

Western Australia

## **Explosives and Dangerous Goods Act 1961**

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# Explosives and Dangerous Goods Act 1961

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## CONTENTS

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<b>Part I — Preliminary provisions</b>		
1.	Short title	2
3.	Commencement	2
4.	Severability	2
6.	Relationship to other laws	2
7.	Interpretation	3
<b>Part II — Administration</b>		
8.	Administration	7
9.	Chief Inspector and inspectors	7
10.	Annual Report	7
11.	Cost of administration	7
12.	Powers of inspectors	7
<b>Part III — Explosives</b>		
<b>Division 1 — Authorized explosives</b>		
14.	Explosives may be classified, or declared authorized explosives	10
<b>Division 2 — Importation of explosives</b>		
15.	Explosives not to be imported without licence or permit	11
16.	Conditions for importing explosives	11
17.	Notice of arrival of imported explosive	12
18.	Importation of explosives without licence an offence	12
<b>Division 3 — Manufacture of explosives</b>		
19.	Explosives to be manufactured only under licence	13

Contents

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20.	Application for licence to manufacture explosives	14
21.	Manufacturer of explosives to comply with terms of licence	14
	<b>Division 4 — Storage of explosives</b>	
22.	Where explosives may be stored	14
23.	Exemptions from licence to store	15
24.	Storage in unauthorized place an offence	16
25.	Public magazines may be appointed	16
26.	Private magazines to be licensed	16
27.	Magazine to be maintained as described in licence	17
	<b>Division 5 — Sale of explosives</b>	
28.	Licence required to sell explosives	17
29.	Sales of explosives to be recorded	17
30.	Provisions as to sale of explosives	18
30A.	Permits to purchase manufactured fireworks for public displays	19
31.	Provisions as to keeping of book recording sales	20
32.	Offences	20
33.	Application of this Division	21
	<b>Division 6 — Use of explosives</b>	
34.	Use of explosives restricted	21
35.	Conditions under which use prohibited	23
36.	Application of this Division	23
	<b>Part IV — Dangerous goods</b>	
	<b>Division 2 — Storage of dangerous goods</b>	
43.	Regulation of storage of dangerous goods	24
44.	Packing and labelling of dangerous goods	24
45.	Application for licence	24
45A.	Issue of licence	25
45B.	Chief Inspector may impose conditions etc.	25
45C.	Chief Inspector may give directions	26
46.	Depots may be established by local governments	26
	<b>Division 2A — Pipelines carrying dangerous goods</b>	
46D.	Pipelines	27
	<b>Division 3 — Miscellaneous provisions relating to dangerous goods</b>	
47.	Inspectors of dangerous goods	28
48.	Powers of inspector as to defects	28

**Part V — General provisions**

50.	General provisions as to licences	30
51.	Licences or permits may be cancelled or suspended	30
52.	Appeals	31
53.	Search warrant	31
54.	Inspector not to be hindered in duties	31
54A.	Special situations	32
55.	Accidents	33
55A.	Assistance in emergencies or accidents	34
56.	Offences	35
57.	Forfeiture	36
58.	Disposal of seized explosives etc.	36
59.	Suspended or cancelled licences to be returned	37
60.	Protection of officers	37
61.	Proof of offence	37
62.	Regulations	38
63.	This Act not to apply in certain cases	42

**Notes**

	Compilation table	44
	Provisions that have not come into operation	48



Western Australia

## **Explosives and Dangerous Goods Act 1961**

**An Act to consolidate and amend the law relating to explosives; to regulate the manufacture, importation and use of explosives, and the classification, marking, storage, carriage, and sale of explosives and dangerous goods; and for other incidental purposes.**

## **Part I — Preliminary provisions**

**1. Short title**

This Act may be cited as the *Explosives and Dangerous Goods Act 1961*<sup>1, 1a</sup>.

[2. *Repealed by No. 68 of 1984 s.2.*]

**3. Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

**4. Severability**

This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being that when any enactment in this Act would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

[5. *Repealed by No. 51 of 1998 s.4.*]

**6. Relationship to other laws**

(1) Where any provision of this Act is inconsistent with any provision relating to explosives or dangerous goods contained in any other Act, or in any regulation, local law, by-law, rule, order in council, proclamation, notice or other law made under or pursuant to authority delegated under any other Act, the provision of this Act shall prevail.

(1a) Notwithstanding subsection (1), if a provision of this Act —

(a) that relates to the storage and handling of explosives or dangerous goods; and



- (b) that does not relate to the transport of explosives or dangerous goods,

is inconsistent with a provision of the *Dangerous Goods (Transport) Act 1998*, the provision of this Act prevails.

- (2) Subject to subsection (1) and (1a), where by or under any other Act any provision is made relating to explosives or dangerous goods the provision so made shall, unless otherwise expressly provided, be observed in addition to and not in substitution for or diminution of the provisions of this Act.
- (3) Subsection (1) does not apply to, or in relation to, any radioactive substance in so far as specific provision therefor is made by or under any other Act.
- (4) Nothing in this Act shall prejudice or otherwise affect any local law not inconsistent with the provisions of this Act made by a local government under the *Local Government Act 1995*.
- (5) Nothing in this Act shall prejudice or in any way interfere with the powers of inspection and the regulation of explosives in any mine within the meaning of the *Mines Safety and Inspection Act 1994*, except when any such power or regulation is contrary to or inconsistent with any provision of this Act, in which case the provision of this Act shall prevail.

*[Section 6 amended by No. 15 of 1974 s.2; No. 101 of 1978 s.5; No. 62 of 1994 s.109; No. 14 of 1996 s.4; No. 51 of 1998 s.5.]*

## **7. Interpretation**

- (1) In this Act unless the context requires otherwise —
- “**authorized explosive**” means any explosive which under section 14 has been declared an authorized explosive for the purposes of this Act;
- “**blasting agent**” means any material or mixture intended for blasting, not otherwise an authorized explosive and none of the ingredients of which is an authorized explosive;

**s. 7**

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provided that the finished product cannot be detonated when tested in a manner laid down by the Chief Inspector;

**“Chief Inspector”** means the person holding or acting in the office of chief inspector for the purposes of section 9 under the designation of Chief Inspector of Explosives and Dangerous Goods or such other designation as applies to that office under the *Public Service Act 1978*<sup>2</sup>;

**“container”** means any case, barrel, box, drum, tank, canister, tin or other receptacle, and includes every package in or by which explosives or dangerous goods may be cased, covered, enclosed, contained or packed;

**“dangerous goods”** means a substance or article that is prescribed to be dangerous goods;

**“depot”**, in relation to dangerous goods which are liquid at atmospheric temperatures and pressures, means any pit, excavation, or enclosed place, whether situated in a building or not, which is constructed in such manner, or surrounded by walls of such character, that liquid dangerous goods stored therein cannot escape from that place either under the action of fire or otherwise, and in relation to any other dangerous goods, means a building or place prescribed or approved by an inspector as a depot for the storage of dangerous goods;

**“explosive”** mean a substance or article that is prescribed to be an explosive;

**“factory”** means any area of land, or any building, licensed under this Act for the manufacture of any explosive, and includes any building or place within a factory site in which any explosive or partly manufactured explosive is stored;

**“inspector”** means an inspector of explosives appointed under this Act, and includes the Chief Inspector;

**“lighter”** means any vessel however propelled used for the transport of goods between a ship at anchor off shore in any port, harbour or roadstead and any other vessel or the quays, wharves or shore of that port, harbour or roadstead;

**“local government”** means a local government or any person exercising the powers of a local government under the *Health Act 1911*;

**“magazine”** means any area of land, building or other structure, receptacle, or other place approved by the Chief Inspector, where explosives or partly manufactured explosives are kept or stored;

**“manufacture”**, in relation to any explosive, includes, without limiting the ordinary meaning of the term, the blending together of any substances to make an explosive, the breaking up or unmaking of an explosive, and the re-making, altering or repairing of an explosive;

**“master”** includes the person (except a pilot) having command or charge of a vessel, and in relation to any boat belonging to a vessel, means the master of the vessel;

**“pipeline”** means a pipe or system of pipes, including any branch thereof, used or intended to be used for the conveyance of dangerous goods to or from licensed premises, both internal and external to the licensed premises, and includes all coatings, works, fittings, pumps, appliances, protection, supports and structures used in connection with a pipeline;

**“premises”** means any land, house, storehouse, store-ship, warehouse, shop, factory, store, cellar, yard, building, or enclosed space, or any part thereof;

**“safety cartridges”** means cartridges for guns, rifles, pistols, revolvers or other small arms, of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges;

**“sale”** includes barter and exchange and supply, and also offering or attempting to sell, or receiving for sale, or exposing or having in possession for sale, or sending, forwarding or delivering for or on sale, or causing,

**s. 7**

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suffering, permitting or allowing to be sold or offered or exposed for sale;

“**store**”, in relation to explosives, means retain the explosives on any premises; and, in relation to dangerous goods, means retain the dangerous goods on any premises for a period of not less than one hour; and “**storage**” has a corresponding meaning in each case;

“**substance**” includes, but without limiting the generality of its meaning, any gas, any liquid, any gas mixture and any liquid mixture;

“**vessel**” means a ship, lighter, hulk, boat, and every other kind of vessel used in navigation whatever may be the means of its propulsion.

