



ANNO VICESIMO OCTAVO

# ELIZABETHAE II REGINAE

A.D. 1979

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## No. 47 of 1979

An Act to regulate the keeping, handling, conveyance, use and disposal, and the quality, of dangerous substances; to repeal the Liquefied Petroleum Gas Act, 1960-1973, and the Inflammable Liquids Act, 1961-1976; and for other purposes.

[Assented to 22nd March, 1979]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

### PART I PRELIMINARY

### PART I

1. This Act may be cited as the "Dangerous Substances Act, 1979".

Short title.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

Commencement.

(2) The Governor may, in a proclamation made for the purposes of subsection (1) of this section, suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. This Act is arranged as follows:—

Arrangement.

PART I—PRELIMINARY

PART II—ADMINISTRATIVE

PART III—DANGEROUS SUBSTANCES

DIVISION I—GENERAL

DIVISION II—LICENCES TO KEEP DANGEROUS SUBSTANCES

DIVISION III—LICENCES TO CONVEY DANGEROUS SUBSTANCES

DIVISION IV—LICENCES GENERALLY

PART IV—MISCELLANEOUS

**PART I**

Repeals and transitional provisions.

4. (1) The Liquefied Petroleum Gas Act, 1960-1973, is repealed.
- (2) The Inflammable Liquids Act, 1961-1976, is repealed.

Interpretation.

5. In this Act, unless the contrary intention appears—

“the Chief Inspector” means the person appointed to be the Chief Inspector under Part II of this Act:

“conveyance” in relation to a dangerous substance means movement of the dangerous substance whether by vehicle, pipeline or any other means and “convey” has a corresponding meaning:

“dangerous substance” means any substance, whether solid, liquid or gaseous, that is toxic, corrosive, flammable or otherwise dangerous and declared by regulation to be a dangerous substance for the purposes of this Act:

“the Director” means—

(a) the person for the time being holding or acting in the office of the Director of the Department of Labour and Industry;

or

(b) any other person directed by the Minister to exercise the powers of the officer so designated by this Act:

“the Government Analyst” means the person appointed by the Governor to be the Government Analyst or any person for the time being acting in that office:

“inspector” means—

(a) the Chief Inspector;

or

(b) a person appointed to be an inspector under Part II of this Act:

“premises” means any land or any building or structure whether fixed or moveable:

“vehicle” includes any kind of aircraft or vessel.

Act binds the Crown.

6. This Act binds the Crown.

Non-derogation.

7. (1) The provisions of this Act shall be in addition to and shall not derogate from the provisions of any other Act.

- (2) The provisions of this Act shall not limit or affect any civil remedy at law or in equity.

## PART II

## PART II

## ADMINISTRATIVE

8. (1) The Governor may, by notice published in the *Gazette*— Inspectors.
- (a) appoint a person to be the Chief Inspector for the purposes of this Act;
  - and
  - (b) appoint a person to be an inspector for the purposes of this Act.
- (2) The Minister shall provide each inspector with a certificate of identification in the prescribed form.
- (3) An inspector shall produce his certificate at the request of any person in relation to whom he is exercising his powers or functions under this Act.
9. (1) An inspector may— Powers of inspectors.
- (a) at any time, enter into or upon any premises or vehicle, inspect the premises or vehicle and anything in or on the premises or vehicle, and open any container or other thing, for the purpose of determining whether or not any provision of this Act is being or has been complied with;
  - (b) direct a vehicle to stop, or stop a vehicle, for the purpose of determining whether or not any provision of this Act is being or has been complied with;
  - (c) take, without payment, a sample of any substance that he suspects on reasonable grounds to be a dangerous substance or an ingredient thereof for the purpose of determining whether or not any provision of this Act is being or has been complied with;
  - (d) remove any substance or thing in relation to which he suspects upon reasonable grounds that an offence against this Act has been committed;
  - (e) inspect and examine, analyse and test or cause to be analysed or tested any substance or thing for the purpose of determining whether or not any provision of this Act has been or is being complied with;
  - (f) require any person to answer a question put to him, whether the question is put to him directly or through an interpreter, for the purpose of determining whether or not any provision of this Act is being or has been complied with;
  - (g) search, copy and take extracts of, and if necessary for that purpose remove any books, documents or records of any kind for the purpose of determining whether or not any provision of this Act is being or has been complied with;
- or
- (h) give such directions as are reasonably necessary for, or incidental to, the effective exercise of his powers under this Act.
- (2) Where an inspector considers upon reasonable grounds that, in the circumstances of a particular case, public safety or the safety or health of any person is endangered by a dangerous substance, he may—

(a) by notice in writing, direct the person apparently having the control of the dangerous substance to take such steps as are specified in the notice to remove or alleviate the danger;

or

(b) with the consent of the Minister and without incurring any liability to the owner or person in possession of the dangerous substance, destroy or render harmless the dangerous substance or, by notice in writing, direct the person apparently having the control of the dangerous substance to take such steps as are specified in the notice to destroy or render harmless the dangerous substance.

