

ANNO QUADRAGESIMO

VICTORIÆ REGINÆ.

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## No. I.

GUNPOWDER  
AND EXPLOSIVE  
SUBSTANCES LAW  
CONSOLIDATION.

An Act to consolidate and amend the Law regulating the importation storage and removal of Gunpowder and other explosive substances. [27th June, 1876.]

Preamble.

WHEREAS divers Acts have been passed from time to time and are now in force in the Colony of New South Wales for regulating the landing storage and subsequent removal of gunpowder from the Magazines established at Goat Island in the Harbour of Port Jackson and elsewhere in the said Colony but the said Acts do not apply to many other dangerous explosive substances some of which have been invented or discovered since the said Acts were passed And whereas all gunpowder imported into the Colony is required by law to be landed at the Colonial Gunpowder Magazine at Goat Island in the Harbour of Port Jackson but there is no enactment expressly requiring the storage of the same in the said magazine And no gunpowder can legally be landed from any magazine in any part of the said harbour other than at the point near Dawes' Battery both of which appointed places are in dangerous proximity to populous neighbourhoods And the said Acts are in other respects defective And it is therefore expedient to make other provisions respecting the importation landing storage and removal of gunpowder and of other explosive substances and otherwise to amend the said Acts Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly in this present Parliament assembled and by authority of the same as follows (that is to say)—

Short title.

1. This Act may be cited in all legal proceedings as the "Gunpowder and Explosive Consolidation Act of 1876."

Repeal of Acts.

2. From and after the commencement of this Act the several Acts mentioned in the First Schedule hereto shall be and the same are repealed But nothing herein contained shall affect any proceeding matter or thing lawfully done or any liability for storage rent or charges incurred under either of the said Acts And all offences committed against their enactments may be prosecuted and the penalties enforced as if this Act had not been passed Provided always that nothing in this Act contained shall affect the Act thirty-fifth Victoria number one intituled "*An Act to place certain restrictions on storage and sale of Kerosene as used for illuminating purposes.*"

This Act not to apply to the Act for regulating the storage and sale of kerosene.

Commencement of Act.

3. This Act shall come into operation on the first day of October one thousand eight hundred and seventy-six but the Governor may at any time after the passing hereof issue any proclamation herein authorized or make any appointments or regulations for the purpose of carrying into effect the intention and objects of this Act.

*Interpretation*

*Gunpowder and Explosive Substances Law Consolidation.**Interpretation of terms.*

4. In the construction of this Act the following words within inverted commas shall have the meanings assigned to them respectively unless inconsistent with the context (that is to say)—

- “Governor”—The Governor with the advice of the Executive Council.
- “Minister”—The Colonial Treasurer or other Minister having the departmental control of the several matters provided for by this Act.
- “Ordnance Storekeeper”—The Ordnance Storekeeper or any officer or person appointed for any special duty under this Act so far as such duty is concerned or any person having the custody of a public magazine.
- “Magazine”—Any building hulk or other floating vessel proclaimed by the Governor to be either a public or licensed magazine for the storage of explosives or explosive substances.
- “Explosive”—Gunpowder nitro-glycerine dynamite lithofracteur blasting powders picric powder gun-cotton pyrolignoine or any explosive preparation of vegetable fibre fulminate of mercury or of other metals and every other substance whether similar to those above-mentioned or not which may from time to time be proclaimed by the Governor as hereinafter provided.
- “Explosive substance”—Petroleum kerosene picrate of potash or any new explosive substance which may hereafter be manufactured colored fires cartridges or ammunition of which an explosive forms a part fireworks rockets detonators and every adaptation or preparation of an explosive or an explosive substance as above defined.
- “Importer”—The importer owner consignee or other person whose name appears in the bill of lading ship’s manifest or invoice of any explosive or explosive substance on board any vessel.
- “Collector of Customs”—The Collector or any other officer of Customs.
- “Inspector of Police”—The inspector or any other officer of police.
- “Boat”—Boat barge punt or any other kind of small vessel.
- “Packages”—Barrels metal cases or canisters or wooden boxes containing such.
- “Building”—Any stone brick or other building of whatever materials.
- “Precincts”—The ground or water surrounding any magazine proclaimed to be its precincts.
- “Van”—Any van truck waggon dray or other vehicle used either on the road or rail.
- “Premises”—Any store shop warehouse cellar or other building registered for the storage or keeping of explosives or explosive substances.
- “Dealer”—The seller or purchaser for trading purposes or the manufacturer of explosives or explosive substances.

*Importation landing and exportation of Explosives.*

5. The master or officer in charge of any vessel arriving in Port Jackson or any other port within the Colony having any explosive on board besides the ship’s stores in ship’s magazines shall immediately after entering such port hoist a Pilot Jack at the main-mast head and keep the same flying until all the explosives on board shall have been landed according to the provisions of this Act or he shall be liable to a penalty not exceeding twenty pounds.

Masters of vessels to hoist a signal.

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Where explosives are to be received in Port Jackson.

6. The master of every vessel arriving in the harbour of Port Jackson shall deliver up in conformity with the provisions of this Act all explosives on board such vessel whether as cargo or stores before such vessel shall be allowed to pass to the westward of Garden Island and shall not afterwards have on board any explosive on pain of forfeiture of all found on board and the packages in which the same may be contained and shall also be liable to a penalty not exceeding fifty pounds. The provisions and regulations contained in or which may be made under this Act so far as they affect the importation landing storage and removal into or out of any magazine of explosives shall be held to include and refer to cartridges.