- (2) A reference, however expressed, in any other Act or in any regulation, notice, proclamation or statutory instrument of any kind made, published or in force under this or any other Act, to the Chief Inspector of Explosives shall, unless the context requires otherwise, be read and construed as a reference to the Chief Inspector of Explosives and Dangerous Goods appointed or deemed to have been appointed under this Act.

*[Section 7 amended by No. 101 of 1978 s.6; No. 28 of 1990 s.4; No. 14 of 1996 s.4; No. 51 of 1998 s.6.]*

## **Part II — Administration**

### **8. Administration**

Subject to its provisions, this Act shall be administered by the Minister through the department of the State known as the Department of Minerals and Energy.

*[Section 8 amended by No. 57 of 1997 s.58.]*

### **9. Chief Inspector and inspectors**

There shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* a chief inspector under the designation of Chief Inspector of Explosives and Dangerous Goods or such other designation as applies to that office under that Act and such other inspectors and other officers as are necessary for the purposes of the administration of this Act.

*[Section 9 inserted by No. 28 of 1990 s.5<sup>3</sup>; amended by No. 32 of 1994 s.3(2).]*

### **10. Annual Report**

The Chief Inspector shall in every year make to the Minister, in such manner and form as the Minister directs, a report upon the administration of this Act and such report shall be laid before Parliament.

### **11. Cost of administration**

The cost of the administration of this Act shall be paid out of moneys to be appropriated by Parliament to the purpose.

### **12. Powers of inspectors**

- (1) An inspector may at any time —
  - (a) enter, inspect and examine any premises, magazine, vehicle, vessel or aircraft where he has reason to believe or suspect explosives or dangerous goods may be found:

**s. 12**

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Provided that, unless he has reason to believe that imminent danger to the public or to any person exists, an inspector shall not enter a dwelling-house except by authority of a search warrant of a justice issued under section 53;

- (b) make any general or particular inquiries as to the observance of this Act or which are necessary for the purposes of this Act;
- (c) take without payment such samples of any substance which he believes to be an explosive or an ingredient thereof or dangerous goods as are necessary for the examination and testing thereof;
- (d) seize, remove or detain any explosives or dangerous goods, and any container, vehicle, vessel or aircraft in which the explosives or dangerous goods are being kept or carried, if he has reason to believe or suspect that there has been a contravention of this Act in respect of those explosives or dangerous goods;
- (e) require, for the purposes of paragraph (d), the occupier of the premises where the explosives or dangerous goods are seized, or the owner of the explosives or dangerous goods, to retain them in those premises, or in such place under the control of the occupier or of the owner of the explosives or dangerous goods as will, in the opinion of the inspector, least endanger the public safety;
- (f) with the consent of the Minister, and at the cost of the owner or person in possession of any explosive or dangerous goods, destroy or render harmless, or give directions for the destruction or rendering harmless of, the explosive or dangerous goods in any case where he believes it necessary in the public interest or for the safety of any person so to do:

Provided nevertheless that an inspector may so act without the consent of the Minister in cases of imminent

danger or where the owner of the explosive or dangerous goods authorizes him in writing so to act;

- (g) open or cause to be opened any container of explosive or dangerous goods and take samples thereof without payment;
- (h) require the production of any licence or any book, record or writing required by this Act to be held or kept, and inspect, examine and take copies of or extracts from the same;
- (i) call upon any member of the police force to enforce his requirements in any case where he has called upon any person to comply with any provision of this Act and the person has failed to comply and he believes that grave danger to the public or to any person exists, and in such case that member of the police force may arrest the person without warrant and take such steps as may be necessary to enforce compliance with those requirements.

*[(2) repealed]*

- (3) No action shall lie against the Crown or any inspector in respect of the destruction or rendering harmless of any explosive or dangerous goods under the powers conferred by subsection (1)(f).

*[Section 12 amended by No. 87 of 1982 s.74.]*

## **Part III — Explosives**

### **Division 1 — Authorized explosives**

*[Heading inserted by No. 51 of 1998 s.7.]*

*[13. Repealed by No. 51 of 1998 s.8.]*

#### **14. Explosives may be classified, or declared authorized explosives**

- (1) The Minister may from time to time by order declare any specified explosive to be an authorized explosive for the purposes of this Act.
- (2) The Minister shall not so declare any explosive until the Chief Inspector has defined the composition, quality and character of that explosive; but such definition in respect of the explosive is not required to be published in the order declaring that explosive.
- (3) An order made under the provisions of subsection (1) shall be published in the *Government Gazette*, and shall state in such notice the day on which the order shall take effect, and thereupon that order shall take effect on the day so stated.
- (4) For the purposes of this Act no explosive shall be, or be deemed to be, an authorized explosive unless —
  - (a) the explosive is specified in an order made under this section and in force at the relevant time; and
  - (b) the composition, quality or character of the explosive in no way differs (whether by deterioration or otherwise) from that defined by the Chief Inspector for the explosive which it is alleged to be.
- (5) An order made under this section may be cancelled or from time to time varied by a subsequent order published in the *Government Gazette*.

*[Section 14 amended by No. 22 of 1967 s.4; No. 101 of 1978 s.9; No. 28 of 1990 s.6; No. 51 of 1998 s.9.]*



## **Division 2 — Importation of explosives**

### **15. Explosives not to be imported without licence or permit**

- (1) No person shall import or bring into the State any authorized explosive unless he is the holder of a licence under this Act authorizing him to import explosives.
- (2) No person shall import or bring into, or manufacture, store, convey, sell or use in the State an unauthorized explosive except under and in accordance with the authority of a permit granted under this Act.
- (3) A permit under the provisions of subsection (2) may be granted by the Chief Inspector on such terms and conditions as he thinks fit; and the Chief Inspector shall specify in the permit the kind and quantity of the explosive to be imported or brought into, or manufactured, stored, conveyed, sold or used in the State.
- (4) The Chief Inspector may refuse to grant a permit under subsection (2) in any case where he is of opinion that storage, conveyance or use of the explosive in respect of which the permit is sought is or is likely to be a danger to the public safety.

### **16. Conditions for importing explosives**

- (1) No person shall import or bring into the State any explosive, unless —
  - (a) he is the holder of a licence under this Act to import explosives, or of a permit under this Act authorizing him to import that explosive; and
  - (b) the explosive is contained in a package or container constructed, packed and labelled as prescribed; and
  - (c) he has, before so importing or bringing into the State the explosive, notified in the prescribed manner the Chief Inspector of his intention so to do.

- (2) The Minister may from time to time by notice in the *Government Gazette* exempt any specified explosive or class of explosives from the requirements of a licence or permit.

