



ANALYSIS

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1984, No. 21

An Act to make provision with respect to the packing, marking, handling, carriage, storage, and use of certain flammable, oxidising, and corrosive materials, and certain compressed, liquefied, dissolved, and other gases

(27 December 1984)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Dangerous Goods Act 1984.

(2) This Act shall come into force on a date to be fixed by the Queen's Representative by Order in Executive Council.

2. Interpretation - In this Act, unless the context otherwise requires-

"Aircraft" means any machine that can derive support in the atmosphere from the reactions of the air otherwise than reactions of the air against the surface of the earth:

"Boat" means every description of vessel used in navigation not being a ship:

"Carry" means carry on a vehicle, vessel, aircraft, or hovercraft; and "carriage" has a corresponding meaning:

"Container" means any barrel, case, cylinder, drum, tank, tin, or other receptacle; and includes every package in or by which goods may be cased, covered, enclosed, contained, or packed:

"Dangerous goods" means goods of any of the kinds specified in the Schedule to this Act; and a reference in this Act to a specified class or to a specified subclass of dangerous goods in that class, or as the case may be, in that subclass, as set out in the Schedule to this Act:

"Depot", in relation to dangerous goods, means such building, place, or vessel as may be prescribed, or as may be approved by an Inspector as a depot for the storage of dangerous goods:

"Dwellinghouse" means any building which is occupied as a residence or any part of a building which is so occupied together with any appurtenances belonging to, or usually enjoyed with, that residence:

"Flash point", in relation to any substance, means the lowest temperature at which the substance, when tested in a prescribed type of apparatus, liberates vapour at a rate sufficient to produce explosive mixture with the air that is in immediate contact with the substance:

"Fuel oil" means any petroleum which has a flash point higher than 61 degrees Celsius and which is of a kind generally used for fuel or which is intended to be used for fuel:

"Hovercraft" means a machine designed to be supported in the atmosphere, wholly or partly by air expelled from the machine to form a cushion extending beneath the machine to the surface of the ground, water, or other portion of the earth's surface:

"Inspector of Dangerous Goods" or "Inspector" means a person appointed to be an Inspector of Dangerous Goods under this Act:

"Marking" includes labelling:

"Master", in relation to any ship, means any person (except a pilot) having command or charge of the ship; and, in relation to any boat belonging to a ship, means the person having command or charge of the boat:

"Minister" means the Minister of Trade, Labour and Transport:

"Occupier", in relation to any premises, means the person in actual occupation of those premises; and, in relation to any premises in which any manufacture, trade, or business is carried on (whether for pecuniary profit or not), includes the person carrying on that manufacture, trade, or business in the premises:

"Petroleum" means any oil, liquid, or spirit derived wholly or in part from any petroleum, shale, schist, coal, peat, bitumen, or other similar substance:

"Pilot in command", in relation to any aircraft or hovercraft, means the person for the time being in command or in charge of the aircraft or hovercraft:

"Premises" means any land, dwellinghouse, storehouse, storeship, warehouse, shop, factory, store, cellar, yard, building, structure, or enclosed space, or any part of them; and, for the purposes of this Act, all lands, buildings, structures, and places adjoining each other and occupied together shall be deemed to be the same premises:

"Prescribed" means prescribed by regulations made under this Act"

"Secretary" means the Secretary of Trade Labour and Transport:

"Ship" includes every description of vessel, whether used in navigation or in any way kept or used as a hulk or storeship or for any other purpose, and not propelled exclusively by oars:

"Store", in relation to dangerous goods, means retain the dangerous goods on any premises for a period of not less than 1 hour; and "storage" has a corresponding meaning:

"Storeship" means any ship which is used primarily for storage rather than conveyance:

"Vehicle" means any conveyance of any kind whatsoever for use on land:

"Vessel" means a ship or boat.

3. Act to bind the Crown - (1) Except as provided in this section this Act shall bind the Crown.

(2) Part I of this Act shall not bind the Crown.

