

## DANGEROUS SUBSTANCES ACT, 1972

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1972 16 AN ACT TO CONSOLIDATE, WITH AMENDMENTS, ENACTMENTS  
RELATING TO EXPLOSIVES, PETROLEUM AND OTHER DANGEROUS  
SUBSTANCES.

[14th June, 1972]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1972 16 1

Short title and commencement. 1.—(1) This Act may be cited as the Dangerous Substances Act, 1972.

(2) This Act shall come into operation on such day as the Minister may by order appoint.

1972 16 2

Interpretation. 2.—(1) In this Act—

"carrier" includes every person carrying goods or passengers for hire by land or water;

"classified explosive" means an explosive classified by order under section 9 (2);

"explosive" has the meaning given to it by section 9 (1);

"harbour authority", in relation to a harbour under the control of the Commissioners of Public Works in Ireland, means the said Commissioners and, in relation to any other harbour, has the same meaning as in the Harbours Act, 1946;

"inspector" means an inspector appointed under this Act;

"instrument" means an order, regulation, rule, bye-law, licence or other document;

"licensed" means licensed under this Act;

"local authority" means the council of a county, the corporation of a county or other borough or the council of an urban district;

"manufacture" includes any process of altering, breaking up or otherwise dealing with an explosive;

"master," in relation to a vessel, includes every person (except a pilot) having command or charge of the vessel;

"the Minister" means the Minister for Labour;

"petroleum" includes crude petroleum, oil made from petroleum or from coal, shale, peat or other bituminous substances and other fractions of petroleum;

"petroleum-spirit" has the meaning given to it by section 20;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Minister under this Act;

"ship" has the same meaning as in the Merchant Shipping Act, 1894;

"substance" includes matter in any form, whether solid, liquid or gaseous;

"vessel" has the same meaning as in the Merchant Shipping Act, 1894.

(2) The proper local or harbour authority for the purposes of this Act shall be—

( a ) within the limits of the harbour of a harbour authority—the harbour authority;

( b ) in any other area—

(i) in an urban district—the council of the urban district;

(ii) in a county or other borough—the corporation of the borough:  
(iii) in a county (excluding any borough or urban district) — the council of the county.  
1972 16 3

Presentation of orders and regulations. 3.—Every order and regulation made under any subsequent Part of this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution is passed by either House within the next twenty-one days upon which that House has sat after such instrument has been laid before it annulling the instrument, the instrument shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

1972 16 4

Revocation and amendment of orders. 4.—The Minister may by order revoke or amend an order made under any subsequent Part of this Act.

1972 16 5

Exemption of Defence Forces. 5.—This Act does not apply to the Defence Forces or to substances held or premises occupied on behalf of the Minister of Defence for civil defence purposes, but subject thereto it applies to all substances held or premises occupied on behalf of the State.

1972 16 6

Expenses. 6.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

1972 16 7

Repeals and saving. 7.—(1) Each of the Acts referred to in the Schedule is hereby repealed to the extent indicated therein.

(2) The application, by section 8 (1) of the Explosive Substance Act, 1883, of sections 73, 74, 75, 89 and 96 of the Explosives Act, 1875, shall not be affected by any repeal effected by this Act and, accordingly, the said section 8 (1) shall be construed as if the Explosive Act, 1875, were still in force.

1972 16 8

Continuation of orders, regulations, bye-laws, licences. 8.—Every instrument made or issued under a repealed enactment, and in force immediately before the commencement of this Act,

shall, subject to any other provision of this Act, continue in force as made or issued under the corresponding provision of this Act.

1972 16 9

Explosives. 9.—(1) In this Act, "explosive" means a substance of a kind used to produce a practical effect by explosion or a pyrotechnic effect or anything of which that substance is an integral part.

(2) For the purposes of this Act, the Minister may by order define the composition, quality and character of any explosive, and may classify explosives.

1972 16 10

Import of explosives. 10.—No person shall import any explosive except in accordance with a licence granted by the Minister.

1972 16 11

Keeping and having possession of explosives. 11.—(1) No person shall keep any explosive at any place except as follows:

- ( a ) in the licensed factory in which it is manufactured,
- ( b ) in a magazine licensed by the Minister for the storage of explosives,
- ( c ) in a store licensed by the proper local or harbour authority (or, if owned by such authority, licensed by the Minister) for the storage of explosives, or
- ( d ) in accordance with a certificate under section 13.

(2) Subsection (1) does not apply to a carrier or other person having explosives for the purpose of conveyance in conformity with this Act or in the exercise of functions conferred on him by or under this Act.

(3) No person shall have any explosive in his possession unless it has been lawfully acquired in accordance with this Act by him or by the person by whose authority he has it in his possession.

(4) Where a person is found to have an explosive in his possession or under his control, a member of the Garda Síochána or an inspector may require that person to give him all information in his possession as to how he came to have the explosive in his possession or under his control.