(3) An inspector may exercise the powers conferred by paragraph (b) of subsection (2) of this section without obtaining the consent of the Minister where the inspector considers upon reasonable grounds that the danger is imminent.

(4) In the exercise of his powers under this section, an inspector may be accompanied by such other persons as he considers necessary or desirable in the circumstances.

(5) A person shall not hinder or obstruct an inspector, or any person accompanying an inspector, in the exercise of his powers under this section.

Penalty: One thousand dollars.

(6) A person to whom a question is put under this section shall not refuse or fail to answer the question to the best of his knowledge, information or belief.

Penalty: One thousand dollars.

(7) A person shall not be guilty of an offence against subsection (6) of this section if he refuses to answer a question, the answer to which would tend to incriminate him.

(8) A person given any direction under this section shall not refuse or fail to comply with the direction.

Penalty: One thousand dollars.

(9) Where any substance or thing is removed under this section and—

(a) proceedings are not instituted for an offence against this Act in relation to the substance or thing within two months of its removal;

or

(b) proceedings having been so instituted, the substance or thing is not ordered to be forfeited to the Crown or the defendant is not convicted,

the person from whom the substance or thing was removed shall be entitled to recover it, or, if it has been destroyed or damaged or has deteriorated, to recover from the Minister, by action in any court of competent jurisdiction, the reasonable value of the substance or thing at the time of its removal.

10. Any person who is engaged or has been engaged in any office or position connected with the administration of this Act shall not, otherwise than in the performance of the duties or functions appertaining to that office or position, divulge or communicate any information obtained by virtue of that office or position.

Secrecy.

Penalty: One thousand dollars.

11. A person shall not falsely represent, by words or conduct, that he is engaged in or associated with the administration of this Act.

Person acting without authority.

Penalty: One thousand dollars.

### PART III

### PART III

## DANGEROUS SUBSTANCES

### DIVISION I—GENERAL

### DIVISION I

12. A person shall, in keeping, handling, conveying, using, or disposing of, any dangerous substance, take such precautions and exercise such care as is reasonable in the circumstances in order to avoid endangering the safety of any other person or other person's property.

General duty to take proper precautions with respect to dangerous substances.

Penalty: One thousand dollars.

### DIVISION II—LICENCES TO KEEP DANGEROUS SUBSTANCES

### DIVISION II

13. In this Division "prescribed dangerous substance" means a dangerous substance for the time being declared by regulation to be a prescribed dangerous substance for the purposes of this Division.

"Prescribed dangerous substance" for the purposes of this Division.

14. A person shall not keep any prescribed dangerous substance in any premises except—

Offence with respect to the keeping of dangerous substances without a licence.

(a) as permitted by regulations prescribed for the purposes of this section;

or

**PART III**  
**DIVISION II**

(b) pursuant to, and in accordance with the conditions of, a licence granted under this Division.

Penalty: One thousand dollars.

Licence to keep dangerous substances.

15. (1) The Director may, subject to this Act, in his discretion, upon application in the prescribed form and payment of the prescribed fee, grant a licence to any person to keep any prescribed dangerous substance in any premises.

(2) The Director shall not grant a licence under subsection (1) of this section unless the premises comply with the prescribed requirements.

(3) A licence granted under this section shall be subject to such conditions relating to—

- (a) the prescribed dangerous substance that may be kept;
- (b) its keeping;
- (c) the premises in which it may be kept;
- or
- (d) any other matter,

as the Director may specify by notice in writing given to the holder of the licence.

(4) The Director may, by notice in writing given to the holder of a licence under this section, add to, vary or revoke any conditions of the licence.

Removal of licence.

16. (1) A licence granted under this Division shall, subject to this Act, remain in force for such term as the Director may specify in the licence.

(2) The Director may, subject to this Act, in his discretion, upon application made in the prescribed manner and form and payment of the prescribed fee, renew a licence granted under this Division.