**17. Notice of arrival of imported explosive**

- (1) On the arrival in the State of any explosive, the person importing or bringing into the State that explosive shall forthwith give to the Chief Inspector notice as prescribed of the arrival of the explosive.
- (2) The owner and the person having command or charge of a vessel, aircraft or vehicle having on board or carrying any such explosive shall not permit the same to be unloaded and delivered to any person who does not hold a licence or permit under this Act authorizing him to import that explosive, and for the purposes of this section any transshipment shall be deemed to be delivery.
- (3) The unloading and conveyance to magazines of any imported explosive shall be carried out at such places and times and in such manner, and subject to such inspection and selection of samples of the explosive, as the Chief Inspector may direct.
- (4) All explosives, other than explosives exempted by the Minister under section 16, imported into the State shall, subject to the rights and powers of the Comptroller-General of Customs of the Commonwealth, be and remain under the control of the Minister until an order for their release is issued by an inspector.
- (5) No person shall remove any such explosives from the control of the Minister without an order for their release signed by an inspector.

**18. Importation of explosives without licence an offence**

A person commits an offence against this Act if he —

- (a) imports or attempts to import into the State any explosive (not being an explosive exempted under section 16(2)) without having obtained a licence or, as the case may be, a permit therefor; or

- (b) having obtained a licence or permit, imports any explosive other than the explosive or explosives in respect of which the licence or permit was granted, or in excess of the quantity specified in the licence or permit.

### **Division 3 — Manufacture of explosives**

#### **19. Explosives to be manufactured only under licence**

- (1) Subject to the provisions of subsection (3), no person shall manufacture any explosive unless he is the holder of a licence granted by the Minister authorizing him so to do.
- (2) The holder of a licence to manufacture any explosive shall not manufacture the explosive at any place other than the factory specified in the licence.
- (3) Nothing in this Division shall apply to —
  - (a) the manufacture of a quantity of explosive not exceeding an amount reasonably necessary for the purpose of chemical experiment at Government or industrial laboratories or laboratories of technical institutes, technical colleges or universities, provided that such manufacture is under the supervision of a qualified person and the explosive is not intended for practical use or for sale;
  - (b) the filling of cartridges for small arms where those cartridges are intended solely for the personal use of the person filling the same and not for use by any other person nor for sale;
  - (c) the reconditioning of explosives under the supervision of an inspector;
  - (d) the blending, at or near the places of use of the inexplusive components of any explosive or blasting agent provided that such blending and use is carried out under the authority of a permit or such other authority as the Minister deems necessary and the components are stored, conveyed and blended in the prescribed manner.

**20. Application for licence to manufacture explosives**

- (1) An application for a licence to manufacture any explosive shall be made to the Chief Inspector, and shall be accompanied by such information and particulars as are prescribed and such further details as the Minister may consider necessary for proper consideration of the application.
- (2) The Minister may —
  - (a) grant the licence in accordance with the application; or
  - (b) grant the licence subject to such modifications of the proposals as he thinks fit, having regard to the interests of safety of persons or of buildings adjacent to the proposed factory; or
  - (c) refuse to grant the licence if he thinks the interests of public safety so require.

**21. Manufacturer of explosives to comply with terms of licence**

- (1) The holder of a licence to manufacture explosives shall at all times comply with the provisions of this Act, and with all the terms and conditions of the licence, and with all requirements prescribed by regulations made under this Act.
- (2) A person who manufactures any explosive without first obtaining a licence in that behalf commits an offence against this Act.

**Division 4 — Storage of explosives**

**22. Where explosives may be stored**

- (1) A person shall not store or keep, or permit or allow to be stored or kept, any explosive in any place other than —
  - (a) a factory specified in a licence granted under this Act for the manufacture of explosives;
  - (b) a magazine licensed under this Act for the storage of explosives;

- (c) a storage place specified in a licence to sell explosives;
  - (d) a magazine at any mine within the meaning of the *Mines Safety and Inspection Act 1994*, if the magazine or place is inspected and approved under the authority of that Act;
  - (e) any place approved by the Chief Inspector and specified in an instrument in writing under his hand, as being suitable for the temporary storage of any explosive or class of explosives so specified.
- (2) Notwithstanding the provisions of subsection (1)(d), the Chief Inspector may at any time, if he considers it necessary or expedient in the interests of public safety, by notice in writing require the owner of a mine referred to in that paragraph to license under the provisions of this Act any magazine at that mine, and thereupon the owner shall within the time to be specified in such notice comply with the requirements of the notice.
- (3) Where any explosive is in the possession of a person for the purpose of being conveyed from one place to another, that explosive shall for the purposes of this section be deemed not to be stored while being conveyed in such manner as may be prescribed.

*[Section 22 amended by No. 22 of 1967 s.5; No. 62 of 1994 s.109.]*

**23. Exemptions from licence to store**

- (1) Nothing in this Act shall be deemed to make unlawful the storage for private use only, and not for sale, of explosives in the quantities prescribed by regulations made under this Act.
- (2) A person who stores any explosive for private use in quantities so prescribed shall store the explosive in the prescribed manner and to the approval of an inspector.

**24. Storage in unauthorized place an offence**

- (1) Where an explosive is stored in contravention of the provisions of section 22, the person occupying the place in which it is stored, and any person storing the explosive, and the owner of the explosive each commits an offence against this Act.
- (2) Any person who stores any quantity of explosives in any place, whether that place is licensed under this Act or not, in any manner other than that prescribed by regulations made under this Act, commits an offence against this Act.
- (3) Any person who without lawful authority stores or has in his possession any explosive, or who on being requested so to do by an inspector or a member of the police force fails or refuses to produce a licence or permit granted under this Act authorizing that person to store or have in his possession any explosive, commits an offence against this Act.

**25. Public magazines may be appointed**

The Minister may from time to time appoint as a public magazine for the storage of explosives any place, building, or cave, or any hulk or other floating vessel, which in his opinion is suitable for the purpose, subject to such terms and conditions as may be prescribed.

**26. Private magazines to be licensed**

- (1) The Chief Inspector may grant licences for the storage of explosives in private magazines, upon such terms and conditions as he considers necessary in the interests of safety of the public and of persons employed therein.
- (2) Every application for a licence to establish a private magazine shall be made to the Chief Inspector and shall be accompanied by such information and particulars as are prescribed.

**27. Magazine to be maintained as described in licence**

The holder of a licence granted under this Act to store explosives shall maintain the magazine in accordance with its description in the licence and shall comply at all times with all requirements prescribed by regulations made under this Act.

**Division 5 — Sale of explosives**

**28. Licence required to sell explosives**

- (1) A person shall not sell, or keep for sale, any explosive, unless he is —
- (a) the holder of a licence under this Act to sell explosives;
  - (b) the holder of a licence under this Act to manufacture explosives and the explosive was manufactured by him under such licence;
  - (c) the holder of a licence or permit under this Act to import or bring into the State that explosive; or
  - (d) given special approval by the Chief Inspector to sell that explosive, which approval shall be given in respect of one transaction only and on such terms and conditions as the Chief Inspector may deem necessary or expedient.
- (2) The holder of a licence under this Act to sell explosives may store such quantity of explosives as is specified in that licence, provided that the explosives are stored in a building or receptacle approved by an inspector as being suitable for their storage.

**29. Sales of explosives to be recorded**

- (1) The holder of a licence under this Act to sell explosives, or any person in his employ, shall at the time of sale and before delivery of any explosive, enter in a book prescribed for that purpose to be kept by the holder of the licence, the sale of that explosive so as to show the description and quantity sold of that

explosive, the date of the sale, and the full name, address and occupation of the purchaser.

- (2) The holder of a licence or permit under this Act to import or bring into the State explosives shall furnish to the Chief Inspector not later than the tenth day of each month a return of all sales of those explosives made by him during the preceding month, and in such return shall specify, in respect of each sale so made —
- (a) the date the sale was made;
  - (b) the type and quantity of explosives sold; and
  - (c) the name and address of the purchaser.