(5) If a person fails to comply with a requisition under this section he shall be guilty of an offence.

1972 16 12

Sale and purchase of explosives. 12.—No person shall sell or purchase any explosive unless—

( a ) the seller is the holder of an import licence under section 10 or the licensee of a factory, magazine or store, and

( b ) the purchaser is the licensee of a factory, magazine or store or the holder of a certificate under section 13 to purchase the explosive

1972 16 13

Certificates. 13.—An officer of the Garda Síochána (including an inspector the Garda Síochána acting as superintendent) may issue to any person a certificate authorising the purchase of explosives subject to and in accordance with regulations

1972 16 14

Saving for ammunition. 14.—Sections 10 to 13 do not apply to ammunition to which the Firearms Act, 1925, applies.

1972 16 15

Manufacture of explosives. 15.—No person shall manufacture any explosive except in a factory licensed by the Minister for the purpose and in accordance with the licence.

1972 16 16

Marking of explosives. 16.—(1) Every package containing a classified explosive shall be clearly and conspicuously marked with the name of the explosive and the word "Explosive".

(2) The Minister may make regulations regarding the marking of explosives.

(3) Every person who has in his possession or under his control any explosive not marked in conformity with this section or regulations thereunder shall be guilty of an offence.

1972 16 17

Packing of explosives for conveyance. 17.—(1) A person packing explosives for conveyance shall take all practicable steps to prevent risk of injury to person or property.

(2) The Minister may, by regulations, provide for the packing of explosives for conveyance.

(3) A person who consigns or conveys any explosive packed otherwise than in conformity with this section or such regulations shall be guilty of an offence.

1972 16 18

Records. 18.—The licensee of a factory or magazine shall keep in such form as the Minister may direct a daily record of the quantities of explosives taken into and out of the premises and shall permit an inspector to inspect every such record.

1972 16 19

Fireworks and safety, signalling and rescue devices. 19.—The Minister may, by regulations, modify the requirements of this Part in relation to the manufacture, storage, marking, packing, conveyance, purchase, sale and keeping of fireworks, safety, signalling and rescue devices and other prescribed articles and substances.

1972 16 20

Petroleum-spirit. 20.—(1) In this Part, "petroleum-spirit" means petroleum which, at normal atmospheric pressure, gives off an inflammable vapour at a temperature of less than 73°F.

(2) The Minister may prescribe the method and the apparatus to be employed for testing petroleum and may provide for verification of such apparatus and prescribe the fees to be paid for such verification.

1972 16 21

Storage of petroleum-spirit. 21.—(1) No person shall have petroleum-spirit in his possession or under his control except in a store licensed by the proper local or harbour authority (or, if the store is owned by such authority, licensed by the Minister) for that purpose.

(2) Subsection (1) does not apply to—

- ( a ) a quantity not exceeding three gallons kept in suitable leak-proof containers, securely stopped and containing not more than one gallon each, or
- ( b ) a quantity not exceeding sixty gallons kept in accordance with regulations of the Minister, for use in engines to which the regulations relate, or
- ( c ) petroleum-spirit in the fuel tank of an engine for use therein, or
- ( d ) a carrier or other person having petroleum-spirit for the purpose of conveyance in conformity with this Act or in the exercise of functions conferred on him by or under this Act.

1972 16 22

Marking of containers. 22.—(1) Every container of petroleum-spirit (other than the fuel tank of an engine) shall be clearly and conspicuously marked with the words "Petroleum-Spirit" and "Highly Inflammable".

(2) The Minister may, by regulations, provide for the marking of containers.

(3) Every person who has in his possession or under his control any container not marked in conformity with this section or such regulations shall be guilty of an offence.

1972 16 23

Safety regulations. 23.—(1) The Minister may, by regulations, provide for the protection of persons against risk of injury caused by petroleum.

(2) Regulations may impose duties upon employers, employed persons, occupiers of premises and other persons.

(3) Before making any regulations the Minister shall publish in such manner as he thinks fit notice of his intention to do so and give persons desiring to make representations in relation to the proposed regulations an opportunity to do so.

1972 16 24

Dangerous substance. 24.—(1) A dangerous substance for the purposes of this Part is a substance which the Minister by order declares to be such on the ground that in his opinion it constitutes a potential source of danger to person or property.

(2) An order under subsection (1) may apply any provision of this Act to the substance to which the order relates.

(3) Before making an order the Minister shall publish in such manner as he thinks fit notice of his intention to do so and give persons desiring to make representations in relation to the proposed order an opportunity to do so.

1972 16 25

Safety precautions. 25.—A person engaged in the storage, labelling, packing or conveyance of any dangerous substance shall take all practicable steps to prevent risk of injury to person or property.