Explosives &c. imported in packages with other merchandize not duly marked liable to seizure.

7. Should any explosive or explosive substance exceeding twelve pounds weight be imported in any vessel arriving in Port Jackson or any other port within the Colony whether by itself or packed with any other merchandize and the package containing the same not being marked so as to show that an explosive or explosive substance is therein contained specifying the same and also shewing the quantity thereof such explosive or explosive substance together with the package containing the same and the said merchandize shall be liable to seizure and confiscation. And the importer of the same wilfully neglecting to report the importation of such explosive or explosive substance to the Collector of Customs within forty-eight hours after the entering of the said vessel shall be liable to a penalty not exceeding ten pounds.

Ordnance Storekeeper to cause explosives &c. to be landed.

8. Upon the display of the signal directed by section five the Ordnance Storekeeper shall without unnecessary delay cause the requisite licensed boats to proceed to the said vessel and shall at once demand and receive from the master thereof all explosives then being on board and shall thereupon give to the master a receipt describing the packages containing the same as in the Second Schedule hereto which receipt shall be deemed in law to maintain any lien which the master or owner of the vessel may have upon the said explosives and cartridges therein described for freight or other lawful charges upon the same respectively. And the Ordnance Storekeeper shall thereupon deposit the said explosives and cartridges in the magazine appointed in that behalf. And every importer thereof shall within forty-eight hours after the arrival of the said vessel deliver to the Ordnance Storekeeper a full description of the said explosives and cartridges showing the quantity with the marks and numbers of the packages containing the same which description the Ordnance Storekeeper shall enter together with the name of such importer in a book to be kept for that purpose and shall thereupon give a certificate of such entry to the said importer in the form contained in the Second Schedule hereto. And no person shall be entitled to receive any explosive or cartridges from the magazine unless he shall produce to the Ordnance Storekeeper such certificate and shall have paid the lighterage from the vessel and the storage and any other charges authorized by this Act.

Explosives to be landed within the hours of six to four in the day time.

9. All explosives exceeding twelve pounds weight shall be discharged from the vessel importing the same between the hours of six in the morning and four in the afternoon. And as often as any quantity exceeding twelve pounds weight shall be so removed the same shall be taken direct from the vessel to such magazine as shall have been appointed for its reception either in Government or other boats duly licensed by the Minister in that behalf or by such other mode of transit as may be directed by the Minister but at the expense of the importer of all such explosives or cartridges who shall pay the charges for lighterage stated in the Third Schedule hereto to the Ordnance Storekeeper and any person landing or attempting to land any explosive contrary to the provisions of this or the preceding section shall be liable to a penalty not exceeding twenty shillings for every pound weight so landed.

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10. No explosive taken from any magazine shall be landed in any part of the harbour of Port Jackson or Newcastle other than at the wharf or place appointed from time to time by proclamation of the Governor nor at any other time than between the hours of six and nine o'clock in the morning under a penalty in either case not exceeding twenty shillings for every pound weight.

Places and time of landing explosives from magazine.

11. All boats employed in the landing or removal of explosives exceeding fifty pounds weight in the harbour of Port Jackson or Newcastle shall be thoroughly covered in or housed over and shall be sufficiently provided with coverings duly authorized by the regulations and shall also fly a danger signal to be prescribed by the Minister and notified in the *Gazette* and any person (whether employed by the Ordnance Storekeeper or otherwise) who shall remove or cause to be removed explosives exceeding fifty pounds weight in any other manner shall be liable to a penalty not exceeding twenty shillings for every pound weight.

Boats to be covered in and danger signals displayed.

12. No explosive or explosive substance (except kerosene) exceeding twelve pounds weight shall be shipped on board any vessel in the harbours of Port Jackson or Newcastle without a special notification thereof to the Collector or other principal officer of Customs nor shall the same be shipped delivered or conveyed in any boat or van without a plain and durable brand or superscription on the package containing the same showing what explosive or explosive substance is therein contained. And if any person shall so ship or deliver or cause to be shipped or delivered any such explosive or explosive substance without such notification or without such brand or superscription or if any master of any vessel shall knowingly receive on board or permit to be landed any such explosive or explosive substance without such notification and brand or superscription every such person so offending shall be liable to a penalty not exceeding fifty pounds.

No explosive &c. to be shipped &c. without showing contents.

13. No person shall ship or attempt to ship and no master of any vessel lying in the harbour of Port Jackson and outward bound shall knowingly or negligently receive or permit to be received on board any explosive exceeding fifty pounds before such vessel shall have reached to the eastward of Garden Island under a penalty not exceeding twenty shillings for every pound weight.

Where explosives are to be received in Port Jackson for export.

14. No steam-vessel carrying passengers departing from any port or plying on any river of New South Wales shall carry any explosive either as stores or cargo except such signals and reasonable quantity of gunpowder as may be required for the purpose of making signals and the master or owner of any steam-vessel so carrying passengers or on board which any explosive may be found contrary to the provisions of this section shall be liable to a penalty not exceeding fifty pounds nor less than ten pounds. Provided always that where there is no available communication except by steam vessels carrying passengers with any port or place it shall be lawful to ship any explosive not exceeding fifty pounds by such steam-vessel on condition that it shall be provided with a special compartment or magazine and that such steam-vessel shall also carry a danger flag on entering any port or coming near to any other place in New South Wales for discharging cargo.

Coasting steamers &c. prohibited from carrying explosives without authority.

