

Dangerous Goods Act 1869

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An Act for the amendment of the Laws with respect to the Carriage and Deposit of Explosive and Dangerous Goods.

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

1 Short Title.

The short Title of this Act shall be “The Dangerous Goods Act 1869.”

2 Interpretation.

For the purposes of this Act “Petroleum” shall include all such Rock Oil Rangoon Oil Burmah Oil any product of them and any oil made from petroleum coal schist shale peat or other bituminous substance and any such product of them as gives off an inflammable vapour at a temperature of less than one hundred and ten degrees of Fahrenheit’s thermometer “Borough” shall mean any borough constituted under “The Municipal Corporations Act 1867” “Harbour” shall include any port dock navigable river pier or other works in or at which vessels ship or discharge goods or passengers “Warehouse owner” shall include all persons or bodies of persons owning or managing any warehouse store quay or other premises in which goods are deposited and the word “Carrier” shall include all persons or bodies of persons carrying goods or passengers for hire by land or water.

3 Nitro-Glycerine to be deemed specially dangerous.

The goods or article commonly known as Nitro-Glycerine or Glonoine Oil shall be deemed to be specially dangerous within the meaning of this Act and Petroleum as herein defined shall be deemed to be dangerous within the meaning of this Act.

4 Other goods may be declared specially dangerous by Order in Council.

The Governor may from time to time by Order in Council declare that any goods named in such order other than nitro-glycerine or glonoine oil are to be deemed specially dangerous within the meaning of this Act and may from time to time amend or repeal any such Order and any goods which are by any such Order declared to be specially dangerous shall so long as such Order is in force be deemed to be specially dangerous within the meaning of this Act.

5 Regulations to be observed by a ship carrying petroleum and specially dangerous goods.

Every vessel carrying a cargo consisting wholly or in part of goods which are specially dangerous or of petroleum on entering any harbour within New Zealand shall conform to such regulations in respect to the place at which she is to be moored as may from time to time be issued by the Governor in Council with respect to such harbour. If any vessel is moored in any place in contravention of such regulations the owner or master of such vessel shall incur a penalty not exceeding twenty pounds for each day during which the vessel remains moored and it shall be lawful for the Harbour Master or any other person acting under his orders to cause such vessel to be removed at the expense of the owner thereof to such place as may be in conformity with the said regulations and all expenses incurred in such removal may be recovered in a summary way.

6 After 1st October 1869 no specially dangerous goods or petroleum except to the extent of ten gallons for private use to be kept under license.

From and after the first day of October one thousand eight hundred and sixty-nine no goods which are specially dangerous and no petroleum except petroleum to the extent of ten gallons kept for private use and not for sale shall be kept within fifty yards of a dwelling-house or of a building in which goods are stored except in pursuance of a license under this Act. Any petroleum or specially dangerous goods kept in contravention of this section shall be forfeited and in addition thereto the occupier of the place in which such petroleum or specially dangerous goods are kept shall be liable to a penalty of twenty pounds a day for each day during which petroleum or specially dangerous goods are so kept in contravention of this Act.

7 Definition of local authority.

The following bodies shall respectively be the local authority to grant licenses under this Act in the districts hereinafter mentioned that is to say—

- (1.) In any borough except as hereinafter mentioned constituted under “The Municipal Corporations Act 1867” the Borough Council of such borough
- (2.) Except as hereinafter mentioned as to harbours in any city town or place mentioned in the first Schedule to “The Municipal Corporations Act 1867” and not incorporated under the said Act but within the jurisdiction of any Board Council Commissioners or Trustees or other body constituted elected or appointed under any of the Provincial Acts or Ordinances specified in the said first Schedule or under any Act or Ordinance of any Provincial Council amending any such Act or Ordinance such Board Council Commissioners or Trustees or other body
- (3.) In any port or harbour whether situate or not within the jurisdiction of any local authority hereinbefore mentioned the Governor or any person or persons

to whom the Governor's powers or any of them under the tenth section of "The Marine Act 1867" shall for the time being be delegated

- (4.) In any place within the Colony in which there is no local authority as hereinbefore defined if the same be within the district of a Resident Magistrate's Court any Resident Magistrate thereof and if the same be not within the district of a Resident Magistrate's Court and be within the district of a Court of Petty Sessions then the Court of Petty Sessions for such district and if the same be not within the district of a Resident Magistrate's Court or Court of Petty Sessions then any two Justices of the Peace.

