

## Memo. and Certificate to accompany the Explosives Bill.

THE principal Act here consolidated, 40 Vic. No. 1, is one of the worst drawn in the Statute Book. In places it is entirely inconsistent with itself, in other places it is unintelligible. A great deal of it is taken up with provisions which should be in regulations instead of in a statute. The consequence is that during the twenty-four years of its operation the department has been compelled in some cases to disregard it, in others to originate a practice of which the most that can be said is that it is not absolutely inconsistent with the Act. The system so established has worked well, has given rise to no complaints, and has provided both for the public safety and the public convenience. Unless some such course had been taken the Act would have been quite unworkable. In the present consolidation, therefore, as much as was possible to the limited powers of the Commission has been done, whilst removing ambiguities and inconsistencies, and settling doubts, to approximate the Act to the system which has been so long in operation. In this the assistance of Mr. Williams, the Superintendent of Mercantile Explosives and Ordnance Storekeeper, has been of great value.

*Clause 9 (3).* The words "or attempted to be landed" which were inadvertently omitted, are now supplied.

*Clause 15.* The provisions of sec. 15 of 40 Vic. No. 1 as to Fort Denison and the temporary magazine there are obsolete.

*Part IV.* The wording of the old sections here consolidated was particularly confused. "Special" licenses are mentioned as if only one kind of license under that name was intended, but the Schedule of Fees shows that two were intended. One is now, therefore, called a "magazine" license. Old section 25 was most bewildering and absolutely useless. Many changes have been made in the wording, which do not alter the meaning so far as it can be ascertained.

*40 Vic. No. 1, sec. 29.* This section appears to be practically quite inconsistent with section 40 of the same Act. Mr. Williams says that it is so in fact, and, of necessity, has been ignored ever since the passing of the Act.

*Clause 44.* The power to make regulations as to "explosives" in magazines has been extended to "explosive substances."

*40 Vic. No. 1, sec. 52.* This is a mere police provision already dealt with in the Police Offences Act.

I certify that, save as aforesaid, this Bill solely consolidates and in no way alters, adds to, or amends the law as contained in the Acts therein consolidated.

CHAS. G. HEYDON,  
Commissioner for the Consolidation of the Statute Law.



# Explosives Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
40 VICTORIA No. 1.		
1	.....	Omitted ; short title.
2	4	
3	.....	Part omitted ; repealing and saving.
4	5 (1)	
5	6	Omitted ; commencement of Act.
6	5 (2), 7	
7	12	
8	8	
9	9	
10	10	
11	11	
12	13	
13	14	
14	17	
15	15	Part omitted as obsolete.
16	16	
17	18	
18	19	
19	20	
20	21	
21	22	
22	23	
23	24	
24	25	
25	25	
26	26, 28	
27	27, 28	
28	29, 30	
29	.....	Omitted as repugnant to s. 40 of 40 Vic. No. 1.
30	31	
31	32	
32	34	
33	35	
34	36	
35	37	
36	38	
37	39	
38	40, 43	
39	41	
40	33, 42	
41	44	
42	45	
43	50	
44	46	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
40 VICTORIA No. 1— <i>continued.</i>		
45	47	
46	48	
47	49	
48	51	
49	52 (1), (2)	
50	52 (3)	
51	53	
52	.....	Omitted as unnecessary: see Police Offences Act.
53	54	
54	55	
55	56	
56	57	
57	.....	Omitted as unnecessary: see Act No. 71, 1900, s. 4.
58	58	
59	.....	Omitted as unnecessary: see Act No. 71, 1900, s. 9.
60	59	
61	.....	Omitted as unnecessary: see Act No. 71, 1900, ss. 15 and 18.
48 VICTORIA No. 19.		
1	9, 15, 44, 47, 48, 50	
2	.....	Omitted; short title.

Legislative Council.

No. , 1901.

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## A BILL

To consolidate the Acts relating to the importation, storage,  
and removal of gunpowder and other explosive substances.

[MR. WISE ;—21 August, 1901.]

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**B**E 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.*

1. This Act may be cited as the "Explosives Act, 1901," and Short title and  
division.  
is divided into Parts, as follows :—

PART I.—*Preliminary.*—ss. 1-5.

PART II.—*Import and export of explosives and explosive sub-  
stances.*—ss. 6-17.

PART III.—*Removal and carriage of explosives.*—ss. 18-23.

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PART IV.—*Storage of explosives and licenses.*—ss. 24–29.

PART V.—*Keeping and sale of explosives.*—ss. 30–33.

PART VI.—*Magazines and their management.*—ss. 34–40.

PART VII.—*Registration of premises.*—ss. 41–43.

PART VIII.—*Regulations.*—ss. 44, 45.

PART IX.—*Rent, charges, and fees.*—ss. 46–50.

PART X.—*Miscellaneous.*—ss. 51–55.

PART XI.—*Legal proceedings.*—ss. 56–59.

Repeals.  
First Schedule.

2. The Acts mentioned in the First Schedule hereto are hereby repealed.

Savings.

3. (1) All regulations made under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

(3) All magazines proclaimed or licensed, and all premises registered under the Acts hereby repealed, shall be deemed to have been proclaimed, licensed, or registered respectively under this Act.

(4) Every proclamation and notification made under any of the Acts hereby repealed, the operation of which is not exhausted at the passing of this Act, shall continue to have effect as if it had been made under the corresponding provisions of this Act.

(5) Every license granted under any of the Acts hereby repealed, and existing at the time of the passing of this Act, shall continue in force for the unexpired period of such license, and shall be deemed to have been granted hereunder.

