

Act No. 41, 1905.

An Act to consolidate and amend the law relating to explosives; and for purposes consequent thereon or incidental thereto. [9th December, 1905.]

EXPLOSIVES.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and commencement.

1. This Act may be cited as the "Explosives Act, 1905." Short title.
2. This Act shall come into operation on the first day of October, Commencement.
one thousand nine hundred and six, in this Act referred to as the commencement of this Act. But any order, regulations, and rules, and any appointment to an office may be made and any license may be applied for and granted under this Act at any time after the passing thereof, but shall not take effect until the commencement of this Act.

Repeal

*Explosives.**Repeal.*

Repeal.

3. The Explosives Act, 1902, is hereby repealed. But such repeal shall not affect any right under a license or registration granted or made in pursuance of such repealed Act, so far as the same is expressly preserved by this Act, or any obligation or liability under such Act in respect of the right so preserved.

Definitions.

Governor may declare substances to be explosives. Explosives Act, 1875, s. 104.

4. The Governor may by order notified in the Gazette declare that any substance which appears to be specially dangerous to life or property and liable to explosion by reason either of its explosive properties, or of any component or process in the manufacture thereof, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to such exceptions, limitations, or restrictions as may be specified in the order) shall accordingly extend to such substance in like manner as if it were included in the term "explosive" in this Act.

Persons carrying on certain processes to be deemed manufacturers. *Ibid.* s. 105.

5. Any person who carries on any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, or the process of remaking, altering, or repairing any explosive, shall be subject to the provisions of this Act as if he manufactured an explosive; and the expression "manufacture" shall in this Act be construed accordingly.

Governor may define composition, quality, and character of explosives. *Ibid.* s. 106.

6. The Governor may define the composition, quality, or character of an explosive, and classify explosives, and may authorise the same for manufacture in or importation into New South Wales; and any person who manufactures, imports from places beyond New South Wales, keeps, conveys, or sells any explosive, which is not for the time being so defined and authorised, or which differs from such definition in composition, quality, or character, whether by deterioration or otherwise, shall be liable to a penalty not exceeding fifty pounds, and the explosive may be forfeited.

Definition of words and expressions.

7. In this Act, unless the context otherwise requires,—
 "Boat" includes every vessel not a ship as below defined which is used in navigation in any inland water or any harbour, whether propelled by oars or otherwise.
 "Carriage" includes any carriage, waggon, cart, van, truck, dray, vehicle, or other means of conveying goods or passengers by land in whatever manner the same may be propelled.
 "Court" and "court of summary jurisdiction" mean a stipendiary or police magistrate or any two justices of the peace sitting in a court of petty sessions.

"Explosive"—

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“Explosive”—

- (a) Means gunpowder, nitro-glycerine, all compounds or mixtures containing nitro-glycerine, gun cotton, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and
- (b) includes fog signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.
- “Factory-magazine” means a building for keeping the finished explosive made in the factory, and includes, if such explosive is not gunpowder, any building for keeping the partly-manufactured explosive or the ingredients of such explosive which is mentioned in that behalf in the license.
- “Inspector” means any person appointed by the Governor as an inspector under this Act, and includes any person authorised in writing by the superintendent to act as an inspector.
- “Justice” means justice of the peace, and includes a police or stipendiary magistrate.
- “Master” includes every person except a pilot having command or charge of a ship, and in reference to any boat belonging to a ship means the master of the ship, and when used in reference to any other boat includes every person having command or charge of such boat.
- “Magazine” means any building, chamber, compartment, hulk, or other vessel used for the purpose of keeping any explosive.
- “Occupier” includes any number of persons and a body corporate; and in the case of any manufacture or trade, includes any person carrying on such manufacture or trade.
- “Premises” means any house, storehouse, warehouse, shop, cellar, yard, building, or enclosed space.
- “Prescribed” means prescribed by this Act or by any rule, regulation, or order made thereunder.
- “Public magazine” includes the floating magazines “Pride of England,” “Bhering,” and “Lady Alicia” at Middle Harbour, and the floating magazine “Soudan” at Newcastle, and such magazines as the Governor may, by notification in the Gazette, declare and appoint to be public magazines for the storage of explosives.
- “Safety cartridges” means cartridges for small arms of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges.

“Ship”

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“Ship” includes every description of vessel used in sea navigation, whether propelled by sail, steam, or otherwise.

“Superintendent” means the Superintendent of the Explosives Department, and, in case of his absence from duty, includes any person appointed under the hand of the Minister to discharge the duties of the superintendent.

“The regulations” means the regulations made under this Act.

“This Act” includes any license, certificate, order, rule, and regulation granted or made in pursuance of this Act.

PART II.

MANUFACTURE, IMPORTATION, KEEPING, CONVEYANCE, AND SALE OF EXPLOSIVES.

Manufacture of explosives.

Explosive to be manufactured only at factory licensed under this Act.

Explosives Act, 1875, s. 4.

8. The manufacture of any explosive shall not, nor shall any process of such manufacture, be carried on except at a factory duly licensed for the same under this Act :

Provided that nothing in this section shall apply to—

- (a) the making of a small quantity of explosive for the purpose of chemical experiment, and not for practical use or for sale ;
- (b) the filling of safety cartridges with explosive in connection with a licensed magazine or licensed premises, so that the occupier of such magazine or premises observe regulations prescribed in that behalf ;
- (c) the manufacture of any prescribed explosive on a mine or other work in small quantities for immediate use in connection with such mine or work, so that such manufacture be carried on in accordance with regulations made in that behalf.

If any person manufactures any explosive, or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, he shall be deemed to manufacture an explosive at an unauthorised place.

Where an explosive is manufactured at an unauthorised place—

- (a) all or any part of the explosive, or the ingredients of any explosive, which may be found either in or about such place, or in the possession of, or under the control of, any person convicted under this section may be forfeited ; and
- (b) the person so manufacturing shall be liable to a penalty not exceeding one hundred pounds a day for every day during which he so manufactures.

9. The Governor may make regulations —

- (a) regulating the granting, renewing, and altering of licenses for factories for the manufacture of explosives, and the fees payable for the same ;
- (b)

Governor may make regulations relating to factories for the manufacture of explosives.

