



## **FALKLAND ISLANDS**

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### **Dangerous Goods Ordinance 1987**

**(ORDINANCE No. 3 OF 1987)**

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## FALKLAND ISLANDS

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### Dangerous Goods Ordinance 1987

AN ORDINANCE To control dangerous goods.

*[DATE OF COMMENCEMENT: 1ST FEBRUARY 1998<sup>i</sup>]*

#### 1 Short title and commencement

This Ordinance may be cited as the Dangerous Goods Ordinance 1987 and shall come into force on such day as the Governor shall appoint by order published in the Gazette and the Governor may appoint different days for the bringing into force of different provisions.

*[Date of commencement: 19th October 1987.]*

*[Revision w.e.f. 31/07/2017]*

#### 2 Interpretation

In this Ordinance, unless the context otherwise requires-

**"carrier"** includes all persons carrying goods or passengers for hire by land, water or air;

**"dangerous goods"** means any of the goods or substances to which this Ordinance applies under section 4;

**"explosive"** includes any substance used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect;

**"licensed premises"** means any premises in which dangerous goods are permitted to be manufactured or stored by virtue of a licence issued under this Ordinance;

**"Licensing Authority"** means the person appointed by the Governor as such under section 3;

**"manufacture"** includes process, compress, liquefy or otherwise alter the nature or form of any substance;

**"occupier"** includes any number of persons and a body corporate and, in the case of any manufacture, includes any person carrying on such manufacture;

**"owner"** in respect of any vessel or aircraft includes a charterer and any person acting as agent for the owner or charterer;

**"owner"** in respect of dangerous goods, includes any person acting as agent for the owner;

**"petroleum"** includes crude petroleum, oil made from petroleum or from coal, shale, peat or other bituminous substance, and other products of petroleum or of any of the above-mentioned oils, and mixtures containing petroleum or any of the above-mentioned oils;

**"prohibited goods"** means any dangerous goods declared by any regulation made under section 20 to be prohibited goods for the purposes of this Ordinance;

**"store"**, when used as a verb, includes to have possession or custody of or control over that to which the verb relates;

**"warehouse owner"** includes any person owning or managing any warehouse, store, quay, pier or other premises in which goods are deposited.

### **3 Licensing Authority**

The Governor shall appoint a person to be the Licensing Authority for the purposes of this Ordinance.

### **4 Application**

This Ordinance shall apply to all explosives, compressed gases, petroleum and other substances giving off inflammable vapours, substances giving off poisonous gas or vapour, corrosive substances, substances which become dangerous by interaction with water or air, substances liable to spontaneous combustion or of a readily combustible nature, radioactive material and to such other substances to which it is applied by regulations made under section 20:

Provided that this Ordinance shall not apply-

- (a) to any dangerous goods carried in any vessel or aircraft of Her Majesty's armed forces or of the armed forces of any foreign nation;
- (b) subject to section 15, to any dangerous goods in the possession and control of the Crown;
- (c) subject to any regulations made under section 20, to dangerous goods (other than explosives and radioactive material) normally used for domestic, office, light industrial, farming or horticultural purposes, or as fuels, lubricants or cleaning materials in vehicles, vessels or aircraft, in quantities reasonably required by the user for such use; or
- (d) to any goods exempted from the operation of this Ordinance or any provision hereof by regulations made under section 20.

## **5 Power of Governor to give directions**

(1) The Governor may, subject to the Constitution, give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any public officer of any powers, functions and duties under this Ordinance.

(2) A public officer shall, in the exercise or performance of any powers, functions and duties under this Ordinance, comply with any directions given by the Governor under subsection (1).

## **6 Licence for manufacture of dangerous goods**

(1) Except under and in accordance with a licence granted under this Ordinance, no person shall manufacture, store, convey or use any dangerous goods.

(2) Subject to any regulations made under section 20 to the contrary subsection (1) shall not be construed to apply to any dangerous goods-

- (a) while in the course of transit as cargo in any vessel, aircraft or vehicle;
- (b) while being loaded into or discharged from any vessel by any person or his servants or agents, licensed for that purpose under this Ordinance;
- (c) while being loaded on to or discharged from any aircraft or vehicle; or
- (d) in respect of which any valid licence or permit authorizing possession thereof and issued pursuant to any Ordinance relates, or in respect of which any exemption from the provisions of any Ordinance has been granted.

