

EXPLOSIVES.

No. 99 of 1952.

An Act relating to Explosives.

[Assented to 18th November, 1952.]

[Date of commencement, 16th December, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Explosives Act 1952*.

Definitions.

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

“Commonwealth explosives” means explosives which are the property of, or are in the possession or control of, the Commonwealth and are for use, or are capable of being used—

(a) by the naval, military or air forces of the Commonwealth; or

(b) otherwise for, or for purposes related to, the defence of the Commonwealth;

“explosives” means—

(a) substances or articles capable of producing an explosive, incendiary or pyrotechnic effect;

(b) substances or articles prescribed by the regulations to be explosives; or

(c) containers which have contained a substance or article to which either of the two preceding paragraphs of this definition applies and have not been certified, in accordance with the regulations, to be free from explosives;

“handling” includes loading, unloading, discharging, stacking, stowing, storing, transporting and any operation incidental to, or arising out of, any of those operations;

“vessel” means a ship, boat or other vessel used for any purpose on the sea or in navigation, but does not include a vessel belonging to the naval forces of the Commonwealth or of another part of the Queen's dominions.

Act to bind Crown.

3. This Act binds the Crown in right of the Commonwealth or of a State and any authority constituted by or under a law of the Commonwealth or of a State or Territory of the Commonwealth.

Application.

4.—(1.) This Act extends to all the Territories of the Commonwealth.

(2.) Where a law, not being an Act, in force in a Territory of the Commonwealth is inconsistent with this Act or the regulations, or with an order under the regulations, that law is, to the extent of the inconsistency, of no effect.

5.—(1.) The Governor-General may make regulations for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of Commonwealth explosives, and for prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2.) Without limiting the generality of the power to make regulations conferred by the last preceding sub-section, the regulations which may be made under that sub-section include regulations for or in relation to—

- (a) safety measures to be observed at, in or upon a place, vehicle, aircraft or vessel at, in, upon or in the vicinity of which there are Commonwealth explosives; and
- (b) the establishment, and the functions and powers, of committees to advise the Minister on such matters as are prescribed.

(3.) Before making regulations for or in relation to the handling of Commonwealth explosives in a port, the Governor-General shall take into consideration any recommendations with respect to the proposed regulations made to the Minister by the committee known as the Permanent Committee of the Australian Port Authorities Association.

6.—(1.) The regulations may empower a person— Orders.

- (a) to provide, by order, for any matter which may be provided for by the regulations; and
- (b) to direct, by order, that a vessel in which Commonwealth explosives are, or are to be, loaded may be moored or berthed in a port specified in the order.

(2.) Orders made under the regulations shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903-1939.

(3.) The provisions of section forty-eight (except paragraphs (a) and (b) of sub-section (1.), and sub-section (2.)) and of section forty-nine of the *Acts Interpretation Act* 1901-1950 apply, by force of this section, to orders made under the regulations in like manner as those provisions apply to regulations.

(4.) The *Acts Interpretation Act* 1901-1950 applies, by force of this section, to the interpretation of orders made under the regulations in like manner as it applies to the interpretation of regulations, and, for the purposes of section forty-six of that Act, orders so made shall be deemed to be regulations.

(5.) Where the regulations confer power to make orders, the power includes, unless the contrary intention appears, power exercisable in the like manner, and subject to the like conditions (if any), to repeal, revoke, amend or vary an order so made.

Date from
which orders
take effect.

7. An order made under the regulations shall take effect—

- (a) in the case of an order required by the regulations to be published in the *Gazette*—on the date of publication ; and
- (b) in any other case—on the date on which the order is made, or on such later date as is prescribed or fixed by or under the regulations.

Proof of
instruments.

8. Evidence of an order or other instrument made or issued by a Minister or other person in pursuance of a provision contained in, or having effect under, the regulations may, in any legal proceedings, be given by the production of—

- (a) a document purporting to be that order or other instrument and to be signed by the Minister or that other person ; or
- (b) a document purporting to be certified to be a true copy of that order or other instrument by or on behalf of the Minister or that other person.

Offences.

9. A person who contravenes, or fails to comply with, a provision of the regulations or of an order made under the regulations is guilty of an offence against this Act punishable upon conviction by a fine not exceeding Fifty pounds or imprisonment for a term not exceeding three months, or both, and in addition, if the offence is a continuing one, by a fine not exceeding Fifty pounds for each day during which the offence continues.

Indemnity.

10. The Commonwealth may indemnify a person from and against all actions, proceedings, claims, demands, costs and expenses relating to any loss, damage or injury to any person or property attributable to Commonwealth explosives or to the handling of Commonwealth explosives.