

69.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

25th October, 1920.

Hon. Mr. Anderson.

EXPLOSIVE AND DANGEROUS GOODS AMENDMENT.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title. Commencement.</p> <p>2. Interpretation.</p> <p>3. Governor-General may define application of Act.</p> <p>4. Restrictions as to storage and use of dangerous goods.</p> <p>5. Receptacles containing dangerous goods to be specially marked.</p> <p>6. Appointment and duties of Chief Inspector of Explosives and other Inspectors.</p> <p>7. Occupiers of premises required to facilitate performance of duties by Inspector.</p> <p>8. Flashing-point of petroleum to be ascertained in manner prescribed by regulations.</p> <p>9. Appointment of licensing authorities.</p> <p>10. Licensing by local authorities of premises required for storage of dangerous goods.</p> | <p>11. Local authorities may establish places for deposit of dangerous goods.</p> <p>12. Appointment by local authorities of officers to carry out Act.</p> <p>13. By-laws.</p> <p>14. Special powers of Harbour Boards.</p> <p>15. Minister may require local authority to make or amend by-laws.</p> <p>16. Powers of Minister where local authority not appointed a licensing authority.</p> <p>17. Procedure on prosecutions.</p> <p>18. Customs officer may refuse clearance to ship in certain cases.</p> <p>19. Evidence.</p> <p>20. Restriction of use of petroleum spirit.</p> <p>21. Regulations.</p> <p>22. Saving of other Acts.</p> <p>23. Repeals.</p> |
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A BILL INTITLED

AN ACT to amend the Explosive and Dangerous Goods Act, 1908. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as the Explosive and Dangerous Goods Amendment Act, 1920, and shall be read together with and deemed part of the Explosive and Dangerous Goods Act, 1908 (hereinafter referred to as the principal Act). Short Title

(2.) This Act shall come into force on the first day of April, nineteen hundred and twenty-one. Commencement.

2. (1.) Section two of the principal Act is hereby amended by repealing the definitions of "local authority," "Minister," and "petroleum"; and by inserting the following definitions:— Interpretation.

"Chief Inspector" means the person for the time being holding the office of Chief Inspector of Explosives, and includes any person directed by the Minister, by writing under his hand, to discharge the duties of the Chief Inspector:

"Dangerous goods" means any fuel oil when kept or stored in receptacles holding more than two hundred gallons,

and any petroleum spirit and petroleum oil, and such other goods as the Governor-General, by Order in Council, declares to be dangerous goods :

- “Depot,” with respect to petroleum, means any pit, excavation, or enclosed place, whether situate in a building or not, which is constructed in such manner or surrounded by walls of such character that petroleum stored therein cannot escape therefrom in the form of liquid, either under the action of fire or otherwise, and with respect to any other dangerous goods means such building or place as may be prescribed or may be approved as a depot by an Inspector : 5
- “Fuel oil ” means any petroleum which has a true flashing-point of more than one hundred and fifty degrees Fahrenheit, and which is used or intended for use as fuel : 15
- “Inspector ” means any person appointed as an Inspector of Explosives under this Act, and includes any person for the time being authorized in writing by the Chief Inspector to act as an Inspector, and also includes any officer appointed by a licensing authority or Harbour Board to carry out the provisions of this Act : 20
- “Licensing authority ” means—
- (a.) In respect of each of the cities of Auckland, Wellington, Christchurch, and Dunedin, the City Council ;
- (b.) Any other local authority declared by the Governor-General by Order in Council to be a licensing authority for the district or port, as the case may be, over which such local authority exercises jurisdiction ; and 25
- (c.) In respect of any district or port for which there is no licensing authority as aforesaid, the Minister : 30
- “Local authority ” means a County Council, a Borough Council, a Town Board, a Road Board in a county in which the Counties Act, 1920, is suspended or not in force, or a Harbour Board :
- “Master ” includes every person except a pilot having command or charge of a ship ; and, in reference to any boat belonging to a ship, means the master of the ship ; and, in reference to any other boat, includes every person having command or charge of the boat : 35
- “Minister ” means the Minister of Internal Affairs : 40
- “Occupier ” means the person in actual occupation of any premises or part thereof under any tenancy whatever, and, in the case of a building in which any manufacture or trade is carried on, includes the person carrying on that manufacture or trade in that building : 45
- “Package ” means any case, barrel, tin, or other receptacle, and includes every means by which goods may be cased, covered, enclosed, contained, or packed :
- “Petroleum ” means any oil, liquid, or spirit derived wholly or in part from any petroleum, shale, schist, coal, peat, bitumen, or any other similar substance : 50

71.