## **7 Prohibited goods**

No person shall manufacture or cause to be manufactured any prohibited goods or have any prohibited goods in his possession, custody or control or in the possession, custody or control of any servant, agent or warehouse owner.

## **8 Licence for supplying labour, etc., for handling dangerous goods on vessels**

No person shall hire out or supply labour, vessels or equipment for loading, discharging or moving dangerous goods on vessels except under and in accordance with a licence issued under this Ordinance.

## **9 Grant, variation and revocation of licences**

(1) A licence for the purposes of section 6 or section 8 may be obtained on application to the Licensing Authority and on payment of the appropriate fee and shall be in the prescribed form or, if no form is prescribed, in such form as the Licensing Authority may consider appropriate.

(2) Such licence shall be an annual licence expiring on the anniversary of the day on which it is issued, and an annual fee shall be prescribed:

Provided that on payment in advance of the appropriate fee the Licensing Authority may issue a licence valid for a period of up to five years.

(3) The Licensing Authority may require such information as he shall consider necessary from any applicant for a licence.

(4) Any person who knowingly makes a false statement in or in connection with an application for a licence commits an offence and is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale or to both such imprisonment and fine.

*[Revision w.e.f. 31/07/2017]*

(5) The Licensing Authority shall grant an application for a licence if he is satisfied that-

- (a) the applicant has good reason for requiring the licence;
- (b) defence, internal security, public safety, public order and the peace will not be endangered by the grant of the licence; and
- (c) the applicant is not of intemperate habits or unsound mind or for any other reason not fit to hold the licence.

(6) The Licensing Authority may include in any licence such conditions as he shall consider necessary in the interest of defence, internal security, public safety, public order and the peace, and may during the currency of a licence introduce, add to, delete or vary any such conditions and for such purpose he may give the holder of the licence written notice to deliver his licence to the licensing authority within twenty-one days for amendment.

(7) Any holder of a licence who fails to comply with any condition therein commits an offence and is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and fine.

*[Revision w.e.f. 31/07/2017]*

(8) The Licensing Authority may revoke a licence if-

- (a) due to a change of circumstances or the acquisition of new information he is no longer satisfied concerning the matters specified in subsection (5); or
- (b) the holder of the licence fails to comply with a notice given under subsection (6).

(9) When he revokes a licence the Licensing Authority shall give written notice to the holder requiring him to surrender his licence to the Licensing Authority within twenty-one days, and if the holder fails to comply with such notice he commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

*[Revision w.e.f. 31/07/2017]*

(10) Any person aggrieved by a refusal of the Licensing Authority to grant him a licence or renew his licence, or by the conditions included in his licence or by the revocation of his licence may appeal to the Senior Magistrate.

## **10 Marking of dangerous goods and giving notice of their character**

No person shall deliver to any warehouse owner or carrier, or send or carry or cause to be sent or carried to or from any part of the Falkland Islands by land, water, or air, or sell or expose for

sale, or store any dangerous goods, or deposit any dangerous goods in or on any warehouse, wharf or quay unless-

- (a) the true name or description of such goods is distinctly written, printed or marked in English on the outside of the drum, tin, case or other package containing such goods;
- (b) the prescribed label, if any, is attached to the outside of the drum, tin, case or other package containing such goods; and
- (c) in the case of delivery to any warehouse owner or carrier, notice in writing has been given to such warehouse owner or carrier of the true name or description of such goods and the dangerous nature thereof.

## **11 Removal of dangerous goods in contravention of regulations**

Where any dangerous goods are possessed, landed, shipped, transhipped, stored or are otherwise dealt with, or where any vessel or aircraft carrying any dangerous goods is berthed or has anchored or landed or stopped contrary to any regulations made under section 20, the Licensing Authority, the Harbour Master or any other person acting under the orders of either of those officers, may cause such dangerous goods, or such vessel or aircraft to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said regulations, and all expenses incurred in such removal may be recovered from the owner thereof in like manner, in all respects, as a sum of money due or payable to the Crown in respect of a fee is recoverable.