1972 16 26

Safety regulations. 26.—(1) The Minister may, after consultation with the Minister for Health, by regulations provide for the protection of persons against risk of injury caused by any dangerous substance.

(2) Regulations may impose duties upon employers, employed persons, occupiers of premises and other persons.

(3) Before making any regulations the Minister shall publish in such manner as he thinks fit notice of his intention to do so and give persons desiring to make representations in relation to the proposed regulations an opportunity to do so.

1972 16 27

Notification of accidents. 27.—(1) Where any explosion or fire, or any accident involving a substance kept under licence, occurs in or about or in connection with licensed premises and occasions loss of life or injury to person or property, the licensee shall forthwith send to the Minister written notice of the accident and of the loss of life or injury.

(2) ( a ) No person, except with the consent of an inspector, disturb the place where any such accident occurred or tamper with anything thereat before—

(i) the expiration of three clear days after notification of the accident in accordance with subsection (1), or

(ii) that place has been visited by an inspector,  
whichever first occurs.

( b ) In any proceedings taken in respect of a contravention of this subsection consisting of the doing of any act, it shall be a defence to prove that the doing of that act was necessary for securing the safety of the place or persons thereat.

(3) Where, in or about or in connection with any vehicle or vessel on which any substance to which this Act applies is being loaded or conveyed, or from which it is being unloaded, any accident occurs involving loss of life or injury to person or property the owner of the vehicle or master of the vessel shall, if the accident involved such a substance, forthwith send to the Minister notice of the accident and of the loss of life or injury. This provision shall not apply in relation to fuel for use only on the vessel or vehicle.

(4) If the Minister considers that it is expedient that notice should be given under this section in case of an occurrence of any special class in or about or in connection with licensed premises, he may by regulations extend the provisions of this section to every occurrence of that class, whether loss of life or injury to person or property is caused or not.

1972 16 28

Inquest in case of death by accident. 28.—(1) Where a coroner holds an inquest on the body of any person whose death may have been caused by any accident or other occurrence of which notice is required by this Part to be given, the provisions of this section shall have effect.

(2) The coroner shall adjourn the inquest unless—

( a ) an inspector or some other person appearing on behalf of the Minister is present to watch the proceedings, or

( b ) in case the inquest relates to the death of not more than one person and the coroner has sent to the Minister notice of the time and place of holding the inquest at such time as to reach the Minister not less than twenty-four hours before the time of holding the inquest, the majority of the jury think it unnecessary to adjourn the inquest.

(3) If the coroner adjourns the inquest—

( a ) he may, before the adjournment, take evidence to identify the body and may order the interment of the body,

( b ) he shall, at least four days before holding the adjourned inquest, send to the Minister notice in writing of the time and place of holding the adjourned inquest.

(4) No person having a personal interest in or employed in or about or in the management of the premises concerned shall be qualified to serve on the jury.

(5) It shall be the duty of the person summoning the jury not to summon any person disqualified under subsection (4) and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury.

(6) The following persons shall, subject to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by counsel or solicitor:

( a ) an inspector or any other person appearing on behalf of the Minister,

( b ) any relative or friend of the person in respect of whose death the inquest is being held,

( c ) the licensee or occupier of the premises concerned,

( d ) the owner of any vehicle or master of any vessel concerned,

( e ) any person appointed in writing by the majority of the persons employed at the premises,

( f ) any person appointed in writing by any trade union, friendly society or other association of persons to which the deceased at the time of his death belonged or to which any person employed at the premises belongs,

( g ) any person appointed in writing by any association of employers of which the licensee or occupier is a member.

(7) Where an inspector or a person on behalf of the Minister is not present at the inquest and evidence is given of any neglect having caused or contributed to the accident or occurrence, or of any defect in or about the premises appearing to the coroner or jury to require a remedy, the coroner shall send to the Minister notice in writing of the neglect or defect.

1972 16 29

Power to direct formal investigation of accidents. 29.—(1) The Minister may, where he considers it expedient so to do, direct a formal investigation to be held into any accident or other occurrence of which notice is required by this Part to be given and of its causes and circumstances.

(2) The provisions of this section shall have effect in relation to the investigation.

(3) The Minister may appoint a competent person to bold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in holding the investigation.

(4) The person or persons so appointed (hereinafter referred to as the tribunal) shall hold the investigation in open court in such manner and under such conditions as the tribunal may think most effectual for ascertaining the causes and circumstances of the occurrence, and for enabling the tribunal to make its report.

