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1957, No. 20

An Act to consolidate and amend certain enactments of the General Assembly relating to dangerous goods

[11 October 1957

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 and commencement—(1) This Act may be cited as the Dangerous Goods Act 1957.

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

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

“Aircraft” has the same meaning as in the Civil Aviation Act 1948:

“Boat” means every description of vessel used in navigation, not being a ship:

“Carry” means carry on a vehicle or vessel or aircraft; and “carriage” has a corresponding meaning:

“Chief Inspector” means the Chief Inspector of Explosives appointed under the Explosives Act 1957:

“Container” means any case, barrel, 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 First Schedule to this Act:

“Depot”, in relation to dangerous goods which are liquid at atmospheric temperatures and pressures, means any pit, excavation, or enclosed place, whether situated in a building or not, which is constructed in such manner, or surrounded by walls of such character, that liquid dangerous goods stored therein cannot escape therefrom either under the action of fire or otherwise; and, in relation to any other dangerous goods, means such building or place as may be prescribed or may be approved by an Inspector as a depot for the storage of dangerous goods:

“Flashing 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 an explosive mixture with the air that is in immediate contact with the substance:

“Fuel oil” means any petroleum which has a flashing point of not less than one hundred and fifty degrees Fahrenheit, and which is used or intended for use as fuel:

“Inspector of Dangerous Goods” or “Inspector” means a person appointed an Inspector of Dangerous Goods under this Act; and includes—

- (a) The Chief Inspector;
 - (b) Any Inspector of Explosives appointed under the Explosives Act 1957;
 - (c) Any person for the time being appointed by the Chief Inspector to perform any of the duties of an Inspector of Dangerous Goods:
- “Licensing authority” means—
- (a) In respect of its district, each of the local authorities specified in the Second Schedule to this Act;
 - (b) In respect of any other place, the Chief Inspector:
- “Local authority” means a City Council, Borough Council, County Council, Town Council, Road Board, or Harbour Board; and includes any other public body constituted by or under any Act which the Governor-General, by Order in Council, declares to be a local authority for the purposes of this Act:
- “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 master of the ship; and, in relation to any other boat, means the person having command or charge of the boat:
- “Minister” means the Minister of Internal Affairs:
- “Occupier”, in relation to any premises, means the person in actual occupation thereof; and, in relation to any premises in which any manufacture or trade or business is carried on, includes the person carrying on that manufacture or 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 any other similar substance:
- “Petroleum oil” means any petroleum which has a flashing point of not less than seventy-three but less than one hundred and fifty degrees Fahrenheit:
- “Petroleum spirit” means any petroleum which has a flashing point of less than seventy-three degrees Fahrenheit:
- “Pilot in command”, in relation to any aircraft, means the person for the time being in command or in charge of the aircraft:
- “Premises” means any land, house, storehouse, storeroom, warehouse, shop, factory, store, cellar, yard, building, or enclosed space, or any part thereof, occupied by

any person, firm, partnership, or company; and, for the purposes of this Act, all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises:

“Secretary” means the Secretary for Internal Affairs:

“Ship” includes every description of vessel, whether used in navigation or in any way kept or used as a hulk or store ship 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 one hour; and “storage” has a corresponding meaning:

“Vessel” means a ship or boat of any description.

Cf. 1908, No. 57, s. 2; 1920, No. 44, s. 2; 1949, No. 51, s. 13

3. Classification of dangerous goods—For the purposes of this Act the dangerous goods specified in the First Schedule to this Act are hereby divided into the several classes set out in that Schedule, and references in this Act to any specified class of dangerous goods shall be deemed to be references to that class of dangerous goods according to the classification in that Schedule.

4. Alteration of Schedules—The Governor-General may from time to time, by Order in Council,—

(a) Amend the First Schedule to this Act by—

(i) Inserting, in such class of dangerous goods as may be specified in the Order in Council, the name of any substance:

(ii) Omitting from any class of dangerous goods the name of any substance and including it under some other class in that Schedule:

(iii) Adding a description of a further class of dangerous goods:

(b) Amend the Second Schedule to this Act by—

(i) Including the name of any local authority which has been appointed to be a licensing authority under this Act:

(ii) Omitting the name of any local authority whose appointment as a licensing authority under this Act has been revoked or which has been abolished or whose district has been merged in the district of any other local authority.

