

*Amended by 23rd/1874*

*no. 958 of '08, S. 4*



ANNO TRICESIMO SEPTIMO

# VICTORIÆ REGINÆ.

A.D. 1873.

## No. 11.

*An Act to provide for the safe keeping of Kerosine Oil and other substances of a like nature.*

[Assented to, 18th December, 1873.]

**W**HEREAS it is expedient to provide for the safe keeping of Kerosine Oil, and of other substances of a like nature—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited as the "Kerosine Storage Act, 1873." Short title.

2. In this Act the following words shall, except where inconsistent with the subject-matter or context, have the meanings in this section assigned to them respectively, that is to say— Interpretation of certain words.

"Municipality" means any city, town, district, or place incorporated or to be incorporated under "The Municipal Corporations Act, 1861," or any Act amending the same: "Municipality."

"Ship" includes every description of vessel used in navigation, and whether propelled by oars or otherwise: "Ship."

"Kerosine" means and includes all rock oil, Burmah oil, Rangoon oil, camphine, and any product, or combination of any of them; and also any oil made from petroleum, kerosine, coal, shale, schist, peat, or other bituminous substance, and any product or combination thereof. "Kerosine."

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Kerosine to be landed within five days after ship's arrival at wharf.

3. From and after the first day of January, one thousand eight hundred and seventy-four, the person for the time being in command of any ship which, having kerosine on board, comes alongside of or within one hundred yards of any wharf, pier, or jetty in the Province, shall within seven days afterwards cause so much at least of such kerosine as is in excess of two hundred gallons to be landed. Any such person who omits to comply with the provisions of this section shall be liable to a penalty not exceeding One Hundred Pounds, and so much of the kerosine remaining on board such ship at the expiration of the prescribed time as is in excess of two hundred gallons shall be liable to be forfeited, and may, while on board, be seized and landed by or by the directions of the Inspector of Kerosine, or any Assistant Inspector of Kerosine, and conveyed to some proper place, in conformity with the provisions of this Act; but this clause shall not apply to any wharf, pier, or jetty on the River Murray or Lake Alexandrina.

Kerosine, when landed, to be removed before sunset from the wharf.

4. From and after the first day of January, one thousand eight hundred and seventy-four, every case, tin, barrel, or other vessel containing kerosine, which is landed at or upon any wharf, pier, or jetty within the Province, shall, before sunset on the day on which it is landed, be removed from such wharf, pier, or jetty.

Every such case, tin, barrel, or other vessel which is not removed therefrom within the prescribed time may, together with the contents thereof, be seized, and be removed therefrom by or by the directions of the Inspector of Kerosine or any Assistant Inspector of Kerosine, and shall be liable to be forfeited, and the consignee of such kerosine shall also be liable to a penalty not exceeding Two Shillings for every gallon thereof which has not been removed from such wharf, pier, or jetty within the prescribed time.

It shall be lawful for the Inspector of Kerosine, and for every Assistant Inspector of Kerosine, at any time between sunset on one day and sunrise on the next to enter upon any private wharf, pier, or jetty within the Province, on which he believes there is kerosine, and to remain there so long, and do all such acts, and bring thereon all such persons as may be necessary for the performance of his duties under this Act; and every person who prevents, or tries to prevent, any such Inspector or Assistant Inspector from entering or remaining upon any such wharf, pier, or jetty, or in any way obstructs any such Inspector or Assistant Inspector in the performance of his duties, shall be deemed to have committed an offence against this Act, and shall be liable to a penalty not exceeding Fifty Pounds for every such offence:

Provided that nothing in this clause contained shall be construed to apply to any private landing-place not within the boundaries of any municipality, used by the owner thereof for the purpose of landing goods thereat.

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5. From and after the first day of January, one thousand eight hundred and seventy-four, every house, warehouse, storehouse, shop, shed, or other building, cellar, or other excavation, yard, or other place situate within the boundaries of any municipality, or within one hundred yards of any such boundary, and in which a quantity of kerosine in excess of fifty gallons is kept, stored, or placed at one and the same time, must be well ventilated; and all kerosine therein in excess of fifty gallons must be kept stored and placed below the level of the ground surrounding or adjoining such house, warehouse, storehouse, shop, shed, or other building, cellar, or other excavation, yard, or other place; but in no case shall the quantity so kept, stored, or placed exceed five hundred gallons at one time: Provided that the Inspector of Kerosine may, from time to time, license specially any detached and suitable building as and for a kerosine store exclusively, and such licence from time to time, at his discretion, may revoke; and during the continuance of such licence it shall be lawful for any person or persons to store kerosine therein, although the quantity so stored may exceed five hundred gallons.

Storage of kerosine in large quantities.

Every person keeping or storing kerosine in contravention of this section shall be liable to a penalty not exceeding Two Shillings for every gallon thereof kept, or stored, or placed in contravention of this section; and all such kerosine may, together with every case, tin, barrel, or other vessel containing it, be seized, removed, and forfeited, as hereinafter is provided.

6. From and after the first day of January, one thousand eight hundred and seventy-four, no person shall have or keep at one and the same time, in one and the same building, or place situate within the boundaries of any municipality, or within one hundred yards of any such boundary, more than fifty gallons of kerosine for the purpose of private consumption.

Quantity of kerosine for private consumption.

7. No person, while in that part of any house, warehouse, storehouse, shop, shed, or other building, or while in any cellar or other excavation, yard, or other place in which kerosine is then kept or stored for any purpose other than that of private consumption, shall smoke any tobacco or opium, in any pipe or other manner, or strike or use any light, or use any lucifer match, or any other match, substance, or thing, for the purpose of thereby striking or procuring a light for any purpose; and every person who shall do any act in contravention of this or the next preceding section, shall be liable to a penalty of not exceeding Five Pounds for each such offence.

Prohibition of smoking or using matches or artificial lights in places containing kerosine.

8. It shall be lawful for any Justice of the Peace for the Province, upon demand made to him by the Inspector of Kerosine, or any Assistant Inspector of Kerosine, and upon the oath of such demandant that he has good reason to believe that kerosine is kept stored or placed in contravention of this Act in any specified house, warehouse, storehouse, shop, shed, or other building, cellar, or other

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other excavation, yard, or other place, or in any ship, to issue a warrant or warrants under his hand, authorizing such demandant and such (if any) other persons as the Justice issuing the same shall think proper, to enter between sunrise and sunset, on any day or days named in such warrant or warrants, such specified house, warehouse, storehouse, shop, shed or other building, cellar or other excavation yard or other place, or such ship, and to search there for kerosine kept stored or placed in contravention of this Act, and the person or persons named in that behalf in such warrant or warrants may after entry remain there so long as shall be reasonably necessary for the proper performance of his or their duties under this Act; and may, if he or they think proper, upon finding there any kerosine kept stored or placed, in contravention of this Act, seize it, and every case, tin, barrel, or other vessel containing it, and remove the same with all convenient speed to such proper places, in conformity with the provisions of this Act, as they or he shall think fit, and may detain the same until it shall be adjudged on the hearing of any information or complaint, as hereinafter mentioned, whether the same shall be forfeited.

Such person or persons shall not, nor shall any of them, be liable to any action or suit for such seizure, removal, or detention, or for any loss of, or damage which may happen to, such kerosine cases, tins, barrels, or vessels, save by the wilful acts or neglect of himself or themselves, or of some other person or persons, to whom he or they entrust the keeping thereof.

Any person who refuses to admit into the house, warehouse, storehouse, shop, shed, or other building, cellar, or other excavation, yard, or other place, or the ship specified in such warrant or warrants, the person or persons, or any of the persons named therein, and showing him or her such warrant or warrants, when asked to show the same, and requiring permission to enter in pursuance thereof; or who in any manner prevents, or tries to prevent, any person named in such warrant or warrants from making or prosecuting his or their search in pursuance thereof, or in any manner obstructs him, or them, or any of them, in the performance of his or their duties under this Act, shall be deemed to have committed an offence against this Act and shall be liable to a penalty not exceeding Fifty Pounds for every such offence.

Appointment of Inspector of Kerosine, and Assistant Inspectors; prosecutor.

9. The Governor may appoint, from time to time, an Inspector of Kerosine, and as many Assistant Inspectors of Kerosine as may be deemed necessary for carrying out effectively the provisions of this Act, and to cancel any such appointment or appointments; and every person who holds any office or employment under the Crown, and who shall be appointed to the office of Inspector of Kerosine or Assistant Inspector of Kerosine, shall accept such office and perform the duties appertaining thereto.

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Every prosecution for an offence against this Act may be commenced and completed in a summary way by information or complaint under the Ordinance No. 6 of 1850, in the name and by or on the behalf of the person who is Inspector of Kerosine, or in the name and by or on the behalf of the person who is Assistant Inspector of Kerosine for the Municipality in which such prosecution may be carried on at the time when such prosecution is instituted, so long as he continues to hold that office, and no such prosecution shall lapse or be determined or abated by the death or other removal from office of any Inspector of Kerosine, or Assistant Inspector of Kerosine, but shall and may be continued and carried to completion in the name of the deceased or removed Inspector of Kerosine, or Assistant Inspector of Kerosine (as if no such death or removal had happened), by or on the behalf of his immediate or any future successor in office.

10. No conviction or order made in pursuance of this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise, either at the instance of the Crown, or of any Inspector of Kerosine, or Assistant Inspector of Kerosine, or of any private party, into any superior Court. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

Conviction or order not to be quashed for formal defects.