(5) The tribunal shall have for the purposes of the investigation all the powers of a Justice of the District Court when hearing a prosecution for an offence under this Act, and all the powers of an inspector under this Act, and in addition, power—

( a ) to enter and inspect any place or building the entry or inspection whereof appears to the tribunal requisite for the said purposes;

( b ) by summons signed by the tribunal to require the attendance of all such persons as it thinks fit to call before it and examine for the said purposes, and to require answers or returns to such inquiries as it thinks fit to make;

( c ) to require the production of all books, papers and documents which it considers important for the said purposes;

( d ) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

(6) Persons attending as witnesses before the tribunal shall be allowed such expenses as would be allowed to witnesses attending before a court of record, and in case of dispute as to the amount to be allowed, the dispute shall be referred by the tribunal to a taxing master of the High Court, who, on request, signed by the tribunal, shall ascertain and certify the proper amount of the expenses.

(7) The tribunal shall make a report to the Minister stating the causes and circumstances of the occurrence, and adding any observations which the tribunal thinks right to make.

(8) The tribunal may require the expenses incurred in and about an investigation under this section (including the remuneration of any persons appointed to act as assessors) to be paid in whole or part by any person summoned before it who appears to the tribunal to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the occurrence but any such expenses not required to be so paid shall be deemed to be part of the expenses of the Minister in the administration of this Act.

(9) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of the tribunal, or prevents or impedes the tribunal in the execution of its duty, shall be guilty of an offence.

(10) The Minister may cause the report of the tribunal to be made public at such time and in such manner as he thinks fit.

1972 16 30

Power of Minister to require special report on accident or other occurrence. 30.—Where there occurs (whether by explosion, fire or otherwise) any accident or other occurrence of which notice is required under this Part to be given in or about licensed premises, or which appears to the Minister to be in connection with such premises, the Minister may, at any time, direct an inspector to make a special report thereon, and the Minister may cause any such report to be made public at such time and in such manner as he thinks fit.

1972 16

PART VI ADMINISTRATION

## Licensing Provisions

1972 16 31

Issue of licences by Minister. 31.—(1) The Minister may at his discretion grant or refuse an application for a licence.

(2) The Minister may attach conditions to a licence including conditions as to its expiry or revocation.

(3) The Minister may, if he so thinks proper, publish particulars of an application for a licence and invite representations concerning it from interested persons.

1972 16 32

Issue of licences by local and harbour authorities. 32.—(1) A local or harbour authority may at its discretion grant or refuse an application for a licence.

(2) The authority shall comply with any regulations of the Minister as to the conditions under which licences may be granted.

(3) Subject to regulations, the authority may attach to a licence such conditions as it thinks proper.

(4) The authority may, if it so thinks proper, publish particulars of an application for a licence and invite representations concerning it from interested persons.

(5) ( a ) The authority shall cause a register of all licences granted by it under this Act to be kept in such form and containing such particulars as it may direct.

( b ) The authority shall, when so required by the Minister, send to him, within the time specified, a copy of the register or any part thereof.

( c ) Any person, upon payment of a fee of twenty-five new pence, and an inspector, without payment, shall be entitled at all reasonable times to inspect and take copies of or extracts from a register kept under this subsection.

1972 16 33

Appeal from local or harbour authority. 33.—(1) If a local or harbour authority refuses to grant a licence or grants a licence on conditions with which the applicant is dissatisfied, the authority shall, at his request, deliver to him a certificate stating the grounds on which the authority has refused a licence or attached the conditions.

(2) The applicant may appeal to the Minister from the decision of the authority within ten days after receipt of the certificate or such further time as the Minister may allow.

(3) The appeal shall be in writing setting out the applicant's claim and shall be accompanied by the certificate.

(4) Having considered the appeal the Minister may, at his discretion, direct the authority to grant or cancel the licence, to attach specified conditions to the licence or to amend or delete a condition attached to the licence, and the authority shall, subject to any variation thereof under section 34, comply with the direction.

1972 16 34

Appeal from the Minister. 34.—(1) Where the Minister refuses to grant a licence or grants licence on conditions with which the applicant is dissatisfied or gives direction under section 33 (4) with which the applicant is dissatisfied, the Minister shall, at the request of the applicant, deliver to him a certificate stating the grounds on which he has refused the licence, attached the conditions or given the direction.

(2) The applicant may appeal to the High Court from the decision or direction of the Minister.

(3) On the hearing of an appeal from a decision of the Minister refusing the grant of a licence or granting a licence on conditions with which the applicant is dissatisfied, the Court may direct the Minister to grant the licence, to attach specified conditions to the licence or to amend or delete a condition attached to the licence, as may be appropriate.

(4) On the hearing of an appeal from a direction under section 33 (4), the Court may either confirm the direction or direct the Minister to vary it in accordance with the order of the Court.

(5) A decision of the High Court on an appeal under this section shall be final save that, by leave of that Court, an appeal shall lie to the Supreme Court on a specified question of law.

1972 16 35

Disuse of premises. 35.—Where the licensee of premises ceases to use them for the purpose for which they are licensed he shall, within one month, so inform the Minister or authority by whom the licence was issued and surrender the licence.

