they shall trust the keeping thereof.

Recovery and appropriation of penalties.

12. And be it further enacted by the authority aforesaid That all penalties enacted by this Act shall be recoverable before two or more Justices of the Peace within and for the Territory of New South Wales or any district thereof on proof of the offence on the oath or oaths of one or more credible witness or witnesses or on the confession of the offender and one moiety of each penalty shall belong to His Majesty His Heirs and Successors and the other moiety thereof to the informer or informers prosecuting for the same and where the penalty shall

*Imperial Acts Adoption.*

shall be pecuniary in case of non-payment it shall be levied by distress and sale of the offender's goods and chattels by warrant under the hands and seals of such Justices and the overplus of the money raised after deducting the penalty and the expenses of the distress and sale shall be rendered to the owner and for want of sufficient distress the offender shall be sent by such Justices to the house of correction there to be kept to hard labor for any term not exceeding three months nor less than one month as such Justices shall think most proper.

13. Provided always and be it further enacted by the authority aforesaid That this Act shall not extend to the keeping of Gunpowder at any storehouse or magazine belonging to His Majesty His Heirs or Successors or to the carriage of Gunpowder to or from the King's magazines under a special and express order of the Governor or Acting Governor for the time-being.

Not to extend to  
Gunpowder belong-  
ing to the King.

14. And be it further enacted That this Act shall commence and take effect on the first day of October one thousand eight hundred and thirty-six.

Commencement of  
Act.

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SCHEDULE A. REFERRED TO.

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*Rates of Storage.*

	£	s.	d.
For each and every barrel or package containing 50lbs. of Gunpowder and upwards for any period not exceeding six weeks	0	1	0
Ditto ditto above six weeks per week .. .. .	0	0	2
For each and every barrel containing less than 50lbs. for any period not exceeding six weeks ... .. .	0	0	6
Ditto ditto above six weeks per week ... .. .	0	0	1

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