**30. Provisions as to sale of explosives**

- (1) A person shall not —
- (a) hawk, sell, or expose or offer for sale any explosive in or upon any street, road, public thoroughfare, highway, or public place; or
  - (b) exhibit or expose for sale any explosive on any premises.
- (2) A person shall not sell or deliver any explosive unless the package or container in which it is contained is labelled, branded or marked in the manner prescribed by regulations made under this Act.
- (3) Subject to subsection (4), a person shall not sell any explosive to any person who is apparently under 18 years of age, or to any other person unless —
- (a) he is the principal employer or manager of a mine within the meaning of the *Mines Safety and Inspection Act 1994*, or an agent authorized in writing by such a person to purchase explosives for use in that mine;
  - (b) he is the holder of a licence under this Act for the storage of explosives in private magazines;



- (c) he is in possession of a permit under this Act authorizing him to purchase explosives;
  - (ca) in the case of manufactured fireworks, he is the holder of a permit under section 30A authorizing him to purchase the fireworks; or
  - (d) the sale is one exempted from the provisions of this Division under section 33.
- (4) Nothing in subsection (3) applies to the sale of an explosive —
- (a) to a person who is apparently under 18 years of age, if the explosive is a manufactured firework of the shop goods class known as a snap for bon bon crackers, amorces or toy caps or streamer bombs or other prescribed manufactured fireworks of the shop goods class;
  - (b) to any person of or above the age of 18 years, if the explosive is —
    - (i) any of the manufactured fireworks of the shop goods class referred to in paragraph (a) or other prescribed manufactured fireworks of the shop goods class; or
    - (ii) any distress signal rocket or other distress or signalling device of any kind or any other prescribed manufactured firework.

*[Section 30 amended by No. 78 of 1966 s.3; No. 22 of 1967 s.6; No. 15 of 1974 s.3; No. 62 of 1994 s.109.]*

**30A. Permits to purchase manufactured fireworks for public displays**

- (1) The Chief Inspector may grant a permit under this Act authorizing the holder to purchase manufactured fireworks of the kind and quantity specified in the permit and use them for the purpose of holding a display of fireworks for public entertainment.

- (2) A permit under the provisions of subsection (1) —
- (a) may be granted on such terms and conditions as the Chief Inspector thinks fit;
  - (b) may be refused where in the opinion of the Chief Inspector the display in respect of which the permit is sought is likely to be a danger to public safety or where in his opinion there is other reasonable cause for refusal.

*[Section 30A inserted by No. 78 of 1966 s.4.]*

**31. Provisions as to keeping of book recording sales**

- (1) The prescribed book which under the provisions of section 29(1) the holder of a licence to sell explosives is required to keep, shall be kept in a secure place and such holder shall keep every record of the sale by him of explosives for such period as may be prescribed.
- (2) An inspector, or any member of the police force, may at any time inspect any book required to be kept as aforesaid and make copies of any records therein as he may think fit.
- (3) Where a member of the police force is of opinion that a person is contravening any provision of this Act relating to the sale or keeping of an explosive, such member shall have and may exercise all or any of the powers of an inspector under this Act in regard to that contravention, but any act done by a member of the police force pursuant to the provisions of this subsection shall as soon as practicable thereafter be reported by him to the Chief Inspector.

**32. Offences**

- (1) A person who commits a breach of any provisions of section 28, 29, 30 or 31, and a person on whose behalf any explosive is sold or delivered in breach of any of those sections, each commits an offence against this Act.

- (2) A person who obstructs an inspector, or a member of the police force, authorized under section 31 commits an offence against this Act.

**33. Application of this Division**

Nothing in this Division shall apply —

- (a) to the sale or supply of any explosive by the owner or person in control of a mine to contract workers or piece workers for use in that mine; or
- (b) in respect of any transaction involving the sale of explosives (other than fireworks of the shop goods class), if the Minister exempts, as in his discretion he is hereby authorized to do, the transaction from the provisions of this Division.

*[Section 33 amended by No. 78 of 1966 s.5.]*

**Division 6 — Use of explosives**

**34. Use of explosives restricted**

- (1) A person shall not use or permit to be used any explosive unless —
- (a) he is the holder of a permit to purchase explosives issued by the prescribed issuing authority or is acting under the immediate and direct supervision of a holder of such a permit and he uses the explosives only in prescribed areas or places;
  - (b) he is the holder of a Shotfirer's Permit issued by the Chief Inspector in the prescribed manner or is acting under the immediate and direct supervision of the holder of a Shotfirer's Permit;
  - (c) he uses the explosives in a mine within the meaning of the *Mines Safety and Inspection Act 1994*;
  - (d) he is a person approved and authorized by a lawful authority of the Commonwealth to use explosives; or

**Explosives and Dangerous Goods Act 1961**

**Part III** Explosives

**Division 6** Use of explosives

**s. 34**

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- (e) in the case of manufactured fireworks, he is either the holder of a permit under section 30A or uses the fireworks under the immediate supervision of the holder of such a permit.
- (2) A permit to purchase explosives —
  - (a) shall not be issued by the prescribed issuing authority unless the applicant satisfies that authority that he has a lawful necessity for using explosives in prescribed areas or places;
  - (b) shall be issued for such period of time not exceeding 12 months as is prescribed; and
  - (c) shall be a valid authority to purchase at any one time such quantity of explosives and detonators as is stated on the permit together with such fuses and accessories as are required.
- (3) The date of expiry of a permit to purchase explosives shall be marked on the permit at the time of issue of the permit.
- (4) A Shotfirer's Permit shall —
  - (a) be issued by the Chief Inspector in the prescribed manner to a person who is considered competent to discharge the duties of a shotfirer at any place other than a mine within the meaning of the *Mines Safety and Inspection Act 1994*;
  - (b) remain valid for a period of 12 months from the date of issue and may be renewed for the same period;
  - (c) be a valid permit to purchase such a quantity of explosives as may be required by the holder for use in the course of his work; and
  - (d) be subject to such conditions as may be prescribed or as the Chief Inspector may specify in writing on the permit.
- (5) Nothing in subsection (1) applies to an explosive that is a manufactured firework of the shop goods class known as a snap

for bon bon crackers, amorces, or toy caps or streamer bombs or any other prescribed firework.

*[Section 34 inserted by No 15 of 1974 s.4; amended by No. 62 of 1994 s.109.]*

**35. Conditions under which use prohibited**

- (1) A person shall not prepare for use, fire, detonate or cause to be otherwise exploded, any explosive under conditions which endanger life or property.
- (2) A person who uses explosives in any place shall ascertain and observe and duly comply with the regulations (if any) for the use of explosives at that place, but where no such regulations are provided or are applicable, blasting shall be carried out in accordance with a standard code approved by the Chief Inspector and prescribed by regulations made under this Act.

**36. Application of this Division**

Nothing in this Division shall apply so as to prevent or restrict the use of explosives in the course of his employment and under competent supervision by any person employed by any Department of Works, or similar department, of the Commonwealth.

*[Section 36 amended by No. 15 of 1974 s.5.]*

*[Division 7 (sections 37-41) repealed by No. 51 of 1998 s.10.]*

## **Part IV — Dangerous goods**

*[Division 1 (section 42) repealed by No. 51 of 1998 s.11.]*

### **Division 2 — Storage of dangerous goods**

#### **43. Regulation of storage of dangerous goods**

Where in respect of any dangerous goods the manner or any limitation on the quantity in which such goods shall be stored or kept is prescribed, a person shall store or keep such goods in the manner and within the limits of quantity prescribed in respect thereto.

*[Section 43 amended by No. 101 of 1978 s.12; No. 28 of 1990 s.8; No. 10 of 1998 s.34.]*

#### **44. Packing and labelling of dangerous goods**

- (1) Where in respect of any dangerous goods a type of package or container is prescribed for the purposes of storage, a person shall not pack any such goods for any such purpose in a package or container of a type other than the type prescribed in respect thereto.
- (2) A person shall not store, sell or offer for sale any dangerous goods in a package or container unless that package or container is labelled, branded or marked so as to identify those goods.
- (3) Where in respect of any dangerous goods a manner of labelling, branding or marking is prescribed, a person shall not store, sell or offer for sale such goods unless those goods are, or the package or container is, labelled, branded or marked as prescribed in respect thereto.

*[Section 44 inserted by No. 101 of 1978 s.13; amended by No. 51 of 1998 s.12.]*

#### **45. Application for licence**

- (1) A person shall not —

- (a) lay out for a building or commence or proceed with a building for the purposes of the storage of dangerous goods;
- (b) in respect of a structure of a building already erected, amend, alter, extend or enlarge, or commence or proceed with the amendment, alteration, extension or enlargement of the structure of any building used or proposed to be used for the purposes of the storage of dangerous goods; or
- (c) use, or permit the use of, any premises for the purposes of the storage of dangerous goods,

in excess of the limits prescribed by the regulations in relation to the class of dangerous goods in question unless he or she has made an application to and obtained a licence for that purpose from the Chief Inspector in accordance with the regulations.