“Petroleum oil” means any petroleum which has a true flashing-point of not less than seventy-three degrees but less than one hundred and fifty degrees Fahrenheit:

5 “Petroleum spirit” means any petroleum which has a true flashing-point of less than seventy-three degrees Fahrenheit:

10 “Premises” means any land, house, storehouse, warehouse, shop, cellar, yard, building, or enclosed space occupied by any one person, firm, partnership, or company, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

3. For the purposes of this Act the Governor-General may, by Order in Council, declare—

Governor-General may define application of Act.

15 (a.) Any goods to be dangerous goods;

(b.) That any specified provisions of this Act shall not apply in respect of any specified dangerous goods; and

20 (c.) That this Act, or any specified provisions thereof, or any Order in Council made thereunder, shall apply only within such area or areas as may be specified in the Order in Council, or shall not apply within any specified area or areas.

4. (1.) Dangerous goods shall be kept, stored, or used only—

Restrictions as to storage and use of dangerous goods

25 (a.) In premises licensed under this Act for the keeping, storing, or using of dangerous goods; or

(b.) In depots established or maintained by local authorities pursuant to this Act as public places of deposit for dangerous goods; or

30 (c.) In such quantities and in such manner and subject to such conditions as to safety as may be prescribed by regulations under this Act:

35 Provided that nothing in any such regulations shall authorize the keeping in unlicensed premises of more than three gallons at any one time of petroleum spirit used or intended for use in such premises in connection with any trade or business or any purpose incidental thereto.

40 (2.) The keeping, storing, or use of dangerous goods contrary to the provisions of this section shall constitute an offence against this Act, and the owner of such goods and the occupier of the premises where such goods are so kept, stored, or used shall on conviction be severally liable to a fine of *one hundred* pounds.

45 (3.) All dangerous goods in respect of the keeping, storing, or using of which a conviction is recorded under this section shall be forfeited.

50 5. (1.) No person shall keep, convey, sell, or expose for sale within New Zealand any dangerous goods, unless the receptacle containing the same and any outer package containing such receptacle is marked with the trade-name of the goods, and such other markings as may be prescribed by regulations.

Receptacles containing dangerous goods to be specially marked.

(2.) Every person who commits a breach of the requirements of this section is liable to a fine of *twenty* pounds, and the dangerous

goods in respect of which such breach was committed and the receptacles containing the same shall be forfeited.

Appointment and duties of Chief Inspector of Explosives and other Inspectors.

6. (1.) There shall be appointed as officers of the Public Service a Chief Inspector of Explosives and such number of Inspectors of Explosives as may from time to time be found necessary for the purpose of carrying out the provisions of the principal Act and this Act. 5

(2.) Every officer who, on the commencement of this Act, holds office as an Inspector of Explosives shall be deemed to be an Inspector under this Act. 10

(3.) The Chief Inspector or any Inspector may—

(a.) At any time enter, inspect, and examine any place (whether a building or not, or a carriage or ship) where he has reason to believe dangerous goods may be found :

(b.) Make any general or particular inquiries as to the observance of this Act : 15

(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, or remove any dangerous goods, and any package, carriage, or ship in which the same are contained, if he has reason to believe that there has been a contravention of this Act in respect of such dangerous goods. For the purposes of this paragraph he may require the occupier of the place in which such dangerous goods are seized to detain the same in that place, or in such other place under the control of the occupier, as will, in his opinion, least endanger the public safety : 20 25

(e.) With the consent of the Minister, destroy or render harmless any dangerous goods in any case where he believes it necessary in the public interest so to do : 30

Provided that in cases of imminent danger he may so act without such consent :

(f.) Where he considers that any act or practice on the part of any person keeping, conveying, or using dangerous goods, or of any person in the immediate vicinity of the place where such goods are being kept, conveyed, or used, is unnecessarily dangerous to the public safety or the safety of any person, require such person to cease such act or practice, and, in default of compliance, may, where he considers the danger imminent, call on a constable to enforce his requirements by summary arrest or otherwise. 35 40

Occupiers of premises required to facilitate performance of duties by Inspector.

7. (1.) Every person in or about any place inspected under this Act shall—

(a.) Facilitate the entry, inspection, and examination by the Inspector : 45

(b.) Answer to the best of his knowledge all inquiries made by the Inspector as to the observance of this Act, and as to the disposal by sale or otherwise of any dangerous goods :

(c.) Facilitate the taking of samples, and the seizure, detention, and removal of any dangerous goods, or of any packages, 50

carriage, or ship, and the destruction and rendering harmless of any dangerous goods :

(d.) Comply with any requisition made by an Inspector pursuant to the *last preceding* section.

5 (2.) If any person fails to carry out any of the requirements of this section he shall be liable to a fine of *one* hundred pounds.

8. (1.) The true flashing-point of petroleum or other inflammable liquids or materials shall, for the purposes of this Act, be ascertained in manner prescribed by regulations.