15. When any explosive shall be delivered from any magazine in the harbour of Port Jackson for shipment the exporter or owner thereof on receiving the permit for the same shall give notice in writing to the Ordnance Storekeeper of the day it will be required to be placed on board the vessel by which it is intended to be exported with every document required by law for shipping the same and if the vessel be not ready to receive the same the said explosive may be lodged temporarily in the magazine at Fort Denison the owner or exporter paying for the same the weekly storage and delivery charges specified

Exportation of gunpowder.

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specified in the Fifth and Fourth Schedules hereto but the Government will not be held responsible for any short shipments made through any omission of the exporter thereof to furnish a proper notice in writing of such shipment or for any incomplete arrangements for the same or for delivery at other than the hours aforesaid of any gunpowder or blasting powder which may be short shipped And such explosive may remain at such temporary magazine for one week waiting another vessel after which the explosive so remaining will be returned to the public magazine at the cost of the exporter at the rates specified in the Third Schedule hereto.

Storage payable on explosives removed temporarily.

16. Any explosive exported from Port Jackson and intended for storage in any other magazine at any other port of New South Wales provided with an approved magazine shall be stored free in the latter for three days if intended for immediate transmission into the interior or if for general issue shall be assessed at the rates per week stated in the Fifth Schedule hereto Provided always that due and proper notification is given of such transfer from one magazine to another to the Ordnance Storekeeper and for the purpose as aforesaid and in the absence of such notice it shall be lawful for the Ordnance Storekeeper to treat such explosive as an original importation.

Explosives to be made secure in proper packages.

17. All explosives exceeding twelve pounds weight when in course of removal shall be in barrels closely joined and hooped or in copper zinc or tinned cases or canisters enclosed in wooden boxes or barrels and not containing more than one hundred pounds in weight of powder or other explosive and so secured that no part of the explosive can be scattered in its removal And in case any of such packages shall be defectively constructed or made contrary to the provisions of this section or of any regulation which may be hereafter made by the Minister the Ordnance Storekeeper may if he deem it necessary remove the contents of the said packages into secure and properly constructed barrels or boxes and charge and receive from the importer for such removal not less than ten shillings and sixpence per barrel or box so repacked and shall pay to the Colonial Treasurer the difference between the amount received by him and the actual cost of such re-packing and the Ordnance Storekeeper may refuse to deliver to the said importer the explosive so re-packed until the said charge shall be paid Provided always that in case such repacking cannot be done without danger the Ordnance Storekeeper may order the said explosive so defectively packed to be destroyed.

*The removal and carriage of Explosives and Explosive Substances.*

Quantity of explosives to be conveyed and construction of delivery vans.

18. Not more than one ton weight of any explosive shall be conveyed in any van within the City of Sydney or within the boundaries of any city or town to be hereafter proclaimed except when being conveyed by railway or being otherwise under the control and supervision of the Government and any such van used in conveying explosives exceeding one hundred pounds net weight shall be specially constructed for that purpose and shall be lined at the bottom and on each side with wood fastened with copper bolts or copper nails and so constructed that no iron or steel can come in contact with the package containing any explosive but if such van forms part of any railway train then any quantity of explosives not exceeding two tons weight may be conveyed in such van but the word "GUNPOWDER" shall always be painted thereon in capital letters not less than six inches long And every such van shall have a complete covering of wood or of painted cloth or woollen cloth tilts over all the explosives conveyed therein And any person who shall in the conveyance of any explosive fail to comply with the provisions of this section he shall for every such

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such offence be liable to a penalty not exceeding ten pounds and to the forfeiture of all the explosives and their packages then being in such van Provided that explosives carried on the Government Railways shall not be so forfeited.

19. All explosives conveyed by vans shall be packed in the manner required by section seventeen and in addition thereto any kegs of blasting or loose powder shall be placed in bags or sacks and so secured that no part of the explosive can be scattered in the removal thereof and no package shall contain more than one hundred pounds weight.

How explosives are to be packed for land carriage.

20. All applications for the delivery of any explosive deposited in any magazine shall be made to the Ordnance Storekeeper who shall deliver the same accordingly to the holder of the certificate thereof or other person duly authorized to receive the same and if intended for delivery in the City of Sydney or suburbs or at any port of the Colony the same shall be delivered at the wharf or place appointed by the Governor during the hours provided by this Act or any regulations made thereunder or if intended for shipment the same shall be delivered to the vessel by which the same is intended to be exported between the hours of seven in the morning and four in the afternoon or if for carriage by the railway the same shall be delivered between the hours of seven in the morning and noon on the days appointed for the conveyance of explosives.

Delivery of explosives by Ordnance Storekeeper.

21. No person shall take any explosive exceeding one hundred pounds net weight to any railway station until he has obtained a certificate for transit thereof from the traffic manager that he is prepared to receive it and any such explosive shall be removed from the station to which it is consigned within twenty-four hours after arrival or be liable to forfeiture And any person so offending in any such case shall be liable to a penalty not exceeding fifty pounds.

Unlawful carriage of explosives.

22. No person shall carry any gunpowder exceeding two pounds in weight or other explosive in any omnibus coach or other public vehicle used for the carriage of passengers nor in any licensed boat any other passenger being therein under a penalty not exceeding five pounds.

Gunpowder not to be carried in public vehicles or waterman's boats &c.

*The storage of Explosives.*

23. Explosives shall not be kept at any place except as follows (that is to say)—

Explosives to be kept only in magazines or authorized places.