Regulations

1972 16 36

Regulations. 36.—(1) The Minister may make regulations for the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, regulations may provide for—

( a ) the expiry and revocation of licences, or any class of licence, continued in force under section 8;

- ( b ) the amendment and revocation of instruments continued in force under that section, other than bye-laws capable of being amended or revoked by any local or harbour authority, or railway or canal undertaking, in the exercise of its statutory powers;
- ( c ) the regulation and control of licensed factories, magazines and stores and the rules to be observed in or about or in connection with any such premises;
- ( d ) the prohibition or control of importation of any substance to which this Act applies;
- ( e ) enforcing compliance with the terms of any standard specification for the time being in force, under the Industrial Research and Standards Act, 1961, in relation to any substance to which this Act applies.

1972 16 37

Exemptions. 37.—(1) Where any substance to which this Act applies is on board ship in pursuance at the provisions at the Merchant Shipping Act, 1894, or the Merchant Shipping (Safety Convention) Act, 1952, nothing in this Act or regulations thereunder (other than provisions relating to importation) shall apply thereto, except that the conveyance and keeping of the substance, on board ship or elsewhere, while the ship is in harbour shall be in accordance with such provisions as may be prescribed.

(2) Nothing in this Act or regulations thereunder (other than provisions relating to importation) shall apply to the carriage of any substance to which this Act applies aboard aircraft.

(3) The Minister may, by regulations, exempt from all or any of the provisions of this Act any specified class of explosive and any specified class of person or premises, on such conditions as may be prescribed, where he is satisfied that the application of such provisions is unnecessary or impracticable.

(4) Regulations may provide for the issue of licences for the purposes of the regulations and for attaching conditions to a licence.

1972 16 38

Fees. 38.—The Minister may, with the consent of the Minister of Finance, prescribe the fee to be paid for licences generally or for any particular kind of licence.

Inspectors

1972 16 39

Inspectors. 39.—(1) The Minister may appoint persons to be inspectors for the purposes of this Act and may revoke any such appointment.

(2) Notice of an appointment and of the revocation of an appointment under this section shall be published in *Iris Oifigiúil*.

(3) An inspector shall be furnished with a certificate of appointment and when visiting any premises to which the provisions of this Act apply shall, if so required, produce the certificate

to the occupier or any other person holding a responsible position of management at the premises.

1972 16 40

Powers of inspectors. 40.—(1) An inspector shall have power—

- ( a ) to enter, inspect and examine at all times, by day and night, any premises which he has reasonable cause to believe to be used for the manufacture, storage, packing or sale of any substance to which this Act applies;
- ( b ) to take with him a member of the Garda Síochána if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
- ( c ) where he has reasonable cause to believe that at any premises an offence under this Act has been or is being committed, to use force where necessary in order to enter the premises, provided he is so authorised by a warrant of a Justice of the District Court (which such Justice is hereby authorised to issue upon reasonable ground being assigned on oath) or, if it appears to him to be a case of emergency and that the delay in obtaining a warrant would be likely to endanger life, without being so authorised;
- ( d ) to require the production of any document kept in pursuance of this Act and to inspect, examine and copy any such document;
- ( e ) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or regulations thereunder are being complied with;
- ( f ) to require any person whom he finds on any such premises to give such information as it is in his power to give as to who is the occupier of the premises;
- ( g ) for the purpose of any examination or inquiry under this section to require any person whom he finds on any such premises, or whom he has reasonable cause to believe to be, or to have been within the preceding two months, employed at the premises, to answer, in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present, such questions as the inspector thinks fit to ask, so however, that no answer given by a person in pursuance of a requirement imposed under this paragraph shall be admissible in evidence against him in any proceedings;
- ( h ) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) The occupier of the premises, his agents and servant, shall furnish the means required by an inspector as necessary for any entry, inspection, examination, inquiry, taking of samples or other power under this Act, in relation to the premises.

(3) If any person wilfully delays an inspector in the exercise of any power under this section, or fails to comply with the requisition of an inspector in pursuance of this section, or to produce any register, certificate, notice or document which he is required by or in pursuance of this Act to produce, or wilfully withholds any information as to who is the occupier of any premises, or conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by an inspector, that person shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(4) Where an inspector is obstructed in the execution of his powers or duties under this Act—

( a ) if the obstruction is in any premises, the occupier, and, if the person obstructing the inspector is not the occupier, also the person obstructing the inspector, shall be guilty of an offence,

( b ) in any other case, the person obstructing the inspector shall be guilty of an offence.  
1972 16 41

Power of inspector to require remedy for immediate or apprehended danger. 41.—If an inspector is of opinion (that any premises to which the provisions of this Act apply or any part thereof or any things or practices at the premises or connected with the control or management thereof are or are likely shortly to become dangerous to person or property, he may serve on the responsible person a notice stating that he is of that opinion and giving particulars of the reason why he is of that opinion, and imposing upon the responsible person such prohibitions or restrictions or requirements (of whatsoever kind) as appear to the inspector to be necessary for the purpose of safeguarding persons or property.