(3) A licence renewed under this section shall, subject to this Act, remain in force for such term (being not less than one year) as the Director may specify in the licence.

**DIVISION III**

**DIVISION III—LICENCES TO CONVEY DANGEROUS SUBSTANCES**

“Prescribed dangerous substance” for the purposes of this Division.

17. In this Division, “prescribed dangerous substance” means a dangerous substance for the time being declared by regulation to be a prescribed dangerous substance for the purposes of this Division.

Offence with respect to conveyance of dangerous substances without licence.

18. A person shall not convey any prescribed dangerous substance except—

- (a) as permitted by regulations prescribed for the purposes of this section;
- or
- (b) pursuant to, and in accordance with the conditions of, a licence granted under this Division.

Penalty: One thousand dollars.

**PART III**  
**DIVISION III**

19. (1) The Director may, subject to this Act, in his discretion, upon application in the prescribed form and payment of the prescribed fee, grant a licence to any person to convey any prescribed dangerous substance.

Licence to convey dangerous substances.

(2) A licence granted under this section shall be subject to such conditions relating to—

- (a) the prescribed dangerous substance that may be conveyed;
- (b) its conveyance;
- or
- (c) any other matter,

as the Director may specify by notice in writing given to the holder of the licence.

(3) The Director may, by notice in writing given to the holder of a licence under this section, add to, vary or revoke any conditions of the licence.

20. (1) A licence granted under this Division shall, subject to this Act, remain in force for such term as the Director may specify in the licence.

Renewal of licence.

(2) The Director may, subject to this Act, in his discretion, upon application made in the prescribed manner and form and payment of the prescribed fee, renew a licence granted under this Division.

(3) A licence renewed under this section shall, subject to this Act, remain in force for such term as the Director may specify in the licence.

**DIVISION IV—LICENCES GENERALLY**

**DIVISION IV**

21. The Director shall not grant or renew a licence under this Part if he is satisfied that it is not in the interests of public safety so to do.

General ground for not granting or renewing licences.

22. (1) A person holding a licence under this Part may surrender the licence.

Surrender, suspension and cancellation of licences.

(2) The Director may suspend, or cancel, a licence under this Part if he is satisfied—

- (a) that the grant or a renewal of the licence was obtained improperly;
- (b) that the holder of the licence has been convicted of an offence against this Act;
- (c) in the case of a licence to keep a dangerous substance in any premises, that the premises do not comply with the prescribed requirements;
- or
- (d) that the holder of the licence has breached, or failed to comply with, a condition of the licence.

23. (1) Any person who is aggrieved by a decision of the Director relating to a licence under this Part may, within the period of one month from the making of the decision, appeal to a local court of full jurisdiction against the decision.

Appeal to Minister against decision of Director.

(2) The local court of full jurisdiction may, on hearing an appeal under this section, affirm, vary or quash the decision appealed against.

**PART IV****PART IV  
MISCELLANEOUS****Exemption by  
Chief Inspector.**

**24. (1)** Subject to the provisions of this section, the Director may, upon the application of any person, by notice in writing, exempt that person from compliance with any specified provision of this Act.

(2) An exemption granted under this section shall be subject to such conditions as the Director may specify in the notice.

(3) The Director shall not grant an exemption from compliance with any provision of this Act unless he is satisfied—

(a) that compliance with the provision is not reasonably practicable in the circumstances;

and

(b) that the granting of the exemption subject to such conditions as he may specify will not endanger the safety of any person or property.

(4) The Director may, by notice in writing given to any person granted an exemption under this section, add to, vary, or revoke any conditions of the exemption.

(5) The Director may, after due inquiry and for good cause, by notice in writing to any person, revoke any exemption granted to that person under this section.

(6) Any person who has been granted an exemption under this section and who breaches, or fails to comply with, any condition of the exemption shall be guilty of an offence and liable to the penalty prescribed for contravention of the provision in relation to which the exemption was granted.

**Evidentiary  
provisions.**

**25. (1)** In proceedings for an offence against this Act, an allegation in the complaint—

(a) that any person named holds or held at a specified time a specified office;

(b) that any person named was or was not at a specified time the holder of a specified licence under this Act;

(c) that any specified substance is or was a dangerous substance;

or

(d) that any specified substance is or was a dangerous substance of a specified class,

shall, in the absence of proof to the contrary, be deemed to be proved.