- (1.) Except in a magazine either now existing or which may hereafter be proclaimed by the Governor as a public magazine
- (2.) Or in a private magazine duly licensed under the authority and according to the provisions of this Act for the storage of explosives
- (3.) Or on any premises duly registered under the provisions of this Act

Provided always that this section shall not apply to any person keeping explosives for his own use and not for sale and not exceeding the amount of twelve pounds weight on the same premises unless duly registered as aforesaid And whenever any explosive shall be kept in any place other than is above or elsewhere by this Act authorized the same may be forthwith seized by the Ordnance Storekeeper Inspector of Magazines or Inspector of Police and may be declared to be forfeited by any two Justices And the occupier of such place and the owner of the explosive so unlawfully authorizing the keeping of the same as aforesaid shall each be liable to a penalty not exceeding twenty shillings for every pound weight of explosives so kept in excess of the authorized quantity.

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"Public" or  
"licensed" magazines  
may be proclaimed.

24. The Governor may by proclamation published in the *Gazette* declare and appoint as a "Public Magazine" or as a "Licensed Magazine" any building which shall be certified by the Ordnance Storekeeper to be suitable with regard to its situation and external and internal construction for the safe custody of gunpowder or any other explosives as the case may be. And upon any such building being so proclaimed the Minister may issue a "special license" as hereinafter provided to the owner or other person intended to have the charge of the said magazine provided that such owner or person shall be approved by the Minister as being duly qualified. And which license shall be valid only for the person named in it. And in the event of any wilful neglect of any provision of this Act or of any regulation made under its authority by the person so being licensed all or any part of the explosives then in his magazine at the time the offence was committed shall be liable to be declared forfeited by any two Justices in Petty Sessions and the owner or occupier (being such licensee) shall also be liable to a penalty not exceeding ten pounds for every day during which such negligence may continue and the said "special license" may also be forfeited.

Licenses for private  
magazines.

25. A license may be granted to any person for a private magazine (in this Act termed a "Licensed Magazine") subject to the several provisions of this Act and of any regulations which may be made thereunder.

Ordinary licenses.

26. An "ordinary license" may be granted to any dealer in explosives subject to all the provisions made in the case of "registered premises" and for the sale of explosives by dealers.

Special licenses.

27. A "special license" may be granted to any person who shall be the owner or occupant of any building or premises (not being within the City of Sydney or its suburbs) which may have been approved by the Minister subject to all the provisions made in the case of "registered premises" and which building or premises may be capable of storing with safety larger quantities of explosives than are authorized to be kept by a dealer under an "ordinary license."

*The keeping and sale of Explosives.*

Dealers to take out  
licenses for sale of  
explosives.

28. It shall not be lawful for any person to become a dealer in explosives after the passing of this Act until he shall have obtained from the Minister either an "ordinary" or a "special" license as herein provided or he shall be liable to a penalty not exceeding one hundred pounds. Provided always that such license when granted shall be duly published in the *Gazette* and shall be in force for twelve months.

Dealers to keep only  
2 cwt. and other  
persons 25 lbs. weight  
on their premises.

29. No dealer in explosives shall have or keep at any one time in any one store or place more than two hundred-weight of explosives except as hereinafter provided and no person not being such dealer more than twenty-five pounds weight of explosives in any house store warehouse shop cellar yard or wharf or other building premises or place occupied by the same person and if any explosive be kept contrary hereto the owner or person in possession of the same shall forfeit all such explosives and the packages in which the same shall be kept and shall also be liable to a penalty not exceeding ten shillings for every pound weight of the same beyond such authorized quantity.

Dealer in explosives  
to affix notice thereof  
in his warehouse.

30. Every dealer in explosives shall cause to be painted in legible characters on some conspicuous part of the shop or warehouse containing the same the words "Gunpowder sold here" or he shall be liable to a penalty of five pounds for every day of such omission.

Sale or transfer to be  
reported to the officer  
in charge.

31. In case the importer or owner of any explosive while it shall be deposited in any magazine shall sell or transfer the whole or any part of the same to any other person such sale or transfer shall be immediately

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immediately reported in writing to the Ordnance Storekeeper and a certificate of such sale or transfer together with any other documents necessary for claiming transfer and delivery of such explosive from such importer or owner shall also be produced to the Ordnance Storekeeper in order that the same may be duly registered otherwise the Ordnance Storekeeper may refuse to deliver up the said explosive to any other than the recipient of the original certificate.

*Magazines and their Management.*

32. The Governor may from time to time by Proclamation declare and appoint the space or distance surrounding any public magazine for the storage of explosives to be its precincts within which it shall not be lawful for any person to come without the authority of the Minister or Ordnance Storekeeper. And any person entering such precincts without such authority and refusing to withdraw after being directed so to do by the Ordnance Storekeeper or other person under his authority may be either forcibly removed or taken into custody by him for the purpose of being brought before the nearest Court of Petty Sessions and shall be liable to a penalty not exceeding twenty pounds.

The Governor may proclaim the precincts of any magazine.

33. Any person bringing fire or matches for the purpose of ignition or smoking within the precincts of any magazine may be forthwith taken into custody by the Ordnance Storekeeper or police constable or any other person in order to his being dealt with as is in the last section provided and such person so offending shall be liable to a penalty not exceeding twenty pounds.

No match &c. to be brought within such precincts.

34. The Governor may appoint Inspectors of Magazines and may assign to them their duties and every such appointment shall thereupon be published in the *Gazette*.