1972 16 42

Power to take samples. 42.—(1) An inspector may at any time after informing the licensee or, if he is not readily available, foreman or other responsible person in the licensed premises, take for analysis sufficient samples of any substance kept or used or intended to be used in the premises being a substance in respect of which he suspects a contravention of this Act, or which in his opinion is likely to cause bodily injury to the persons employed, or which he thinks may prove on analysis to be likely to cause such injury.

(2) The licensee or other responsible person referred to in subsection (1) may at the time when the sample is taken, and on providing the necessary appliances, require the inspector to divide the sample into three parts, to mark and seal or fasten up each part in such manner as its nature permits, and—

( a ) to deliver one part to the licensee, or other responsible person,

( b ) to retain one part for future comparison, and

( c ) to submit one part to the analyst,

and any analysis under this section shall, if so required, be carried out by or under the direction of the State Chemist.

(3) A certificate purporting to be a certificate by the State Chemist as to the result of an analysis of a sample under this section shall in any proceedings under this Act be admissible as evidence of the matters stated therein, but either party may require the person by whom the analysis was made to be called as a witness.

(4) No person shall, except in so far as is necessary for the purposes of a prosecution for an offence under this Act, publish or disclose to any person other than the licensee the results of an analysis made under this section.

1972 16 43

Local inspectors. 43.—For the purpose of enforcing the provisions of this Act in relation to premises licensed by a local or harbour authority or in respect of which an application for a licence is made to such authority, any officer or servant of the authority duly authorised on that behalf by do authority shall have all the powers of an inspector.

1972 16 44

Taking and detention of substances. 44.—An inspector may take, remove and detain in his custody any substance found in the course of the exercise of any power conferred by this Act in respect of which he has reasonable grounds for believing that an offence under this Act is being or is about to be committed, together with, if he thinks fit, any receptacle containing it.

1972 16 45

Destruction of substances seized. 45.—(1) Where an inspector seizes any substance under the authority of this Act and it appears to him that it would be dangerous to retain it until the matter can be dealt with by the court, then, subject to the provisions of this section, he may destroy the substance.

(2) Unless, in the opinion of the inspector, it would be dangerous or impracticable to do so, the inspector shall, before destroying the substance, produce it to a peace commissioner and make before him a statutory declaration identifying the substance and stating his reasons for destroying it.

(3) Where the inspector destroys the substance without so producing it he shall, as soon as possible, make a statutory declaration as aforesaid.

(4) A statutory declaration under this section shall be prima facie evidence in every court of all matters of fact stated therein.

(5) Where an inspector makes a statutory declaration under this section in relation to any substance, he shall deliver a copy of the declaration to the person, if any, appearing to him to be the owner of the substance.

1972 16 46

Dangerous conditions, practices and premises. 46.—(1) Sections 50 of the Factories Act, 1955, which relate to the making of orders by the District Court as to dangerous conditions and practices, and dangerous factories, shall apply to premises to which this Act applies.

(2) Sections 115 of the Factories Act, 1955, which provide for the modification of agreements between owners and occupiers and for the apportionment of expenses of alterations to premises, shall apply in relation to any structural or other alterations in any premises in which this Act applies which are necessary in order to enable the owner or occupier of the premises to comply with any provisions of this Act or any regulation or order thereunder or order to conform with any standard or requirement imposed by under this Act.

1972 16 47

Offences. 47.—A person who contravenes any provision of this Act or of any instrument thereunder or any condition attached to a licence shall be guilty of an offence.

1972 16 48

Liability of licensees and occupiers. 48.—(1) In the event of a contravention in or in connection with or in relation to any premises of any provision of this Act or of any instrument thereunder, the occupier or, in the case of licensed premises, the licensee shall, subject as hereinafter provided, be guilty of an offence, without prejudice to the liability of any other person.

(2) In the event of a contravention by any person of any provision which expressly imposes any duty upon him, that person shall be guilty of an offence under this section and the occupier or licensee, as the case may be, shall not be guilty of an offence by reason only of such contravention unless it is proved that he failed to take all reasonable steps to prevent the contravention, but this subsection shall not be taken as affecting any liability of the occupier or licensee in respect of the same matters by virtue of some other provision.