## **12 Search warrants**

(1) Any judge or justice of the peace may, if satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Ordinance has been, is being or is about to be committed, grant a search warrant authorizing any police officer-

- (a) to enter at any time any premises, place or vessel named in the warrant, if necessary by force, and to search the premises, place or vessel and every person found therein;
- (b) to seize and detain any dangerous goods which he may find on the premises, place or vessel or on any such person in respect of which he has reasonable grounds for suspecting that an offence under this Ordinance has been, is being or is about to be committed; and
- (c) if the premises are those of a licensed dangerous goods manufacturer, to examine any books or records relating to the business.

## **13 Search without warrant**

Any police officer may stop and search-

- (a) for dangerous goods any person whom he may find in any public place at any time who acts in a suspicious manner or whom he may suspect of having any dangerous goods in his possession; and
- (b) seize and detain any dangerous goods that he may find upon such person.

## **14 Report of accident by explosion or fire**

Whenever there occurs any accident by explosion or fire in or about or in connection with any premises licensed under section 6, the occupier of such premises shall forthwith report such accident, and any loss of life or personal injury occasioned thereby, to the chief police officer.

## **15 Government explosives deposits**

(1) The Governor may, by notice published in the Gazette, designate any place or vessel as a Government explosives depot for the storage of explosives.

(2) Any place so designated shall be placed under the control of the Director of Public Works, and any vessel so designated shall be placed under the control of the Harbour Master.

(3) Regulations made under section 20 may provide for the management, safety and security of any such depot.

## **16 Offences and penalties**

(1) Any person who contravenes any of the provisions of section 6, 7, 8 or 10 commits an offence and is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and fine:

*[Revision w.e.f. 31/07/2017]*

Provided that any person accused of having contravened any of the provisions of section 10 shall not be liable to be convicted thereof if he shows to the satisfaction of the court that he did not know the nature of the goods to which the charge relates, and that he could not, with reasonable diligence, have obtained such knowledge.

(2) The occupier of any premises who fails to report an accident in contravention of the provisions of section 14 commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

*[Revision w.e.f. 31/07/2017]*

(3) Any person who-

- (a) obstructs or delays any officer in the exercise of any of the powers conferred upon him by this Ordinance; or
- (b) wilfully or recklessly gives false information or withholds information, as to the source from which any dangerous goods were obtained or as to the manufacture, conveyance, storage, packing, labelling or use of any dangerous goods,

commits an offence and is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale or to both such imprisonment and fine.

*[Revision w.e.f. 31/07/2017]*

## **17 Liability of licence holder for offences committed by his employees and agents**

Whenever it is proved to the satisfaction of the court that an offence against this Ordinance has been committed by any employee or agent of any person holding a licence issued under this Ordinance, such person shall be held to be liable for such offence and to the penalty provided therefor, unless he proves that the offence was committed without his knowledge or consent and that he had exercised all due diligence to prevent the commission of the offence:

Provided that-

- (a) no such person shall be sentenced to imprisonment (except in default of payment of a fine) for any offence under this section;
- (b) this section shall not exempt the employee or agent from the penalties provided for the offence committed by him.

## **18 Cancellation of licence on conviction**

(1) On the conviction of any person for an offence against this Ordinance, the court may, in addition to any other penalty, order that any licence issued under this Ordinance held by such person shall be cancelled and any licence in respect of which any such order is made shall be forthwith delivered by the holder thereof to the Licensing Authority for cancellation.

(2) A person required to deliver a licence under subsection (1) who fails to do so commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

*[Revision w.e.f. 31/07/2017]*

## **19 Forfeiture**

A court may order to be forfeited to the Crown any dangerous goods and any container thereof with respect to which any offence against this Ordinance has been committed, whether any person has been charged with such offence or not.

## **20 Regulations**

The Governor in Council may by order make regulations providing for anything that may be prescribed under this Ordinance or otherwise for the better carrying out of the provisions hereof.

## **21 Disapplication of Explosives Act 1875**

The Explosives Act 1875 shall not apply in the Falkland Islands.

## **22 Saving for other enactments**

The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of any other enactments relating to dangerous goods.

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<sup>i</sup> S.R. & O. No. 4 of 1998