(3) Any provision in this Act or in any regulation made under it shall not bind the Crown to the extent that the provision requires-

(a) The payment of any fee or fine; or

(b) The forfeiture of any dangerous goods or the forfeiture of the containers of any dangerous goods.

4. Administration of Act - Subject to the control of the Minister, the Secretary shall be charged with the general administration of this Act.

PART I
LICENSING

5. Licensing of premises for storage of dangerous goods - (1)

The Secretary may, on application in such form as he may require and after receiving any prescribed fees, grant licences for the storage of dangerous goods within the Cook Islands or any specified island in the Cook Islands.

(2) On any application for a licence under this section, the Secretary may-

- (a) Grant the licence in accordance with the application; or
- (b) Grant the licence subject to such modifications of the proposals as he thinks fit, having regard to the interests of public safety or the safety of any person or the protection of any property; or
- (c) Refuse to grant the licence if he thinks the interests of public safety so require.

(3) The Secretary in granting, or after having granted, any licence under this section, may impose such further conditions as he thinks fit in the interest of public safety or the safety of any person or the protection of any property:

Provided that the applicant for a licence or the holder of a licence may, within 14 days after the imposition of any further conditions and notwithstanding section 10, object in writing to all or any of the further conditions to the Secretary, who may reject, modify, or confirm the further conditions being the subject of the objection and the Secretary shall advise the objectors in writing of his decision.

(4) Any person who commits a breach of any condition imposed by a licence or by the Secretary under this section commits an offence against this Act.

6. Provisional licences - (1) Where, on any application for a licence under this Part of this Act, it appears to the Secretary that the premises in respect of which the application is made do not comply or cannot immediately be made to comply with all or any prescribed requirements and where, in the opinion of the Secretary, safety of the public or of any person or of any property will not be prejudiced, the Secretary may, notwithstanding paragraph (a) of the section 7, in his discretion grant to the applicant a provisional licence under this section subject to such conditions as the Secretary thinks fit.

(2) For the purposes of this Act, a provisional licence granted under this section shall have the same effect as a full licence granted under section 5, expire with the day specified on the licence by the Secretary, being any day not later than the 31st day of March next following the date on which the licence was granted.

(3) The Secretary, may at any time amend, cancel, or confirm as a full licence, any provisional licence granted by him.

(4) Any person who commits a breach of any condition imposed by a provisional licence or the Secretary under this section commits an offence against this Act.

7. General provisions as to licence - (1) Every licence granted under this Act-

- (a) Shall be subject to any conditions that may be prescribed; and
- (b) Shall have effect only in relation to the premises described in the licence.

(2) Every licence granted under this Act may be transferred to another holder in accordance with regulations made under this Act.

(3) The holder of any licence granted under this Act shall produce his licence for inspection whenever required to do so by an Inspector.

8. Renewal of licences - (1) Subject to section 9, every licence granted under section 5 shall expire with the 31st day of March next following the date on which it was granted unless renewed from year to year on application by the holder delivered at the office of the Department of Trade Labour and Transport not later than the 15th day of March in the year the licence is due to expire, or within any further time allowed by the Secretary in a particular case.

(2) Subject to sections 6(3) and 9, every licence granted under section 6 shall expire with the day specified in the licence unless renewed from time to time on application by the holder delivered to the office of the Department of Trade, Labour and Transport not later than 14 days before the day of expiry, or within any further time allowed by the Secretary in a particular case.

(3) Where application for the renewal of a licence is duly made under this section, the licence shall, where the application is not disposed of before the date of expiry of the licence, continue in force until the application is disposed of.

(4) The Secretary shall have the same powers to grant a renewal of a licence (whether unconditionally or subject to conditions) or to refuse to grant a renewal as are conferred on him by this Act in respect of an application for a new licence.