1972 16 49

Liability of directors and officers of bodies corporate. 49.—Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of that body, he, as well as the body corporate shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

1972 16 50

Forgery of licences, certificates, etc. 50.—(1) A person who—

- ( a ) forges or counterfeits any licence or certificate required for the purposes of this Act,
  - ( b ) gives or signs a certificate knowing it to be false in any material particular,
  - ( c ) knowingly utters or makes use of a licence or certificate so forged, counterfeited or false as aforesaid,
  - ( d ) knowingly utters or makes use of as applying to any person a licence or certificate which does not so apply,
  - ( e ) personates any person named in a licence or certificate,
  - ( f ) falsely pretends to be an inspector,
  - ( g ) wilfully connives at any such forging, counterfeiting, giving, signing, uttering, making use, personating or pretending,
  - ( h ) wilfully makes a false entry in any document required for the purposes of this Act to be kept or served or sent,
  - ( i ) wilfully makes or signs a false declaration when making or signing a declaration required for the purposes of this Act, or
  - ( j ) knowingly makes use of any such false entry or declaration,
- shall, without prejudice to any other offence, be guilty of an offence under this Act.

(2) In this section, "forges" has the same meaning as in the Forgery Act, 1913.

1972 16 51

Exemption of carrier and owner and master of vessel where consignee, etc. in fault. 51.—Where a carrier or the owner of any vehicle or master of any vessel is prevented from complying with this Act by the wilful act, neglect, or default of the consignor or consignee of any substance to which this Act applies, or other person, or by the improper refusal of the consignee or other person to accept delivery of the substance, the consignor, consignee, or other person who is guilty of the wilful act, neglect, default, or refusal shall be liable to the same penalty to which the carrier, owner, or master is liable for a contravention of this Act, and the carrier, owner, or master shall be exempt from any penalty or forfeiture under this Act.

1972 16 52

Penalties. 52.—(1) A person guilty of an offence under this Act for which no express penalty is provided shall be liable on summary conviction to a fine not exceeding one hundred pounds or imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) Where a person is convicted of an offence under this Act and the contravention in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable on summary conviction to a fine not exceeding twenty pounds for each day on which the contravention is so continued.

1972 16 53

Power of court to order cause of contravention to be remedied. 53.—Where a person is convicted of an offence under this Act, the court may, in addition to or instead of inflicting a fine, order him, within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the contravention occurred, and may, on application, enlarge the time so specified, and he shall not be liable under this Act in respect of the continuation of the contravention during the time so specified, but if, after the expiration at that time, the order is not complied with, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the non-compliance continues.

1972 16 54

Continuing offences. 54.—An offence under section 52 (2) or 53 shall be a continuing offence and accordingly fresh proceedings in respect thereof may be taken from time to time.

1972 16 55

Prosecution of offences. 55.—(1) Any offence under any provision of this Act (other than section 61) punishable on summary conviction may be prosecuted by the Minister.

(2) A local or harbour authority empowered by this Act to issue a licence may prosecute summarily any contravention of the conditions of the licence.

1972 16 56

Forfeiture. 56.—(1) Where a person is convicted of an offence under this Act the court may order that any substance or other thing in respect of which the offence was committed and which is owned by or found in the possession or control of that person be forfeited.

(2) In lieu of forfeiture the court may impose, in addition to any fine, a penalty not exceeding such sum as appears to the court to be the value of that which is liable to forfeiture.

1972 16 57

Disposal of forfeitures. 57.—(1) Where anything is forfeited under this Act the Minister may direct that it be sold, destroyed or otherwise disposed of in such manner as he thinks fit.

(2) The receptacle containing anything so forfeited may also be sold, destroyed or otherwise disposed of in like manner as its contents.

(3) The Minister may, for the purpose of such sale or disposal, require the owner of anything forfeited to permit the use of any vehicle containing it, upon payment of reasonable compensation the amount of which shall, in case of disputes, be determined by a Justice of the District Court.

(4) The owner and the person having possession of anything directed to be destroyed, and the owner or other person in charge of the vehicle containing it, or some or one of them, shall, if so directed by the Minister, destroy it accordingly, and, if the Minister so directs, the vehicle may be detained until the destruction is carried out.

(5) If the Minister is satisfied that the direction as to destruction has not been complied with and that the detention of the vehicle 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 carry out the destruction without using or otherwise dealing with the vehicle as if it were a receptacle for that which is forfeited, the Minister may direct the vehicle to be, and it may accordingly be, so used or dealt with.

1972 16 58

Defence of emergency. 58.—It shall be a good defence for a person charged with an offence under this Act to prove that, by reason of inevitable accident or other emergency, the act or omission complained of was, in the circumstances, necessary and proper.

1972 16 59

Evidence of instruments. 59.—A document which purports to be a copy of any instrument under this Act and which has endorsed thereon a certificate, purporting to be signed by an officer of the Minister or authority by whom it was issued, stating that the document is a true copy of the instrument and that the instrument was in force on a specified day shall, without proof of the status or signature of that officer, be prima facie evidence of the instrument and that it was in force on that day.