Flashing-point of petroleum to be ascertained in manner prescribed by regulations.

10 (2.) A standard model of the apparatus prescribed for testing petroleum or other inflammable liquids or materials shall be deposited with the Chief Inspector, who shall, on payment of the prescribed fee, compare, or cause to be compared, with such model every apparatus constructed in accordance with regulations which is submitted to him for that purpose, and, if the same is found to be

15 accurate, stamp the same with such mark as may be prescribed. (3.) Any test made by an apparatus shall be deemed to be inaccurate unless such apparatus has been compared with the standard model and stamped as aforesaid within *five* years from the

20 date of such test being made. 9. The Governor-General may, by Order in Council, appoint any local authority to be a licensing authority for the purposes of this Act, and, in like manner, may revoke any such appointment.

Appointment of licensing authorities.

25 10. (1.) A local authority which is a licensing authority under this Act may, on application in such form and on payment of such fees and subject to such conditions as may be prescribed by regulations or by-laws in that behalf, license premises for the keeping, storing, or using therein of dangerous goods.

Licensing by local authorities of premises required for storage of dangerous goods.

30 (2.) The licensing authority in issuing any license under this section may, in addition to any conditions prescribed by regulations or by-laws, impose such conditions as it thinks fit in the interests of public safety.

35 (3.) Every person who commits a breach of any condition imposed by a license issued under this section commits an offence and is liable to a fine of *one* hundred pounds, and in the case of a continuing offence to a further fine of *twenty-five* pounds for every day or part of a day during which such offence continues.

40 (4.) A license issued under this section may at any time be transferred, altered, amended, or determined by the licensing authority in such manner as may be prescribed by regulations or by-laws under this Act.

45 (5.) In respect of every license issued pursuant to this section the licensing authority shall pay into the Public Account an amount equal to one-half of the amount prescribed by regulations as the fee for the issue of the license.

50 11. (1.) A local authority may, on land acquired or appropriated by it for the purpose, build or construct, or may acquire by purchase or otherwise, and may maintain any building, premises, or ship (whether within or beyond its district) as a public place of deposit for the safe custody of dangerous goods.

Local authorities may establish places for deposit of dangerous goods.

(2.) No such place of deposit shall be established or maintained beyond such district except with the consent of the local authority

73.

of the district or the Harbour Board of the port wherein it is proposed to establish or maintain the same.

(3.) A local authority may agree with any other local authority for the joint establishment or purchase of any such place of deposit, and for the regulation, maintenance, and control of the same, and for the apportionment of the cost thereof and of the revenue derived therefrom. 5

(4.) A local authority may apply such part of its ordinary funds or revenues for the purposes of this section as it thinks fit.

(5.) A local authority may by by-law fix a scale of rates and charges to be paid for the custody of dangerous goods in any public place of deposit, and such rates and charges shall form part of the revenue of the local authority. 10

Appointment by local authorities of officers to carry out Act.

12. (1.) Every local authority which is a licensing authority under this Act shall appoint an officer or officers to carry out the provisions of this Act. 15

(2.) Every such officer shall have the powers of an Inspector under this Act, and shall perform the duties thereof within the district of the local authority by which he is appointed, or within such areas beyond that district as may be approved by the Minister, and shall, for the purposes of this Act, be under the direction and control of the Chief Inspector. 20

By-laws.

13. (1.) A local authority which is a licensing authority may make by-laws—

(a.) Prescribing forms of application for and of licenses to keep or store dangerous goods: 25

(b.) Prescribing the conditions upon which such licenses shall be issued, transferred, altered, amended, and determined:

(c.) Prescribing the fees payable in respect of such licenses:

(d.) For the carrying-out of any of the objects of this Act. 30

(2.) No by-laws made under this section shall have any force or effect unless and until approved by the Minister.

(3.) In case of conflict between any by-laws made under this section and any regulations the by-laws shall prevail.

Special powers of Harbour Boards.

14. Every Harbour Board may, and if required by the Minister shall,— 35

(a.) Appoint such officer or officers as may be necessary to carry out the provisions of this Act and of any regulations made under the Harbours Act, 1908, in respect of dangerous goods, and every such officer shall have the powers of an Inspector under this Act; and 40

(b.) Make by-laws regulating the times, places, order, and mode of shipping, transhipping, unshipping, storage, and conveyance of dangerous goods.

Minister may require local authority to make or amend by-laws.

15. (1.) The Minister may at any time require any local authority which is a licensing authority to make any by-laws, or to revoke, alter, or add to any by-laws made pursuant to this Act, whether or not such by-laws have been approved by the Minister. 45

(2.) If a local authority does not within *three* months from the receipt of a requisition from the Minister make, revoke, alter, or add to any by-laws in the manner required by such requisition, the Governor-General may make such regulations as he thinks fit to 50

75

give effect to such requisition, and such regulations shall for all purposes be deemed to be, and shall have the same force and effect as, by-laws made by that local authority and approved by the Minister.

5 (3.) Every person who commits a breach of any by-law made under this Act, or of any regulation under this section, is liable to a fine of *one hundred* pounds, and in the case of a continuing offence to a further fine of *twenty-five* pounds for every day or part of a day during which such offence continues.

10 16. (1.) The Minister may, in accordance with regulations under this Act, license premises for the keeping, storing, or using therein of dangerous goods in districts in respect of which no local authority has been declared the licensing authority under this Act.

Powers of Minister where local authority not appointed a licensing authority

15 (2.) The Minister may from time to time, by writing under his hand, appoint any person or persons to issue licenses on his behalf, and in like manner may revoke any such appointment.

20 17. (1.) Every offence under this Act may be prosecuted and every penalty under this Act may be recovered in a summary way before a Magistrate.

Procedure on prosecutions.

(2.) The Court before which a person is convicted of an offence against this Act may, in addition to any other penalty, order the forfeiture of any dangerous goods and the packages containing the same.

25 (3.) All goods or other property forfeited under this Act shall be sold or otherwise disposed of in such manner as the Minister directs.

30 18. Where the owner or master of a ship is convicted in respect of that ship of an offence against this Act the Court, in addition to other powers it may have for the purpose of compelling payment of any fine imposed in respect of such offence and of any costs, may direct the Collector of Customs at any port to refuse clearance to the ship until such fine has been duly paid.

Customs officer may refuse clearance to ship in certain cases.

35 19. In any proceedings under this Act the production of the certificate of the Chief Inspector or of an Inspector shall be *prima facie* evidence of the facts therein stated without proof of the signature of the person appearing to have signed the same.

Evidence.

40 20. Every person engaged in the business of a hairdresser who in the course of such business applies petroleum spirit to the hair or person of any customer commits an offence, and is liable for every such offence to a fine of *one hundred* pounds.

Restriction of use of petroleum spirit.

21. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:—

Regulations.

45 (a.) Prescribing the quantities of dangerous goods that may be kept, stored, or used in premises licensed for the keeping, storing, or using of dangerous goods, or in depots established or maintained by local authorities pursuant to this Act, or in unlicensed premises, and the manner in which and the conditions subject to which such goods shall be so kept, stored, or used:

50 (b.) Prescribing with respect to the licensing of premises and the establishing by local authorities of depots for the keeping, storing, or using of dangerous goods, conditions

as to the location of such premises and depots, and the construction, equipment, and maintenance of the same :

- (c.) Prescribing the maximum quantities of dangerous goods that may be kept or stored at any one time in any licensed premises or depot or in any part thereof : 5
- (d.) Prescribing rules to be observed in the interests of public safety in any place where dangerous goods are kept, stored, used, or exposed, and in the conveyance of dangerous goods :
- (e.) Regulating the loading, unloading, and conveyance of dangerous goods : 10
- (f.) Providing for the issue, transfer, alteration, amendment, and determination of licenses issued under this Act :
- (g.) Prescribing the marks to be placed on dangerous goods or the vessels or receptacles containing the same, and on the packages containing such vessels or receptacles : 15
- (h.) Prescribing the nature of the marks and the method of marking apparatus for testing petroleum, and other inflammable liquids or materials, and the limits of accuracy within which such apparatus may be marked : 20
- (i.) Prescribing the construction of testing-apparatus, the manner of testing petroleum and other inflammable liquids or materials, and the method of ascertaining the true flashing-point of such liquids and materials :
- (j.) Providing for the notification of accidents arising out of the keeping, storing, use, or conveyance of dangerous goods, and the holding of inquiries as to the cause of such accidents : 25
- (k.) Prescribing fees to be paid for licenses issued by the Minister or any person appointed by him to issue licenses on his behalf and the testing of petroleum and other dangerous goods : 30
- (l.) Prescribing fines for the breach of any regulation not exceeding *one hundred* pounds in any case :
- (m.) Generally, for preserving the public safety or the safety of any person, and for the protection of property from fire, or otherwise for the purpose of giving effect to the provisions of this Act. 35

(2.) A copy of all such regulations shall, within fourteen days of the issue thereof, be laid before Parliament, if sitting, and, if not, then within fourteen days after the commencement of the next ensuing session. 40

22. Except so far as may be specifically provided herein, nothing in this Act shall be so construed as to annul or derogate from the provisions of any other Act. 45

23. Sections nineteen to forty-five and the Second Schedule to the principal Act are hereby repealed.

Saving of other Acts.

Repeals.