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- (b) prescribing the mode of construction of any such factory, and the purposes for which the factory, or any particular part thereof, may be used ;
- (c) prescribing and regulating the attaching of lightning conductors to the factory ;
- (d) defining the part of the factory in which any particular explosive or any ingredient thereof shall be kept ;
- (e) prescribing the quantity of any explosive or ingredient thereof that may be allowed in the factory, or any part thereof, at any one time ;
- (f) regulating in the factory the keeping and use, and the disposal during and after use, of charcoal, oiled cotton, and any articles liable to spontaneous ignition, and the cleaning of the factory and the premises used in connection therewith ;
- (g) regulating in the factory the mixing, sifting, and carriage of any explosive or any ingredients thereof, and prescribing the materials of which the tools used in the factory may be made ;
- (h) regulating or prohibiting in the factory and the premises used in connection therewith any smoking, or the introduction of fire, lucifer matches, or any article likely to cause explosion by fire, or any iron, steel, or grit ;
- (i) regulating the mode in which explosives in the factory shall be packed ;
- (j) regulating, subject to the provisions of the Factories and Shops Act of 1896, the employment in the factory of persons under the age of sixteen years ;
- (k) prescribing the rules to be observed by the owner and occupier of, and the persons managing or employed in or about the factory ;
- (l) regulating the inspection of explosives other than gunpowder in the factory, and the marking of cases containing the same by an inspector before the removal of such explosives from the factory ;
- (m) generally for preserving public safety in the manufacture of explosives in the factory ;
- (n) regulating the manufacture of explosives, or any prescribed explosive, in small quantities on a mine or work for immediate use in connection with such mine or work.

In the event of any breach (by act or default) of any such regulation—

- (i) all or any part of the explosives or ingredients thereof in respect of which, or being in any building or machine in respect of which the offence was committed, may be forfeited; and
- (ii) the occupier shall be liable to a penalty not exceeding ten pounds, and in the case of a second or subsequent offence to a penalty not exceeding ten pounds for every day during which such breach continues.

Importation

*Explosives.**Importation of explosives.*

Explosives may not be imported unless by the holder of an importation license.

10. The Governor may, by the regulations, prescribe that explosives or any kind of explosives named in the regulations shall not be imported from any place beyond New South Wales, except by virtue of an importation license.

Any person, not being the holder of an importation license, who imports any such explosive in contravention of this section shall be liable to a penalty not exceeding one hundred pounds.

Explosives may only be imported by way of ports prescribed.

11. It shall not be lawful to import from any place outside of New South Wales, otherwise than through the ports, harbours, rivers, towns, or places prescribed, any explosives other than safety cartridges, safety fuses for blasting, railway fog signals, percussion caps, and such explosives as may by the regulations be exempted from the operation of this section.

Any person who imports, or attempts to import, any such explosive otherwise than through the ports, harbours, rivers, towns, or places so prescribed, shall be liable to a penalty not exceeding one hundred pounds.

Governor may make regulations as to importation of explosives.

12. The Governor may make regulations—

- (a) regulating the importation of explosives;
- (b) regulating the granting, renewing, and altering of importation licenses, and prescribing the fees to be paid for the same;
- (c) prescribing the ports, harbours, rivers, towns, and places through which explosives may be imported.

In the event of any breach by act or default of any regulation so made—

- (i) any explosive in respect of which, or found in any ship, boat, or carriage in respect of which the breach has taken place, may be forfeited; and
- (ii) the person guilty of the breach shall be liable to a penalty not exceeding twenty pounds, and in the case of a second or subsequent offence to a penalty not exceeding ten pounds for every day during which the breach continues.

Keeping of explosives.

Explosives to be kept only in factory or authorised place.

Explosives Act, 1875, s. 5.

40 Vic. No. 1, s. 23.

13. (1) An explosive shall not be kept in any place, except as follows,—

- (a) in the factory, licensed under this Act, in which it is manufactured; or
- (b) in a public magazine; or
- (c) in a magazine duly licensed under this Act; or
- (d) on premises (in this Act called “licensed premises”) duly licensed under this Act:

Provided

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Provided that this section shall not apply—

- (i) to the keeping of any explosive by a person for his private use and not for sale, if the amount of the explosive so kept on any premises does not exceed twenty-five pounds in weight; or
- (ii) to the keeping of any explosive in a ship, boat, or carriage while being conveyed in such ship, boat, or carriage in accordance with this Act; or
- (iii) to the keeping of safety fuses for blasting, railway fog-signals, percussion caps, or any explosive exempted by the regulations:

Provided also that where on the passing of this Act any magazine or premises are registered or licensed under the Explosives Act, 1902, an explosive may, subject only to the provisions of the said Act of 1902, and any proclamations and regulations made thereunder, be kept in such magazine or premises until the expiration of three months after the commencement of this Act.

(2) Any explosive kept in any place other than as hereinbefore in this section mentioned shall be deemed to be kept in an unauthorised place.

Where any explosive is kept in an unauthorised place—

- (a) any explosive found in such place may be forfeited; and
- (b) the occupier of such place, and the owner of, or any other person keeping the explosive, shall be liable to a penalty not exceeding one hundred pounds.

14. Licenses may be granted in respect of—

- (a) any magazine for the keeping of explosives not exceeding the quantities prescribed;
- (b) any premises for the keeping of explosives not exceeding the quantities prescribed.

Licenses may be granted.

All such licenses shall specify the quantities of explosives which may be kept in the magazine, or premises.

15. No person shall be entitled to receive any explosive from any public magazine unless in respect of such explosive—

- (a) he establishes his claim to the same; and
- (b) all the requirements of the laws and regulations of the customs at the time in force have been complied with; and
- (c) the lighterage or conveyance to and from the magazine, the storage rent, and any other charges prescribed have been paid, and all the requirements of this Act have been complied with.

Explosive not to be taken from a public magazine unless certain conditions are fulfilled.

16. The storage-rent and charges as aforesaid due upon any explosive deposited in any public magazine shall, subject to the provisions of the last preceding section, be paid on or before the thirtieth day of June and thirty-first day of December in each year.

Payment of storage rent and charges.