(2) In proceedings for an offence against this Act, a licence and any conditions of a licence, an exemption and any conditions of an exemption, or any notice, granted or given under this Act may be proved by production of an apparently genuine document purporting to be a copy of the licence, exemption or notice certified by an officer authorized by this Act to grant or give such licence, exemption or notice.



(3) In proceedings for an offence against this Act, an apparently genuine document purporting to be a certificate of the Government Analyst setting out the results of an analysis of any substance or thing, shall, in the absence proof to the contrary, be accepted as proof of the matters stated therein.

26. Where a body corporate is guilty of an offence against this Act, every member of the governing body and the manager of the body corporate shall be guilty of an offence and liable to the same penalty as is prescribed for that offence unless he proves that he did not know and could not reasonably be expected to have known of the commission of that offence or that he exercised all due diligence to prevent the commission of that offence.

Offences  
by bodies  
corporate.

27. (1) A person convicted of an offence against any provision of this Act in respect of a continuing act or omission—

Continuing  
offences.

(a) shall be liable, in addition to the penalty otherwise applicable to that offence, to a penalty for each day during which the act or omission continued of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence;

and

(b) shall, if the act or omission continues after he is convicted, be guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to that further offence, to a penalty for each day during which the act or omission continued after that conviction of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence.

(2) Where an offence against a provision of this Act consists of an omission to do something that is required or directed to be done, the omission shall, for the purposes of subsection (1) of this section, be deemed to continue for so long as the thing required or directed to be done remains undone after the expiration of the period for compliance with the requirement or direction.

28. (1) Where a person is convicted of an offence against this Act, the court may order that any dangerous substance in relation to which the offence was committed and that is the property of that person be forfeited to the Crown.

Forfeiture of  
dangerous  
substance upon  
conviction.

(2) Any dangerous substance forfeited to the Crown shall be disposed of in such manner as the Minister may direct and, where any dangerous substance is disposed of by way of sale, the proceeds of the sale shall be paid into the general revenue of the State.

29. Proceedings for an offence against this Act—

Summary  
proceedings.

(a) shall be disposed of summarily;

and

(b) shall not be commenced except upon the complaint of an inspector.

30. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

Regulations.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) prescribe fees for licences under this Act varying according to the activity authorized under any such licence and the term of any such licence;
- (b) regulate the keeping, handling, conveyance, use and disposal of any dangerous substance;
- (c) prescribe standards of quality and composition in relation to any dangerous substance;
- (d) prohibit the sale of any dangerous substance that does not conform to any relevant prescribed standard of quality or composition;
- (e) prescribe standards for the siting, design, construction, ventilation, illumination, fittings, fixtures and management of premises used, or to be used, in connection with any dangerous substance;
- (f) prescribe standards for the design, construction, cleanliness, venting, ventilation, marking, and maintenance of any vehicle, pipeline or other means of conveyance, or any container or any other thing used, or to be used, in connection with any dangerous substance;
- (g) prohibit the keeping of any dangerous substance in any premises or containers that do not conform to any standard prescribed therefor;
- (h) prohibit the conveyance of any dangerous substance in containers or by vehicles, pipelines or any other means that do not conform to any standard prescribed therefor;
- (i) regulate or prohibit any activities of specified kinds in the vicinity of any dangerous substance;
- (j) prescribe the safety procedures to be followed and the provision, maintenance and use of safety equipment and facilities in connection with the keeping, handling, conveyance, use and disposal of any dangerous substance;
- (k) regulate, restrict or prohibit the disposal of any dangerous substance;
- (l) prohibit the handling or conveyance of any dangerous substance by any person who has not received the prescribed training;
- (m) require the reporting to the Director of accidents occurring in connection with the keeping, handling, conveyance, use or disposal of any dangerous substance;
- (n) require the keeping of records and the furnishing of returns to the Director in connection with the keeping, handling, conveyance, use or disposal of any dangerous substance;

and

- (o) provide for and prescribe penalties not exceeding, in each case, one thousand dollars for breach of, or non-compliance with, any regulation.

(3) Any regulations made under this section may—

(a) be of general or limited application according to the persons or classes of persons to whom, or the dangerous substances or classes of dangerous substances, or the time, place or circumstances, to which they are expressed to apply;

and

(b) refer to, or incorporate, in whole or in part, a standard or code of practice, as in force at a particular time, or as in force from time to time, of the Standards Association of Australia, the International Standards Organization, or any other prescribed body.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor