

OIL-BURNING APPLIANCES ACT.

Act No. 13, 1965.

Elizabeth II, No. 13, 1965 An Act to make provision for minimum standards of safety in respect of certain oil-burning appliances; and for purposes connected therewith. [Assented to, 1st November, 1965.]

BE it enacted by the Queen'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 :—

Short title. 1. This Act may be cited as the "Oil-burning Appliances Act, 1965".

2.

2. (1) In this Act, unless the context otherwise indicates or requires—

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Interpre-
tation.

“Credit-sale agreement” means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments.

“Hire-purchase agreement” means a letting of goods with an option to purchase.

“Inspector” means inspector within the meaning of the Factories, Shops and Industries Act, 1962, or any Act amending or replacing that Act.

“Oil-burning appliance” means any appliance suitable for use in a dwelling-house or other residential premises and designed for the production of heat, light or refrigeration by means of or by the aid of the burning of kerosene or any other fuel oil.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

(2) In this Act any reference to component parts of oil-burning appliances includes a reference to burners, wicks and accessories.

3. (1) If any person in the course of a business sells, or lets under a hire-purchase agreement or on hire, or has in his possession for the purpose of selling or so letting, an oil-burning appliance and either—

Prohibition
of sale,
etc., of
oil-burning
appliances
or
component
parts not
complying
with
regulations.
cf. 8 & 9
Eliz. 2,
c. 53, s. 2.

(a) the appliance, or a component part embodied in it, does not comply with any standard of safety prescribed for the class or description of oil-burning appliances or, as the case may be, component parts, to which the appliance or component part belongs;

or

(b)

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- (b) the appliance does not bear instructions in compliance with the requirements of any regulations made under paragraph (b) of subsection one of section six of this Act,

he shall, subject to the provisions of this section, be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(2) If any person in the course of a business sells, or has in his possession for the purpose of selling, a component part intended for, but not embodied in, an oil-burning appliance and the component part does not comply with any standard of safety prescribed for the class or description of component parts to which it belongs, he shall, subject to the provisions of this section, be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(3) A person shall not be guilty of an offence—

(a) under subsection one of this section if he proves that—

- (i) he reasonably believed that the appliance would not be used in New South Wales;
- (ii) in the case of a letting on hire, the letting was incidental to the letting of premises;
- (iii) in the case of a sale under a credit-sale agreement or a letting under a hire-purchase agreement, he had at no time possession of the appliance and only became the owner thereof at the time of entering into the agreement; or
- (iv) in the case of any letting, the letting was lawful at the time the hirer or the hirer's predecessor in title obtained possession of the appliance;

(b) under subsection two of this section if he proves that he reasonably believed that the component part would not be used in New South Wales;

(c)

(c) under paragraph (a) of subsection one or under subsection two of this section in relation to an oil-burning appliance or a component part if he proves that he had reasonable cause to believe that the appliance or, as the case may be, component part, complied with any standard of safety prescribed for the class or description of oil-burning appliances or component parts to which it belongs; or

(d) under subsection one or two of this section in relation to the sale, letting or possession of an oil-burning appliance or component part—

(i) if he proves that the appliance or part was manufactured in or imported into New South Wales before the commencement of the regulations prescribing the standard or requirements alleged not to have been complied with; and

(ii) if the informant does not prove that the sale, letting or possession was made contrary to any conditions prescribed under paragraph (c) of subsection one of section six of this Act or that appliance or component part, as the case may be, did not belong to a class or description prescribed under that paragraph.

(4) The sale, or the possession for the purpose of sale, of an oil-burning appliance or component part shall not be an offence against this Act if the sale or the possession, as the case may be, is authorised by regulations made under paragraph (d) of subsection one of section six of this Act.

4. (1) Subject to the provisions of this section an inspector may at any reasonable time—

Powers of inspectors.

(a) enter any place where oil-burning appliances or component parts of such appliances are sold, or let under hire-purchase agreements or on hire, or kept

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- kept for any purpose of advertisement or trade, or where he has reasonable cause to believe that such appliances or parts are sold or are so let or so kept;
- (b) inspect any oil-burning appliances or component parts of such appliances in that place;
 - (c) take any oil-burning appliance, or any component part apparently intended for, but not embodied in, an oil-burning appliance, found in any such place, paying a just price for it;
 - (d) examine with respect to matters under this Act any person employed or engaged in any such place; or
 - (e) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Act are being complied with.

(2) An inspector, on exercising in any place any power conferred on him by this section, shall, if so requested by any person apparently in charge of such place or of any work carried out therein, produce the certificate of his appointment as an inspector.

(3) No inspector shall have any authority under this Act to enter a dwelling-house or other residential premises, or the land used in connection therewith, unless some manufacture or trade is carried on therein.

(4) Every person who wilfully delays or obstructs an inspector in the exercise of any power conferred on him by this section, or who conceals any person from an inspector or prevents any person from appearing before or being examined by an inspector, or attempts so to conceal or prevent any person, shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds: Provided that no person shall be required to answer any question or give any evidence incriminating himself.

5. (1) Proceedings for an offence against this Act may be taken and prosecuted by an inspector acting with the authority of the Minister.

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Proceedings.
cf. Act No.
43, 1962,
s. 145.

(2) In a prosecution for any such offence, an authority to prosecute, purporting to have been signed by the Minister, shall be prima facie evidence of such authority without proof of the Minister's signature.

(3) All proceedings for offences against this Act may be disposed of summarily before a stipendiary magistrate or an industrial magistrate appointed under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

(4) The provisions of the Industrial Arbitration Act, 1940, and of any Act amending that Act, and the regulations made thereunder relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply mutatis mutandis to proceedings before a stipendiary magistrate or an industrial magistrate for offences against this Act.

(5) The informant may conduct his case himself or by an officer of the Department of Labour and Industry or by the informant's counsel or attorney or an agent duly authorised by him in writing.

6. (1) The Governor may make regulations not inconsistent with this Act—

Regulations.
cf. 8 & 9
Eliz. 2,
c. 53, s. 1.

- (a) prescribing for oil-burning appliances of such class or description as may be prescribed, or component parts, being parts of such a class or description as may be prescribed, standards of safety for reducing or preventing the risk of fire;
- (b) requiring oil-burning appliances of such class or description as may be prescribed to bear, by means of such a label or such other means as may be prescribed, instructions on such matters as may be prescribed as to the working or use of the appliances;

(c)

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- (c) authorising, subject to conditions or otherwise, the sale, letting under hire-purchase agreements or on hire, or possession for the purpose of selling or so letting, of—
- (i) any prescribed class or description of oil-burning appliances or component parts, manufactured in or imported into New South Wales before the commencement of any regulation made under paragraph (a) or (b) of this subsection, as the case may be, and specified in the regulations made under this paragraph; or
 - (ii) oil-burning appliances containing any prescribed class or description of component parts where such parts have been so manufactured or imported;
- (d) authorising, subject to conditions or otherwise, the sale or possession for the purpose of sale of oil-burning appliances or component parts or any prescribed class or description of such appliances or parts for prescribed purposes or in prescribed circumstances;
- (e) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may contain different provisions relating to different classes or descriptions of oil-burning appliances or component parts and may prescribe tests for ascertaining whether any such appliances or parts comply with prescribed standards of safety.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c)

(c) be laid before both Houses of Parliament within No. 13, 1965 fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