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If default is made in paying the rent and charges as aforesaid, or any of them, the superintendent may cause a notice to be published in the Gazette intimating that if the rent and charges due are not paid within one month from the said publication the said explosive may be forfeited. And if the said rent and charges are not paid within the said month, the superintendent may cause the said explosive to be sold by public auction, and upon such sale shall cause the proceeds thereof to be applied to the payment of the expenses of such sale, and the balance (if any) to be paid to the Colonial Treasurer, who shall place the same to the credit of the Consolidated Revenue Fund.

Regulations for
keeping explosives.

17. The Governor may make regulations—

- (a) regulating the granting, renewing, and altering of licenses for magazines and premises, and the fees to be paid for the same ;
- (b) prescribing the situation of magazines and licensed premises, and regulating their construction and fitting up ;
- (c) prescribing the maximum quantities of explosives to be kept in magazines and licensed premises, according to their construction and situation, and according to the description of explosives to be kept therein ;
- (d) providing for the keeping of different kinds of explosives in separate magazines or licensed premises or compartments of magazines or licensed premises ;
- (e) prohibiting any one or more kind or kinds of explosive being kept in the same magazine or licensed premises, or in the same compartment of a magazine or licensed premises with any other kind of explosive ;
- (f) prescribing the quantities and the description of packages in which the several kinds of explosives may be received and kept at and removed from any such magazine or premises ;
- (g) prescribing any general or special rules to be observed in the management of magazines and licensed premises ;
- (h) prescribing the rent to be paid for the storage of explosives in public magazines, and the charges to be paid in connection with explosives so stored ;
- (i) regulating in any manner, not inconsistent with the intentions and objects of this Act, the keeping of explosives in magazines and licensed premises ;
- (j) prescribing the conditions under which safety cartridges may be filled with explosive in connection with a licensed magazine or licensed premises.

In the event of any breach by act or default of the regulations so made—

- (i) all or any part of the explosive in respect of which, or being in the magazine or licensed premises, where or in respect of which the offence was committed may be forfeited ;
- (ii)

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- (ii) the occupier shall be liable to a penalty not exceeding ten pounds, and, in the case of a second or subsequent offence, to a penalty not exceeding ten pounds for every day during which the breach continues.

Conveyance of explosives.

18. The Governor may, by the regulations, prescribe the limits within which no ship having explosives on board arriving in or off any port, harbour, or river of New South Wales may come or anchor. Limits within which no vessel having explosives on board may come or anchor.

If any such ship comes or anchors within the limits so prescribed the master of such ship shall be liable to a penalty not exceeding one hundred pounds.

19. The Governor may, by the regulations, prescribe that explosives, or any kind of explosives named in the regulations, shall not be taken into or within a specified distance of, or within specified limits surrounding, any town named in the regulations except by Government carriage, or under such supervision as may be prescribed by the regulations. Explosives to be taken into specified towns by Government carriages or under supervision.

If any explosive is taken into or within such distance or limits in contravention of this section, the person in charge of the explosive or the owner of the same shall be liable to a penalty not exceeding one hundred pounds.

20. Any explosives arriving at a port or place where a public magazine is established shall, at the expense of the importer or consignee of such explosives, be taken direct to such magazine either by Government boats or carriages, or by boats or carriages licensed in pursuance of this Act, or by such other mode of transit as may be directed by the Minister; and any person who delivers or attempts to deliver any explosive contrary to the provisions of this section shall be liable to a penalty not exceeding fifty pounds. Explosives shall be taken direct to a public magazine.

21. The provisions of the three last preceding sections shall not apply to safety cartridges, safety fuses for blasting, railway fog-signals, percussion caps, or other explosives exempted by the regulations. Saving clause.

22. The Governor may make regulations—

- (a) regulating the manner in which, the times when, the places where, and the conditions and restrictions under which explosives may be conveyed, loaded, and unloaded;
 - (b) fixing the charges payable for the conveyance of explosives by Government ships, boats, or carriages;
 - (c) regulating the navigation of and places for mooring ships and boats conveying, loading, or unloading explosives;
 - (d) regulating the description, construction, and fitting-up of ships, boats, and carriages, to be used in the conveyance of explosives, and the dress of the persons employed in connection with such conveyance;
 - (e)
- Governor may regulate the conveyance of explosives.

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- (e) regulating the licensing for such ships, boats, and carriages, and fixing the fees to be paid for licenses;
- (f) regulating the mode of packing, stowing, and keeping explosives during transit, and of giving notice by brands, labels, or otherwise of the nature and destination of any package of explosives;
- (g) prohibiting and regulating the conveyance of any one kind of explosive with any other kind of explosive, or with any other articles or substances;
- (h) prescribing the quantity of any explosive to be conveyed, loaded, or unloaded at any one time or in one ship, boat, or carriage;
- (i) prescribing the precautions to be observed in conveying explosives and in unloading and loading ships, boats, and carriages used in such conveyance, and the time during which the explosives may be kept during such conveyance, loading, and unloading;
- (j) fixing the times when and the conditions under which lights or fires may be allowed or not allowed on board such ships or boats, or on such carriages; and
- (k) generally in respect of the conveyance, loading, and unloading of explosives for protecting, whether by means similar to those above mentioned or not, persons or property from danger.

In the event of any breach by act or default of the regulations so made—

- (i) all or any part of the explosive in respect to which, or being in the ship, boat, or carriage, where or in respect of which the breach was committed may be forfeited;
- (ii) the person in charge of the explosives or the owner of the same shall be liable to a penalty not exceeding ten pounds, and in the case of a second or subsequent offence to a penalty not exceeding ten pounds for every day during which such breach continues.

Sale of explosives.

Restriction on sale of explosives on highway or public place.
Explosives Act, 1875, s. 30.

23. Explosives shall not be hawked, sold, or exposed for sale upon any highway, street, public thoroughfare, or public place.

If any explosive is hawked, sold, or exposed for sale in contravention of this section—

- (a) the person hawking, selling, or exposing for sale the same shall be liable to a penalty not exceeding forty shillings; and
- (b) all or any part of the explosive which is so hawked or exposed for sale, or is found in the possession of any person convicted under this section, may be forfeited.

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24. Explosives shall not be sold to any child apparently under the age of thirteen years, and any person selling explosives in contravention of this section shall be liable to a penalty not exceeding five pounds.