PART I

ADMINISTRATION

5. Administration of Act—Subject to the control of the Minister, the Secretary for Internal Affairs shall be charged with the general administration of this Act.

6. Chief Inspector of Dangerous Goods—(1) The Chief Inspector of Explosives appointed under the Explosives Act 1957 shall be the Chief Inspector of Dangerous Goods.

(2) The Chief Inspector, under the general direction of the Secretary for Internal Affairs, shall be charged with the duty of carrying this Act into effect.

(3) Subject to the control of the Chief Inspector, the Deputy Chief Inspector of Explosives appointed under the Explosives Act 1957 shall have and may exercise all the powers, duties, and functions of the Chief Inspector under this Act.

Cf. 1920, No. 44, s. 6 (1)

7. Inspectors of Dangerous Goods—(1) There may from time to time be appointed under the Public Service Act 1912 such number of Inspectors of Dangerous Goods as may be deemed necessary.

(2) Every Inspector of Explosives appointed under the Explosives Act 1957 shall be deemed to be an Inspector of Dangerous Goods under this Act.

Cf. 1920, No. 44, s. 6 (1) (2)

8. Inspectors appointed by local authorities—(1) Every local authority that is a licensing authority shall appoint one or more Inspectors to carry out the provisions of this Act in its district.

(2) Every Inspector appointed under subsection one of this section shall perform the duties of an Inspector within the district of the licensing authority by which he is appointed, or within such areas beyond that district as may be approved by the Minister, and shall for the purposes of this Act, be subject to the general direction and control of the Chief Inspector.

Cf. 1920, No. 44, s. 12

9. Inspectors appointed by Harbour Boards—Every Harbour Board may, and shall if so required by the Minister, appoint such officer or officers as may be necessary to carry out the provisions of this Act and any regulations or bylaws made under this Act or under the Harbours

Act 1950 in respect of dangerous goods, and every such officer shall have the powers of an Inspector under this Act, but in the exercise of those powers shall be subject to the general direction and control of the Chief Inspector.

Cf. 1920, No. 44, s. 14 (a)

10. Powers of Inspectors—(1) Any Inspector may—

- (a) Subject in the case of a dwellinghouse to the provisions of subsection three of this section, at any time enter, inspect, and examine any premises, vehicle, vessel, or aircraft where he has reason to believe or suspect dangerous goods may be found:

Provided that an Inspector shall not enter, inspect, or examine any aircraft under the powers conferred by this paragraph, unless he is accompanied by the pilot in command thereof or the owner or a representative or agent of the owner of the aircraft:

Provided further that, if the person in actual occupation of the premises or in actual charge of the vehicle or vessel or aircraft so requires, the Inspector shall, before entering on the premises or vehicle or vessel or aircraft, produce his warrant of appointment or other evidence that he is an Inspector:

- (b) Make any general or particular inquiries as to the observance of this Act or of any regulations or by-laws thereunder:
- (c) Take without payment such samples of any substance which he believes or suspects to be dangerous goods as are necessary for the examination and testing thereof:
- (d) Seize, detain, or remove any dangerous goods, and any container, vehicle, vessel, or aircraft in which the dangerous goods are being kept or carried, if he has reason to believe or suspect that there has been a contravention of this Act or of any regulations or bylaws made under this Act 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 of the goods as will, in the opinion of the Inspector, least endanger the public safety:

(e) With the consent of the Minister, destroy or render harmless, or give directions for the destruction or rendering harmless of, any dangerous goods in any case where he believes it necessary in the interests of the public or of the safety of any person so to do:
Provided that in cases of imminent danger or where the owner so authorises him in writing he may so act without that consent:

(f) Open or cause to be opened any container of dangerous goods and without payment take samples thereof:

(g) Investigate the circumstances surrounding any accident involving any dangerous goods:

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

(h) Where—

(i) He has called upon any person to comply with any provision of this Act or any regulation or by-law made thereunder and the person so called upon has failed to comply; and

(ii) He believes that grave danger to the public or to any person exists,—

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 such steps as may be necessary to enforce compliance with those requirements.

(2) Every person arrested without warrant under paragraph (h) of subsection one of this section shall be brought before a Magistrate's Court to answer the charge and to be further dealt with according to law.

(3) Unless he has reason to believe that imminent danger to the public or to any person exists, an Inspector shall not enter any dwellinghouse under the powers conferred by paragraph (a) of subsection one of this section (not being a dwellinghouse in respect of which or part of which a licence is in force under this Act), except pursuant to a warrant by a Justice issued under subsection four of this section.

(4) Where any Justice of the Peace is satisfied on oath that there is probable cause to suspect that any breach of this Act or of any regulations or bylaws made under this Act has been or is being committed, or that preparation has been made to commit such a breach, within any such dwellinghouse, 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 such time or times in the day or night as are mentioned in the warrant. Every such warrant shall continue in force until the purpose for which it was granted has been satisfied.

(5) No action shall lie against the Crown or any Inspector in respect of the destruction or rendering harmless of any dangerous goods under the powers conferred by paragraph (e) of subsection one of this section.

Cf. 1920, No. 44, s. 6 (3)

11. Occupiers and others required to facilitate performance of duties by Inspector—Every person in or about any premises or 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 of any regulations or bylaws made under this Act, and as to the disposal by sale or otherwise of any dangerous goods:

Provided that no person shall, on an inquiry by an Inspector under this paragraph, be required to answer any question tending to incriminate himself:

- (c) Facilitate the taking of samples, or the seizure, detention, or removal of any dangerous goods, or of any container, vehicle, vessel, or aircraft, or the destruction or rendering harmless of any dangerous goods:
- (d) Comply with any requisition made by an Inspector pursuant to section ten of this Act.

Cf. 1920, No. 44, s. 7

PART II

STORAGE AND USE OF DANGEROUS GOODS

12. Licensing authorities—(1) The local authorities specified in the Second Schedule to this Act are hereby declared to be the licensing authorities under this Act for their respective districts:

Provided that the Governor-General may from time to time, by Order in Council,—

- (a) Appoint any other local authority to be the licensing authority for its district; or
- (b) Revoke the appointment of any local authority as a licensing authority.

(2) The Chief Inspector shall be the licensing authority under this Act for any district the local authority of which is not for the time being the licensing authority.

(3) Subject to the provisions of this Act, it shall be the duty of every local authority which is a licensing authority to carry out within its district the provisions of this Act and the regulations made thereunder, and for that purpose every such local authority is hereby empowered and directed to enforce within its district the provisions of this Act and of all regulations made under this Act for the time being in force in that district.

Cf. 1922, No. 44, s. 9

13. Restrictions as to storage and use of dangerous goods—

- (1) No person shall store or use dangerous goods, except—
- (a) In premises licensed under this Act for the storage of dangerous goods; or
 - (b) In depots established or maintained by local authorities pursuant to this Act as public places of deposit for dangerous goods; or
 - (c) In such quantities and in such manner and subject to such conditions as to safety as may be prescribed by regulations made under this Act:

Provided that nothing in any such regulations shall authorise the storage in unlicensed premises of more than three gallons at any one time of liquid dangerous goods of class I used or intended for use in those premises in connection with any manufacture or trade or business or any purpose incidental thereto.

(2) Every person who stores or uses dangerous goods contrary to the provisions of this section, and the owner of the goods so wrongfully stored or used, and the occupier of the premises where the goods are so stored or used, severally commit an offence against this Act.

(3) Where any person is convicted of an offence under this section, the dangerous goods in respect of which the offence was committed and the containers thereof shall be deemed to be forfeited to the Crown, and shall be disposed of as the Secretary directs.

Cf. 1920, No. 44, s. 4

14. Restrictions as to packing of dangerous goods—No person shall pack any dangerous goods for carriage or storage except in containers of a type prescribed by regulations made under this Act.

15. Receptacles containing dangerous goods to be specially marked—No person shall store, carry, sell, or expose for sale any dangerous goods, unless the container and any outer package containing the same are marked with such markings as may be prescribed by regulations made under this Act.

Cf. 1920, No. 44, s. 5 (1)

16. Licensing of premises for storage of dangerous goods—
(1) A local authority which is a licensing authority may, on application in such form and on payment of such fees and subject to such conditions as may be prescribed by regulations or bylaws in that behalf, issue licences for the storage of dangerous goods in the premises specified in the licence.

(2) The Chief Inspector may, in accordance with regulations made under this Act, issue licences for the storage of dangerous goods in the premises specified in the licence, being premises situated in any place in respect of which the Chief Inspector is the licensing authority under this Act.

(3) On any application for a licence under this section, the licensing authority may—

(a) Grant the licence in accordance with the application;
or

(b) Grant the licence subject to such modifications of the proposals as it or he thinks fit, having regard to the interests of the public safety or the safety of any particular persons or the protection of any property;
or

(c) Refuse to grant the licence if it or he thinks the interests of the public safety so require.

(4) The licensing authority in issuing any licence under this section may, in addition to any conditions imposed by regulations or bylaws, impose such conditions as it or he thinks fit in the interests of public safety or the safety of any person or the protection of any property.

(5) Any person who commits a breach of any condition imposed by a licence issued under this section commits an offence against this Act.

Cf. 1920, No. 44, ss. 10, 16

17. General provisions as to licences—(1) Every licence granted under this Act shall be subject to the provisions of this Act and to all regulations and bylaws made under this Act for the time being in force and applying thereto.

(2) Every licence granted under this Act may be transferred or amended in accordance with regulations or bylaws made under this Act.

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

Cf. 1920, No. 44, s. 10 (4)

18. Renewal of licences—(1) Subject to the provisions of section nineteen of this Act, every licence granted under this Act shall expire with the thirty-first day of March in each year, but may be renewed from year to year on application by the holder delivered at the office of the licensing authority not later than the fifteenth day of March in that year, or within such further time as may be allowed by the licensing authority in any particular case.

(2) 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.

(3) The licensing authority 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 it or him by this Act in respect of an application for a new licence:

Provided that the licensing authority shall grant the renewal if it or he is satisfied that there has been no change in the circumstances since the granting of the licence or of the last renewal thereof, as the case may be.

19. Suspension and cancellation of licences—(1) Where proceedings for an offence against this Act or against regulations or bylaws made under this Act 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 an Inspector, the licensing authority, if it or he thinks fit, may suspend the licence until the information in respect of the offence has been disposed of or, as the case may be, until the requirement has been complied with.

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

Cf. 1920, No. 44, s. 10 (4)

20. Appeals—(1) Where the applicant for a licence or the licensee is aggrieved by any decision of the licensing authority relating to the granting, amendment, renewal, suspension, or cancellation of the licence, he may, within fourteen days after receiving notice in writing of that decision from the licensing authority, appeal against the decision to a Magistrate's Court.

(2) On the hearing of the appeal the Court, whose decision shall be final, may confirm or reverse the decision appealed against or may make such other order as the case may require.

(3) All appeals to a Magistrate's Court under the provisions of this section shall be made by way of originating application in accordance with the rules of that Court.

21. Local authorities may establish depots for deposit of dangerous goods—(1) A local authority may, on land acquired or appropriated by it for the purpose, build or construct, or may acquire by purchase or otherwise, and may maintain, any premises or ship (whether within or beyond its district) as a depot in which the public may deposit dangerous goods for safe custody.

(2) No such depot shall be established or maintained beyond a local authority's district except with the consent of the local authority of the district or the Harbour Board of the port wherein it is proposed to establish or maintain the depot.

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

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

(5) A local authority may by bylaw fix a scale of rates and charges to be paid for the storage and safe custody of dangerous goods in any depot established and maintained by it under this section, and those rates and charges shall form part of the revenue of the local authority.

(6) Where a depot is established and maintained by a local authority under this section, the local authority shall comply with the provisions of all regulations under this Act relating to the construction, situation, and maintenance of depots for the storage and safe custody of dangerous goods.

Cf. 1920, No. 44, s. 11

22. Restrictions on issue of licences by local authorities—

(1) No local authority shall issue or amend any licence, or establish or maintain any depot, for the storage in bulk of—

- (a) Dangerous goods of class I in any above-ground tank; or
- (b) Dangerous goods of class II in any above-ground tank having a capacity exceeding five hundred gallons; or
- (c) Dangerous goods of class III in any above-ground tank having a capacity exceeding five thousand gallons; or
- (d) Dangerous goods of class I or class II or class III on any storship; or
- (e) Dangerous goods of class I or class II or class III in any underground tank having a capacity exceeding five thousand gallons or in underground tanks having a total capacity exceeding ten thousand gallons in all,—

unless the Chief Inspector has consented to the issue of the licence and to the terms and conditions thereof or, as the case may be, to the amendment of the licence or to the establishment and maintenance of the depot.

(2) No licence shall be issued under this Act for the storage of petroleum in bulk in any premises adjacent to any harbour from or to which harbour it is proposed to deliver petroleum by means of pipe lines, and no local authority shall establish or maintain any depot under section twenty-one of this Act in any premises adjacent to any such harbour, unless in each case the situation of the premises and the provisions made or proposed to be made for the public safety and for compliance with the provisions of this Act and any regulations and bylaws made under this Act have been approved by a committee consisting of the following persons:

- (a) The Chief Inspector or the Deputy Chief Inspector:
- (b) A representative of the New Zealand Naval Board:
- (c) A representative of the Army Board:
- (d) A representative of the Air Board:
- (e) A harbour engineer or other officer appointed by the Harbour Board concerned:
- (f) The Director of Civil Aviation:

Provided that the Director of Civil Aviation shall not be entitled to attend any meeting of the committee as a member, except where the committee is considering an application for a licence in respect of premises situated on or in the vicinity of an aerodrome or a proposal to establish a depot on or in the vicinity of an aerodrome.

(3) Every licence issued in breach of the provisions of this section shall be void and of no effect.

(4) In this section—

“Above-ground tank” means any tank that is not an underground tank:

“In bulk” means stored in a container of a capacity greater than ninety gallons:

“Underground tank” means a tank which is wholly below ground and is covered and surrounded on all sides by at least two feet of earth, or by such equivalent covering and surrounding as may be approved by the Chief Inspector either generally or in any particular case; and includes any tank which is partly below ground and is similarly covered and surrounded.

23. Local authority may make bylaws—(1) A local authority which is a licensing authority may make bylaws—

(a) Prescribing forms of application for and of licences to store dangerous goods:

(b) Prescribing the conditions upon which such licences shall be issued, transferred, and amended:

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

(d) Prescribing fines for offences against the bylaws, not exceeding one hundred pounds, and further fines for continuing offences against the bylaws, not exceeding fifty pounds for each day during which the offences have continued:

(e) For the carrying out of any of the objects of this Act.

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

(3) In the case of conflict between any bylaws made under this section and any regulations made under this Act, the bylaws shall prevail.

(4) Where a local authority which is a licensing authority notifies the Chief Inspector in writing that, instead of making its own bylaws under this section, it desires that regulations be made under this Act to have effect in the district of the local authority as bylaws of the local authority, the Governor-General may, by Order in Council, make such regulations as may be necessary to give effect to that request, and those regulations shall for all purposes be deemed to be, and shall have the same force and effect as, bylaws made by the local authority and approved by the Minister.

Cf. 1920, No. 44, ss. 13, 15 (3)

24. Minister may require local authority to make or amend bylaws—(1) The Minister may at any time require any local authority which is a licensing authority to make any bylaws under section twenty-three of this Act, or to revoke, alter, or add to any bylaws made under this Act or under any former Act relating to dangerous goods.

(2) If the local authority does not, within three months from the receipt of a requisition from the Minister, make, revoke, alter, or add to any bylaws in the manner required by the requisition, the Governor-General may, by Order in Council, make such regulations as he thinks fit to give effect to the requisition, and those regulations shall for all purposes be deemed to be, and shall have the same force and effect as, bylaws made by that local authority and approved by the Minister.

Cf. 1920, No. 44, s. 15 (1) (2)

25. Bylaws of Harbour Boards—(1) Without limiting the power of the Board to make bylaws under the Harbours Act 1950 or under any other Act, any Harbour Board may, and if required by the Minister shall, make bylaws regulating the times, places, order, and mode of shipping, transshipping, unloading, storage, and carriage of dangerous goods.

(2) The Board shall, as soon as practicable after the making of any bylaws under this section, send to the Minister a copy thereof under the seal of the Board.

Cf. 1920, No. 44, s. 14 (b)

26. Pumps for reselling of dangerous goods—No person shall deliver liquid or gaseous dangerous goods of class I from an underground tank for the purpose of retail sale otherwise than by means of a pump of a type of which the Chief Inspector has given his approval by notice in the *Gazette*, and which complies as regards installation and in all other respects with the requirements prescribed by regulations made under this Act and with the terms of the approval. The approval may be absolute or may be conditional on the installation of the pump in specified positions only and under restrictions as to the method of operating.

27. Use of dangerous goods by hairdressers—No person engaged in the business of a hairdresser shall in the course of that business apply any dangerous goods of class I to the hair or person of any customer.

Cf. 1920, No. 44, s. 20

28. Restrictions on use of gases in balloons—(1) No person shall fill for the purpose of sale to the public, or sell or offer for sale or expose for sale to the public, any balloon or similar container containing any inflammable or poisonous or anaesthetic gas.

(2) No person shall, without the prior consent in writing of the Chief Inspector, make available to any member of the public any balloon or similar container containing any inflammable or poisonous or anaesthetic gas.

PART III

MISCELLANEOUS PROVISIONS

29. Flashing point of petroleum to be ascertained in manner prescribed by regulations—The flashing point of petroleum or other inflammable liquids or materials shall for the purposes of this Act be ascertained in a manner prescribed by regulations made under this Act.

Cf. 1920, No. 44, s. 8

30. Inspector may require defects to be remedied or dangerous practices to cease—(1) Where, upon any inspection by an Inspector of any premises in respect of which a licence is in force under this Act, or of any vehicle or vessel or aircraft used for the carriage or storage of dangerous goods, or in any other case involving the storage, carriage, or use of dangerous goods, the Inspector considers that any matter or thing or practice connected with that storage, carriage, or use is defective or unnecessarily dangerous so as in his opinion to endanger the public safety or the safety of any person or to endanger any property, he may require the holder of the licence or his agent or the person carrying out that practice to remedy that defect or cease that practice within such time as the Inspector specifies in writing:

Provided that, where in the opinion of the Inspector any 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) Every person commits an offence against this Act who, when required by an Inspector forthwith to remedy any such defect or to cease any such practice, fails to comply with that requirement.

(3) Every person commits an offence and is liable to a fine not exceeding twenty pounds for every day on which the failure has continued who, when required by an Inspector to

remedy any defect or to cease any such practice within a time specified in writing by the Inspector, fails to comply with that requirement within the time so specified:

Provided that, if the Court is satisfied that the defendant has taken steps within the time so specified to comply with the requirement but has been prevented by reasonable cause from completing within that time the work necessary for that compliance, the Court may adjourn the proceedings, and if the work is completed within a reasonable time, to be determined by the Court, the Court shall dismiss the charge.

31. Accidents—(1) Where on any premises in respect of which a licence is in force under this Act there occurs any accident by explosion or fire in which dangerous goods are involved, the licensee or, where the licensee is not the occupier, the occupier shall forthwith send or cause to be sent to the Chief Inspector notice of the accident and of any loss of life or personal injury occasioned thereby.

(2) Where there occurs any accident by explosion or fire in which dangerous goods are involved in, about, or in connection with any ship or vehicle or aircraft carrying dangerous goods, or on or from which dangerous goods are being loaded, unloaded, or held, the master and the owner of the ship, or, as the case may be, the driver or the person in charge of the vehicle and the owner of the vehicle, or the pilot in command and the owner of the aircraft, and the owner of the dangerous goods being so loaded, unloaded, held, or carried, shall forthwith send or cause to be sent to the Chief Inspector notice of the accident and of any loss of life or personal injury occasioned thereby.

(3) 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 therein, or, except in the interests of the safety of any person or of the public or for the protection of any property, remove any dangerous goods therefrom.

(4) For the purpose of investigating any accident involving any dangerous goods, an Inspector may make inquiries from any person who 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.

(5) Subject to the provisions of subsection four of this section, every person commits an offence and is liable to a fine not exceeding twenty pounds, 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.

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

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

- (a) Fails to comply with any lawful requirement of an Inspector; or
- (b) In any manner obstructs an Inspector in the execution of his duties under this Act; or
- (c) Does any act in contravention of or fails to comply with any provision of this Act.

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

Cf. 1920, No. 44, ss. 4 (2), 5 (2), 7 (2), 10 (3)

33. Offences to be tried summarily—Every offence against this Act or against any regulations or bylaws made under this Act shall be punishable on summary conviction before a Magistrate.

Cf. 1920, No. 44, s. 17 (1)

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

Cf. 1920, No. 44, s. 19

35. Forfeitures—Where any person is convicted of an offence against this Act or any regulations or bylaws made under this Act the Court may direct that all or any part of any dangerous goods in respect of which the offence was committed and the containers thereof shall be forfeited to the

Crown, and thereupon the dangerous goods or part thereof and those containers shall be deemed to be forfeited to the Crown, and shall be disposed of as the Secretary directs.

Cf. 1920, No. 44, ss. 5 (2), 17 (2) (3)

36. Disposal of dangerous goods seized—(1) Any dangerous goods and the containers thereof seized by an Inspector under this Act may be retained by the Secretary, or by the local authority where they have been seized by an Inspector appointed by a local authority, pending the trial of any person for the offence in respect of which the dangerous goods were seized, or may at the discretion of the Secretary or of the local authority, as the case may be, be returned to the person from whom they were seized.

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

(3) Where proceedings are taken against any person in respect of the offence, any dangerous goods so retained by the Secretary or by the local authority 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 thirteen of this Act or are directed to be forfeited to the Crown under section thirty-five of this Act.

37. 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 of an offence against the provisions of this Act or of any regulations or bylaws made under this Act, 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 and of any costs connected therewith, 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 to the Crown have been delivered to an Inspector.

Cf. 1920, No. 44, s. 18

38. Regulations—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by this section, regulations may be made under this section—

- (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 depots established or maintained by local authorities pursuant to this Act, or in unlicensed premises, and the manner in which and the conditions subject to which any such goods shall be so stored or used:
- (b) Prescribing with respect to the licensing of premises and the establishing by local authorities of depots for the storage of dangerous goods, conditions as to the location of those premises and depots, and their construction, equipment, and maintenance:
- (c) Prescribing the fire fighting equipment that must be kept in premises in respect of which licences are issued under this Act or in depots established by local authorities under this Act or in vehicles used for the carriage of dangerous goods, and providing for the maintenance and periodic testing of that equipment:
- (d) Prescribing rules to be observed in the interests of public safety in any place where dangerous goods are stored, used, or exposed, and in the carriage of dangerous goods:
- (e) Regulating the loading, unloading, and carriage of dangerous goods and the routes to be taken by vehicles carrying dangerous goods:
- (f) Regulating the construction of, and the fittings and appliances to be carried on, vehicles carrying dangerous goods:
- (g) Regulating the issue, transfer, amendment, and renewal, of licences issued under this Act, and prescribing forms in respect thereof:
- (h) Prescribing the method of packing dangerous goods and the marks to be placed on dangerous goods or the containers thereof and on the outer packages of those containers:
- (i) Prescribing the nature of the marks and the method of marking apparatus for the testing of petroleum and other inflammable liquids or materials, and the limits of accuracy within which that apparatus may be marked:

- (j) Prescribing the construction of testing apparatus, the manner of testing petroleum and other inflammable liquids or materials, and the method of ascertaining the flashing point of such liquids and materials:
- (k) Prescribing fees to be paid for licences issued and approvals of equipment and appliances given by the Chief Inspector and for the testing of dangerous goods:
- (l) Prescribing the proportion of the licence fees payable to local authorities that is to be paid into the Public Account:
- (m) Regulating the disposal or repair of containers that have contained dangerous goods:
- (n) Prescribing fines for offences against the regulations, not exceeding one hundred pounds, and further fines for continuing offences against the regulations, not exceeding fifty pounds for each day during which the offences have continued:
- (o) Generally for preserving the public safety or the safety of any person, and for the protection of property from fire or explosion, or otherwise for the purpose of giving effect to the provisions of this Act.

(3) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

Cf. 1920, No. 44, ss. 10 (5), 15 (3), 21

39. Saving of other Acts—Except so far as may be specifically provided herein, nothing in this Act shall be so construed as to derogate from the provisions of any other Act.

Cf. 1920, No. 44, s. 22

40. Repeals and savings—(1) The following enactments are hereby repealed, namely:

- (a) The Explosive and Dangerous Goods Act 1908:
- (b) The Explosive and Dangerous Goods Amendment Act 1920:
- (c) Section thirteen of the Statutes Amendment Act 1949.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed

or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

SCHEDULES

Sections 2, 3

FIRST SCHEDULE**DANGEROUS GOODS***Class I*

Acetone	Liquefied petroleum gas
Amyl acetate	Methyl acetate
Aviation motor spirit	Methyl acetone
Benzene	Methyl ethyl ketone
Benzine	Motor spirit
Benzol	Naphtha
Benzoline	Nitrocellulose (wetted with not less than 30 per cent by weight of methylated spirit, industrial alcohol, or other approved wetting agent)
Butyl acetate	Petroleum ether
Carbon bisulphide (also known as carbon disulphide)	Petroleum spirit
Cyclohexane	Propyl acetate
Diacetone alcohol	Propyl alcohol (normal)
Distillate	Toluene
Ethyl acetate	Toluol
Ethyl chloride	
Ethyl ether	
Gasoline (also known as gasolene)	

Mixtures, solutions, or emulsions, whether solid or liquid, containing any dangerous goods of class I or class II and having a flashing point of less than 73° F.