This Act not to apply  
to the Act for regulating  
the storage and sale  
of kerosene.  
40 Vic. No. 1, s. 2.  
Interpretation.  
*Ibid.* s. 4.

4. Nothing in this Act shall affect the Storage and Sale of Kerosene Restriction Act of 1871.

5. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Boat” means boat, barge, punt, or any other kind of small vessel.

“Building” means any stone, brick, or other building of whatever materials.

“Collector of Customs” means the Collector or any other officer of Customs.

“Dealer” means seller or purchaser for trading purposes or the manufacturer of explosives or explosive substances.

“Explosive” means gunpowder, nitro-glycerine, dynamite, lithofracteur, blasting powder, picric powder, gun-cotton, pyrolignoine,

pyrolignoine, or any explosive preparation of vegetable fibre, fulminate of mercury, or of other metals, and every other substance, whether similar to those above mentioned or not, which may from time to time be proclaimed by the Governor.

“Explosive substance” means petroleum, kerosene, picrate of potash, or any explosive substance which is now or may hereafter be manufactured, coloured fires, cartridges, or ammunition of which an explosive forms a part, fireworks, rockets, detonators, and every adaptation or preparation of an explosive or an explosive substance as above defined.

“Importer” means the importer, owner, consignee, or other person whose name appears in the bill of lading, ship’s manifest, or invoice of any explosive or explosive substance on board any vessel.

“Inspector of police” means the inspector or any other officer of police.

“Justice” means justice of the peace.

“Magazine” means any building, hulk, or other floating vessel, proclaimed by the Governor to be either a public or licensed magazine for the storage of explosives or explosive substances.

“Ordnance Storekeeper” means the Ordnance Storekeeper or any officer or person appointed for any special duty under this Act so far as such duty is concerned, or any person having the custody of a public magazine.

“Packages” includes barrels, metal cases or canisters, or wooden boxes containing such.

“Precincts” means the ground or water surrounding any magazine proclaimed to be its precincts.

“Premises” includes any store, shop, warehouse, cellar, or other building.

“Prescribed” means prescribed by regulations made under this Act.

“Registered premises” means premises registered under Part VII of this Act.

“Van” means van, truck, waggon, dray, or other vehicle used either on the road or rail.

(2) The provisions of this Act and the regulations thereunder shall, so far as they affect the importation, landing, storage, and removal into or out of any magazine, of explosives, apply to cartridges. Certain provisions to apply to cartridges. 40 Vic. No. 1, s. 6.

## PART II.

*Import and export of explosives and explosive substances.*

Masters of vessels  
to hoist a signal.  
40 Vic. No. 1, s. 5.

6. The master or officer in charge of any vessel arriving in Port Jackson or any other port within New South Wales having any explosive on board besides the ship's stores in ship's magazines, shall, immediately after entering such port, hoist a pilot jack at the main-mast head and keep it flying until all the explosives on board have been landed according to the provisions of this Act, and in default shall be liable to a penalty not exceeding twenty pounds.

Where explosives  
are to be received in  
Port Jackson.  
*Ibid.* s. 6.

7. The master of every vessel arriving in Port Jackson shall deliver up, in conformity with the provisions of this Act, all explosives on board such vessel, whether as cargo or stores, before such vessel shall be allowed to pass to the westward of Garden Island, and shall not afterwards have on board any explosive on pain of forfeiture of all found on board, and the packages in which the same are contained, and shall also be liable to a penalty not exceeding fifty pounds.

Ordnance Store-  
keeper to cause  
explosives, &c., to  
be landed.  
*Ibid.* s. 8.

8. (1) Upon the display of the signal directed by section six, the Ordnance Storekeeper shall, without unnecessary delay, cause the requisite licensed boats to proceed to the said vessel, and shall at once demand and receive from the master thereof all explosives then being on board, and shall thereupon give to the master a receipt describing the packages containing the same in the form contained in the Second Schedule hereto, which receipt shall be deemed in law to maintain any lien which the master or owner of the vessel may have upon the explosives and cartridges therein described for freight or other lawful charges upon the same respectively.

Second Schedule.

And deposited in  
magazine.

(2) The Ordnance Storekeeper shall thereupon deposit the said explosives and cartridges in the magazine appointed in that behalf.

Importer to send  
description to  
Ordnance Store-  
keeper.

(3) Every importer thereof shall, within forty-eight hours after the arrival of the said vessel, deliver to the Ordnance Storekeeper a full description of the said explosives and cartridges, showing the quantity with the marks and numbers of the packages containing the same.

Entry of description,  
&c., and certificate.

(4) The Ordnance Storekeeper shall enter such description, together with the name of such importer, in a book to be kept for that purpose, and shall thereupon give a certificate of such entry to the said importer in the form contained in the Second Schedule hereto.

Second Schedule.

How delivery of  
explosives, &c.,  
obtained.

(5) No person shall be entitled to receive any explosive or cartridges from the magazine unless he produces such certificate to the Ordnance Storekeeper, and has paid the lighterage from the vessel and the storage and any other charges authorised by this Act.

Explosives to be landed  
within the hours of six  
to four in the daytime;  
40 Vic. No. 1, s. 9.  
48 Vic. No. 19, s. 1.

9. (1) All explosives exceeding twelve pounds weight shall be discharged from the vessel importing the same between the hours of six in the morning and four in the afternoon. (2)



(2) As often as any quantity exceeding twelve pounds weight is so removed the same shall be taken direct from the vessel to such magazine as has been appointed for its reception, either in Government or other boats duly licensed by the Minister in that behalf, or by such other mode of transit as may be directed by the Minister, but at the expense of the importer of all such explosives, who shall pay the prescribed charges for lighterage to the Ordnance Storekeeper.