1972 16 60

Service and sending of documents. 60.—(1) Any document (including any summons or requirement) required or authorised to be served, sent or given under this Act on or to any person may be served, sent or given—

( a ) by delivering it to that person or, in the case of a partnership, to any of the partners, or by leaving it at, or posting it to, the residence of that person,

( b ) in the case of the owner or occupier of any premises, in any such manner as aforesaid or by delivering it, or a true copy thereof, to any person apparently not under the age of sixteen years at the premises.

(2) Any document referred to in subsection (1) may be addressed, for the purpose of the service, sending or giving thereof under this Act on or to the occupier of premises, to "the occupier" at the proper postal address of the premises, without further name or description.

(3) For the purposes of this section, a company registered under the Companies Act, 1963, shall be deemed to reside at its registered office, and every other body corporate and every unincorporated body shall be deemed to reside at its principal office or place of business in the State.

1972 16 61

Use of fireworks in public places. 61.—Any person who throws or casts any fireworks in or into, or ignites any fireworks in, any highway, street, thoroughfare or public place shall be guilty of an offence.

1972 16 62

Conveyance of substances. 62.—(1) All practicable steps to prevent risk of injury to person or property shall be taken in the conveying, loading and unloading of any substance to which this Act applies.

(2) The Minister may make regulations for the purposes of subsection (1) other than the purposes for which bye-laws may be made under subsection (3).

(3) The Minister may require a railway or canal undertaker to make under its statutory powers bye-laws governing the conveyance, loading and unloading of such substances by its undertaking and the undertaker shall comply with the requirement.

1972 16 63

Notice of ships carrying petroleum-spirit and other substances. 63.—(1) The owner or master of every ship carrying any petroleum-spirit or explosive or any substance the importation of which is prohibited or controlled under section 36 shall, on entering any harbour in the State, give notice of the nature of such cargo to the harbour master.

(2) If such notice is not given the owner and the master shall each be guilty of an offence.

(3) It shall be a good defence to a charge for a contravention of this section to prove of neither the owner nor the master knew the nature of the goods in respect of which the proceedings are taken, and that neither of them could, with reasonable diligence, have obtained such knowledge.

1972 16 64

Trespass and other offences on licensed premises. 64.—(1) A person who enters without permission or otherwise trespasses upon any licensed premises shall be guilty of an offence, and may be forthwith removed by a member of the Garda Síochána or by the licensee or any agent of or other person authorised by the licensee.

(2) A person who without lawful authority commits any act which tends to cause explosion or fire in or about the premises shall be guilty of an offence.

(3) The licensee shall post up in some conspicuous place or places in or about the premises a notice or notices warning all persons of their liability to penalties under this section; but the absence of any such notice shall not exempt any person from liability.

1972 16 65

Duties of persons employed. 65.—(1) A person employed in any premises to which any provisions of this Act apply shall not wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Act for securing health, safety or welfare of the persons employed at the premises, and where any means or appliance for securing health or safety is provided for the use of any such person under this Act, he shall use the means or appliance.

(2) A person employed in any premises or on any ship, vessel or vehicle to which any provisions of this Act apply shall not wilfully and without reasonable cause do anything likely to endanger himself or others.

1972 16 66

Display of notices. 66.—(1) Regulations may require that a prescribed abstract of this Act, copies of prescribed instruments or abstracts thereof and other notices be kept posted in the

prescribed manner at prescribed places and any instrument under this Act may impose a like requirement in respect of a copy of the instrument itself or a prescribed abstract thereof.

(2) If any person fails to comply with a requirement imposed on him under this section or wilfully pulls down, injures or defaces any document posted in pursuance thereof he shall be guilty of an offence.

1972 16

## SCHEDULE

Section 7.

## REPEALS

Session and Chapter or Number and Year Short Title Extent of Repeal  
17 & 18 Vict. c. 103 Towns Improvement (Ireland) Act, 1854.

Section 56 and, in the nineteenth paragraph of section 72, the words "or throws or sets fire to any fireworks,".

34 & 35 Vict. c. 105 Petroleum Act 1871.

The whole Act.

38 & 39 Vict. c. 17 Explosives Act, 1875.

The whole Act, except sections 73, 74, 75, 89 and 96 in so far as those sections are applied by section 8 (1) of the Explosive Substances Act, 1883, for the purposes of the latter Act.

42 & 43 Vict. c. 47. Petroleum Act, 1879.

The whole Act.

44 & 45 Vict. c. 67 Petroleum (Hawkers) Act, 1881

The whole Act.

46 & 47 Vict. c. 10 Customs and Inland Revenue Act, 1883.

Section 3.

61 & 62 Vict. c. 37 Local Government (Ireland) Act, 1898.

Section 6 ( c ).

9 Edw. 7, c. 43 Revenue Act, 1909.

Section 11.

No. 24 of 1961 Road Traffic Act, 1961.

Section 122.

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