- (2) A person who contravenes subsection (1) commits an offence.
- (3) The provisions of this section are in addition to the provisions of any other written law.

*[Section 45 inserted by No. 28 of 1990 s.9.]*

**45A. Issue of licence**

- (1) The Chief Inspector may at his discretion issue a licence for the purpose specified in an application made under section 45(1) or may refuse to issue the licence or defer making any decision on the application.
- (2) The Chief Inspector may request a person making an application under section 45(1) to furnish such further information as the Chief Inspector requires.

*[Section 45A inserted by No. 28 of 1990 s.9.]*

**45B. Chief Inspector may impose conditions etc.**

- (1) The Chief Inspector may impose such terms, conditions, restrictions and prohibitions with respect to a licence as the

Chief Inspector may see fit to impose in the interests of safety of life and property.

- (2) The Chief Inspector may amend or cancel any term, condition, restriction or prohibition imposed on a licence under subsection (1).

*[Section 45B inserted by No. 28 of 1990 s.9.]*

**45C. Chief Inspector may give directions**

- (1) The Chief Inspector may from time to time give directions with respect to any premises on which dangerous goods are stored or proposed to be stored for the purposes of ensuring public safety and for the safety of any occupants in or on those premises.
- (2) Without derogating from the generality of subsection (1) directions given under that subsection may include —
  - (a) the preparation and implementation of a hazards control plan;
  - (b) the implementation of such measures as are specified by the Chief Inspector for the purposes of ensuring that the hazards control plan referred to in paragraph (a) is tested from time to time as specified by the Chief Inspector;
  - (c) the training to be given to persons occupying or employed on the premises; and
  - (d) such other matters as in the opinion of the Chief Inspector are conducive to safety.

*[Section 45C inserted by No. 28 of 1990 s.9.]*

**46. Depots may be established by local governments**

- (1) A local government may establish and maintain any premises approved by the Chief Inspector as being suitable for the purpose as a depot for the storage of dangerous goods, and for the purposes of this section may make local laws fixing the charges to be paid for the storage of dangerous goods in the depot.



- (2) A local government which establishes or maintains a depot under this section shall comply with the regulations made under this Act relating to the construction, situation and maintenance of depots for the storage of dangerous goods.

*[Section 46 amended by No. 14 of 1996 s.4.]*

### **Division 2A — Pipelines carrying dangerous goods**

*[Heading inserted by No. 51 of 1998 s.13.]*

*[46A-46C. Repealed by No. 51 of 1998 s.14.]*

#### **46D. Pipelines**

- (1) Regulations may provide for the licensing by the Chief Inspector of the construction of pipelines carrying dangerous goods or dangerous goods of a prescribed kind or in a prescribed quantity, and prohibiting the use of such a pipeline unless the pipeline is licensed in accordance with the regulations and prescribing or authorizing the Chief Inspector to determine, subject to the approval of the Minister, the fees payable in relation to the grant or renewal of a licence under this subsection.
- (2) The Chief Inspector may refuse to issue a licence for the purposes of subsection (1), or issue such a licence subject to such terms and conditions as he may see fit to impose, in the interests of public safety.
- (3) A licence issued under this section is not transferable without the approval of the Chief Inspector.
- (4) Regulations may provide for the construction, maintenance, re-laying, repair, renewal, extension and alteration of pipelines carrying dangerous goods or dangerous goods of a prescribed kind.
- (5) A person who constructs, re-lays, renews or effects any structural repairs, alterations or extensions to a pipeline that is not in accordance with the regulations or the terms and

conditions of a licence issued in relation to the pipeline,  
commits an offence against this Act.

*[Section 46D inserted by No. 28 of 1990 s.10.]*

**Division 3 — Miscellaneous provisions relating to dangerous  
goods**

**47. Inspectors of dangerous goods**

- (1) The Chief Inspector and every inspector of explosives appointed under this Act shall be an inspector of dangerous goods.
- (2) At any time when it appears to him necessary, the Chief Inspector may, with the approval of the Minister, appoint any person who in his opinion is suitable for the purpose, to carry out under the direction and control in all things of the Chief Inspector, all or any of the provisions of this Act in such areas, such places and for such periods as the Minister may specify.
- (3) A person appointed under this section shall have and may exercise, subject to the provisions of this section, all or any of the powers of an inspector appointed under this Act insofar as those powers relate to the storage, keeping and carriage of explosives and dangerous goods.
- (4) The appointment of a person under this section shall be notified in the *Government Gazette*.

*[Section 47 amended by No. 15 of 1974 s.7.]*

**48. Powers of inspector as to defects**

- (1) Where, upon any inspection by an inspector of any magazine or premises in respect of which a licence is in force under this Act, or in any other case involving the manufacture, storage, or use of explosives or dangerous goods, the inspector considers that any matter or thing or practice connected with that manufacture, storage or use is defective or unnecessarily dangerous so as in his opinion to endanger the public safety or the safety of any person or to endanger any property, he may —

- (a) advise the Chief Inspector of his opinion, whereupon the Chief Inspector may require the holder of the licence or his agent or the person carrying out that practice to remedy that defect or cease that practice within such time as the Chief Inspector specifies in writing; or
  - (b) where he is of the opinion that any defect or practice is of such a nature as to be of immediate danger, require the person responsible to remedy the defect or cease the practice forthwith.
- (2) Every person commits an offence against this Act who, when required by an inspector forthwith to remedy any such defect or to cease any such practice, fails to comply with that requirement.
- (3) Every person commits an offence and is liable to a fine not exceeding \$5 000 for every day on which the failure has continued who, when required by the Chief Inspector to remedy any defect or to cease any such practice within a time specified in writing by the Chief Inspector, fails to comply with that requirement within that time.
- (4) Notwithstanding the provisions of subsection (3), if the court is satisfied that the defendant has within the time so specified taken steps to comply with the requirement but has been prevented by reasonable cause from completing within that time the work necessary for that compliance, the court may adjourn the proceedings, and if the work is completed within a reasonable time, to be determined by the court, the court shall dismiss the charge.

*[Section 48 amended by No. 101 of 1978 s.15; No. 28 of 1990 s.11; No. 51 of 1998 s.15.]*

*[49. Repealed by No. 51 of 1998 s.16.]*

## **Part V — General provisions**

### **50.        General provisions as to licences**

- (1) Every licence granted under this Act —
  - (a) shall, except as provided in section 28, be valid and effective only for the purpose for which it was granted, and not for any other purpose for which a licence is required under this Act;
  - (b) shall be subject to the provisions of this Act and to all regulations made under this Act for the time being in force and applicable to that licence.
- (2) The Minister or, as the case may be, the Chief Inspector shall have the same powers to grant a renewal of a licence or permit (whether unconditionally or subject to conditions), or to refuse to grant a renewal, as are conferred on him by this Act in respect of an application for a new licence or permit.

### **51.        Licences or permits may be cancelled or suspended**

- (1) Where the holder of a licence or permit granted under this Act is charged with an offence against this Act or any regulation, local law or by-law made under this Act, has failed to comply with a lawful requirement of an inspector or has failed to comply with or has contravened a direction given under section 45C, the Chief Inspector may suspend the licence or permit until the charge in respect of the offence has been disposed of or, as the case may be, until the requirement or direction, as the case may be, has been complied with.
- (2) Where the holder of a licence or permit granted under this Act is convicted of an offence against this Act or any regulation, local law or by-law made under this Act, the Chief Inspector may cancel the licence or permit.

*[Section 51 amended by No. 28 of 1990 s.12; No. 14 of 1996 s.4.]*

**52. Appeals**

- (1) Where any person is aggrieved by any decision of the Chief Inspector relating to the granting, issue, amendment, renewal, suspension or cancellation of a licence or permit, he may apply to the State Administrative Tribunal for a review of the decision.

*[(2) repealed]*

*[Section 52 amended by No. 51 of 1998 s.17; No. 55 of 2004 s. 334 .]*

**53. Search warrant**

If a justice is satisfied by information on oath that there is reasonable ground for suspecting that any breach of this Act or of any regulations made under this Act has been or is being committed, or that preparation has been made to commit such a breach, within any dwelling-house, the justice may grant a search warrant in the prescribed form authorizing an inspector named in the warrant together with a police constable at any time or times within 14 days from the date of the warrant to enter, if need be by force, the dwelling-house named in the warrant, and to search that dwelling-house.

*[Section 53 amended by No. 101 of 1978 s.16.]*

**54. Inspector not to be hindered in duties**

Every person in or about any premises inspected under the provisions of this Act shall —

- (a) facilitate the entry, inspection, and examination by an inspector;
- (b) answer to the best of his knowledge all inquiries made by the inspector as to the observance of this Act and of any regulations made under this Act, and as to the disposal by sale or otherwise of any explosives or dangerous goods:

**s. 54A**

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Provided that no person shall, on an inquiry by an inspector under this paragraph, be required to answer any question tending to incriminate himself;

- (c) facilitate the taking of samples, or the seizure, detention, or removal of any explosives or dangerous goods, or of any container, or the destruction or rendering harmless of any explosives or dangerous goods;
- (d) comply with any requisition made by an inspector pursuant to section 12.

*[Section 54 amended by No. 51 of 1998 s.18.]*

**54A. Special situations**

- (1) Where the Minister is satisfied on the report of the Chief Inspector that —
  - (a) the safety of persons or property, or the environment, is being harmed or is likely to be harmed by a situation resulting from explosion, fire, or the presence of dangerous goods; and
  - (b) this Act (other than this provision) does not make adequate provision for protecting the safety of persons or property likely to be affected by that situation, or for protecting the environment in so far as it is likely to be affected by that situation,

the Minister may, in writing, give such directions and take such action as, subject to subsection (2), the Minister considers necessary to control and eliminate hazards associated with the situation.

- (2) Any direction given under subsection (1) may specify terms and conditions to which the authority given by the direction is to be subject.
- (3) Any direction given under subsection (1) unless earlier revoked remains in force until the expiration of the period of 14 days after the date of the direction.

- (4) Any costs or expenses incurred by the Minister with respect to controlling or eliminating a special situation referred to in subsection (1) may be recovered by the Minister in a court of competent jurisdiction from any person whose act or omission caused the special situation.
- (5) A certificate signed or purporting to be signed by the Minister, without proof of the signature of the Minister, is in any legal proceedings evidence of a direction given under subsection (1).
- (6) A person who fails to comply with any direction given under this section or hinders or obstructs the taking of any action in pursuance of such a direction, commits an offence.

Penalty: \$50 000.

*[Section 54A inserted by No. 28 of 1990 s.13; amended by No. 50 of 2003 s. 59(2).]*

**55. Accidents**

- (1) Where any accident involving any explosive or dangerous goods occurs in, about or in connection with any factory, magazine or premises, the person in occupation shall forthwith give to the Chief Inspector notice in writing of the accident and of any loss of life, personal injury, or damage to property occasioned thereby.
- [(2) repealed]*
- (3) When any depot or place where explosives or dangerous goods are stored is wholly or partially destroyed by an accident, no person shall, without the permission in writing of the Chief Inspector, reconstruct that depot or place, or deposit any explosives or dangerous goods therein, or, except in the interests of the safety of any person or of the public or for the protection of any property, remove any explosives or dangerous goods therefrom.
- (4) For the purpose of investigating any accident involving any explosive or dangerous goods, an inspector may make inquiries from any person who he has reason to believe is in possession of

**s. 55A**

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information that may lead to discovery of the cause of the accident, but no such person shall be required to answer any question tending to incriminate himself.

- (5) Notwithstanding the provisions of this section, it shall be sufficient compliance with this section if the Chief Inspector is notified of any accident by a member of the police force or by an inspector appointed under this or any other Act, and upon being notified as in this subsection mentioned the Chief Inspector may at his discretion make further inquiry or investigation concerning the accident.

*[Section 55 amended by No. 101 of 1978 s.17; No. 51 of 1998 s.19.]*

**55A. Assistance in emergencies or accidents**

- (1) Notwithstanding anything in this Act or any other Act or law a person who in good faith and without any fee, charge or other reward assists or attempts to assist in any circumstances in which an emergency or an accident involving explosives or dangerous goods occurs or is likely to occur is not liable in any legal proceedings for any reasonable act taken by him or her —
- (a) for the purposes of preventing the emergency or accident from occurring; or
  - (b) in connection with assisting in dealing with any fire, explosion, spillage or damage arising from the emergency or accident.
- (2) Subsection (1) —
- (a) does not apply to a person whose act was wholly or partly the cause of the occurrence or likely occurrence referred to in that subsection;
  - (b) applies to any State department or instrumentality notwithstanding that the department or instrumentality requires payment in relation to any service provided by the department or instrumentality in connection with any



occurrence or likely occurrence referred to in that subsection.

*[Section 55A inserted by No. 28 of 1990 s.14.]*

**56. Offences**

- (1) A person who —
  - (a) does that which by or under this Act he is forbidden to do; or
  - (b) does not do that which by or under this Act he is required or directed to do; or
  - (ba) fails to observe or comply with the terms and conditions of any licence or permit issued to him under this Act within the time or in the manner thereby provided; or
  - (c) otherwise contravenes or fails to comply with any provisions of this Act,commits an offence against this Act.
- (2) A person who commits an offence against this Act is liable on conviction to the penalty expressly mentioned as the penalty for the offence, but where a penalty is not expressly mentioned, is liable —
  - (a) where the offence is not a continuing offence, to a penalty not exceeding \$50 000; and
  - (b) where the offence is a continuing offence, to a penalty not exceeding \$5 000 for each day during which the offence continues.
- (3) Offences against this Act may be prosecuted by complaint made under the *Justices Act 1902*, at any time within 6 months from the time when the subject matter of the complaint arose, and are punishable summarily under that Act.

*[Section 56 amended by No. 15 of 1974 s.8; No. 101 of 1978 s.18; No. 28 of 1990 s.15.]*

**s. 57**

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**57.        Forfeiture**

Where a person is convicted of an offence against this Act, or any regulations made under this Act, the court may order forfeiture to the Crown of all or any part of the explosives or dangerous goods in respect of which the offence was committed, and the containers thereof if the property of the person so convicted, and the same shall thereupon be deemed forfeited to the Crown, and shall be disposed of as the Minister directs.

**58.        Disposal of seized explosives etc.**

- (1) Any explosives or dangerous goods and the containers thereof seized by an inspector under this Act may be retained by the Minister pending the hearing of a charge against any person for an offence in respect of which the same were seized, or may at the discretion of the Minister be returned to the person from whom they were seized.
- (2) If the offender referred to in subsection (1) is not traced within 6 months of the seizure, the explosives or dangerous goods, and the containers thereof if the property of the offender, shall be deemed forfeited to the Crown, and shall be disposed of as the Minister directs, but any containers not the property of the offender shall be returned to the owner or owners thereof.
- (3) Where proceedings are taken against any person in respect of the offence, any explosives or dangerous goods and the containers thereof so retained by the Minister shall when the proceedings are completed be returned to the person from whom they were seized, unless the court convicts the offender and orders those explosives or dangerous goods, and any containers thereof the property of the offender, forfeited to the Crown, in which case any containers not the property of the offender shall be returned to the owner or owners thereof.

**59. Suspended or cancelled licences to be returned**

A licence, permit or other authority which is suspended or cancelled under this Act shall, on request being made by an inspector, be delivered forthwith to that inspector by the person to whom that licence, permit or other authority was granted.

**60. Protection of officers**

No matter or thing done or omitted to be done by the Minister or by the Chief Inspector, or by any person acting with or under the authority of the Minister or the Chief Inspector, or done by any inspector in good faith for the purpose of carrying out this Act or in the exercise of his powers and duties under this Act, shall subject the Crown, or the Minister or Chief Inspector, or the person acting with or under the authority of the Minister or the Chief Inspector, or subject the inspector, to any liability in respect of such act or omission.