Inspectors of Magazines may be appointed.

35. Every Inspector of Magazines shall have authority to enter and inspect at any time any public or licensed magazine and at any time between the hours of nine and four in the day any premises registered under this Act for the purpose of examining the state and condition thereof and of the packages of explosives stored therein and such Inspector is hereby authorized thereupon at once to give to the Ordnance Storekeeper or officer in charge of any public magazine or to the licensee or person in charge of any licensed magazine or premises any orders or directions respecting the custody and management of such magazine or premises and the explosives therein stored or any other matters which in his opinion are of such urgent importance as to justify his action without the previous sanction of the Minister. Provided that such Inspector shall forthwith communicate to the Minister whatever orders he may have given or other course taken for his approval or otherwise. And any officer or licensee or other person in charge of such magazine or premises refusing to admit any such Inspector into the said magazine or premises or neglecting forthwith to obey or carry into effect any such orders or directions shall be liable to a penalty not exceeding one hundred pounds and also in case of his being in the employ of the Government to immediate dismissal from its service.

Inspectors of Magazines may enter magazines &c. at any time.

Owners &c. obstructing Inspectors liable to penalty.

36. Every owner of a "Licensed Magazine" may with the sanction of the Minister make and may afterwards alter or expunge any special rules for the control of the persons managing or employed in and about such magazine (any such rule not being inconsistent with the provisions of this Act or any regulations made by the Governor under its authority) with a view to secure the observance of this Act therein and the safety and proper discipline of the said persons.

Owners may make special rules.

37. Every owner or licensee of any licensed magazine shall forward within one week after the end of every month to the Ordnance Storekeeper a detailed statement of all explosives deposited in his magazine

Owners of licensed magazines to deliver monthly returns.



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magazine or delivered out by him and of all moneys received by him on account of storage or otherwise during the month preceding under a penalty not exceeding ten pounds for every default.

No two explosives to be stored in the same compartment.

38. No explosive exceeding twenty-five pounds shall be stored in any magazine or in any registered premises in the same compartment with any other explosive or within the distance of ten feet therefrom and any person storing any explosive contrary to the provisions of this section shall be liable to a penalty of twenty shillings for every pound weight so stored and except in the case of a Public Magazine all such explosives may be forfeited and the license granted to the person so offending may also be forfeited.

*Registration of Premises.*

Registration of premises.

39. Premises wherein any explosive exceeding twenty-five pounds weight is kept shall be registered. And any person desirous of registering any premises either for the sale or keeping of any explosive shall register his name and calling with the Ordnance Storekeeper and shall therewith deliver a correct description of the said premises and the street and town or other locality where the same are situated and an Inspector of Magazines or such other officer as may be appointed by the Government in that behalf shall thereupon inspect the said premises and if approved by the Minister as being suitable and in compliance with this Act and any regulations established thereunder the Minister may immediately authorize the Ordnance Storekeeper to register in a book to be kept by him for that purpose the name and calling of such person and the specified premises and to give him a certificate thereof and such person shall thereupon be duly authorized to keep gunpowder upon the premises therein specified (and in this Act referred to as "registered premises") during the period specified in his license. Provided always that such registration and certificate shall be valid only for the person and specific premises registered.

General rules for registered premises.

40. The following general rules shall be observed with respect to "registered premises":—

- (1.) If the explosive is kept in a substantially constructed building exclusively appropriated for the purpose and detached from a dwelling-house or in a fire-proof safe outside a dwelling-house and detached therefrom and at a safe distance from any highway street public thoroughfare or public place five hundred pounds weight may be kept in the same registered premises or if on and for the use of a mine quarry railway or public work in course of construction four thousand pounds weight if kept in a detached building exclusively appropriated for the purpose.
- (2.) If it is kept inside a dwelling-place or in any building other than as last aforesaid the quantity shall not exceed three hundred pounds weight.
- (3.) If it is deposited in a fire-proof safe within such house or building an amount not exceeding four hundred pounds weight may be kept.
- (4.) All gunpowder and blasting powder shall be secured in packages as specified in section seventeen.
- (5.) No person shall be allowed to smoke or bring matches for the purpose of ignition into the said registered premises.
- (6.) No person under the age of sixteen years shall be employed in the said registered premises unless in the presence and under the supervision of some adult person.
- (7.) No explosive shall be sold or given to any child apparently under the age of thirteen years.

(8.)

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- (8.) All gunpowder or other explosive exceeding one pound in weight when either exposed for sale or sold shall be in a substantial case canister or other receptacle made and closed so as to prevent the gunpowder or other explosive from escaping and the outside covering or wrapper shall have the word "Gunpowder" written in large letters or printed thereon.

And if any breach of this section is committed by the person so registered he shall be liable to a penalty not exceeding fifty pounds and all the explosives then being in such registered premises may be forfeited.

*Regulations.*

41. The Governor shall at all times have and exercise the following powers—

The Governor may make all necessary regulations.