Penalty for sale of explosives to children.
See Explosives Act, 1875, s. 31.

25. All explosives exceeding one pound in weight, when publicly sold or exposed for sale, shall be in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the explosive from escaping, and (except when the same is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor, or on such property) the outermost receptacle containing such explosive shall have affixed in conspicuous characters, by means of a brand or securely attached label or other mark,—

Sale of explosives to be in closed packages, labelled.
Ibid. s. 32.

- (a) in the case of gunpowder, the word “gunpowder”; and
- (b) in the case of any explosive other than gunpowder, the name of such explosive, with the addition of the word “explosive”:

Provided that so much of subsection (b) as requires the word “explosive” to be affixed on the outermost receptacle aforesaid shall not apply to or in respect of percussion caps or safety fuses for blasting.

If any explosive is sold or exposed for sale in contravention of this section—

- (i) the person selling or exposing for sale the same shall be liable to a penalty not exceeding forty shillings; and
- (ii) all or any part of the explosive so sold or exposed for sale may be forfeited.

General provisions.

26. Notwithstanding anything in this Act, the Governor, by the regulations may prohibit, either absolutely, or except in pursuance of a special order of the Minister under this Act, or may subject to conditions or restrictions the manufacture, keeping, importation, conveyance, and sale or any of them of any explosive which is of so dangerous a character that in the judgment of the Governor it is expedient for the public safety to make such regulations.

Governor may prohibit the manufacture, keeping, importation, conveyance, and sale of dangerous explosives.
Ibid. s. 43.

Any explosive manufactured or kept in contravention of any such regulation shall be deemed to be manufactured at or kept in an unauthorised place.

If any explosive is imported, conveyed, or sold in contravention of any such regulation—

- (a) all or any part of such explosive may be forfeited; and
- (b) in the case of any explosive so imported, the master of the ship, or the person in charge of the carriage in which the explosive was imported, and in the case of any explosive so conveyed the person so conveying such explosive or causing it

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it to be so conveyed, and in the case of any explosive so sold the person to whom it was delivered or purchasing and receiving it, and the person selling the explosive shall be liable to a penalty not exceeding one hundred pounds.

The collector and other officers of customs shall have the same power with respect to any such explosive and the ship or carriage conveying the same as they have for the time being with respect to any article prohibited to be imported by the laws relating to the customs, and the ship or carriage containing the same; and the enactments for the time being in force relating to the customs and any such article, ship, or carriage shall apply accordingly.

No factory or magazine to be licensed in Sydney, or in towns notified.

27. Notwithstanding anything in this Act, no factory, or magazine shall be licensed for the manufacture or keeping of explosives within the boundaries of the city of Sydney, or within the boundaries of any other town or place to which the Governor may declare by notice in the Gazette that the above prohibition applies. But this enactment shall not apply to the licensing of premises for the keeping of explosives in accordance with the provisions of this Act.

Explosives must be in the packages prescribed, and be safe for transport, storage, and use.

28. It shall not be lawful to manufacture, import from places beyond New South Wales, keep, convey, or sell any explosive that is not in good order and condition, and safe for transport, storage, and use, or that is not packed, marked, branded, or labelled as prescribed by this Act or the regulations thereunder. Any person who manufactures, imports, keeps, conveys, or sells any explosive in contravention of this section, shall be liable to a penalty not exceeding fifty pounds.

The superintendent, or other person duly authorised by him, may take possession of, detain, and cause to be examined, any explosive and the packages containing the same, for the purpose of ascertaining the composition, quality, character, or condition of such explosive, and the manner in which it is packed and marked.

If any explosive so taken possession of, or detained, is, after due examination, found not to be an authorised explosive within the meaning of section six of this Act, or is found to be unsafe for transport, storage, or use, or is found not to be packed, marked, branded, or labelled as prescribed by this Act or the regulations thereunder, the superintendent may destroy, repack, or otherwise deal with the said explosive, or any part thereof, or the packages containing the same, as he may deem expedient for the public safety.

Any expenses incurred by the superintendent in the destruction, or repacking of, or in otherwise dealing with any such explosives, shall be repaid to him by the owner, importer, or consignee of the explosives, and may be recovered in the same manner as a penalty under this Act; and the superintendent may, until payment as aforesaid, refuse to deliver the explosives in respect of which the expenses have been incurred.

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29. When any explosive is kept in any factory, magazine, or licensed premises in excess of the quantity authorised by the license granted in respect of such factory, magazine, or premises, the explosive so kept in excess of the quantity so authorised may be seized by the superintendent or any inspector or constable, and may be forfeited; and the person keeping such explosive shall be liable to a penalty not exceeding fifty pounds.

Penalty for keeping a quantity of explosive in excess of that authorised by the license.

30. In every factory and magazine—

- (a) the factory or magazine, or any part thereof, shall not be used for any purpose not in accordance with the license; and
- (b) the terms of the license shall be duly observed, and the manufacture or keeping or any process in or work connected with the manufacture or keeping of explosives shall not be carried on except in accordance with those terms; and
- (c) the factory or magazine and every part thereof shall be maintained in accordance with the license; and any material alteration in the factory or magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, shall not be made except in pursuance of a new or amended license granted under this Act.

Observance in factories and magazines of terms of license.

See Explosives Act, 1875, s. 9.

In the event of any breach (by any act or default) of this section in any factory or magazine—

- (i) all or any part of the explosive or ingredients thereof in respect to which, or being in any building or machine in respect to which, the offence was committed may be forfeited; and
- (ii) the occupier shall be liable to a penalty not exceeding, in the case of the first offence, fifty pounds, and in the case of a second or any subsequent offence one hundred pounds, and in addition fifty pounds for every day during which such breach continues.

The occupier of a factory shall not be deemed guilty of a breach of this section for using, in a case of emergency, or temporarily, one building or part of a building in which any process of the manufacture is, under the terms of the license, carried on, for another process of the manufacture, if he do not carry on in such building or part more than one process at the same time, and if the quantity of explosive or ingredients thereof in such building or part do not exceed the quantity allowed to be therein, or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on, and if upon such use being continued after the lapse of twenty-eight days from the first beginning of such use he send notice of such use to the superintendent, and the superintendent do not require the discontinuance of such use.

