

EXPLOSIVES.

No. 65 of 1961.

An Act relating to Explosives.

[Assented to 24th October, 1961.]

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

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Explosives Act* 1961.

Commencement.

2. This Act shall come into operation on a date to be fixed by Proclamation.

3. This Act is divided into Parts, as follows:— Parts.
 Part I.—Preliminary (Sections 1–7).
 Part II.—Explosives for Defence Purposes (Sections 8–12).
 Part III.—Control of Commonwealth Explosives Areas (Sections 13–14).
 Part IV.—Miscellaneous (Sections 15–21).
4. The following Acts are repealed:— Repeal.
Explosives Act 1952;
Explosives Act 1957;
Explosives Act 1960.
5. In this Act, unless the contrary intention appears— Definitions.
 “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 that have contained a substance or article to which either of the last 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.
6. 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, of a State or of a Territory of the Commonwealth. Act binds Crown.
- 7.—(1.) This Act extends to all the Territories of the Commonwealth. Act extends to Territories.
 (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.
- PART II.—EXPLOSIVES FOR DEFENCE PURPOSES.**
8. In this Part, “vessel” does not include a vessel belonging to the naval forces of the Commonwealth or of another part of the Queen’s dominions. Definition.

**Explosives
to which
this Part
applies.**

9. This Part applies to explosives that—

- (a) are the property of, or are in the possession or control of, the Commonwealth and are for use—**
 - (i) by the naval, military or air forces of the Commonwealth; or**
 - (ii) otherwise for, or for purposes related to, the defence of the Commonwealth; or**
- (b) are the property of, or are in the possession or control of, the government or the naval, military or air forces of another country and are in the Commonwealth or a Territory of the Commonwealth with the approval of the Commonwealth for the purposes of, or a purpose related to, the defence of the Commonwealth.**

Regulations.

10.—(1.) The regulations may make provision—

- (a) for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of explosives to which this Part applies; and**
- (b) for or in relation to 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 explosives to which this Part applies.**

(2.) Before making regulations for or in relation to the handling in a port of explosives to which this Part applies, 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.

**Orders
relating to the
berthing of
vessels.**

11.—(1.) The regulations may empower a person to direct, by order, that a vessel in which explosives to which this Part applies are, or are to be, loaded may, for a purpose or purposes specified in the order, be berthed in a port so specified.

(2.) The regulations may provide that where—

- (a) the port specified in an order referred to in the last preceding sub-section is a prescribed port; and**
- (b) the vessel to which the order relates is not provided with a berth in the port or is provided with a berth in the port that, in the opinion of the person who made the order, is not suitable for the purpose or purposes specified in the order,**

that person may, by order, give such directions as are necessary for ensuring that the vessel is, for such period as is necessary, provided with a berth in the port that is so suitable.

12.—(1.) 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 explosives to which this Part applies or to the handling of explosives to which this Part applies. Indemnity.

(2.) An indemnity given under section ten of the *Explosives Act* 1952, or that Act as amended, and in force immediately before the commencement of this Act has, after the commencement of this Act, the same force and effect as if—

- (a) the indemnity had been given under the last preceding sub-section;
- (b) any reference in the indemnity to the *Explosives Act* 1952 or any amendment of that Act were a reference to this Act; and
- (c) any reference in the indemnity to the regulations made under the *Explosives Act* 1952 or any amendment of that Act or to Explosives Regulations were a reference to regulations made under this Act for the purposes of this Part.

PART III.—CONTROL OF COMMONWEALTH EXPLOSIVES AREAS.

13. In this Part—

Definitions.

“ Commonwealth explosives area ” means any Commonwealth land declared by the regulations to be an explosives area and, where any such land consists of a part of the bed of the sea, or of a bay, estuary or river, includes the waters above the land;

“ Commonwealth land ” means land the property of the Commonwealth and includes any other land—

- (a) in which the Commonwealth has a legal or equitable estate or interest; or
- (b) over or in connexion with which the Commonwealth has a right, power or privilege.

14.—(1.) The regulations may make provision for ensuring the safety of persons who are, and the protection from damage of property that is, in or in the vicinity of a Commonwealth explosives area. Regulations.

(2.) Without limiting the generality of the last preceding sub-section, the regulations may make provision—

- (a) for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of explosives and other goods in or in the vicinity of a Commonwealth explosives area;
- (b) for or in relation to safety measures to be observed in or in the vicinity of a Commonwealth explosives area;

- (c) prohibiting or regulating the entry of persons, vehicles, aircraft and vessels into, and the movement of persons, vehicles, aircraft and vessels within or over, a Commonwealth explosives area;
- (d) for or in relation to the berthing of vessels in a Commonwealth explosives area; and
- (e) prescribing fees to be paid in respect of the use of facilities or services maintained, operated or provided by the Commonwealth in a Commonwealth explosives area.

PART IV.—MISCELLANEOUS.

Orders.

15. The regulations may empower a person to provide, by order, for any matter that may be provided for by the regulations.

General provisions applicable to orders.

16.—(1.) Orders made under the regulations are not Statutory Rules within the meaning of the *Rules Publication Act 1903–1939*.

(2.) 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 1901–1957* apply, by force of this section, to orders made under the regulations in like manner as those provisions apply to regulations.

(3.) The *Acts Interpretation Act 1901–1957* 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.

(4.) 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.

17. 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 as is fixed under the regulations.

Proof of instruments.

18. 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.

19. The Regulations may make provision for or in relation to the establishment, and the functions and powers, of committees to advise the Minister on matters relating to, or to the handling of, explosives. Committees
of advice.

20. 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— Offences.

(a) a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding six months, or both, and in addition, if the offence is a continuing offence, by a fine not exceeding One hundred pounds for each day during which the offence continues; or

(b) such lesser penalty as is prescribed.

21. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.