(3) Any person landing or attempting to land any explosive contrary to this or the preceding section shall be liable to a penalty not exceeding twenty shillings for every pound weight so landed or attempted to be landed.

10. No explosive taken from any magazine shall be landed in any other part of the harbours of Port Jackson or Newcastle than at the wharf or place appointed from time to time by proclamation of the Governor, nor at any other time than between the hours of six and nine o'clock in the morning, under a penalty in either case not exceeding twenty shillings for every pound weight so landed.

11. All boats employed in the landing or removal of explosives exceeding fifty pounds weight in the harbours of Port Jackson or Newcastle shall be thoroughly covered in or housed over, and shall be sufficiently provided with the prescribed coverings, and shall also fly a danger signal to be prescribed by the Minister and notified in the Gazette, and any person (whether employed by the Ordnance Storekeeper or not) who removes, or causes to be removed, explosives exceeding fifty pounds weight in any other manner shall be liable to a penalty not exceeding twenty shillings for every pound weight so removed.

12. (1) If any explosive or explosive substance exceeding twelve pounds weight is imported in any vessel arriving in Port Jackson or any other port within New South Wales, whether by itself or packed with any other merchandise, and the package containing the same is not marked so as to show that an explosive or explosive substance is therein contained, and to specify the same and also showing the quantity thereof, such explosive or explosive substance, together with the package containing the same, and the said merchandise, shall be liable to seizure and confiscation.

(2) Every importer of the same who wilfully neglects to report the importation of such explosive or explosive substance to the Collector of Customs within forty-eight hours after the entering of the said vessel shall be liable to a penalty not exceeding ten pounds.

13. (1) No explosive or explosive substance (except kerosene) exceeding twelve pounds weight shall be shipped on board any vessel in the harbours of Port Jackson or Newcastle without a special notification thereof to the Collector or other principal officer of

Customs,

Customs, nor shall the same be shipped, delivered, or conveyed in any boat or van without a plain and durable brand or superscription on the package containing the same, showing what explosive or explosive substance is therein contained.

Penalty.

(2) If any person so ships or delivers, or causes to be shipped or delivered, any such explosive or explosive substance without such notification, or without such brand or superscription, or if any master of any vessel knowingly receives on board, or permits to be landed, any such explosive or explosive substance without such notification and brand or superscription, every such person or master so offending shall be liable to a penalty not exceeding fifty pounds.

Where explosives are to be received in Port Jackson for export.

40 Vic. No. 1, s. 13.

14. No person shall ship or attempt to ship on any vessel lying in Port Jackson and outward bound, and no master of any such vessel shall knowingly or negligently receive or permit to be received on board, any explosive exceeding fifty pounds weight before such vessel has reached to the eastward of Garden Island, under a penalty not exceeding twenty shillings for every pound weight so shipped or attempted to be shipped, or so received or attempted to be received.

Exportation of gunpowder.

*Ibid.* s. 15.

43 Vic. No. 19, s. 1.

15. (1) When any explosive is delivered from any magazine in the harbour of Port Jackson for shipment, the exporter or owner thereof on receiving the permit for the same shall give notice in writing to the Ordnance Storekeeper of the day it will be required to be placed on board the vessel by which it is intended to be exported, with every document required by law for shipping the same.

(2) The Government will not be responsible for any short shipments made through any omission of the exporter thereof to furnish a proper notice in writing of such shipment or for any incomplete arrangements for the same, or for delivery at other than the hours aforesaid of any explosives which may be short shipped.

Storage payable on explosives removed temporarily.

40 Vic. No. 1, s. 16.

16. Any explosive exported from Port Jackson and intended for storage in any other magazine at any other port of New South Wales provided with an approved magazine shall be stored free in the latter for three days if intended for immediate transmission into the interior, or if for general issue shall be assessed at the prescribed rates:

Provided always that due and proper notification of such transfer from one magazine to another is given to the Ordnance Storekeeper, and in the absence of such notice the Ordnance Storekeeper may treat such explosive as an original importation.

Coasting steamers, &c., prohibited from carrying explosives without authority.

*Ibid.* s. 14.

17. No steam-vessel carrying passengers departing from any port or plying on any river of New South Wales shall carry any explosive either as stores or cargo, except such signals and reasonable quantity of gunpowder as may be required for the purpose of making signals; and the master or owner of any steam-vessel so carrying passengers, on board which any explosive is found, contrary to this section, shall be liable to a penalty not exceeding fifty pounds nor less than ten pounds:

Provided

Provided always that where there is no available communication, except by steam-vessels carrying passengers, with any port or place, it shall be lawful to ship any explosive not exceeding fifty pounds weight by such steam-vessel on condition that it is provided with a special compartment or magazine, and that such steam-vessel shall also carry a danger flag on entering any port or coming near to any place in New South Wales for discharging cargo.

PART III.

*Removal and carriage of explosives.*

18. (1) All explosives exceeding twelve pounds weight when in course of removal shall be in barrels closely joined and hooped, or in copper, zinc, or tinned cases or canisters enclosed in wooden boxes or barrels, and not containing more than one hundred pounds weight of powder or other explosive, and so secured that no part of the explosive can be scattered in its removal.

Explosives to be made secure in proper packages.  
40 Vic. No. 1, s. 17.

(2) If any of such packages are defectively constructed or made contrary to this section, or to any regulation which may be made by the Minister, the Ordnance Storekeeper may, if he deems it necessary, remove the contents of the said packages into secure and properly-constructed barrels or boxes, and charge and receive from the importer for such removal not less than ten shillings and sixpence per barrel or box so repacked, and shall pay to the Colonial Treasurer the difference between the amount received by him and the actual cost of such re-packing, and the Ordnance Storekeeper may refuse to deliver to the said importer the explosive so re-packed until the said charge is paid :

Provided that if such re-packing cannot be done without danger the Ordnance Storekeeper may order the said explosive so defectively packed to be destroyed.

19. (1) Any van used in conveying explosives exceeding one hundred pounds net weight within the city of Sydney or within the boundaries of any city or town mentioned in the Third Schedule hereto, or within the boundaries of any city or town hereafter proclaimed by the Governor, shall be specially constructed for that purpose, and shall be lined at the bottom and on each side with wood fastened with copper bolts or copper nails and so constructed that no iron or steel can come in contact with the package containing any explosive.

Quantity of explosives to be conveyed and construction of delivery vans.  
*Ibid.* s. 18.  
Third Schedule.

(2) Not more than one ton weight of any explosive shall be conveyed in any van within the city of Sydney or within any such other city or town as above mentioned unless such van forms part of a Government railway train.

(3)

(3) If any van used in carrying explosives forms part of any Government railway train any quantity of explosives not exceeding two tons weight may be conveyed therein.

(4) The word "Explosives" shall always be painted on every such van in capital letters not less than six inches long.

(5) Every such van shall have a complete covering of wood or of painted cloth or woollen cloth tilts over all the explosives conveyed therein.

(6) Every person who in the conveyance of any explosive fails to comply with the provisions of this section shall for every such offence be liable to a penalty not exceeding ten pounds, and to the forfeiture of all the explosives and their packages then being in such van :

Provided that explosives carried on the Government Railways shall not be so forfeited.

How explosives are to be packed for land carriage.  
49 Vic. No. 1, s. 19.

**20.** All explosives conveyed by vans shall be packed in the manner required by section eighteen, and in addition thereto any kegs of blasting or loose powder shall be placed in bags or sacks and so secured that no part of the explosive can be scattered in the removal thereof, and no package shall contain more than one hundred pounds weight.

Delivery of explosives by Ordnance Storekeeper.  
*Ibid.* s. 20.

**21.** (1) All applications for the delivery of any explosive deposited in any magazine shall be made to the Ordnance Storekeeper, who shall deliver the same to the holder of the certificate thereof or other person duly authorised to receive the same.

(2) If intended for delivery in the city of Sydney or suburbs or at any port in New South Wales the same shall be delivered at the wharf or place appointed by the Governor during the hours provided by this Act or any regulations made hereunder.

(3) If intended for shipment the same shall be delivered to the vessel by which the same is intended to be exported between the hours of seven in the morning and four in the afternoon; or,

(4) If intended to be carried by the railway the same shall be delivered between the hours of seven in the morning and noon on the days appointed for the conveyance of explosives.

Delivery and removal of explosives to and from railway stations.  
*Ibid.* s. 21.

**22.** (1) Whosoever takes any explosive exceeding one hundred pounds net weight to any railway station without obtaining from the traffic manager a certificate that he is prepared to receive it shall be liable to a penalty not exceeding fifty pounds.

(2) Any explosive exceeding one hundred pounds net weight consigned to any railway station shall, if not removed from such railway station within twenty-four hours after arrival, be liable to forfeiture.

23. Whosoever carries any gunpowder, exceeding two pounds weight, or other explosive, in any omnibus, coach, or other public vehicle, used for the carriage of passengers, or in any licensed boat, any other passenger being therein, shall be liable to a penalty not exceeding five pounds.

Gunpowder not to be carried in public vehicles or waterman's boats, &c.  
40 Vic. No. 1, s. 22.

## PART IV.

*Storage of explosives and licenses.*

24. (1) Explosives shall not be kept at any place except as follows—

Explosives to be kept only in magazines or authorised places.

- (a) in a magazine, either existing on the twenty-seventh day of June, one thousand and eight hundred and seventy-six, or which has been since the said date, or may hereafter be, proclaimed by the Governor as a public magazine; or
- (b) in a private magazine duly licensed under the authority and according to the provisions of this Act for the storage of explosives; or
- (c) on any premises duly registered under the provisions of this Act.

*Ibid.* s. 21.

(2) Whenever any explosive is kept in any place not authorised by this Act, the same may be forthwith seized by the Ordnance Storekeeper, inspector of magazines, or inspector of police, and may, by any two justices, be declared to be forfeited.

Seizure of explosives kept in unauthorised place.

(3) The occupier of such place and the owner of the explosive authorising the keeping of the same in such place, shall each be liable to a penalty not exceeding twenty shillings for every pound weight of explosives so kept.

Penalty.

(4) This section shall not apply—

Exceptions.

- (a) to any holder of an ordinary or special license keeping not more than twenty-five pounds weight of explosives on the same premises; or
- (b) to any person keeping explosives for his own use and not for sale, and not exceeding the amount of twelve pounds weight on the same premises.

25. (1) The Governor may, by proclamation published in the Gazette, declare and appoint as a "public magazine" or as a "licensed magazine," any building which is certified by the Ordnance Storekeeper to be suitable, with regard to its situation and external and internal construction, for the safe custody of gunpowder or any other explosive, as the case may be.

"Public" or "licensed" magazines may be proclaimed.  
*Ibid.* ss. 21, 25.

(2)

Granting of special licenses.

(2) Upon any such building being so proclaimed, the Minister may issue a license to be called a "magazine license" to the owner or other person intended to have the charge of the said magazine if such owner or person is approved by the Minister as being duly qualified.

(3) Such license shall be valid only for the person named therein.

Penalty for neglect of Act or regulations.

(4) In the event of any wilful neglect of any provision of this Act or of any regulation hereunder by the person so being licensed, all or any part of the explosives in his magazine at the time the offence was committed, shall be liable to forfeiture, and the licensee shall also be liable to a penalty not exceeding ten pounds for every day during which such negligence continues, and the said "magazine license" may also be forfeited.

Ordinary licenses.  
40 Vic. No. 1, s. 26.

26. A license to be called an "ordinary license" may be granted to any dealer in explosives.

Special licenses.  
*Ibid.* s. 27.

27. A license to be called a "special license" may be granted to any dealer in explosives who is the owner or occupier of any building or premises which are situate outside the city of Sydney, or its suburbs, and are approved by the Minister, and are capable of storing, with safety, larger quantities of explosives than are authorised to be kept by a dealer under an "ordinary license."

Duties of licensees.  
*Ibid.* ss. 26 and 27.

28. The holder of every such license shall, even if his premises are not registered, observe all the provisions of this Act, and the regulations hereunder as to the storage and sale of explosives.

Publication and duration of licenses.  
*Ibid.* s. 28.

29. Every ordinary and special license, when granted, shall be duly published in the Gazette, and shall be in force for twelve months.

## PART V.

### *Keeping and sale of explosives.*

Dealers to take out licenses for sale of explosives.  
*Ibid.* s. 28.

30. Whosoever becomes a dealer in explosives, without having obtained from the Minister either an "ordinary" or a "special" license, as herein provided, shall be liable to a penalty not exceeding one hundred pounds.

Dealer in explosives to affix notice thereof in his warehouse.  
*Ibid.* s. 30.

31. Every dealer in explosives shall cause to be painted in legible characters on some conspicuous part of the shop or warehouse containing the same the words "explosives sold here," or he shall be liable to a penalty of five pounds for every day of such omission.

Sale or transfer to be reported to the officer in charge.  
*Ibid.* s. 31.

32. If the importer or owner of any explosive, while it is deposited in any magazine, sells or transfers the whole or any part of the same to any other person, such sale or transfer shall be immediately reported in writing to the Ordnance Storekeeper, and a certificate of such

such sale or transfer, together with any other documents necessary for claiming transfer and delivery of such explosive from such importer or owner, shall also be produced to the Ordnance Storekeeper in order that the same may be duly registered, otherwise the Ordnance Storekeeper may refuse to deliver up the said explosive to any other person than the recipient of the original certificate.

**33.** (1) No explosive shall be sold or given to any child apparently under the age of thirteen years. Sale of explosives. 40 Vic. No. 1, s. 40.

(2) All gunpowder or other explosive exceeding one pound weight, when either exposed for sale or sold, shall be in a substantial case, canister, or other receptacle, made and closed so as to prevent the gunpowder or other explosive from escaping, and the outside covering or wrapper shall have written in large letters or printed thereon:—

- (a) in the case of gunpowder, the word "Gunpowder"; and
- (b) in the case of explosives other than gunpowder, the name of such Explosive, and also the word "Explosive."

(3) If any breach of this section is committed by any person registered under Part VII of this Act he shall be liable to a penalty not exceeding fifty pounds, and all the explosives then being in his registered premises may be forfeited.

## PART VI.

### *Magazines and their management.*

**34.** (1) The Governor may by proclamation appoint a space surrounding any public magazine to be its precincts within which it shall not be lawful for any person to come without the authority of the Minister or Ordnance Storekeeper. The Governor may proclaim the precincts of any magazine. Ibid. s. 32.

(2) Every person entering such precincts without such authority, and refusing to withdraw after being directed so to do by the Ordnance Storekeeper or other person under his authority may be either forcibly removed or taken into custody by him for the purpose of being brought before the nearest court of petty sessions and shall be liable to a penalty not exceeding twenty pounds.

**35.** Every person bringing fire or matches for the purpose of ignition or smoking within the precincts of any magazine may be forthwith taken into custody by the Ordnance Storekeeper or police constable or any other person, in order to be dealt with as is in the next preceding section provided, and such person so offending shall be liable to a penalty not exceeding twenty pounds. No match, &c., to be brought within such precincts. Ibid. s. 33.

**36.** The Governor may appoint inspectors of magazines, and may assign to them their duties, and every such appointment shall thereupon be published in the Gazette. Inspectors of magazines may be appointed. Ibid. s. 34.

**37.** Ibid. s. 34.

Inspectors of  
magazines may enter  
magazines, &c.

40 Vic. No. 1, s. 35.

Inspector may  
give directions.

**37.** (1) Every inspector of magazines shall have authority to enter and inspect at any time any public or licensed magazine, and at any time between the hours of nine and four in the day any premises registered under this Act, for the purpose of examining the state and condition thereof and of the packages of explosives stored therein.

(2) Every such inspector may thereupon at once give to the Ordnance Storekeeper or officer in charge of any public magazine or to the licensee or person in charge of any licensed magazine or premises any orders or directions respecting the custody and management of such magazine or premises, and the explosives therein stored, or any other matters which in his opinion are of such urgent importance as to justify his action without the previous sanction of the Minister :

Provided that such inspector shall forthwith communicate to the Minister whatever orders he may have given or other course taken for his approval or otherwise.

Owners, &c., obstruct-  
ing inspectors liable  
to penalty.

(3) Every officer or licensee or other person in charge of such magazine or premises refusing to admit any such inspector into the said magazine or premises or neglecting forthwith to obey or carry into effect any such orders or directions shall be liable to a penalty not exceeding one hundred pounds, and also in case of his being in the employ of the Government to immediate dismissal from its service.