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Special rules for regulation of workmen in factory and magazine.
See *Explosives Act, 1875, s. 11.*

31. Every occupier of a factory or magazine may, and if required by the Minister by writing under his hand shall, make special rules for the regulation of the persons managing or employed in or about such factory or magazine with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons, and the safety of the public.

Special rules made in pursuance of this section may impose such penalties, not exceeding forty shillings for each offence, as may be deemed just; but no penalties shall be so imposed unless the special rules relating to the factory, or magazine, have been approved by the Minister.

The occupier may, and if required by the Minister shall, with the sanction of the Minister, repeal, alter, or add to any special rules made in pursuance of this section.

If an occupier is required by the Minister to make, repeal, alter, or add to any such rules under this section, and fails within three months after such requisition to comply therewith to the satisfaction of the Minister, the Minister may make, repeal, alter, or add to the special rules, and anything so done by the Minister shall have effect as if done by the occupier with the approval of the Minister.

The granting, alteration, and renewing of licenses.

32. Licenses under this Act shall be granted, renewed, or altered by the Minister; but such licenses, and any renewal or alteration of the same may be signed by the superintendent on behalf of the Minister.

Any such license may be renewed by endorsement on the license, or by the issue of a document in the form prescribed.

All licenses shall expire on the thirtieth day of September in each year, but may be renewed.

The terms of the licenses shall be such as the Minister may think fit to insert in the licenses, and may include such conditions, prohibitions, and restrictions as the Minister may think necessary for the safety of the public, or as may be prescribed.

Adjoining places occupied together to be one factory.
Ibid. s. 27.

33. For the purposes of the provisions of this Act relating to the manufacture and keeping of explosives, all buildings and places adjoining each other and occupied together shall be deemed to be the same factory, magazine, or premises, and shall accordingly be included in one license.

License personal to grantee but may be renewed.
See *Ibid. s. 18.*

34. A license for a factory, magazine, or premises, or an importation license, shall be valid only for the person named in it, and, unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be renewed annually.

Provision in case of death, &c., of occupier of magazine, store, or licensed premises.
Ibid. s. 23.

35. If the occupier of a factory, magazine, or licensed premises, or the person holding an importation license dies, or becomes bankrupt, or has his affairs liquidated by arrangement, or becomes mentally incapable or otherwise disabled, the person carrying on the business of such

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such occupier or person shall not be liable to any penalty or forfeiture under this Act for carrying on the business or acting under the license during such reasonable time as may be necessary to obtain a license, so that he otherwise conform with the provisions of this Act.

36. All regulations and orders made in pursuance of this Act shall be published in the Gazette, and shall thereupon take effect as if they were enacted in this Act. All such regulations shall be laid before both Houses of Parliament within one month after they were so published if Parliament is then sitting, or if not then within one month after the commencement of the next session of Parliament.

Regulations and orders to have the force of law and to be published and laid before Parliament.

PART III.

ADMINISTRATIVE AND SUPPLEMENTAL.

Government control and inspection.

37. The superintendent shall have the powers of an inspector under this Act. The superintendent and all persons employed under him in charge of explosives shall be sworn in as special constables.

Superintendent to have the powers of an inspector.

38. Subject to the provisions of the Public Service Act, 1902, the Governor may appoint any fit persons to be inspectors for the purposes of this Act, and assign them their duties; and any such inspector is referred to in this Act as an "inspector."

Appointment of inspectors.
Explosives Act, 1875, ss. 53 and 54.

Any person who practises or acts, or is a partner with any person who practises or acts as a manufacturer, storer, carrier, importer or exporter of, or trader or dealer in an explosive, or holds any patent in connection with an explosive, or is otherwise directly or indirectly engaged or interested in any such manufacture, storage, conveyance, importation, exportation, trade, dealing, or patent, shall not act as superintendent or as an inspector under this Act.

39. The superintendent or an inspector shall have power to make such examination and inquiry as may be necessary to ascertain whether this Act is complied with, and for that purpose—

Powers of superintendent and inspectors.

Ibid. s. 55.

- (a) he may enter, inspect, and examine any factory or magazine, and every part thereof, at all times by day and night, but so as not to unnecessarily impede or obstruct the work in such factory or magazine, and may make inquiries as to the observance of this Act, and all matters and things relating to the safety of the public, or of the persons employed in or about such factory or magazine; and

(b)

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- (b) he may enter, inspect, and examine any licensed premises and every part thereof, in which any explosive is kept, at all reasonable times by day; and
- (c) he may require the occupier of any factory, magazine, or licensed premises, which he is entitled under this section to enter, or a person employed by such occupier therein, to give him samples of any explosive, or ingredients of an explosive therein, or of any substance therein, the keeping of which is prohibited, restricted, or regulated by or under this Act, or of any substance therein which he believes to be an explosive, or such ingredients or substance.

The occupier of every such factory, magazine, and licensed premises, his agents and servants, shall furnish the means required by the said inspector as necessary for every such entry, inspection, examination, and inquiry.

Any person who fails to permit the superintendent or such inspector to enter, inspect, examine, or make inquiries in pursuance of this section or to comply with any requisition of the superintendent or such inspector in pursuance of this section, or who in any manner obstructs the superintendent or such inspector in the execution of his duties under this Act, shall be liable to a penalty not exceeding one hundred pounds for each offence.

Notice to remedy
dangerous practices.
Explosives Act, 1875,
s. 56.

40. If in any matter which is not provided for by any express provision of this Act, the superintendent on his personal inspection or on the report of an inspector finds any factory or magazine for an explosive, or any part thereof, or any thing or practice therein or connected therewith to be unnecessarily dangerous or defective, so as, in his opinion, to tend to endanger the public safety or the bodily safety of any person, the superintendent may require the occupier of such factory, magazine, or store to remedy the same.

Where the occupier objects to comply with the requisition he may within one month after the making of the requisition appeal therefrom to the Minister.

No person shall be precluded by any contract from doing such acts as may be necessary to comply with a requisition or with any determination of the Minister on appeal from a requisition under this section, and no person shall be liable under any contract to any penalty or forfeiture for doing those acts if he gave notice of such contract to the superintendent at or before the time at which the superintendent made the requisition, or to the Minister before his determination on such appeal was made.

If the occupier fails to comply with the requisition or with the determination of the Minister on such appeal within twenty days after the expiration of the time for appealing to the Minister if there is no such appeal, or if there is such appeal, after the date of the determination

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determination of the appeal, he shall be liable to a penalty not exceeding twenty pounds for every day during which he so fails to comply :

Provided that the court, if satisfied that the occupier has taken active measures for complying with the requisition or with the determination of the Minister on appeal, but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before the court for punishing such failure, and if the works are completed within a reasonable time in the opinion of the court no penalty shall be inflicted.

41. Where any of the following officers, namely,—

- (a) the superintendent or any inspector, or the collector or any sub-collector of customs ; or
- (b) any member of the police force—
 - (i) specially authorised by a warrant of a justice ; or
 - (ii) specially authorised by written order from the superintendent of the explosives department, or any inspector appointed under this Act, or any superintendent or inspector of police, or the collector or any sub-collector of customs where it appears to any such superintendent, inspector, collector, or sub-collector, that the case is one of emergency, and that the delay in obtaining a warrant would be likely to endanger life,

Search for explosive when in place in contravention of this Act.

Explosives Act, 1875, s. 73.

has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat or ship), or that any explosive is in any such place in contravention of this Act, or that the provisions of this Act are not duly observed in any such place, such officer may, on producing, if demanded, in the case of any such superintendent, inspector, collector, or sub-collector, a copy of his appointment, and in the case of any other officer his authority, enter at any time, and if needs be by force, and as well on Sunday as on other days, the said place and every part thereof, and examine the same and search for explosives therein, and take samples of any explosive and ingredient of an explosive therein, and any substance reasonably supposed to be an explosive or such ingredient which may be found therein.

Any person who by himself or by others fails to admit into any place occupied by or under the control of such person any officer demanding to enter in pursuance of this section, or in any way obstructs such officer in the execution of his duty under this section, shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives and ingredients thereof which are at the time of the offence in his possession or under his control at the said place.

Where

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Where a member of the police force specially authorised by written authority other than a warrant of a justice enters and searches as above provided, a special report in writing of every act done by such member of the said force in pursuance of that authority and of the grounds on which it is done shall be forthwith sent by the person by whom or under whose authority it was done to the Minister.

Seizure and
detention of
explosives liable to
forfeiture.
Explosives Act, 1875,
s. 74.

42. Where any of the following officers, namely the superintendent or any inspector or the collector or any officer of customs, or any member of the police force has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act, he may seize and detain the same until it has been determined by a court of summary jurisdiction whether the same is or is not so liable to be forfeited; and with respect thereto the following provisions shall have effect:—

- (a) The officer seizing may require the occupier of the place in which it is seized (whether a building or not, or a carriage, boat, or ship) to detain the same in such place or in any place under the control of such occupier, or may remove it in such manner and to such place as will, in his opinion, least endanger the public safety and there detain it, and may, when the matter appears to him to be urgent and fraught with serious public danger, and he is the superintendent of the explosives department an inspector or the collector or any sub-collector of customs, or is authorised by an order from such superintendent or an inspector or the collector, or any sub-collector of customs, or a justice, or from a superintendent or inspector of police, cause the same to be destroyed or otherwise rendered harmless; but before destroying or rendering harmless the same he shall take and keep a sample thereof, and shall if required give a portion of the sample to the person owning the explosive or having the same under his control at the time of the seizure; and

Any such occupier who, by himself or by others, fails to keep the same when he is required in pursuance of this section to detain it, and such occupier or other person who, except with the authority of the officer seizing the same or of the superintendent of the explosives department or any inspector or the collector or any sub-collector of customs, or in the case of emergency for the purpose of preventing explosion or fire, removes, alters, or in any way tampers or deals with the same while so detained shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives and ingredients thereof which are at the time of the offence in his possession or under his control at the said place;

(b)

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- (b) the proceedings before a court of summary jurisdiction for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure;
- (c) the receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof;
- (d) the officer seizing the same may use, for the purposes of the removal and detention thereof, any ship, boat, or carriage in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements belonging to or drawing, or provided for drawing, such ship, boat, or carriage, and shall pay to the owner a reasonable compensation for such use, to be determined in case of dispute by a court of summary jurisdiction;
- (e) the same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accident; but the person seizing, removing, detaining, keeping, or conveying the same shall not be liable to any penalty, punishment, or forfeiture under this or any other Act, or to any damages for keeping or conveying the same, so that he use all such due precautions as aforesaid; and
- (f) the officer seizing the same or dealing with the same in pursuance of this section shall not be liable to damages or otherwise in respect of such seizure or dealing, or any act incidental to or consequential thereon, unless it is proved that he made such seizure without reasonable cause, or that he caused damage to the article seized by some wilful neglect or default.

Accidents.

43. The occupier of every factory, magazine, and licensed premises, and every person employed in or about the same, shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory, or magazine, or to the explosives therein or in the licensed premises, and shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of the work in such factory, magazine, or premises.

Any breach (by act or default) of this section in any factory, magazine, or licensed premises shall be deemed a breach of the regulations applying thereto.

44. Whenever there occurs any accident by explosion or by fire in or about or in connection with any factory or magazine, or any accident by explosion or by fire causing loss of life or personal injury in or about or in connection with any licensed premises, the occupier

Precautions against fire or explosion to be taken.
Explosives Act, 1875, s. 23.

Notice to be given of accidents by explosion in connection with a factory or magazine.
Ibid. s. 63.

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occupier of such factory, magazine, or premises shall forthwith send or cause to be sent notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the superintendent.

Where in, about, or in connection with any carriage, ship, or boat, either conveying an explosive or on or from which an explosive is being loaded or unloaded there occurs any accident by explosion or by fire and—

- (a) such accident has caused loss of life or personal injury; or
- (b) the amount of explosive conveyed or being loaded exceeds the prescribed amount,

the owner or master of such carriage, ship, or boat, and the owner of the explosive conveyed therein or being loaded or unloaded therefrom or one of them shall forthwith send or cause to be sent to the superintendent notice of such accident and of the loss of life or personal injury (if any) occasioned thereby.

Every such occupier, owner, or master as aforesaid who fails to comply with this section shall be liable to a penalty not exceeding twenty pounds.

Reconstruction of
buildings destroyed
by accident.
Explosives Act, 1875,
s. 64.

45. Where an accident by explosion or fire has occurred in, and wholly or partly destroyed a factory-magazine, or any magazine, the factory-magazine or magazine shall not be reconstructed, and any further supply of an explosive shall not be put therein except with the permission of the Minister, and any explosive put therein in contravention of this section shall be deemed to be kept in an unauthorised place, and the offence may be punished accordingly:

Provided that this enactment shall not prevent the reconstruction of a factory-magazine in any lawfully existing factory upon such site in the factory, and with such precautions as may seem reasonable to the Minister, due regard being had to the working of the factory, as well as to the safety of the public and of the persons employed therein.

Where an accident by fire or explosion in a factory has wholly or partly destroyed any building of such factory, as to which the superintendent has, previously to the accident, sent to the occupier a notice that the building is unduly near to some building or work outside the factory, such building shall be reconstructed only upon such site in the factory, and with such precautions as may seem reasonable to the Minister, due regard being had to the working of the factory, as well as to the safety of the public and of the persons employed therein.

Where an accident by explosion or by fire in a factory has wholly or partly destroyed two or more buildings in such factory, not more than one of such buildings shall be reconstructed except with the permission of the Minister: Provided that this enactment shall not apply to any building in a factory lawfully existing at the passing of this Act, if either both or all such buildings are incorporating mills,

or

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or if, as regards any other buildings the superintendent has not, previously to the accident, sent to the occupier a notice that such buildings are unduly near to each other.

Where a building is constructed on a different site in pursuance of this section, the Minister shall cause the necessary alterations to be made in the license, and such alterations shall be deemed to be part of the license.

The reconstruction of any building in contravention of this section shall be deemed to be a breach of the terms of the license, and shall be punished accordingly.

Protection of factories and magazines.

46. The Governor may, by notification in the Gazette, appoint and declare any space of land or water or of land and water surrounding any public magazine to be the precincts of such magazine, which it shall not be lawful for any person to enter without the authority of the Minister or superintendent. Governor may proclaim precincts of a public magazine. 40 Vic. No. 1, s. 32

If any person enters such precincts without such authority he shall be liable to a penalty not exceeding twenty pounds, and the superintendent or any person by his authority may forcibly remove the person so entering, or take him into custody for the purpose of being brought before a court of summary jurisdiction.

47. Any person who enters without permission, or otherwise trespasses upon any factory or magazine, or the land immediately adjoining thereto which is occupied by the occupier of such factory, or magazine, or on any wharf or place appointed under this Act for the loading or unloading of explosives, shall for every such offence, if not otherwise punishable, be liable to a penalty not exceeding five pounds, and may be forthwith removed from any such factory, magazine, land, or wharf by any member of the police force, or by the occupier of such factory, magazine, or wharf, or any agent or servant of, or other person authorised by such occupier. Penalty for trespassing on factory or magazine and removal of trespassers. Explosives Act, 1875, s. 77.

Any person other than the occupier of, or person employed in or about any factory or magazine, who is found committing any act which tends to cause explosion or fire in or about such factory, or magazine, shall be liable to a penalty not exceeding fifty pounds.

The occupier of any such factory, magazine, or wharf shall post up in some conspicuous place or places a notice or notices warning all persons of their liability under this section; but the absence of any such notice or notices shall not exempt a person from a penalty under this section.

48. Any person who is found committing any act for which he is liable to a penalty under this Act, and which tends to cause explosion or fire in or about any factory, magazine, railway, canal, harbour, Arrest without warrant of person committing dangerous offence. Ibid. s. 78.

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harbour, or wharf, or any carriage, ship, or boat in, upon, or about which there is any explosive, may be apprehended without a warrant by a member of the police force, or by the occupier of, or the agent or servant of, or other person authorised by the occupier of such factory, magazine, or wharf, or by any agent or servant of, or other person authorised by the railway authority or harbour authority, and be removed from the place at which he is arrested and conveyed as soon as conveniently may be before a court of summary jurisdiction.

Imprisonment for wilful act or neglect endangering life or limb.

Explosives Act, 1875, s. 79.

49. Where any person is guilty of any offence which under this Act is punishable by a pecuniary penalty only, and which in the opinion of the court that tries the case was reasonably calculated to endanger the safety of, or to cause serious personal injury to, any of the public or the persons employed in or about any factory, magazine, or registered premises, or any railway, canal, harbour, wharf, ship, boat, carriage, or place where such offence is committed, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding six months.

Penalties.

Penalty for contravening the Act.

50. If any person violates any of the provisions of this Act with respect to which no penalty, or in respect of which forfeiture only is specified, he shall, on conviction, be liable to a penalty not exceeding ten pounds.

Legal procedure.

Recovery of penalty and declaration and enforcing of forfeitures.

40 Vic. No. 1, s. 57.

51. Any penalty for any breach of this Act, and any fees, charges, or expenses imposed by this Act may be recovered in a summary way before, and any forfeiture incurred under the provisions of this Act may be declared and enforced by a court of summary jurisdiction.

And such court may, by order, prohibit a person from doing any act for doing which such person has been twice convicted under this Act, and may order any person disobeying such summary order to be imprisoned for any period not exceeding six months.

Information for forfeiture proceedings against an unknown owner.
Ibid. s. 89.

52. Where any explosive or ingredient of an explosive is alleged to be liable under this Act to be forfeited, any information or complaint may be laid against the owner of such explosive or ingredient for the purpose only of enforcing such forfeiture; and where the owner is unknown or cannot be found the court may cause a notice to be advertised stating that unless cause is shown to the contrary at the time and place named in the notice such explosive will be forfeited.

And

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And at such time and place the court after hearing the owner or any person in his behalf (who may be present) may order all or any part of such explosive or ingredient to be forfeited.

53. Where a court before whom a person is convicted of an offence against this Act has power to forfeit any explosive owned by or found in the possession or under the control of such person, the court may, if it think it just and expedient, in lieu of forfeiting such explosive, impose upon such person in addition to any other penalty or punishment a penalty not exceeding such sum as appears to the court to be the value of the explosive so liable to be forfeited.