*[Section 60 amended by No. 42 of 1999 s.7.]*

**61. Proof of offence**

- (1) Where in a prosecution under this Act an offence is proved in regard to any sample or portion of explosives or ingredients or of dangerous goods, such offence shall be deemed to have been proved with regard to the whole of the explosives or ingredients or of the dangerous goods from which the sample or portion was taken.
- (2) In a prosecution for an offence against this Act —
  - (a) an averment in the complaint to the effect that, in relation to any matter the subject of the complaint, a licence or permit was not held or an approval or other authorization had not been given is deemed to be proved in the absence of proof to the contrary; and
  - (b) proof that a container was at a particular time labelled, branded or marked as containing particular explosives or dangerous goods shall be deemed to be proof also,

**s. 62**

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unless the contrary is proved, that the container contained those explosives or dangerous goods at that time.

*[Section 61 amended by No. 68 of 1984 s.4; No. 32 of 1986 s.2.]*

*[61A, 61B. Repealed by No. 10 of 1999 s.8.]*

**62. Regulations**

- (1) The Governor may make regulations prescribing such matters as are contemplated, required or permitted to be prescribed by this Act, and such matters as appear to him to be necessary or desirable for public safety and for giving effect to the purposes and objects of this Act.
- (2) Without limiting the generality of the powers conferred by subsection (1), the Governor may make regulations —
  - (a) prescribing the form and duration of licences, permits or certificates issued under this Act, the terms and conditions upon which such licences, permits and certificates shall be issued, and the fees payable therefor;
  - (aa) providing for inspections, examinations and tests to be conducted or carried out in connection with applications for licences, permits or certificates under this Act, and prescribing the fees payable therefor;
  - (b) regulating the importation into the State of explosives or dangerous goods and the manner of packing and handling;
  - (c) regulating the construction, management and licensing of factories and magazines or of any places where explosives or dangerous goods are stored or kept;
  - (d) regulating the sale of explosives, and prescribing the records to be kept by vendors of explosives;
  - (e) regulating the manner of dealing with explosives and dangerous goods which are dangerous to public safety or to property;

- (f) specifying the persons who may use explosives and prohibiting the use of explosives by any person not so specified except under a permit; prescribing the permit to be issued and the terms and conditions on and circumstances under which such a permit may be issued;
- [(g) deleted]*
- (h) prescribing the packages and containers to be used for explosives and dangerous goods, the manner of packing, labelling, branding and marking of such containers, and the weights or volumes to be contained therein;
- (ha) prohibiting the use of containers or equipment, other than containers or equipment approved by the Chief Inspector, for the storage or dispensing of dangerous goods specified in the regulations, and providing for the examination, inspection and testing of containers or equipment and prescribing, or authorizing, the Chief Inspector to determine, the fees payable therefor;
- (i) providing for the blending together of the inexplusive components of an authorized explosive or of a blasting agent at or near the place of use, and prescribing the permit or other authority for carrying out such blending and use, and the conditions under which such blending may be done;
- (ia) providing for the classification of dangerous goods and explosives;
- (j) providing for the classification of certain insensitive explosives as blasting agents and prescribing tests for them; prescribing the manner of keeping and dealing with such blasting agents;
- (k) prescribing the procedure for having an explosive declared an authorized explosive; providing for the inspection, examination and testing of explosives and dangerous goods; and prescribing fees therefor;
- (l) prescribing the construction of testing apparatus, the manner of testing petroleum or other flammable liquids

**s. 62**

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- or materials, and the method of ascertaining the flash point of such liquids and materials;
- (m) regulating and controlling the importation, storage and sale of fireworks of the shop goods class and providing for inspection and testing of the same as may be considered necessary in the interests of public safety;
  - (n) prescribing the amount of explosives or dangerous goods which may be kept in places other than licensed factories, magazines or depots, and prescribing the manner in which they shall be handled and stored in such places;
  - (o) prescribing the fire-fighting equipment to be kept in any place licensed under this Act, or in depots established by local governments and providing for the maintenance and periodic testing of that equipment;
  - (p) providing for the taking of samples of explosives or dangerous goods required for examination or testing for the purposes of this Act;
  - (q) prescribing fees or rents to be charged for the storage of explosives or dangerous goods in any public magazine or depot;
  - (qa) prohibiting the use of equipment for or in connection with the detonation of explosives unless that equipment is of a kind approved by the Chief Inspector;
  - (q**b**) providing for the inspection, examination and testing of equipment for use for or in connection with the detonation of explosives, and prescribing the fees payable therefor;
  - (r) prescribing penalties for the breach of any regulation not exceeding \$50 000 or, if the breach is a continuing breach, not exceeding \$5 000 for each day during which the breach has continued;
  - (s) for all matters required or permitted by this Act to be prescribed;

- (t) for such other purposes as he deems necessary or expedient in the interests of the public safety or the safety of any person, and for the protection of property from destruction or damage by or resulting from explosion.
- (3) The regulations may prescribe that any act or thing shall be in accordance with a standard specified in the regulations or with the approval of, or to the satisfaction of, the Chief Inspector.
- (4) The regulations may prescribe that any act or thing shall be done in a manner specified by reference to a code of practice or a standard which has been printed and published and which has been approved by the Minister for the purpose.
- (4a) Without affecting the generality of subsection (3) regulations adopting a code —
  - (a) may adopt all or any part of a code;
  - (b) may adopt a code as amended by the regulations;
  - (c) may adopt a code as set out in the adopted code as amended from time to time;
  - (d) may provide that any matter or thing referred to in the adopted code shall conform with any code, standard, or requirement specified in the adopted code as set out in the code, standard or requirement so referred to as amended from time to time;
  - (e) may contain such incidental, supplementary, savings and transitional provisions as are necessary or convenient.
- (4b) The Chief Inspector —
  - (a) shall cause a copy of every adopted code and every code, standard or requirement specified in the adopted code to be available for inspection by members of the public at the office of the Chief Inspector without charge during normal office hours; and
  - (b) may cause copies of every code adopted in the regulations and every code, standard or requirement

**s. 63**

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referred to in a code so adopted to be available for the public on payment of such charge as may be imposed by the Chief Inspector.

- (4c) In any legal proceedings a copy of a code adopted under the regulations or a copy of any code, standard or requirement referred to in a code so adopted, certified or purporting to be certified by the Chief Inspector or an inspector authorized by the Chief Inspector for that purpose to be a true copy of a code adopted under the regulations or a code, standard or requirement referred to in a code so adopted, as the case may be, shall be evidence of the adopted code or of the code, standard or requirement referred to in an adopted code.
- (5) In addition to the exemptions prescribed in the regulations, the Chief Inspector may, in writing, exempt persons or things, or classes of persons or things, from the provisions of the regulations, or any of them, and any such exemption may be absolute or conditional, may be limited according to time, place, or circumstance, and may be subsequently varied or revoked in writing by the Chief Inspector.

*[Section 62 amended by No. 22 of 1967 s.9; No. 15 of 1974 s.9; No. 101 of 1978 s.19; No. 58 of 1981 s.2; No. 68 of 1984 s.5; No. 28 of 1990 s.17; No. 14 of 1996 s.4; No. 51 of 1998 s.20.]*

**63. This Act not to apply in certain cases**

Nothing in this Act shall apply —

- (a) to any explosives or dangerous goods which are the property of Her Majesty's Military, Naval or Air Forces, or any other defence force, or volunteer defence force, or police force constituted or established under any Act;
- (b) to safety cartridges or other small arms ammunition for which licensing or control is provided by any other Act;
- (c) to the possession of any explosives or dangerous goods by an inspector for any of the purposes of this Act, provided



that the inspector shall take all proper precautions and safety measures while keeping the same;

- (d) subject to any provisions prescribed by the regulations, to the importation or storage of fireworks of the shop goods class;
- (e) to the storage or sale of any safety fuse, or any small explosive devices when, in the opinion of the Minister, they are so constructed or packed as not to be a danger to life or property, and are declared exempt by the Minister or the Chief Inspector in writing;
- (ea) to any pipeline to which the *Electricity Act 1945*, the *Energy Coordination Act 1994*, the *Gas Standards Act 1972*, the *Petroleum Pipelines Act 1969* or the *Petroleum (Submerged Lands) Act 1982* applies;
- (eb) to any pipeline owned, operated or maintained by the Western Power Corporation under the *Electricity Corporation Act 1994*.