8 Mode of granting licenses.

Licenses in pursuance of this Act shall be valid if signed by two or more of the persons constituting the local authority or executed in any other way in which other licenses if any granted by such authority are executed They may be granted for a limited time and there may be annexed thereto any conditions as to renewal or otherwise which the local authority thinks necessary for diminishing the risk of damage from explosion or fire and any licensee violating any of the conditions of his license shall be deemed to be an unlicensed person.

9 What conditions may be annexed to license.

There may be annexed to any such license such conditions as to the mode of storage as to the nature of the goods with which dangerous or specially dangerous goods may be stored and generally as to the safe keeping of dangerous and specially dangerous goods as may seem expedient to the local authority Any such license may be for dangerous goods alone or for specially dangerous goods alone or for both and the conditions aforesaid may be made applicable to any specified articles being dangerous or specially dangerous goods or to all such goods generally.

10 In case of refusal of license the applicant may memorialize the Colonial Secretary.

If on any application for a license under this Act the local authority refuses the license or grants the same only on conditions with which the applicant is dissatisfied the local authority shall if required by the applicant certify in writing under the hand or hands of one or more of the persons constituting the local authority the grounds on which it refused the license or annexed conditions to the grant thereof and shall deliver the certificate to the applicant who may thereupon within fifteen days from the time of the delivery thereof transmit the same to the Colonial Secretary together with a memorial praying that notwithstanding such refusal the license may be granted or that such conditions may not be imposed or may be altered or modified in such manner and to such extent as may be set forth in such memorial and it shall be lawful for the Colonial Secretary if he think fit on consideration of such memorial and certificate and if he think it necessary or desirable after due inquiry from

and a report by such person as he may appoint for that purpose to grant the license prayed for either absolutely or with such conditions as he thinks fit or to alter or modify the conditions imposed by the local authority and the license so granted or altered and modified as the case may be when certified under the hand of the said Colonial Secretary shall be to all intents as valid as if granted by the local authority.

11 Specially dangerous goods to be marked and notice of character of such goods to be given to carrier &c.

No person shall deliver any goods which are specially dangerous to any warehouse-owner or carrier or send or carry or cause to be sent or carried any such goods upon any railway or in any ship to or from any port of New Zealand or deposit any such goods in or upon any warehouse or quay unless the true name or description of such goods with the addition of the words "specially dangerous" is distinctly written printed or marked on the outside of the package nor in the case of delivery to or deposit with any warehouse-owner or carrier without also giving notice in writing to him of the name or description of such goods and of their being specially dangerous And any person who commits a breach of this enactment shall be liable to a penalty not exceeding five hundred pounds or at the discretion of the Court to imprisonment with or without hard labour for any term not exceeding two years Provided always as follows

- (1.) Any person convicted of a breach of the last foregoing enactment shall not be liable to imprisonment or to a penalty of more than two hundred pounds if he shows to the satisfaction of the Court and jury before whom he is convicted that he did not know the nature of the goods to which the indictment relates
- (2.) Any person accused of having committed a breach of the said enactment shall not be liable to be convicted thereof if he shows to the satisfaction of the Court and jury before whom he is tried that he did not know the nature of the goods to which the indictment relates and that he could not with reasonable diligence have obtained such knowledge.

12 As to forfeiture of goods.

Where goods are delivered sent carried or deposited in contravention of the last preceding enactment the same shall be forfeited and shall be disposed of in such manner as the Commissioner of Customs shall direct whether any person is liable to be convicted of a breach of the said enactment or not.

13 Warehouse-owners &c. not bound to receive such goods.

No warehouse-owner or carrier shall be bound to receive or carry any goods which are specially dangerous.

14 Penalties how recoverable.

The penalties enjoined by the eleventh section of this Act shall be recoverable only upon indictment or information and not in a summary way and all other

penalties shall be recoverable in a summary way before any two or more Justices of the Peace and one moiety of the penalty shall belong to Her Majesty and be paid to the Consolidated Fund and the other moiety to the informer.

15 Prohibition of sale of petroleum unless bottle or vessel containing it marked.

No person shall sell or expose for sale for use within the Colony of New Zealand any petroleum as in this Act defined unless the bottle or vessel containing such petroleum have attached thereto a label in legible characters stating as follows—"Dangerous—no light to be brought near" Any person acting in contravention of this section shall for each offence be subject to a penalty not exceeding five pounds.

