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1974, No. 26

An Act to consolidate and amend the law relating to the packing, marking, handling, carriage, storage, and use of certain flammable, oxidising, and corrosive materials, and certain compressed, liquefied, dissolved, and other gases [2 July 1974]

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 1974.

(2) This Act shall come into force on the 1st day of April 1975.

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

“Aircraft” has the same meaning as in the Civil Aviation Act 1964:

“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:

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

“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 shall mean a reference to all the 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 an 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 hovercraft as defined in the Hovercraft Act 1971:
- “Inspector of Dangerous Goods” or “Inspector” means a person appointed or declared to be an Inspector of Dangerous Goods under this Act; and includes the Chief Inspector:
- “Licensing authority” means a licensing authority within the meaning of section 7 of this Act:
- “Local authority” means a City Council, Borough Council, County Council, or Town Council; and includes any other public body which the Minister by notice in the *Gazette* declares to be a local authority for the purposes of 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 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 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 for Internal Affairs:
- “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.

Cf. 1957, No. 20, ss. 2, 3

3. Act not to apply within defence area—This Act shall not apply within any defence area (as defined in section 2 of the Defence Act 1971).

4. Act to bind the Crown—(1) Except as provided in this section, this Act shall bind the Crown.

(2) Part II 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) No bylaw made by a Harbour Board under section 37 of this Act shall bind the Crown.

(5) For the purposes of this section and notwithstanding section 187 of the Education Act 1964—

(a) Any Education Board and the governing body of any secondary school or technical institute or teachers college, being a school, institute, or college established or deemed to have been established under Part III of the Education Act 1964; and

(b) Any university or constituent college of a university, being a university or constituent college that has been duly constituted by any Act or Provincial Ordinance—

shall be deemed to be the Crown.

(6) In any case where the Crown stores or uses or intends to store or use dangerous goods on premises which, except for subsection (2) of this section, would require to be licensed under Part II of this Act, the Crown shall advise the licensing authority for the district in which those premises are situated of the address of the premises and the nature and quantity of dangerous goods which are, or are intended to be, so stored or used.

PART I

ADMINISTRATION

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

Cf. 1957, No. 20, s. 5

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, 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. 1957, No. 20, s. 6

7. Licensing authorities—(1) Every local authority declared under subsection (2) of this section to be a licensing authority shall, for the purposes of this Act, be the licensing authority within the district administered by that local authority.

(2) Each of the following local authorities shall be a licensing authority—

(a) Every City Council and every Borough Council:

(b) Every local authority (other than a City Council or a Borough Council) which immediately before the coming into force of this Act was a licensing authority for the purposes of the Dangerous Goods Act 1957:

(c) Any other local authority which the Minister may, by notice in the *Gazette*, from time to time declare to be a licensing authority.

(3) The Minister may from time to time by notice in the *Gazette* declare that as from a date specified in the notice any licensing authority under subsection (2) of this section has ceased or, as the case may require, shall cease to be a licensing authority.

(4) The Chief Inspector shall be the licensing authority for any district within which a local authority is not for the time being a licensing authority, and for any area or place which is not within the district of a local authority.

(5) The Chief Inspector may, in respect of any area or place which is not within the district of a local authority, delegate in writing all or any of his powers of licensing and inspection to any other licensing authority whose district is adjacent to that area or place.

Cf. 1957, No. 20, ss. 2, 12 (1), (2)

8. Duties of local licensing authorities—(1) Subject to this Act, it shall be the duty of every local authority which is a licensing authority (in this Act referred to as a local licensing authority) to carry out within its licensing district the provisions of this Act and any regulations made under it. For that purpose every local licensing authority is hereby empowered and directed to enforce within its district the provisions of this Act, and of all regulations made under it.

(2) Every local licensing authority shall, in the administration of any regulations made under this Act, be subject to the direction of the Chief Inspector.

Cf. 1957, No. 20, s. 12 (3)

PART II**LICENSING****9. Licensing of premises for storage of dangerous goods—**

(1) A local licensing authority may, on application in such form as it may require and after receiving any prescribed fees, grant licences for the storage of dangerous goods within the district of that local licensing authority.

(2) The Chief Inspector may grant licences for the storage of dangerous goods within any district, area, or place for which he is the licensing authority.

(3) Notwithstanding subsection (1) of this section, where any premises to which this Act applies are situated partially within the district of one licensing authority and partially within the district of another licensing authority or other licensing authorities, the Chief Inspector may designate any one of those licensing authorities to be the sole licensing authority for those premises.

(4) 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 public safety or the safety of any person or the protection of any property; or

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

(5) The licensing authority in granting, or after having granted, any licence under this section, may impose such further 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:

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 14 of this Act, object in writing to all or any of the further conditions to the licensing authority which imposed them, and that licensing authority shall refer the matter to the Chief Inspector who may reject, modify, or confirm the further conditions being the subject of the objection and the licensing authority shall advise the objector in writing of the Chief Inspector's decision. For the purposes of an appeal under section 14 of this Act the decision of the Chief Inspector shall be deemed to be the decision of the licensing authority.

(6) Any person who commits a breach of any condition imposed by a licence or by a licensing authority under this section commits an offence against this Act.

Cf. 1957, No. 20, s. 16

10. Provisional licences—(1) Where, on any application for a licence under this Part of this Act, it appears to a licensing authority 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 licensing authority, the safety of the public or of any person or of any property will not be prejudiced, then the licensing authority may, notwithstanding paragraph (a) of section 11 of this Act, in its or his discretion grant to the applicant a provisional licence under this section subject to such conditions as the licensing authority 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 9 of this Act, but shall expire with the day specified on the licence by the licensing authority, being any day not later than the 31st day of March next following the date on which the licence was granted.

(3) A licensing authority may at any time amend, cancel, or confirm as a full licence, any provisional licence granted by it or him.

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

11. General provisions as to licences—(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.

Cf. 1957, No. 20, s. 17

12. Renewal of licences—(1) Subject to section 13 of this Act, every licence granted under section 9 of this Act 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 licensing authority 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 licensing authority in a particular case.

(2) Subject to subsection (3) of section 10 and to section 13 of this Act, every licence granted under section 10 of this Act 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 licensing authority not later than 14 days before the day of expiry, or within any further time allowed by the licensing authority 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 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.

Cf. 1957, No. 20, s. 18

13. 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 an Inspector, the licensing authority, if it or he thinks fit, may suspend the licence until the proceedings have been disposed of or until the requirement has 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 licensing authority, if it or he thinks fit, may cancel the licence.

Cf. 1957, No. 20, s. 19

14. Appeals—(1) Where an applicant for a licence or the holder of a licence is aggrieved by any decision of the licensing authority 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 from the licensing authority, appeal against the decision to a Magistrate's 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 licensing authority for reconsideration.

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

Cf. 1957, No. 20, s. 20

15. Restrictions on issue of licences by local licensing authorities—(1) No local licensing authority shall grant or amend any licence for the storage in bulk of—

(a) Dangerous goods of Class 3 (a) or Class 3 (b) in any above-ground tank having a capacity exceeding 2,500 litres; or

(b) Dangerous goods of Class 3 (a) or Class 3 (b) in any underground tank having a capacity exceeding 50,000 litres or in underground tanks having a total capacity exceeding 150,000 litres; or

(c) Dangerous goods of Class 3 (c) in any above-ground or underground tank having a capacity exceeding 50,000 litres; or

(d) Dangerous goods of Class 3 on any storeroom—
unless the Chief Inspector has consented to the granting or amending of the licence and to its terms and conditions.

(2) Notwithstanding subsection (1) of this section, the Chief Inspector may from time to time, by notice in the *Gazette*, authorise local licensing authorities to grant or amend any licences for the storage in bulk of the dangerous goods referred to in subsection (1) of this section. The notice may specify the circumstances, terms, and conditions under which such licences may be granted or amended.

(3) No licensing authority shall grant or amend any licence for the storage of dangerous goods of Class 3 in any above-ground containers having a total capacity exceeding 10,000 litres on any premises adjacent to an airport unless the Chief Inspector, after consultation with the Director of the Civil Aviation Division of the Ministry of Transport, has consented to the granting or amending of the licence and to its terms and conditions.

(4) No licensing authority shall grant or amend any licence for the storage in bulk of dangerous goods of Class 3 on any premises adjacent to a harbour from or to which harbour it is proposed to deliver dangerous goods by means of pipelines unless the Chief Inspector, after consultation with the Harbour Board concerned, has consented to the granting or amending of the licence and to its terms and conditions.

(5) Every licence granted or amended in breach of this section shall be void and of no effect.

(6) In this section—

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

“In bulk” means stored in a container having a capacity greater than 250 litres:

“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 Chief Inspector either generally or in any particular case; and includes any tank which is partly below ground and is similarly covered and surrounded.

Cf. 1957, No. 20, s. 22; 1967, No. 68, s. 2

PART III

INSPECTORS OF DANGEROUS GOODS

Appointment of Inspectors

16. Inspectors of dangerous goods—Every Inspector of Explosives appointed under the Explosives Act 1957 (but excluding those deemed to be Inspectors of Explosives under section 2 of the Explosives Act 1957 by virtue of their appointment as Inspectors under the Coal Mines Act 1925, the Quarries Act 1944, or the Mining Act 1971) shall be an Inspector of Dangerous Goods under this Act, and shall be responsible to the Chief Inspector and shall, within the district of a local licensing authority, have the duty of supervising, advising, and assisting the Inspectors of the local licensing authority.

Cf. 1957, No. 20, s. 7 (2)

17. Inspectors appointed by local licensing authorities—

(1) Every local licensing authority shall appoint as an Inspector (and may at any time remove and make another appointment) one or more persons whom the local licensing

authority thinks competent to carry out the provisions of this Act in its district:

Provided that any 2 or more local licensing authorities may, subject to the approval of the Chief Inspector, enter into an agreement whereby the services of any Inspector appointed by one authority are made available in the district of the other authority or authorities.

(2) Every Inspector appointed under subsection (1) of this section shall perform the duties of an Inspector within the district of the local licensing authority which appointed him and within the district of any other local licensing authority which is a party to an agreement entered into under the proviso to that subsection.

(3) Where any premises to which this Act applies are situated partially within the district of one licensing authority and partially within the district or districts of another licensing authority or other licensing authorities, the Chief Inspector may direct any Inspector to be the inspector of the whole of those premises.

(4) Where any pipeline to which this Act applies lies partially within the district of one licensing authority and partially within the district or districts of another licensing authority or other licensing authorities, the Chief Inspector may direct one or more Inspectors to be the inspector or inspectors of the whole or any specified section of that pipeline.

Cf. 1957, No. 20, s. 8

18. Inspectors appointed by Harbour Boards—(1) Every Harbour Board may, and if required to do so by the Minister shall, appoint one or more officers employed by the Board to carry out the provisions of this Act and any regulations or bylaws made under it, and any regulations or bylaws made under the Harbours Act 1950 in respect of dangerous goods.

(2) Every officer appointed under subsection (1) of this section shall have the powers of an Inspector under this Act, but in the exercise of those powers he shall be subject to the general direction and control of the Chief Inspector.

Cf. 1957, No. 20, s. 9

Powers of Inspectors

19. 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 20 of this Act 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.

Cf. 1957, No. 20, s. 10 (1) (a), (3)

20. 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.

Cf. 1957, No. 20, s. 10 (4)

21. 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 19 or section 20 of this Act,—

- (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, of 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 being 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 Chief Inspector, 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 interests 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 Chief Inspector:

- (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.

Cf. 1957, No. 20, s. 10 (1) (b)-(g)

22. 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) The Chief Inspector may exercise the powers conferred by subsection (1) of this section whether an inspection of any premises, vehicle, vessel, aircraft, or hovercraft has been made or not.

(3) 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.

(4) 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 (3) of this section, fails to comply with that requirement within the time so extended.

Cf. 1957, No. 20, s. 30

23. 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 of any regulations made under it, and as to the 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 of any dangerous goods or container:

(f) Comply with any requisition made by an Inspector pursuant to subsection (1) of section 22 of this Act.

Cf. 1957, No. 20, s. 11

24. 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 or bylaw 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) of this section shall as soon as possible be brought before a Magistrate's Court to answer the charge and to be further dealt with according to law.

Cf. 1957, No. 20, s. 10 (1) (h), (2)

25. Crown, etc., protected from proceedings—No action or proceedings shall be brought against the Crown, or any local licensing authority, 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, the authority, 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.

Cf. 1957, No. 20, s. 10 (5)

PART IV

STORAGE, PACKING, AND USE OF DANGEROUS GOODS

26. Restrictions on 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) 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 litres 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.

Cf. 1957, No. 20, s. 13

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

(2) No depot shall be established or maintained beyond the district of a local authority except with the consent of the local authority of the district or the Harbour Board of the port in which 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 a depot, its regulation, maintenance, and control, and for the apportionment of its costs and expenses and the revenue derived from it.

(4) A local authority may by resolution fix 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 charges shall form part of the revenue of the local authority.

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

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

(7) No depot shall be established or maintained for the storage in bulk of—

- (a) Dangerous goods of Class 3 (a) or Class 3 (b) in any above-ground tank having a capacity exceeding 2,500 litres; or

(b) Dangerous goods of Class 3 (a) or Class 3 (b) in any underground tank having a capacity exceeding 50,000 litres or in underground tanks having a total capacity exceeding 150,000 litres; or

(c) Dangerous goods of Class 3 (c) in any above-ground or underground tank having a capacity exceeding 50,000 litres; or

(d) Dangerous goods of Class 3 on any storeship—
unless the Chief Inspector has consented in writing to the establishment and maintenance of the depot.

(8) No depot shall be established or maintained for the storage of dangerous goods of Class 3 in any above-ground containers having a total capacity exceeding 10,000 litres on any premises adjacent to an airport unless the Chief Inspector, after consultation with the Director of the Civil Aviation Division of the Ministry of Transport, has consented in writing to the establishment and maintenance of the depot.

(9) No depot shall be established or maintained for the storage in bulk of dangerous goods of Class 3 on any premises adjacent to a harbour from or to which harbour it is proposed to deliver dangerous goods by means of pipelines unless the Chief Inspector, after consultation with the Harbour Board concerned, has consented in writing to the establishment and maintenance of the depot.

(10) In subsection (7) of this section, the expressions “above-ground tank”, “in bulk”, and “underground tank”, shall have the same meaning as in subsection (6) of section 15 of this Act.

Cf. 1957, No. 20, ss. 21, 22 (1), (2) (f)

28. 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.

Cf. 1957, No. 20, s. 14

29. 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.

Cf. 1957, No. 20, s. 15

30. Pumps for reselling dangerous goods—(1) No person shall deliver dangerous goods of Class 3 (a) for retail sale from an underground tank (as defined in subsection (6) of section 15 of this Act) other than by means of a pump unit of a kind to which the Chief Inspector has given his approval by notice in the *Gazette* and which complies with any prescribed requirements and with the terms of the approval.

(2) The approval of the Chief Inspector 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.

Cf. 1957, No. 20, s. 26

31. 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.

Cf. 1957, No. 20, s. 27

32. 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 the Chief Inspector, make available to any member of the public any balloon or similar container containing any flammable or poisonous or anaesthetic gas.

Cf. 1957, No. 20, s. 28

PART V

MISCELLANEOUS PROVISIONS

Accidents

33. 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 Chief Inspector or to an Inspector having jurisdiction in the district where the accident occurred.

(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 and, where the accident occurs within the limits of a harbour within the meaning of the Harbours Act 1950, the Harbour-master for the harbour; 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 within the meaning of the Airport Authorities Act 1966, 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 Chief Inspector or an Inspector having jurisdiction in the district where the accident occurred.

(3) Every notice given under subsection (1) or subsection (2) of this section 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 interests 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) of this section, every person commits an offence and is liable on summary conviction to a fine not exceeding \$100 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.

Cf. 1957, No. 20, s. 31

34. 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 33 of this Act would be responsible if an accident had occurred to send or cause to be sent to the Chief Inspector or an Inspector notice of any accident shall forthwith—

- (a) Notify the Chief Inspector or an Inspector having jurisdiction in the district where the incident occurred 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 33 of this Act shall apply to every such incident as if an accident had occurred.

Cf. 1957, No. 20, s. 31A; 1963, No. 84, s. 3

Regulations

35. Regulations—The Governor-General may from time to time, by Order in 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 depots established or maintained by local authorities pursuant to this Act, 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 and to 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:
- (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, or in depots established by local authorities under this Act, 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 interests 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 the provisions of 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, 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 the provisions of this Act and for its due administration.

Cf. 1957, No. 20, s. 38

36. Exemption from regulations—(1) The Chief Inspector 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 35 of this Act. The exemption may be for such term, to such extent, and subject to such restrictions, limitations, and conditions as the Chief Inspector thinks fit.

(2) No exemption under this section shall take effect within the district of any local licensing authority except with the consent of that local licensing authority.

37. Bylaws of Harbour Boards—(1) Without limiting the power of a Harbour 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) Any bylaws made by a Harbour Board for the purpose of regulating dangerous goods may prescribe penalties for offences against those bylaws whether those bylaws are made under this section, or the Harbours Act 1950, or any other Act.

(3) No bylaws made under subsection (1) of this section shall come into force until approved by the Minister.

Cf. 1957, No. 20, s. 25; 1963, No. 84, s. 2

38. Alteration of Schedule—The Governor-General may from time to time, by Order in 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 any class or subclass.

Cf. 1957, No. 20, s. 4

Offences, Penalties, and Forfeitures

39. 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.

(3) Every offence against this Act or against any regulations made under it shall be punishable on summary conviction before a Magistrate.

Cf. 1957, No. 20, ss. 32, 33

40. Forfeitures—(1) Where any person is convicted of an offence against this Act or against any regulation or bylaw made under it, the 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.

Cf. 1957, No. 20, s. 35

41. 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, or where they have been seized by an Inspector appointed by a local authority, be retained by the local authority, 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 or the local authority, as the case may require, think 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 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 26 of this Act or are directed to be forfeited to the Crown under section 40 of this Act.

Cf. 1957, No. 20, s. 36

42. 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 the provisions of this Act or any regulation or bylaw 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.

Cf. 1957, No. 20, s. 37

Miscellaneous

43. Evidence—In any proceedings under this Act or under any regulations or bylaws made under it 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. 1957, No. 20, s. 34

44. Savings—(1) Every application for a licence or a renewal of a licence under the Dangerous Goods Act 1957 which is pending as at the commencement of this Act shall be dealt with as if the Dangerous Goods Act 1957 had continued in force incorporating the provisions of section 9 of this Act, but any licence or renewal granted pursuant to the application shall have effect as if it had been granted under this Act.

(2) Every licence or renewal of a licence which has been granted under the Dangerous Goods Act 1957 to take effect from the 31st day of March 1975 shall be deemed to have been granted pursuant to either section 8 or section 12 of this Act, and all the provisions of this Act, so far as they are applicable, shall apply to that licence or renewal of a licence.

45. Repeals, revocation, and consequential amendments—

(1) The following enactments are hereby repealed—

- (a) The Dangerous Goods Act 1957:
- (b) The Dangerous Goods Amendment Act 1963:
- (c) The Dangerous Goods Amendment Act 1964:
- (d) The Dangerous Goods Amendment Act 1967.

(2) All bylaws made or deemed to have been made by a local licensing authority under section 23 or section 24 of the Dangerous Goods Act 1957 are hereby revoked.

(3) Section 2 of the Motor Spirits Distribution Act 1953 is hereby amended by omitting from the definition of the word “pump” the words “the Dangerous Goods Regulations 1958” and substituting the words “the Dangerous Goods Act 1974”.

(4) Section 88 of the Defence Act 1971 is hereby amended by inserting, after paragraph (d) of subsection (1), the following paragraph—

“(da) Controlling the packing, marking, handling, carriage, storage, and use of dangerous goods (within the meaning of the Dangerous Goods Act 1974) in defence areas:”.

(5) The Defence Act 1971 is hereby further amended by repealing so much of the Second Schedule to that Act as relates to the Dangerous Goods Act 1957.

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 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.

SCHEDULE—*continued*

- (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, 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, and hydrogen peroxide solutions containing more than 8 percent hydrogen peroxide.
- (b) Organic peroxides.

Class 8

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

The Act is administered in the Department of Internal Affairs.