- (1.) He may from time to time make and publish regulations not being inconsistent with this Act for the management and control of all magazines now or hereafter proclaimed and especially for the quantities of explosives which may be stored in every such magazine.
- (2.) For the importation storage custody removal and carriage of explosives either by land or water.
- (3.) For declaring what quantity of explosives or explosive substances may be removed or carried either to or from such magazines.
- (4.) For prescribing the size and description of boats to be used for the transport of the same by water and the manner in which such boats shall be constructed and fitted up.
- (5.) For prescribing precautions to be used in conveying any explosive.
- (6.) For appointing the places respectively where the same may be delivered either from on board ship in order to be stored in a magazine or from a magazine in order to be conveyed elsewhere.
- (7.) For granting licenses for carrying the same to any owners of boats or vans and prescribing rules for their guidance in either case.
- (8.) For declaring what flag or other danger signal shall be displayed by boats or vans when conveying explosives.
- (9.) For providing for the storage and removal of any blasting powder or other explosive for public works or mining purposes.
- (10.) For prescribing the duties of Inspectors of Magazines and for framing any other regulation for carrying into effect the intentions and objects of this Act.
- (11.) For proclaiming any other port to be subject to the regulations and provisions of this Act.

Provided that all such regulations are thereupon published in the *Gazette* And that copies of all regulations so made shall without unnecessary delay be laid before Parliament if at the time in Session otherwise within one month after the commencement of its then next Session.

42. All regulations when so made and published but not before shall have the same force and effect until repealed or altered as if each respectively had formed a part of this Act and the production of the *Gazette* containing them shall be sufficient evidence upon any trial or proceeding in any Court of every such regulation having been duly made and promulgated.

Regulations to have the force of law and *Gazette* to be evidence.

43. Every person storing explosives in any public or licensed magazine or taking out an "ordinary license" or "special license" or a license for a "magazine" or "registered premises" under the provisions of this Act shall pay for the same respectively the fees specified in the Sixth Schedule hereto.

Fees to be paid for licenses.

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*Rent and Charges for the Storage and Delivery of Explosives.*

Store rent &c. to be paid every six months.

44. The store rent and charges due upon any explosive deposited in any public magazine shall be paid every six months unless sooner delivered and if such rent and charges be not so paid to the Ordnance Storekeeper he may cause a notice to be published in the *Government Gazette* requiring the importer or owner to pay the amount due and intimating that if not paid within one month the said explosive will be forfeited. And if not then paid the Ordnance Storekeeper may cause the said explosive to be sold by public auction on the day fixed by the said notice and the net proceeds of such sale shall in the first instance be applied to the payment of all rent and charges due thereon and the balance if any shall be paid to the holder of the certificate of deposit of such explosive or such balance may be paid to the Colonial Treasurer who shall place the same to the credit of the Consolidated Revenue Fund.

Regulating storage rent.

45. The storage rent for any explosive deposited in any public magazine as aforesaid shall be paid by the importer or holder of the certificate thereof according to the rates contained in the Fifth Schedule hereto and such importer or holder shall be held liable for the payment of storage rent and all other expenses thereupon until the transfer in the property of such explosive has been duly reported and registered as herein provided.

Liability of importer.

Rates &c. to be paid.

46. Any person applying for a permit for delivery of any explosive shall at the time of such application pay to the Ordnance Storekeeper the rates contained in the Fourth Schedule hereto the Ordnance Storekeeper charging for land and water transport combined or separately as the case may be.

Appropriation of rent &c. and penalties &c. received.

47. All moneys received by the Ordnance Storekeeper for the storage or delivery of explosives or for other charges in respect thereof and all penalties recovered and the proceeds of sale of all explosives or explosive substances adjudged to be forfeited shall be paid to the Colonial Treasurer and be accounted for as part of the Consolidated Revenue Fund of the Colony.

*Miscellaneous Sections.*

48. Nothing in this Act contained shall be deemed or held to apply—

This Act not to apply to H.M.'s ships.

Nor in any of H.M.'s magazines.

Nor to rockets &c. on board vessels in compliance with 17 and 18 Vic. c. 104.

- (1.) To any explosive or explosive substance the property of Her Majesty on board any of Her Majesty's ships—
- (2.) Nor to the keeping of explosives or explosive substances in any magazine belonging to Her Majesty or to the carriage thereof to and from any magazine under a special order of the Minister or when under the control and management of any officer of Her Majesty's Army Navy Ordnance or other duly authorized person—
- (3.) Nor to any gunpowder rockets or other explosive or explosive substance on board any vessel in pursuance of the provisions of the "Merchant Shipping Act 1854" and the Acts amending the same or any order or regulation made under any of those Acts. Provided that the conveyance and keeping thereof on board the vessel or elsewhere while the vessel is in harbour shall be subject to the regulations made or to be made under this Act.
- (4.) Nor to any explosives or explosive substances supplied to or used by Her Majesty's Colonial and Volunteer Forces.

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49. The Governor may from time to time by proclamation prohibit either absolutely or for a stated period the manufacture importation from places beyond the Colony storage conveyance or sale of any explosive or explosive substance which is of so dangerous a character that in the judgment of the Governor it is expedient for the public safety to issue such proclamation Or in like manner may impose conditions or restrictions regarding the same respectively And if any person shall in contravention of the terms of such proclamation manufacture import store keep convey sell or attempt to sell or purchase any such dangerous explosive or explosive substance he shall be liable to a penalty not exceeding twenty shillings for every pound weight of the same which he may have so manufactured imported stored conveyed delivered or sold or attempted to sell or purchase And all or any part of such explosive or explosive substance may be seized and forfeited.

The Governor may prohibit the importation &c. of specially dangerous explosives.