Penalty in lieu of forfeiture.
40 Vic. No. 1, s. 89.

54. All penalties imposed in pursuance of this Act by a court of summary jurisdiction shall be paid to such persons and in such manner as the Minister may direct, and shall be carried to the credit of the Consolidated Revenue Fund.

Application of penalties and disposal of forfeitures.
Ibid., s. 96.

An explosive or ingredient forfeited in pursuance of this Act may be sold, destroyed, or otherwise disposed of in such manner as the court declaring the forfeiture may direct, or if no such direction be given, or so far as such direction does not apply, as the Minister may direct, and the proceeds of any such sale or disposal shall be paid, applied, and accounted for in like manner as penalties under this Act.

The receptacle containing any such explosive or ingredient may be forfeited, sold, destroyed, or otherwise disposed of in like manner as the contents thereof.

The provisions of this Act with respect to an explosive or the ingredients of an explosive seized in pursuance of this Act, and to the officer seizing, removing, detaining, keeping, or conveying, or otherwise dealing with the same, shall apply to any explosive and ingredient declared by any court to be forfeited, and to the officer removing, detaining, keeping, conveying, selling, destroying, or otherwise disposing of the same.

The court declaring the forfeiture or the Minister directing the sale or other disposal of any forfeited explosive or ingredient, and the receptacles thereof, may require the owner of such explosive or ingredient to permit the use of any ship, boat, or carriage containing such explosive or ingredient for the purpose of such sale or disposal, upon payment of a reasonable compensation for the same to be determined in case of dispute by a court of summary jurisdiction; and where the explosive or ingredient is directed to be destroyed, the owner or person having possession of such explosive or ingredient, and the owner and master of the ship, boat, or carriage containing the same, or some or one of them, shall destroy the same accordingly, and if the court or the Minister so order, the ship, boat, or carriage may be detained until the same is so destroyed; and if the Minister is satisfied that default has been made in complying with any such direction by him or by a court, and that the detention of the ship,
boat,

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boat, or carriage will not secure the safety of the public, and that it is impracticable, having regard to the safety of the public or of the persons employed in such destruction to effect the same without using such ship, boat, or carriage, or otherwise dealing with such ship, boat, or carriage, in like manner as if it were a receptacle for an explosive forfeited under this Act, the Minister may direct such ship, boat, and carriage, or any of them to be, and the same may accordingly be, so used or dealt with.

Exemptions and saving clauses.

Exemption of occupier from penalty upon proof of another being the real offender.
Explosives Act, 1875, s. 87.

55. Where any offence under this Act for which the occupier of any factory, magazine, or premises is liable to a penalty has in fact been committed by some other person, such other person shall be liable to a penalty not exceeding twenty pounds.

Where such occupier is charged with an offence so committed by some other person, the occupier shall be exempt from any penalty or forfeiture upon proving that he had supplied proper means and issued proper orders for the observance and used due diligence to enforce the observance of this Act, and that the offence in question was actually committed by some other person without his connivance.

Where the superintendent or an inspector is satisfied before instituting a proceeding for any offence under this Act against an occupier that such occupier if such proceedings were instituted against him would, under the foregoing provisions of this section, be exempt from any penalty or forfeiture, and the occupier gives all facilities in his power for proceeding against and convicting the person whom the superintendent or inspector believes actually to have committed the offence, the superintendent or inspector shall proceed against that person in the first instance without first proceeding against the occupier.

Where any offence under this Act for which any warehouseman, carrier, or occupier of a wharf or dock, or owner or master of any ship, boat, or carriage is liable to a penalty or forfeiture has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, occupier of a wharf or dock, owner, or master were such an occupier as above in this section mentioned.

Carrier and the master or owner of a ship or boat exempted on conviction of the real offender.
Explosives Act, 1875, s. 88.

56. Where a carrier or owner or master of a ship or boat is prevented from complying with this Act by the wilful act, neglect, or default of the consignor or consignee, or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, such consignor, consignee, or other person who is guilty of such wilful act, neglect, default, or refusal shall be liable to the same penalty to which the carrier, owner, or master is liable for a breach of this Act, and his conviction shall exempt the carrier, owner, or master from any penalty or forfeiture incurred under this Act.

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57. The Governor may by order notified in the Gazette exempt from the operation of all or any of the provisions of this Act any specified explosive or any specified article containing any specified explosive which, in the opinion of the Governor, may safely be so exempted, and if he deems it expedient the Governor may make special regulations for the manufacture, importation, storage, conveyance, or sale of any explosive so exempted, and may in those regulations impose any penalty not exceeding twenty pounds for any breach of the same.

Governor may exempt particular explosives from the operation of the Act.

58. Nothing in this Act shall affect the provisions of section fifty-five subsection two of the Mines Inspection Act, 1901, nor rule twelve of section forty-seven of the Coal Mines Regulation Act, 1902.

Saving.

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

Exceptions from operation of the Act. 40 Vic. No. 1, s. 48.

- (a) to any explosive, the property of His Majesty, on board any of His Majesty's ships;
- (b) to the keeping of explosives in any magazine in which explosives the property of His Majesty are exclusively kept, or to the conveyance of any explosive to and from any magazine in pursuance of a special order of the Minister, or under the control or management of any officer of His Majesty's navy or army, or any person authorised by him;
- (c) to any gunpowder, rockets or other explosive on board any vessel in pursuance of the provisions of the Merchant Shipping Act, 1894, or any Acts amending the same, or any order or regulation made under any of those Acts: Provided that the conveyance and keeping thereof on board the vessel while the vessel is in harbour shall be subject to the regulations made under this Act;
- (d) to any explosive supplied to or used by His Majesty's colonial or volunteer forces.

60. Nothing in this Act shall render liable to any penalty or forfeiture the superintendent of the explosives department, or the owner or master of any ship or boat, or any carrier or warehouseman, or any person having charge of an explosive, for any act done in breach of any provision of this Act, if he proves that by reason of stress of weather, inevitable accident, or other emergency the doing of such act was under the circumstances imperative.

Saving clause for acts done from necessity. Ibid. s. 54.