Owners may make  
special rules.

*Ibid.* s. 36.

**38.** Every owner of a "licensed magazine" may, in order to secure the observance of this Act, and the safety and discipline of the persons employed in or about such magazine, with the sanction of the Minister, make rules for the control of such persons, such rules not being inconsistent with this Act or any regulations thereunder.

Owners of licensed  
magazines to deliver  
monthly returns.

*Ibid.* s. 37.

**39.** Every owner or licensee of any licensed magazine shall forward, within one week after the end of every month, to the Ordnance Storekeeper, a detailed statement of all explosives deposited in his magazine or delivered out by him, and of all moneys received by him on account of storage or otherwise, during the month preceding under a penalty not exceeding ten pounds for every default.

No two explosives  
to be stored in the  
same compartment.

*Ibid.* s. 33.

**40.** (1) No explosive exceeding twenty-five pounds shall be stored in any magazine in the same compartment with any other explosive or within the distance of ten feet therefrom, except in accordance with regulations duly made in that behalf.

(2) Any person storing any explosive contrary to the provisions of this section shall be liable to a penalty of twenty shillings for every pound weight so stored, and, except in the case of a public magazine, all such explosives may be forfeited and the license granted to the person so offending may also be forfeited.



## PART VII.

*Registration of premises.*

41. (1) Premises wherein any explosive exceeding twenty-five pounds weight is kept shall be registered. Registration of premises.  
40 Vic. No. 1, s. 39.

(2) Every person desirous of registering any premises either for the sale or keeping of any explosive, shall register his name and calling with the Ordnance Storekeeper, and shall therewith deliver a correct description of the said premises and the street and town or other locality where the same are situated.

(3) An inspector of magazines or other officer appointed by the Government in that behalf, shall thereupon inspect the said premises, and if approved by the Minister as being suitable and in compliance with this Act and any regulations hereunder, the Minister may immediately authorise the Ordnance Storekeeper to register in a book to be kept by him for that purpose the name and calling of such person and the specified premises and to give him a certificate thereof, and such person shall thereupon be duly authorised to keep explosives upon the premises therein specified during the period specified in his license.

(4) Such registration and certificate shall be valid only for the person and specific premises registered.

42. (1) The following general rules shall be observed with respect to "registered premises"— General rules for registered premises.  
*Ibid.* s. 40.

- (a) If the explosive is kept in a substantially constructed building exclusively appropriated for the purpose and detached from a dwelling-house, or in a fire-proof safe outside a dwelling-house and detached therefrom, and in either case at a safe distance from any street, or public place, five hundred pounds weight may be kept in the same registered premises.
- (b) If the explosive is kept on and for the use of a mine, quarry, railway, or public work in course of construction, and in a detached building exclusively appropriated for the purpose, and at a safe distance from any street or public place, four thousand pounds weight may be kept in the same registered premises.
- (c) If the explosive is kept inside a dwelling-house, or in any building other than as aforesaid, three hundred pounds weight may be kept in the same registered premises.
- (d) If the explosive is deposited in a fire-proof safe within such dwelling-house or building four hundred pounds weight may be kept.
- (e) All gunpowder and blasting powder shall be secured in packages as specified in section eighteen.
- (f) No person shall be allowed to smoke or bring matches for the purpose of ignition into registered premises.
- (g)

(g) No person under the age of sixteen years shall be employed in registered premises unless in the presence and under the supervision of some adult person.

Penalty.

(2) If any breach of this section is committed by the person so registered he shall be liable to a penalty not exceeding fifty pounds, and all the explosives then being in such registered premises may be forfeited.

No two explosives to be stored in the same compartment.

40 Vic. No. 1, s. 38.

43. (1) No explosive exceeding twenty-five pounds shall be stored in any registered premises in the same compartment with any other explosive, or within the distance of ten feet therefrom, except in accordance with regulations duly made in that behalf.

(2) Any person storing explosives contrary to the provisions of this section shall be liable to a penalty of twenty shillings for every pound weight so stored, and all such explosives may be forfeited, and any license granted to the person so offending may be forfeited and his certificate of registration cancelled.

## PART VIII.

### *Regulations.*

The Governor may make all necessary regulations.

*Ibid.* s. 41.

43 Vic. No. 19, s. 1.

44. The Governor may make regulations, not being inconsistent with this Act—

- (1) for the management and control of all magazines, and for determining the quantities of explosives or explosive substances which may be stored in such magazines;
  - (2) for regulating the importation, storage, custody, removal, and carriage of explosives either by land or water;
  - (3) for declaring what quantity of explosives or explosive substances may be removed or carried either to or from such magazines;
  - (4) for prescribing the size and description of boats to be used for the transport of explosives or explosive substances by water, and the manner in which such boats shall be constructed and fitted up;
  - (5) for prescribing precautions to be used in conveying any explosive;
  - (6) for appointing the places respectively where the same may be delivered, either from on board ship in order to be stored in a magazine, or from a magazine in order to be conveyed elsewhere;
  - (7) for granting licenses for carrying the same to any owners of boats or vans, and prescribing rules for their guidance in either case;
- (8)

- (8) for declaring what flag or other danger signal shall be displayed by boats or vans when conveying explosives ;
- (9) for providing for the storage and removal of any explosive for public works or mining purposes ;
- (10) for prescribing the duties of inspectors of magazines ;
- (11) for proclaiming any other port to be subject to the provisions of this Act and the regulations made hereunder ;
- (12) for prescribing the rates and charges for lightering, delivering, and storing any explosive ;
- (13) for carrying into effect the intentions and objects of this Act.

All such regulations shall thereupon be published in the Gazette, and copies of all regulations so made shall, without unnecessary delay, be laid before Parliament if at that time in session, and if not then within one month after the commencement of its then next session.

45. All regulations when so made and published shall have the same force and effect, until repealed or altered, as if each respectively had formed a part of this Act, and the production of the Gazette containing them shall be sufficient evidence upon any trial or proceeding in any court of every such regulation having been duly made and promulgated.

Regulations to have the force of law. Gazette to be evidence. 40 Vic. No. 1, s. 42.

PART IX.

*Rent, charges, and fees.*

46. (1) The store rent and charges due upon any explosive deposited in any public magazine shall be paid every six months, unless sooner delivered, and if such rent and charges are not so paid to the Ordnance Storekeeper, he may cause a notice to be published in the Gazette requiring the importer or owner to pay the amount due, and stating that if not paid within one month the said explosive will be forfeited.

Store rent, &c., to be paid every six months. Ibid. s. 44.

(2) If such amount is not paid within such period, the Ordnance Storekeeper may cause the said explosive to be sold by public auction on the day fixed by the said notice, and the net proceeds of such sale shall, in the first instance, be applied to the payment of all rent and charges due thereon, and the balance (if any) shall be paid to the holder of the certificate of deposit of such explosive, or such balance may be paid to the Colonial Treasurer, who shall place the same to the credit of the Consolidated Revenue Fund.

Sale of explosive, and application of proceeds.

47. The storage rent for any explosive deposited in any public magazine as aforesaid shall be paid by the importer or holder of the certificate thereof according to the prescribed rates, and such importer

Regulating storage rent. Ibid. s. 45.

OR 48 Vic. No. 19, s. 1.

or holder shall be held liable for the payment of storage rent and all other expenses thereupon until the transfer in the property of such explosive has been duly reported and registered as herein provided.

Rates, &c., to be paid.  
40 Vic. No. 1, s. 46.  
48 Vic. No. 19, s. 1.

**48.** Any person applying for a permit for delivery of any explosive shall, at the time of such application, pay to the Ordnance Storekeeper the prescribed rates, the Ordnance Storekeeper charging for land and water transport, combined or separately, as the case may be.

Appropriation of rent, &c., and penalties, &c., received.  
40 Vic. No. 1, s. 47.

**49.** All moneys received by the Ordnance Storekeeper for the storage or delivery of explosives, or for other charges in respect thereof, and all penalties recovered, and the proceeds of sale of all explosives or explosive substances adjudged to be forfeited, shall be paid to the Treasurer, for the public uses of New South Wales.

Charges for storage.  
48 Vic. No. 19, s. 1.

**50.** (1) Every person storing explosives in any public or licensed magazine shall pay the prescribed charges for such storage.

Fees to be paid for licenses.  
40 Vic. No. 1, s. 43.  
Fourth Schedule.

(2) Every person taking out a license or registering premises under this Act, shall pay for the same respectively the fees specified in the Fourth Schedule hereto.

## PART X.

### *Miscellaneous.*

Exemptions from operation of this Act.

*Ibid.* s. 48.

**51.** Nothing in this Act contained shall apply—

- (1) to any explosive or explosive substance the property of Her Majesty on board any of Her Majesty's ships; nor
- (2) to the keeping of explosives or explosive substances in any magazine belonging to Her Majesty, or to the carriage thereof to and from any magazine under a special order of the Minister, or when under the control and management of any officer of Her Majesty's army, navy, ordnance, or other duly authorised person; nor
- (3) to any gunpowder, rockets, or other explosive or explosive substance on board any vessel in pursuance of the provisions of the Merchant Shipping Act, 1894, and the 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 or elsewhere while the vessel is in harbour shall be subject to the regulations made or to be made under this Act; nor
- (4) to any explosives or explosive substances supplied to or used by Her Majesty's Colonial and Volunteer Forces.

- 52.** (1) The Governor may, by proclamation—
- (a) prohibit, either absolutely or for a stated period, the manufacture, importation from places beyond New South Wales, storage, conveyance, or sale of any explosive or explosive substance which is of so dangerous a character that, in the judgment of the Governor, it is expedient for the public safety to issue such proclamation;
- (b) impose conditions or restrictions regarding the same respectively.

The Governor may prohibit the importation, &c., of specially dangerous explosives.  
40 Vic. No. 1, s. 49.

(2) Whosoever, in contravention of the terms of such proclamation, manufactures, imports, stores, keeps, conveys, sells, or attempts to sell or purchase any such dangerous explosive or explosive substance, shall be liable to a penalty not exceeding twenty shillings for every pound weight of the same which he has so manufactured, imported, stored, conveyed, delivered, or sold, or attempted to sell or purchase; and all or any part of such explosive or explosive substance may be seized and forfeited.

Penalty.

(3) The Collector of Customs shall have and exercise the same powers with respect to any explosive or explosive substance, the importation of which has been so prohibited by the Governor, and which is found on board any vessel after arrival in any port of New South Wales, or which has been landed from such vessel, and also with respect to the vessel so importing or landing the same, as the said Collector of Customs may have and exercise under the laws at the time in force with respect to any article prohibited to be imported by any laws relating to the customs, and with respect to the vessel importing the same; and the said laws respectively shall be construed to apply to this section accordingly:

Collector of customs may seize prohibited explosive substances, &c.,  
*Ibid.* s. 50.

(4) After any such seizure the said explosive or explosive substance shall be taken charge of by the Ordnance Storekeeper for deposit in a public magazine.

and deposit same in a magazine.

**53.** The Ordnance Storekeeper and all persons employed under him in charge of explosives shall be sworn in as special constables.

Ordnance Storekeeper, &c., to be special constables.  
*Ibid.* s. 51.

**54.** The Governor may by proclamation published in the Gazette exempt from the operation of any sections of this Act to be specified in such proclamation any chemical or mechanical preparations which are thereby or may hereafter be declared to be "explosive substances," that are in general use, and which in the opinion of the Governor may safely be consigned or stored in larger quantities than is by this Act authorised, and the Governor may thereupon make special regulations for the safe keeping, removal, or carriage of any explosive substances so exempted.

Exemptions from operation of this Act.  
*Ibid.* s. 53.

**55.** Nothing in this Act shall render liable to any penalty or forfeiture the Ordnance Storekeeper, owner, or master of any vessel or boat or dealer, or the person having charge of any explosive or explosive

Exemptions in cases of emergency.  
*Ibid.* s. 54.

explosive substance for any act done in breach 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.

## PART XI.

*Legal proceedings.*

Exemption of occupier from penalty upon proof of another being real offender.  
40 Vic. No. 1, s. 55.

56. (1) Where any offence under this Act for which the owner of any explosive or explosive substance, occupier, owner, or licensee of any magazine, store, or registered premises, or any carrier by land or water is liable to a penalty or forfeiture, has, in fact, been committed by some other person, the latter shall be liable to a penalty not exceeding fifty pounds.

(2) Where any such owner or licensee, or occupier, or carrier is charged with an offence which has in fact been committed by some other person, then such owner, licensee, occupier, or carrier, as the case may be, 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, and (if the actual offender be alive) that he has taken all practicable means in his power to prosecute such offender to conviction.

Recovery of penalties, &c., not specifically provided for.

*Ibid.* s. 56.

57. (1) For any breach of this Act where no penalty is specifically provided for, the person offending shall be liable to a penalty not exceeding ten pounds.

(2) Out of any penalty or forfeiture imposed under the authority of this Act, the convicting justices shall award a moiety of the penalty to the person on whose information the prosecution in the case was instituted :

Provided nevertheless that the Governor may remit such moiety of either the penalty or the forfeiture so awarded :

Provided always that the full amount of such penalty, or of the proceeds of such forfeiture, as the case may be, shall always be paid in the first instance to the Colonial Treasurer to the credit of the Consolidated Revenue Fund of the Colony.

All legal proceedings may be taken in the name of the Ordnance Storekeeper.

*Ibid.* s. 58.

58. All complaints or other legal proceedings may be laid and taken by the Ordnance Storekeeper or other officer appointed by the Governor in that behalf against any person for non-compliance with, or any breach of this Act or any regulation thereunder.

59.

59. (1) Any justice may, on reasonable cause assigned upon oath by any person, issue a warrant under his hand, addressed to any constable, authorising him to search in the daytime any house, warehouse, store, shop, cellar, yard, wharf, or other building, or place, or any van, boat or vessel in which any explosive is suspected to be kept or carried contrary to the provisions of this Act, and any explosive found to be so kept or carried, and also the packages or other receptacles containing the same shall be immediately seized by such constable who shall forthwith report such seizure to the Ordnance Storekeeper if within reach, and if not practicable to communicate with him, then such constable shall report such seizure to his superior officer.

A justice may issue a search warrant for the inspection of any premises or vans, &c. 40 Vic. No. 1, s. 60.

(2) If such constable is authorised by the Ordnance Storekeeper or by any superior police officer (as the case may be) to remove the said explosive, he shall thereupon be empowered to remove with all due precaution such explosive and the packages or other receptacles in which it may be contained to some place of safety, and in case of any such explosive so seized being in any van, or boat, or vessel, such constable may use for the purpose of removal during the time necessary after such seizure, such van, boat, or vessel, with the oars, sails, tackling, horses, oxen, and harness, yokes, and chains, belonging to either of them respectively, and may detain the same together with such explosive and the packages or other receptacles in which it may be contained until it is adjudged whether the same shall be forfeited, and such constable shall not be liable to any suit for such detention or for any loss or damage which may happen to the said explosive or packages other than for his own wilful neglect:

Police officers may seize all explosives unlawfully stored or carried.

Provided always that if such removal is attended with any risk, and the said constable is duly authorised as last aforesaid in that behalf, the said explosive and packages may be forthwith destroyed.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

No. of Act.	Title of Act.	Extent of repeal.
40 Vic. No. 1 ...	Gunpowder and Explosive Consolidation Act of 1876.	The whole.
48 Vic. No. 19 ...	Gunpowder and Explosives Rates Act of 1884...	The whole.

Section 8.

SECOND SCHEDULE.

Magazine.

THIS is to certify that 19 .  
magazine the explosive herein below described, on which the following charges for  
lighterage and storage will be payable—

				£ s. d.
Lighterage from the ship ... ..	...	...	...	
Storage from date, at per week ... ..	...	...	...	
Description of packages—				
Barrels marked	and numbered	{ containing ( <i>loose powder</i> <i>or dynamite, &amp;c.</i> ), as the case may be. Storekeeper.		
Boxes marked	and numbered			

Section 19.

THIRD SCHEDULE

*Cities and Towns.*

Newcastle.  
Willyama (Broken Hill).

Section 50.

FOURTH SCHEDULE.

*Fees for Licenses.*

				£ s. d.
For every license granted for a magazine ... ..	...	...	...	2 0 0
For every special license ... ..	...	...	...	1 0 0
For every ordinary license ... ..	...	...	...	0 10 0
For every certificate for registered premises ... ..	...	...	...	0 5 0