11. There shall be an appeal from any conviction by any Special Magistrate or Justices for any offence against this Act, and from any order dismissing the information or complaint, or declaring any forfeiture, and from any other order, whether for the payment of costs or otherwise, made or purporting to be made under or in pursuance to this Act. Every such appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on each such appeal, shall be conducted in manner appointed by the Ordinance No. 6 of 1850, for appeals to the Local Courts; but the Local Court of Adelaide aforesaid may make such order as to the payment of the costs of appeal as it shall think fit, although the amount of such costs may exceed Ten Pounds.

Appeal to Adelaide Local Court of Full Jurisdiction.

12. The Local Court of Adelaide of Full Jurisdiction, upon the hearing of any appeal under this Act, may state a special case for the opinion of the Supreme Court, which shall hear and decide such special case according to the practice of the Supreme Court on special cases, and shall make such order as shall seem to it just as to the costs of any such special case.

Local Court, on hearing of appeal, may state a special case.

13. Any two or more Justices, or the said Local Court of Adelaide, shall make, in respect to the matters referred to the Supreme Court, an order in conformity with the certificate of the Supreme Court, or of any Judge thereof; and every such order of the Justices or Local Court shall be expressed in manner provided for the enforcement of orders

Order to be made in accordance with certificate.

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orders of Justices under the said Ordinance; and save as herein is provided, no order, conviction, or proceeding of any Special Magistrate or Justices, made or purporting to be made under this Act, shall be appealed against.

Power of Governor to make regulations.

14. The Governor, may from time to time make and publish in the *Government Gazette*, regulations such as to him shall seem meet, for fully and effectually carrying out and giving force and effect to the various purposes, provisions, powers, and authorities in this Act contained; and may, from time to time, alter, rescind, vary, and amend the same or any of them, and make other regulations in lieu thereof, for more fully and effectually carrying out and giving force and effect to such purposes, provisions, powers, and authorities. Every regulation made or purporting to be made in pursuance of this section shall, when published in the *Government Gazette*, have the force of law.

*Gazette* to be evidence of certain facts.

15. The *Government Gazette*, or any copy thereof, printed, or purporting to be printed by the Government Printer, and containing any such regulation, shall, on production thereof in any Court of Justice in the Province, be deemed to be *prima facie* evidence of all such facts and circumstances as were or shall be necessary to authorize the making and publishing of such regulation, and every such regulation shall, in every such Court, be taken as *prima facie* evidence that such regulation has been issued in conformity with this Act, and to have the force of law.

Application of Act to substances not named therein.

16. The Governor, may from time to time make, revoke, and vary orders directing this Act, or any section or sections thereof, to apply to any substance not hereinbefore mentioned; and this Act, or the section or sections thereof specified in such order, shall, during the continuance of such order, apply to such substance, and shall be construed and have effect as if throughout this Act, or such section or sections thereof, such substance had been included in the foregoing definition of the word "kerosine," but subject to the following qualifications—

- i. The quantity of any substance to which this Act is by such order directed to apply shall be the quantity specified in that behalf in such order, and no more :
- ii. The label, if any, directed by such order to be affixed to any case, tin, barrel, or other vessel containing such substance, shall be such and shall contain such words as may be specified in that behalf in such order, and the words, if any, thereon shall be in written or printed characters distinctly legible.

No such order shall come into operation until it has been published in the *Government Gazette*.

Inspector in Corporations.

17. The Governor may appoint any officer of a Municipal Corporation to be an Inspector under this Act within the corporate limits of such Corporation.

18. Whenever

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18. Whenever the Governor shall make such appointment as is provided for by clause 17, all penalties recovered under this Act shall be payable to and received by the Municipal Corporation, within whose limits the penalty is incurred, for the use of such Corporation.

Fees paid to Corporation.

19. At any time after this Act has come into operation the Governor may, by Proclamation published in the *Government Gazette*, declare that this Act, or such of the provisions thereof as shall be specified in such Proclamation, shall be extended to such part of the Province as it has not theretofore applied to, and as shall in that behalf be in such Proclamation defined by limits therein specified. The Governor may define such part by such limits as he shall deem proper, and shall specify in such Proclamation a time, at the expiration of which this Act, or such of the provisions thereof as shall be specified in such Proclamation, shall come into operation within the limits specified therein, and from and after the expiration of such time this Act, or such of the provisions thereof as shall be specified in such Proclamation, shall come into operation and have the force of law within the said limits: Provided always that the Governor may revoke or alter any such Proclamation in such manner as shall seem to him necessary or expedient.

Power to the Governor to extend the operation of this Act.

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

A. MUSGRAVE, Governor.