9. Suspension and cancellation of licences - (1) Where proceedings for an offence against this Act or against regulations made under it are taken against the holder of any licence granted under this Act, or where the licensee has failed to comply with any lawful requirement of any Inspector, the Secretary, if he thinks fit, may suspend the licence until the proceedings have been disposed of or until the requirements have been met.

(2) Where the holder of any licence granted under this Act is convicted of an offence against this Act or against any regulations made under it, the Secretary, if he thinks fit, may cancel the licence.

10. Appeals - (1) Where an application for a licence or the holder of a licence is aggrieved by any decision of the Secretary relating to the granting, amending, renewing, suspending, or cancelling of his licence, he may, within 14 days after receiving notice in writing of that decision appeal against that decision to the High Court.

(2) The Court, on the hearing of the appeal, may confirm or reverse the decision appealed against or make such other order as the case requires, or may refer the matter back, together with its reasons for doing so, to the Secretary for reconsideration.

(3) All appeals to the High Court under this section shall be made under the rules of that Court.

PART IIIINSPECTORS OF DANGEROUS GOODSAppointment of Inspectors

11. Inspectors of Dangerous Goods - (1) Subject to subsection (2), there may from time to time be appointed under the Public Service Act 1975 such number of Inspectors of Dangerous Goods as may be deemed necessary.

(2) The Secretary may appoint in a temporary capacity any Inspector of Dangerous Goods under the Dangerous Goods Act 1974 of the Parliament of New Zealand to be an Inspector of Dangerous Goods for the purposes of this Act, or such other person from any other country being a person authorised in that country as an Inspector of Dangerous Goods.

12. Powers of inspection - (1) Subject to this Part of this Act, every Inspector may enter, inspect, and examine any premises, vehicle, vessel, aircraft, or hovercraft where he has reason to believe or suspect dangerous goods may be found.

(2) An Inspector shall, before entering on any premises, vehicle, vessel, aircraft, or hovercraft, produce his warrant of appointment or other evidence that he is an Inspector if asked to do so by the person in actual occupation of the premises or in actual charge of the vehicle, vessel, aircraft, or hovercraft.

(3) An Inspector shall not enter, inspect or examine any aircraft or hovercraft unless he is accompanied by the pilot in command, or the owner, or a representative or agent of the owner, of the aircraft or hovercraft.

(4) An Inspector shall not enter any dwellinghouse (other than a dwellinghouse in respect of which a licence has been granted under this Act) except pursuant to a warrant issued under section 13, unless the Inspector has reason to believe that the public or any person is in imminent danger from the presence of dangerous goods in that dwellinghouse.

13. Inspector may search dwellinghouse or secured premises - (1) Where any Justice of the Peace is satisfied on oath that there is probable cause to suspect-

(a) That any breach of this Act or of any regulations made under it has been or is being committed within any dwellinghouse (other than a dwellinghouse in respect of which a licence has been granted under this Act); or

(b) That preparation has been made to commit such a breach,-

the Justice may by warrant under his hand, authorise an Inspector named in the warrant together with any constable to enter and search the dwellinghouse, if necessary by force, at the time or times that are mentioned in the warrant. Every warrant shall continue in force until the purpose for which it was issued has been satisfied.

(2) Where an Inspector has reason to believe that dangerous goods are stored on premises (other than a dwellinghouse) which are secured against entry and that the dangerous goods could endanger life or property, and where after diligent inquiry he has been unable to have the premises opened by the owner or occupier, he may together with any constable enter, if necessary by force and examine the premises and its contents.

14. Inspector may make inquiries, test installations, and seize or detain dangerous goods - Every Inspector may make any general or particular inquiry concerning the observance of the provisions of this Act or of any regulations made under it and may, when acting pursuant to the powers conferred on him by section 12 or section 13.

- (a) Examine and test any equipment, fixtures, fittings, installations, or parts of installations, which have been used, are being used, or are intended to be used, for the storage or carriage of dangerous goods:
- (b) Take photographs, make drawings or models, or make copies by any process of any photographs or drawings or models, or installations or equipment of any kind which have been used are being used, or are intended to be used for the storage or carriage of dangerous goods:
- (c) Open or cause to be opened any container which he believes or suspects holds dangerous goods:
- (d) Take (without payment) sufficient samples for examination and testing of any substance which he believes or suspects to be dangerous goods:
- (e) Seize, detain, or remove any dangerous goods and any container, vehicle, vessel, aircraft, or hovercraft, in which the dangerous goods have been or are been stored, carried or used, if he has reason to believe or suspect that there has been a breach of the provisions of this Act or of any regulations made under it in respect of those dangerous goods. For the purposes of this paragraph he may require the occupier of the place in which the dangerous goods are seized, or the owner of the goods, to retain them in that place or in such other place under the control of the occupier or of the owner as will in the opinion of the Inspector, least endanger the public safety:
- (f) With the consent of the Secretary destroy or render harmless (or give directions for destroying or rendering harmless) any dangerous goods and any container in which dangerous goods have been or are being kept, stored, or packed, in any case where he believes it necessary in the interest of public safety or the safety of any person to do so:
Provided that in cases of imminent danger to the public or to any person, or where the owner of the dangerous goods authorises him in writing, he may act without the consent of the Secretary:
- (g) Investigate the circumstances surrounding any accident or incident involving or which he believes or suspects involves any dangerous goods:

Provided that nothing in this paragraph shall derogate from the provisions of any other Act relating to the investigation of accidents.

15. Inspector may require defects to be remedied or dangerous practices to cease - (1) Where, after inspecting any premises, vehicle, vessel, aircraft, or hovercraft, an Inspector considers that any matter or thing or practice connected with the storage, carriage, or use of dangerous goods is defective or unnecessarily dangerous so that, in his opinion, it is likely to endanger the public safety or the safety of any person or to endanger any property, he (or any other Inspector) may require the person carrying out that practice or the agent of that person to remedy that defect or cease that practice within such time as he specifies in writing:

Provided that where, in the opinion of the Inspector, the defect or practice is of such a nature as to be of immediate danger, he may require the person responsible to remedy the defect or cease the practice forthwith.

(2) Where an Inspector has required any person to remedy any defect or to cease any practice within a time specified in writing and that person has failed to comply with that requirement, then, if the Inspector is satisfied that steps have been taken to comply but that person has been prevented by reasonable cause from completing the necessary work within the time specified, the Inspector may extend the time specified for such further period as he thinks fit.

(3) Every person commits an offence against this Act who-

(a) When required by an Inspector to remedy any defect or cease any practice forthwith, fails to comply with that requirement:

(b) When required by an Inspector to remedy any defect or cease any practice within a time specified in writing, fails to comply with that requirement within the time specified or, where the time has been extended under subsection (2) fails to comply with that requirement within the time so extended.

16. Occupiers and others required to facilitate performance of duties by Inspector - Every person in or about any premises, vehicle, or vessel inspected under the provisions of this Act, and the pilot in command and the owner and every agent or representative of the owner of any aircraft so inspected, shall-

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

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

Provided that no person shall be required to answer any question tending to incriminate himself:

(c) Facilitate the taking of samples:

(d) Facilitate the detention or removal of any dangerous goods, or of any container, vehicle, vessel, or aircraft, or of any equipment, fixtures, fittings, installations or parts of installations;

(e) Facilitate the destruction or rendering harmless or any dangerous goods or container:

(f) Comply with any requisition made by an Inspector pursuant to section 15(1)

17. Inspector may enforce requirements - (1) Where an inspector-

(a) Has called upon any person to comply with any provision of this Act or with any regulation made under it and the person called upon has failed to comply; and

(b) He believes that grave danger to the public or to any person exists,-

he may call upon any constable to enforce his requirements by summary arrest or otherwise and that constable (or any other constable) may arrest that person without warrant and take all steps necessary to enforce compliance with those requirements.

(2) Every person arrested without warrant under subsection (1) shall as soon as possible be brought before the High Court to answer the charge and to be further dealt with according to law.

18. Crown, etc, protected from proceedings - No action or proceedings shall be brought against the Crown, or any Inspector, or any person acting under the instructions of any Inspector, in respect of any action undertaken for the purpose of carrying out the provisions of this Act or of any regulations made under it, where the Crown or those persons have acted in good faith and with reasonable care:

Provided that nothing in this section shall relieve any of them from, or in any way affect, any liability arising from the use of a motor vehicle for transport purposes where the liability does not result from the presence of dangerous goods.

PART III

STORAGE, PACKING, AND USE OF DANGEROUS GOODS

19. Restrictions on storage and use of dangerous goods - (1) After the expiration of 3 months from the date of commencement of this Act, no person shall store or use dangerous goods, except,-

- (a) In premises licensed under this Act for the storage of dangerous goods; or
- (b) Where premises are not required to be licensed, in the quantities and manner that may be prescribed.

(2) Nothing in any regulations made under this Act shall authorise the storage in premises not required to be licensed of more than 15 liters at any one time of liquid dangerous goods of Class 3(a) used or intended for use in those premises in connection with any manufacture, trade, or business, or any purpose incidental to that manufacture, trade, or business.

(3) Where dangerous goods are stored or used contrary to this section, then-

- (a) Every person who so stores or uses those dangerous goods; and
- (b) The owner of those dangerous goods; and
- (c) The occupier of the premises where those dangerous goods are so stored or used-

commits an offence against this Act.

(4) Where any person is convicted of an offence under this section the dangerous goods, being the subject of the offence, and the containers of those goods, shall be forfeited to the Crown and disposed of as the Secretary directs.

20. Restrictions on containers - (1) No person shall pack any dangerous goods otherwise than in containers which comply with any prescribed requirements.

(2) No person shall offer for sale or hire, nor distribute, any container or equipment said to be suitable for dangerous goods unless the container or equipment complies with any prescribed requirements.

21. Containers of dangerous goods to be specially marked - No person shall pack, store, carry, sell, hire, out, or expose for sale or hiring out any dangerous goods unless the container of those dangerous goods and any outer package enclosing the container are marked with any prescribed markings.
22. Pumps for reselling dangerous goods - (1) No person shall deliver dangerous goods of Class 3(a) for retail sale from an underground tank other than by means of a pump unit of a kind to which the Secretary has given his approval by notice in the Cook Islands Gazette and which complies with any prescribed requirements and with the terms of the approval.
- (2) No person shall deliver dangerous goods of Class 2(d) for retail sale for the purpose of refuelling fuel tanks attached to or forming an integral part of, a motor vehicle other than by means of a pump unit of a kind to which the Secretary has given his approval by notice in the Cook Islands Gazette and which complies with any prescribed requirements and with the terms of the approval.
- (3) The approval of the Secretary may be absolute, or may be conditional on the pump unit being installed in a specified position or in specified positions and operated by a specified method or methods.
- (4) In this section-
- "Above-ground tank" means any tank that is not an under-ground tank:
- "Underground tank" means a tank which is wholly below ground and is covered and surrounded on all sides by at least 60 centimetres of earth, or by any equivalent covering and surrounding approved by the Secretary either generally or in any particular case; and includes any tank which is partly below ground and is similarly covered and surrounded.
23. Use of dangerous goods by hairdressers - No person engaged in the business of a hairdresser shall, in the course of that business, apply or cause to be applied any dangerous goods of Class 3(a) to the hair or person of any customer.
24. Restrictions on use of gases in balloons - (1) No person shall-
- (a) Fill for the purpose of sale to the public; or
- (b) Sell or offer for sale or expose for sale to the public any balloon or similar container containing any flammable or poisonous or anaesthetic gas.
- (2) No person shall, without the prior consent in writing of an Inspector, make available to any member of the public any balloon or similar container containing any flammable or poisonous or anaesthetic gas.
25. Phosphorus matters - No person shall sell, offer for sale, or expose for sale, or have in his possession for the purposes of sale, any matches made with or containing the substance usually known as white phosphorus or yellow phosphorus.

PART IV

MISCELLANEOUS PROVISIONS

26. Accidents - (1) Where an accident involving dangerous goods occurs on any premises in respect of which a licence is in force under this Act, the licensee or, where the licensee is not the occupier of the premises, the occupier, shall forthwith send or cause to be sent notice of the accident to the Secretary.

(2) Where an accident involving dangerous goods occurs in, about, or in connection with any vessel, vehicle, aircraft, or hovercraft carrying dangerous goods, or on or from which dangerous goods are being loaded, unloaded, or held, the owner or the agent of the owner of the dangerous goods being carried, loaded, unloaded, or held, together with, as the case may require-

- (a) The master of the vessel or (where the master is incapacitated by the accident) the owner or the agent of the owner of the vessel; or
- (b) The driver or the person in charge of the vehicle or (where that person is incapacitated by the accident) the owner or hirer of the vehicle; or
- (c) The pilot in command or (where the pilot in command is incapacitated by the accident) the owner or the agent of the owner of the aircraft or hovercraft and, where the accident occurs within the limits of an airport, the person for the time being in charge of the airport-

shall forthwith send or cause to be sent notice of the accident to the Secretary.

(3) Every notice given under subsection (1) or subsection (2) shall be accompanied by advice of any loss of life or personal injury or damage to property occasioned by the accident.

(4) When an accident by explosion or fire has wholly or partially destroyed any depot or place where dangerous goods are stored, no person shall, without the permission in writing of an Inspector, reconstruct that depot or place, or deposit any dangerous goods in it, or (except in the interest of public safety or of the safety of any person or the protection of any property) remove any dangerous goods from the depot or place or interfere with any remaining portions of any building or the containers or equipment associated with the storage or use of dangerous goods.

(5) For the purpose of investigating any accident involving any dangerous goods, an Inspector may make inquiries from any person whom he has reason to believe is in possession of information that may lead to discovery of the cause of the accident:

Provided that no person shall on any such inquiry by an Inspector be required to answer any question tending to incriminate himself.

(6) Subject to the proviso to subsection (5) every person commits an offence and is liable to a fine not exceeding \$200 who on any such inquiry by an Inspector refuses to answer any question put to him by the Inspector or withholds any information in his possession relating to the circumstances surrounding the accident.

(7) Nothing in this section shall derogate from the provisions of any other Act relating to the investigation of accidents.

27. Incident creating threat of explosion, fire, or other hazard -

(1) Where, in connection with the storage, use, carriage, handling, or transfer of dangerous goods, there occurs any incident which creates a threat of explosion or fire, or creates a hazard which threatens the public safety or the safety of any person or any property, the person who under section 26 would be responsible if an accident had occurred to send or cause to be sent to the Secretary notice of any accident shall forthwith-

- (a) Notify the Secretary of the occurrence of the incident and supply him with such information concerning the incident as he may require; and
- (b) Take such steps as are reasonably necessary to deal with the threat created by the incident; and
- (c) Comply with any directions given to him by any Inspector for the purpose of dealing with that threat.

(2) Subsections (5) and (6) of section 26 shall apply to every such incident as if an accident had occurred.

28. Regulations - The Queens Representative may from time to time, by Order in Executive Council, make regulations for all or any of the following purposes:

- (a) Prescribing the quantities of dangerous goods that may be stored or used in premises in respect of which licences are issued under this Act for the storage of dangerous goods, or in premises which are not required to be licensed, and the manner in which and the conditions subject to which any such goods shall be so stored or used;
- (b) Prescribing the circumstances under which premises are not required to be licensed for the storage and use of dangerous goods;
- (c) Prescribing, with respect to the licensing of premises, conditions as to the location of those premises, and their construction, equipment, and maintenance;
- (d) Prescribing the fire-fighting equipment that must be kept in or provided for use in premises in respect of which licences are granted under this Act or in premises which are not required to be licensed, and on vehicles used for the carriage of dangerous goods, and providing for the maintenance and periodic testing of that equipment;
- (e) Prescribing rules to be observed in the interest of public safety in any place where dangerous goods are stored, used, handled, or exposed, and in the carriage of dangerous goods;
- (f) Regulating the loading, unloading, and carriage of dangerous goods, and the routes to be taken by vehicles carrying dangerous goods;
- (g) Regulating the construction of, and the fittings and appliances to be carried on, vehicles carrying dangerous goods, and providing for the approval of tank vehicles for the carriage of dangerous goods;
- (h) Regulating the granting, transfer, amendment, and renewal of licences granted under this Act:

- (i) Prescribing the method of packing dangerous goods, and the marks to be placed on dangerous goods or the containers of dangerous goods and on the outer packages of those containers:
- (j) Prescribing the construction of testing apparatus, the manner of testing petroleum and other flammable liquids or materials, and the method of ascertaining the flash point of such liquids and materials:
- (k) Prescribing fees to accompany applications for granting and renewing licences, and fees for approving equipment, appliances, and vehicles, and fees for testing dangerous goods:
- (l) Regulating the disposal or repair of containers that have contained dangerous goods, and the handling and cleaning of such containers:
- (m) Prescribing requirements to be met in the construction, manufacture, installation, testing, or servicing of any container, pipeline, plant, pump, or other equipment used or intended to be used for, or in connection with dangerous goods:
- (n) Prescribing fees payable in respect of an initial inspection by an Inspector of premises which are subject to this Act or regulations made under it, but which are not required to be licensed:
- (o) Prescribing offences in respect of contravention of or non-compliance with any regulations made under this Act or any requirement or direction made or given pursuant to any such regulation; and prescribing penalties not exceeding \$1,000 in respect of any offences prescribed under this paragraph and, in the case of continuing offences prescribed under this paragraph and in the case of continuing offences, prescribing further penalties not exceeding \$250 for each day during which the offences have continued:
- (p) Providing generally for preserving the public safety or the safety of any person or the protection of any property from the threat of fire or explosion or other hazard resulting from dangerous goods:
- (q) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

29. Exemption from regulations - The Minister may, by notice in writing under his hand, in any case where in his opinion the public safety or the safety of any person or the safety of any property will not be prejudiced, grant exemption to any person from compliance with any of the requirements of any regulations made under section 28. The exemption may be for such term, to such extent, and subject to such restrictions, limitations and conditions as the Secretary thinks fit.

30. Alteration of Schedule - The Queen's Representative may from time to time, by Order in Executive Council, amend the Schedule to this Act by-

- (a) Inserting the name of any substance in a class:
- (b) Deleting the name of any substance from a class:
- (c) Adding a description of a further class or subclass:
- (d) Changing the description of any class or subclass:
- (e) Deleting the name of any class or subclass.

OFFENCES, PENALTIES, AND FORFEITURES

31. Offences and penalties - (1) Every person commits an offence against this Act who-

- (a) Contravenes or fails to comply with any lawful requirement of an Inspector; or
- (b) In any manner obstructs an Inspector in the execution of his duty under this Act; or
- (c) Wilfully and with intent to deceive gives any false or misleading information to any Inspector exercising his powers under this Act; or
- (d) Contravenes or fails to comply with any provision of this Act or of any regulation made under it.

(2) Every person who commits an offence against this Act for which no penalty is provided otherwise than in this section is liable to a fine not exceeding \$1,000 and, where the offence is a continuing one, to a further fine not exceeding \$250 for every day on which the offence has continued.

32. Forfeitures - (1) Where any person is convicted of an offence against this Act or against any regulation made under it, the High Court may direct that all or any part of any dangerous goods in respect of which the offence was committed, and the containers of those goods, shall be forfeited to the Crown.

(2) All dangerous goods and the containers of those goods forfeited to the Crown under this section shall be disposed of as the Secretary directs.

33. Disposal of dangerous goods seized - (1) Any dangerous goods and any containers of those goods seized by an Inspector under this Act may be retained by the Secretary, pending the outcome of any proceedings against any person for the offence in respect of which the dangerous goods were seized, or may if the Secretary thinks fit, be returned to the person from whom they were seized.

(2) If no such person can be traced within 6 months of the seizure, the dangerous goods and the containers of those goods shall be forfeited to the Crown and disposed of as the Secretary directs.

(3) Where proceedings are taken against any person in respect of the offence, any dangerous goods and containers retained by the Secretary shall, when the proceedings are completed, be returned to the person from whom they were seized unless, where the Court enters a conviction, the dangerous goods are forfeited to the Crown under section 19 or are directed to be forfeited to the Crown under section 32.

34. Evidence - In any proceedings under this Act or under any regulations made under it the production of any document purporting to be signed by the Secretary or an Inspector shall be prima facie evidence of the document without proof of the signature of the person appearing to have signed the document.

35. Customs Officer may refuse clearance to ship in certain cases - Where the owner or master of a ship is convicted in respect of that ship for an offence against this Act or any regulation made under it, the Court, in addition to any other powers it may have for the purpose of compelling payment of any fine imposed or forfeiture directed in respect of the offence or of any costs connected with the proceedings, may direct the Collector of Customs at any port to refuse clearance to the ship until the fine and costs have been duly paid and the dangerous goods forfeited have been delivered to an Inspector.

SCHEDULE

Section 2 Dangerous Goods

Note: The classes of dangerous goods in this Schedule follow the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods.

Class 1.

Explosives

Class 2.

Gases, being-

- (a) Gases (other than those included under any other paragraph of this Class) when compressed, liquefied, or dissolved under pressure.
- (b) Ethane, ethylene, hydrogen, methane, and any other flammable gas (other than that included under any succeeding paragraph of this Class).
- (c) Acetylene, compressed or dissolved, and contained within a porous substance.
- (d) Liquefied petroleum gas, and any other liquefied flammable gas.
- (e) Chlorine
- (f) Anhydrous ammonia
- (g) Liquid oxygen

Class 3.

Flammable liquids, mixtures of liquids containing solids in solution or suspension, and nitrocellulose, being-

- (a) Liquids, mixtures of liquids, and liquids containing solids in solution or suspension, which in each case has a flash point lower than 23 degrees Celsius, and nitrocellulose having a nitrogen content of not more than 12.6 percent by weight and wetted, gelatinised, or blended with an industrial solvent or other material approved as to kind and quantity by the Chief Inspector.
- (b) Liquids, mixtures of liquids, and liquids containing solids in solution or suspension, which in each case has a flash point of 61 degrees Celsius or lower, but not lower than 23 degrees Celsius.
- (c) Fuel oil.

Class 4.

Flammable solids, being-

- (a) Calcium carbide
- (b) Phosphorus (White or yellow)

Class 5.

Oxidising substances, being-

- (a) Chromates and dichromates, chlorates, inorganic peroxides, nitrates, perchlorates, permanganates, calcium hypochlorite

Class 6.

Poisons

Class 7.

Radio Active Substances

Class 8.

Corrosives, being hydrochloric acid, hydrofluoric acid, nitric acid, sulphuric acid, chlorosulphonic acid, potassium hydroxide in solution, sodium hydroxide in solution, and aqueous ammonia.

This Act is administered in the Department of Trade, Labour and Transport.