50. The Collector and other officers of Customs shall have and exercise the same powers with respect to any explosive or explosive substance the importation of which may have been so prohibited by the Governor and which may be found on board any vessel after arrival in any port of the Colony or which may have been landed from such vessel and also with respect to the vessel so importing or landing the same that the said Collector and other officers of Customs may have and exercise under the laws at the time in force with respect to any article prohibited to be imported by any laws relating to the Customs and with respect to the vessel importing the same and the said laws respectively shall be construed in all Courts of Justice to apply to the provisions of this section accordingly Provided always that the said explosive or explosive substance after any such seizure shall be taken charge of thereupon by the Ordnance Storekeeper for deposit in a public magazine.

Collector of Customs may seize prohibited explosive substances &c.

51. The Ordnance Storekeeper and all persons employed under him in charge of explosives shall be sworn in as special constables.

Magazine labourers may be sworn &c.

52. If any person throw cast or fire any fireworks in or into any highway street thoroughfare or public place he shall be liable to a penalty not exceeding five pounds.

Penalty for throwing fireworks in thoroughfare.

*Explosive Substances.*

53. The Governor may from time to time by Proclamation published in the *Gazette* exempt from the operation of any sections of this Act to be specified in such Proclamation any chemical or mechanical preparations which are thereby or may hereafter be declared to be "explosive substances" that shall be in general use and which in the opinion of the Governor may safely be consigned or stored in larger quantities than is by this Act authorized and the Governor may thereupon make special regulations for the safe keeping removal or carriage of any explosive substances so exempted.

Exemptions from operation of storage sections &c.

54. Nothing in this Act shall render liable to any penalty or forfeiture the Ordnance Storekeeper owner or master of any vessel or boat or dealer or the person having charge of any explosive or explosive substance for any act done in breach of any section of this Act if he prove that by reason of stress of weather inevitable accident or other emergency the doing of such Act was under the circumstances imperative.

Saving for master of ship and carrier in case of emergency.

*Recovery of Penalties and Forfeitures.*

55. Where any offence under this Act for which the owner of any explosive or explosive substance occupier owner or licensee of any magazine store or registered premises or any carrier by land or water

Exemption of occupier from penalty upon proof of another being real offender.

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is liable to a penalty or forfeiture has in fact been committed by some other person the latter shall be liable to a penalty not exceeding fifty pounds And where any such owner or licensee or occupier or carrier is charged with an offence which has in fact been committed by some other person then such owner licensee occupier or carrier as the case may be shall be exempt from any penalty or forfeiture upon proving that he had supplied proper means and issued proper orders for the observance and used due diligence to enforce the observance of this Act and that the offence in question was actually committed by some other person without his connivance and (if the actual offender be alive) that he has taken all practicable means in his power to prosecute such offender to conviction.

Recovery of penalties  
&c. not specifically  
provided for.

Moiety to go to  
informer.

If not remitted by  
Governor.

How offences to be  
prosecuted.

56. For any breach of this Act where no penalty is specifically provided for the person offending shall be liable to a penalty not exceeding ten pounds And out of any penalty or forfeiture imposed under the authority of this Act the convicting Justices shall award a moiety of the penalty to the person on whose information the prosecution in the case was instituted Provided nevertheless that the Governor may remit such moiety of either the penalty or the forfeiture as shall have been so awarded as aforesaid Provided always that the full amount of such penalty or of the proceeds of such forfeiture as the case may be shall always be paid in the first instance to the Colonial Treasurer to the credit of the Consolidated Revenue Fund of the Colony.

57. Any penalty or forfeiture for any offence against this Act may be enforced and recovered upon summary conviction before any two Justices in manner provided by the Acts eleven and twelve Victoria chapter forty-three as adopted by the Act of the Governor and Legislative Council fourteen Victoria number forty-three and any Acts amending the same.

*Legal Proceedings.*

All legal proceedings  
may be taken in the  
name of the Ordnance  
Storekeeper.

Appeal allowed to  
Quarter Sessions.

58. All complaints or other legal proceedings may be laid and taken by the Ordnance Storekeeper or other officer appointed by the Governor in that behalf against any person for non-compliance with or any breach of this Act or any regulations made under its authority.

59. Any person feeling himself aggrieved by any conviction or penalty or charge imposed under the authority of this Act where the penalty or sum exceeds five pounds may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter thereof arose unless such Quarter Sessions shall be held within fourteen days from the date of such conviction or judgment and in that case to the Court of Quarter Sessions then next following And such Court shall have power to hear and determine the matter in a summary way and shall have and exercise all other powers vested in them by the third section of the Act fifth William the Fourth number twenty-two and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal and stating the grounds thereof to any one of the convicting Justices and to the Ordnance Storekeeper or other officer duly appointed by the Governor in that behalf and who prosecuted the matter before the Justices in Petty Sessions And provided also that such person (in case a penalty shall have been awarded against him) shall pay into the hands of the convicting Justices the full amount thereof together with the costs awarded within one week next after conviction and shall within the same period enter into a bond with two sureties approved

by

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by such Justices conditioned to prosecute such appeal with effect and to abide the event of such appeal and to pay the full amount of all such costs as may on such appeal be awarded against him.