*[Section 63 amended by No. 78 of 1966 s.7; No. 28 of 1990 s.18; No. 89 of 1994 s.109; No. 51 of 1998 s.21; No. 58 of 1999 s.102; No. 24 of 2000 s.14(13); No. 74 of 2003 s. 10(4) and 52.]*

*[Schedules repealed by No. 51 of 1998 ss.22, 23 and 24.]*

**Notes**

- <sup>1</sup> This is a compilation of the *Explosives and Dangerous Goods Act 1961* and includes the amendments made by the other written laws referred to in the following tables <sup>1a</sup>.

**Compilation table**

**Part I — Acts**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Miscellaneous</b>
<i>Explosives and Dangerous Goods Act 1961</i>	38 of 1961	6 November 1961	23 March 1962 (see section 3 and <i>Gazette</i> 23 March 1962 p.759)	
<i>Explosives and Dangerous Goods Act Amendment Act 1966</i>	78 of 1966	12 December 1966	10 November 1967 (see section 2 and <i>Gazette</i> 10 November 1967 p.3101)	
<i>Explosives and Dangerous Goods Act Amendment Act 1967</i>	22 of 1967	23 October 1967	10 November 1967 (see section 2)	
<i>Explosives and Dangerous Goods Act Amendment Act 1974</i>	15 of 1974	16 October 1974	16 October 1974	
<i>Explosives and Dangerous Goods Act Amendment Act 1978</i>	101 of 1978	30 November 1978	31 August 1979 (see section 2 and <i>Gazette</i> 31 August 1979 p.2602)	
<i>Explosives and Dangerous Goods Amendment Act 1981</i>	58 of 1981	13 October 1981	13 October 1981	
<i>Acts Amendment (Bail) Act 1982, Part VIII</i>	87 of 1982	17 November 1982	6 February 1989 (see section 2 and <i>Gazette</i> 27 January 1989, p.263)	

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Miscellaneous</b>
<i>Explosives and Dangerous Goods Amendment Act 1984</i>	68 of 1984	5 November 1984	3 December 1984	
<i>Explosives and Dangerous Goods Amendment Act 1986</i>	32 of 1986	31 July 1986	28 August 1986	
<i>Explosives and Dangerous Goods Amendment Act 1990</i>	28 of 1990	27 September 1990	23 November 1990 (see section 2 and <i>Gazette</i> 23 November 1990 p.5765)	Section 5(2): transitional <sup>3</sup> ; section 19: savings <sup>4</sup>
<i>Acts Amendment (Public Sector Management) Act 1994, section 3(2)</i>	32 of 1994	29 June 1994	1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Mines Safety and Inspection Act 1994, section 109</i>	62 of 1994	7 November 1994	9 December 1995 (see section 2 and <i>Gazette</i> 8 December 1995 p.5935)	
<i>Energy Corporations (Transitional and Consequential Provisions) Act 1994, section 109</i>	89 of 1994	15 December 1994	1 January 1995 (see section 2(2) and <i>Gazette</i> 23 December 1994 p.7069)	
<i>Poisons Amendment Act 1995, section 43</i>	48 of 1995	6 November 1995	20 March 1996 (see section 2 and <i>Gazette</i> 19 March 1996 p.1203)	
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 June 1996	1 July 1996 (see section 2)	

## Explosives and Dangerous Goods Act 1961

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 58</i>	57 of 1997	15 December 1997	15 December 1997 (see section 2)	
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998, section 34</i>	10 of 1998	30 April 1998	30 April 1998 (see section 2(1))	
<i>Dangerous Goods (Transport) (Consequential Provisions) Act 1998</i>	51 of 1998	1 December 1998	9 June 1999 (see section 2 and <i>Gazette</i> 8 June 1999 p.2469)	
<i>Acts Amendment (Criminal Procedure) Act 1999, section 8</i>	10 of 1999	5 May 1999	1 October 1999 (see section 2 and <i>Gazette</i> 17 September 1999 p.4557)	
<i>Acts Amendment (Police Immunity) Act 1999, section 7</i>	42 of 1999	25 November 1999	25 November 1999 (see section 2)	
<i>Gas Corporation (Business Disposal) Act 1999, section 102</i>	58 of 1999	24 December 1999	Proclaimed 16 December 2000 (see section 2(5) and <i>Gazette</i> 15 December 2000 p.7201)	
<i>Statutes (Repeals and Minor Amendments) Act 2000, section 14(13)</i>	24 of 2000	4 July 2000	4 July 2000 (see section 2)	
<i>Sentencing Legislation Amendment and Repeal Act 2003 s. 59</i>	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)	

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Miscellaneous</b>
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 10(4) and 52</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)	
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 44<sup>6</sup></i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)	

**Part II — Orders**

<b>Order</b>	<b>Gazettal</b>	<b>Commencement</b>	<b>Miscellaneous</b>
<i>Order in Council</i>	26 April 1974 p.1369	26 April 1974	
<i>Order in Council</i>	14 July 1978 pp.2408-09	14 July 1978	Erratum <i>Gazette</i> 28 July 1978 p.2701
<i>Order in Council</i>	31 August 1979 p.2606	31 August 1979	
<i>Explosives and Dangerous Goods (Classification of Dangerous Goods) Amendment Order 1980</i>	7 November 1980 p.3840	7 November 1980 (see clause 2)	
<i>Explosives and Dangerous Goods (Third Schedule) Amendment Order 1982</i>	11 June 1982 p.1958	11 July 1982 (see clause 2)	
<i>Explosives and Dangerous Goods (Third Schedule) Amendment Order 1984</i>	16 March 1984 p.724	16 March 1984 (see clause 2)	
<i>Explosives and Dangerous Goods (Third Schedule) Amendment Order (No. 2) 1984</i>	4 May 1984 p.1229	4 May 1984 (see clause 2)	
<i>Explosives and Dangerous Goods (Third Schedule) Amendment Order 1989</i>	1 September 1989 p.3092	1 September 1989 (see clause 2)	
<i>Explosives and Dangerous Goods (Third Schedule) Amendment Order 1990</i>	5 October 1990 pp.5148-9	5 January 1991 (see clause 2)	

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Dangerous Goods Safety Act 2004</i> s. 70 <sup>5</sup>	7 of 2004	10 Jun 2004	To be proclaimed (see s. 2)

<sup>2</sup> Under section 112(1) of the *Public Sector Management Act 1994*, references to the *Public Service Act 1978* may be construed as references to the *Public Sector Management Act 1994* (No. 31 of 1994).

<sup>3</sup> Section 5(2) of the *Explosives and Dangerous Goods Amendment Act 1990* (No. 28 of 1990) reads as follows —

“

- (2) Any person appointed to and holding an office under section 9 of the principal Act as in force before the day that this section comes into operation shall, subject to the *Public Service Act 1978*, continue in that office after that day as though that person were appointed under and subject to the *Public Service Act 1978*.

”.

<sup>4</sup> Section 19 of the *Explosives and Dangerous Goods Amendment Act 1990* (No. 28 of 1990) reads as follows —

“

**19. Savings**

Notwithstanding anything in the principal Act as amended by this Act an order in council made under section 14(1) or section 42(2)(b) of the principal Act before the day that sections 6 and 7 of this Act come into operation and in force immediately before that day continues to have effect as if made under the respective section of the principal Act as amended by this Act and may be amended or cancelled by the Minister by order published in the *Government Gazette* as though it were an order made by the Minister under the respective provision of the principal Act as amended by this Act.

”.

<sup>5</sup> On the date as at which this compilation was prepared, the *Dangerous Goods Safety Act 2004* s. 70, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

**70. Repeals and consequential amendments (Sch. 2)**

Schedule 2 has effect.

”.

Schedule 2 Div. 2 cl. 2(1) reads as follows:

“

**Schedule 2 — Repeals and consequential amendments**

[s. 70]

**Division 2 — *Explosives and Dangerous Goods Act 1961* repealed**

**2. *Explosives and Dangerous Goods Act 1961* repealed**

(1) The *Explosives and Dangerous Goods Act 1961* is repealed.

”.

<sup>6</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administration Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.