16 Inspector of Weights &c. may test petroleum.

It shall be lawful for any Inspector of Weights and Measures or other person or persons duly appointed to inspect weights and measures under "The Weights and Measures Act 1868" at all reasonable times to inspect and test all petroleum kept offered or exposed for sale and if upon such inspection and test any description of petroleum shall be found kept or offered or exposed for sale as aforesaid contrary to the provisions of this Act the same shall be liable to be seized and upon conviction forfeited and such person so examining the same shall retain a sample thereof and the person or persons so offending shall be liable for any such offence to any penalty not exceeding five pounds Provided always that if the person or persons in whose possession such petroleum shall be found as aforesaid shall claim to have a further test made on their behalf the Magistrate before whom complaint of the said offence may be laid shall call before him some person having competent chemical knowledge who shall test a portion of the sample so retained as aforesaid in the manner hereinafter provided and shall give evidence of the result of such test and the Magistrate shall direct payment to be made to the analyst of a sum not less than five shillings nor more than twenty shillings and in case of conviction the person convicted shall pay the cost of such analysis and in case of acquittal such cost shall be paid by the Colonial Treasurer out of the Consolidated Fund.

17 Search for Petroleum &c. kept contrary to this Act.

Any Justice of the Peace of the Colony or of any district or place in which any petroleum or specially dangerous goods is or are suspected to be kept contrary to the provisions of this Act upon reasonable cause assigned upon oath by any person may issue a warrant under his hand and seal for searching for any petroleum or specially dangerous goods in any house storehouse warehouse magazine shop cellar yard wharf or other place or any ship boat or vessel in which the same is suspected to be kept or carried contrary to the provision of this Act and every person acting in the execution of every such warrant shall seize all such petroleum and specially dangerous goods and also barrels and

other receptacles in which the same shall be kept contrary to the provisions of this Act and shall convey everything so seized with all convenient speed after the seizure to some proper place and there detain the same and the barrels or other receptacles in which the same shall be till it shall be adjudged on a hearing before two or more Justices whether the same shall be forfeited and any two such Justices are hereby empowered to hear and determine whether the same shall or shall not be forfeited and such searcher or seizer shall not be liable to any suit for such detainer or for any loss of or damage which may happen to anything seized other than by his wilful act or neglect Provided that where anything is seized under this provision proceedings for the forfeiture thereof shall be commenced within twenty-eight days after such seizure.

18 Mode of testing petroleum.

The temperature at which petroleum gives off an inflammable vapour shall for the purposes of the Petroleum Acts be tested in manner set forth in the Schedule hereto.

19 Reservation of previous powers as to inflammable substances.

Nothing in this Act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance and all powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local authority by any Act of the General Assembly or any Provincial Council and any local authority may exercise such other powers in the same manner as if this Act had not been passed.

Schedule
Directions for applying the Flashing Test to Samples of Petroleum Oil

The vessel which is to hold the oil shall be of thin sheet iron it shall be two inches deep and two inches wide at the opening tapering slightly towards the bottom it shall have a flat rim with a raised edge one quarter of an inch high round the top it shall be supported by this rim in a tin vessel four inches and a half deep and four and a half inches in diameter it shall also have a thin wire stretched across the opening which wire shall be so fixed to the edge of the vessel that it shall be a quarter of an inch above the surface of the flat rim The thermometer to be used shall have a round bulb about half an inch in diameter and is to be graduated upon the scale of Fahrenheit every ten degrees occupying not less than half an inch upon the scale.

The inner vessel shall be filled with the petroleum to be tested but care must be taken that the liquid does not cover the flat rim The outer vessel shall be filled with cold or nearly cold water a small flame shall be applied to the bottom of the outer vessel and the thermometer shall be inserted into the oil so that the bulb shall be immersed about one and a half inch beneath the surface A screen of pasteboard or wood shall be placed round the apparatus and shall be of such dimensions as to surround it about two-thirds and to reach several inches above the level of the vessels.

When heat has been applied to the water until the thermometer has risen to about ninety degrees Fahrenheit a very small flame shall be quickly passed across the surface of the oil on a level with the wire If no pale blue flicker or flash is produced the application of the flame is to be repeated for every rise of two or three degrees in the thermometer When the flashing point has been noted the test shall be repeated with a fresh sample of the oil using cold or nearly cold water as before withdrawing the source of heat from the outer vessel when the temperature approaches that noted in the first experiment and applying the flame test at every rise of two degrees in the thermometer.