Class II

Absolute alcohol	Kerosene (also known as kerosine)
Amyl alcohol	Methyl alcohol
Butyl alcohol	Methyl cellosolve
Cellosolve	Methylated spirits
Decahydronaphthalene (decalin)	Petroleum oil
Ethyl alcohol	Power kerosene (also known as power kerosine)
Ethyl lactate	Turpentine and turpentine substitutes
Isoamyl alcohol (primary)	Xylol
Isobutyl alcohol	
Isopropyl alcohol	

Mixtures, solutions, or emulsions, whether solid or liquid, containing any dangerous goods of class I or class II and having a flashing point of less than 150° F. but not less than 73° F.

FIRST SCHEDULE—*continued*DANGEROUS GOODS—*continued**Class III*

Fuel oil

Class IV

Calcium carbide

Phosphorus (yellow or white)

Class V

Ammonium nitrate

Potassium chlorate

Calcium chlorate

Sodium chlorate

Class VI

Compressed, liquefied, or dissolved gases in cylinders (except liquefied petroleum gas)

SECOND SCHEDULE

Sections 2, 12

LICENSING AUTHORITIES

*City Councils*Auckland
Christchurch
Dunedin
Gisborne
HamiltonHastings
Invercargill
Lower Hutt
Napier
NelsonNew Plymouth
Palmerston North
Timaru
Wanganui
Wellington*Borough Councils*Alexandra
Arrowtown
Ashburton
Balclutha
Birkenhead
Blenheim
Bluff
Brunner
Cambridge
Carterton
Cromwell
Dannevirke
Dargaville
Devonport
Eastbourne
Eketahuna
Ellerslie
Eltham
Featherston
Feilding
Foxton
Geraldine
Glen Eden
Gore
Green IslandGreymouth
Greytown
Hampden
Havelock North
Hawera
Helensville
Hokitika
Howick
Huntly
Inglewood
Kaiapoi
Kaikohe
Kaitaia
Kaitangata
Kawerau
Kumara
Lawrence
Levin
Lyttelton
Manurewa
Martinborough
Marton
Masterton
Matamata
MatauraMilton
Morrinsville
Mosgiel
Motueka
Mount Albert
Mount Eden
Mount Maunganui
Mount Roskill
Mount Wellington
Naseby
New Lynn
Newmarket
Ngaruawahia
Northcote
Oamaru
Ohakune
Onehunga
One Tree Hill
Opotiki
Otahuhu
Otaki
Otorohanga
Paeroa
Pahiatua
Palmerston

SECOND SCHEDULE—*continued*LICENSING AUTHORITIES—*continued**Borough Councils—continued*

Papakura	Roxburgh	Thames
Papatoetoe	Runanga	Tuakau
Patea	Shannon	Upper Hutt
Petone	St. Kilda	Waihi
Picton	Stratford	Waikouaiti
Port Chalmers	Taihape	Waimate
Pukekohe	Takapuna	Waipawa
Putaruru	Tapanui	Waipukurau
Queenstown	Taradale	Wairoa
Raetihi	Taumarunui	Waitara
Rangiora	Tauranga	Waiuku
Riccarton	Te Aroha	Westport
Richmond	Te Awamutu	Whakatane
Riverton	Te Kuiti	Whangarei
Ross	Temuka	Woodville
Rotorua	Te Puke	

County Councils

Awatere	Kaikoura	Whakatane
Hokianga	Manukau	Whangaroa
Inangahua	Waimairi	

Town Councils

Edendale	Lumsden	Otautau
Hikurangi	Manaia	Outram
Hunterville	Mangaweka	Southbridge
Kaponga	Mercer	Waverley
Leeston	Nightcaps	Wyndham