60. It shall be lawful for any Justice of the Peace on reasonable cause assigned upon oath by any person to issue a warrant under his hand addressed to a police officer or constable authorizing him to search in the day-time any house warehouse store shop cellar yard wharf or other building or place or any van boat or vessel in which any explosive is suspected to be kept or carried contrary to the provisions of this Act and any explosive found to be so kept or carried and also the packages or other receptacles containing the same shall be immediately seized by such officer or constable who shall forthwith report such seizure to the Ordnance Storekeeper if within reach and if not practicable to communicate with him then the police officer or constable shall report such seizure to his superior officer And if such police officer or constable shall be authorized by the Ordnance Storekeeper or by any superior police officer (as the case may be) to remove the said explosive he shall thereupon be empowered to remove with all due precaution such explosive and the packages or other receptacles in which it may be contained to some place of safety and in case of any such explosive so seized being in any van or boat or vessel such officer or constable may use for the purpose of removal during the time necessary after such seizure such van boat or vessel with the oars sails tackling horses oxen and harness yokes and chains belonging to either of them respectively and may detain the same together with such explosive and the packages or other receptacles in which it may be contained until it shall be adjudged by any two Justices in Petty Sessions whether the same shall be forfeited or otherwise and such officer or constable shall not be liable to any suit for such detention or for any loss or damage which may happen to the said explosive or packages other than for his own wilful neglect Provided always that if such removal shall be attended with any risk and the said police officer or constable is duly authorized as last aforesaid in that behalf the said explosive and packages may be forthwith destroyed.

▲ Justice may issue a search-warrant for the inspection of any premises or vans &c.

Police officers may seize all explosives unlawfully stored or carried.

61. No order nor any other proceeding matter or thing done or transacted in relation to the execution of this Act shall be vacated quashed or set aside for want of form nor be removable by *certiorari* or otherwise into the Supreme Court.

Proceedings not to be quashed or set aside for want of form.

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**SCHEDULES.**

**FIRST SCHEDULE.**

No. of Act.	Title of Act.
7 Wm. IV. No. 7	An Act for better regulating the keeping and carriage of Gunpowder.
5 Vic. No. 11 ...	An Act to amend an Act intituled " <i>An Act for better regulating the keeping and carriage of Gunpowder.</i> "
16 Vic. No. 47 ...	An Act for the establishment of the Colonial Gunpowder Magazine lately erected on Goat Island.
18 Vic. No. 21 ...	An Act to prevent the shipment or delivery of Gunpowder and other explosive materials and of Vitriol or other such mineral acids without due notification thereof.
19 Vic. No. 6 ...	An Act further to amend the Act for better regulating the keeping and carriage of Gunpowder.

**SECOND SCHEDULE.**

Magazine.

18 .

THIS is to certify that \_\_\_\_\_ ha deposited in the above Magazine the explosive herein below described on which the following charges for lighterage and storage will be payable—

	£	s.	d.
Lighterage from the ship ... ..			
Storage from date at _____ per week.			
Description of packages—			
Barrels marked _____ and numbered _____	{ containing ( <i>loose powder</i> <i>or dynamite &amp;c.</i> ) as the case may be.		
Boxes do _____ do _____			
	Storekeeper.		

**THIRD SCHEDULE.**

RATES OF LIGHTERAGE from Ship or Vessel by which Explosives are imported.

	£	s.	d.
For each package containing cartridges Small arm ... ..	0	0	4
For each barrel or package containing fifty-one pounds loose gunpowder and upwards to one hundred pounds and for each package of canister powder containing forty-eight pounds and upwards ... ..	0	0	3
For each barrel or package containing fifty pounds loose powder and under and for each package of canister powder containing under forty-eight pounds ... ..	0	0	2
Any other explosive to be liable to similar charges.			
But if the rates shall in any case not amount to seven shillings and sixpence the minimum charge instead of the above rates shall be seven shillings and sixpence.			

**FOURTH SCHEDULE.**

RATES OF CHARGES for delivery of Gunpowder from Magazines by land and water transport or separately (as the case may be).

	£	s.	d.
For one or any number up to ten barrels or packages each containing not more than fifty pounds of gunpowder but not exceeding ten packages to be conveyed by land and water at one time on each person's order the minimum charge to be five shillings... ..	0	5	0
For every barrel or package each containing not more than fifty pounds of powder in excess of ten packages conveyed by land and water at per package ... ..	0	0	4
For			

*Consolidated Revenue Fund (No. 6).*

For one or any number up to ten of barrels or packages each containing fifty-one pounds of gunpowder and up to one hundred pounds but not exceeding ten packages to be conveyed by land and water at one time on each person's order the minimum charge to be ten shillings...	£	s.	d.
	0	10	0
For every barrel or package each containing fifty-one pounds of powder and up to one hundred pounds in excess of ten packages to be conveyed by land and water at per package ... ..	0	0	8
And in cases of land carriage (exclusive of railway carriage) and water transport being separately done in either of the foregoing cases the charges shall be at half the rates hereinbefore stated.			
Any other explosive to be liable to similar charges.			

## FIFTH SCHEDULE.

## RATES OF STORAGE.

For each barrel or package containing upwards of fifty pounds of gunpowder for any period not exceeding six weeks ... ..	£	s.	d.
	0	0	6
For each barrel or package containing upwards of fifty pounds of gunpowder for any period above six weeks—per week ... ..	0	0	1
For each barrel or package containing fifty pounds and under of gunpowder for any period not exceeding six weeks ... ..	0	0	3
For each barrel or package containing fifty pounds and under of gunpowder for any period above six weeks—per week ... ..	0	0	0½
Any other explosive to be liable to similar charges.			

## SIXTH SCHEDULE.

## FEES FOR LICENSES.

For every license granted for a magazine ... ..	£	s.	d.
	2	0	0
For every special license ... ..	1	0	0
For every ordinary license ... ..	0	10	0
For every license for registered premises ... ..	0	5	0