



ANNO PRIMO

EDWARDI VIII REGIS.

A.D. 1936.

No. 2306.

An Act to consolidate and amend the law relating to explosives.

[Assented to, 19th November, 1936.]

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

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the "Explosives Act, 1936". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. The provisions of this Act are arranged as follows :— Arrangement.
 - PART I.—Preliminary.
 - PART II.—Manufacture of explosives.
 - PART III.—Carriage of explosives.
 - PART IV.—Storage of explosives.
 - PART V.—Control of explosives in ships.
 - PART VI.—Miscellaneous.

PART I.

Explosives Act.—1936.

Interpretation.
227, 1881,
s. 363.
U.K. 38 & 39
Vict. c. 17,
s. 3.
Vic. 3675,
1928, s. 3.

4. In this Act, unless the context or subject matter otherwise requires—

“board” means The South Australian Harbors Board :

“boat” means every vessel not a ship as herein defined which is used in navigation in any inland water or any port, whether propelled by oars or otherwise :

“chief inspector” means the Chief Inspector of Explosives :

“explosive” means—

(a) gunpowder, nitro-glycerine, all compounds and mixtures containing nitro-glycerine, gun-cotton, blasting powder, fulminate of mercury or of other metal, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect ; and

(b) fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation of preparation of an explosive as above defined :

“factory” means a factory duly licensed for the manufacture of any explosives :

“inspector” means an inspector of explosives and includes the chief inspector :

“magazine” includes any hulk appointed for the storage of explosives :

“magazine-keeper” means the person in charge of any Government magazine :

“master” includes every person (except a pilot) having command or charge of a ship, and when used in reference to any boat belonging to a ship means the master of the ship, and when used in reference to any other boat includes every person having command or charge of the boat :

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor :

“port” includes harbour, haven, roadstead, channel, and navigable creek, river, or lake :

“prescribed quantity of any explosive” means the quantity of any particular kind of explosive or of several different kinds prescribed by regulation for the purposes of the section in which the expression is used :

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“ship” includes every description of vessel used in sea navigation, whether propelled by oars or otherwise :

“vehicle” includes any carriage, wagon, cart, truck, vehicle, or other means of conveying goods or passengers by land in whatever manner the same may be propelled.

5. (1) The Governor may from time to time by proclamation declare that any substance which appears to be specially dangerous to life or property by reason of its explosive properties or any component of any such substance shall be deemed to be an explosive within the meaning of this Act or any Part of this Act, and the provisions of this Act, or, as the case may be, the Part (subject to such exemptions, limitations, and restrictions as may be specified in the proclamation) shall accordingly extend to that substance in like manner as if it were included in the term “explosive”.

Extension of definition of explosive to other explosive substances.
U.K. 38 & 39 Vic., c. 17, s. 104
Vic. 3675, 1928, s. 51.

(2) The Governor may by proclamation revoke any such proclamation.

6. (1) The chief inspector may from time to time, with the consent of the Governor, define for the purposes of this Act the composition, quality, and character of any explosive, and may classify explosives.

Definition and classification of explosives.
237, 1881, s. 364.
1416, 1919, s. 16.
U.K. 38 & 39 Vic., c. 17, s. 104.
Vic. 3675, 1928, s. 53.

(2) Where the composition, quality, or character of any explosive has been defined as aforesaid, any article alleged to be that explosive which differs from the definition in composition, quality, or character, whether by reason of deterioration or otherwise, shall not be deemed for the purposes of this Act to be the explosive so defined.

(3) Any definition made pursuant to section 364 of the Marine Board and Navigation Act, 1881, shall, until varied or revoked by a definition made pursuant to this section, be deemed to be a definition made pursuant to this section.

7. Nothing in this Act shall extend to or be construed to apply to any ammunition the property of His Majesty or of His Majesty's Government of the Commonwealth of Australia or of His Majesty's Government of South Australia, nor to the authorised carriage of ammunition to or from any of the King's ships or to or from any ships belonging to or used in the service of His Majesty's Government of the Commonwealth or of South Australia, or the King's magazines.

Exemption of ammunition the property of His Majesty.
237, 1881, s. 367.
U.K. 38 & 39 Vic., c. 17, s. 97.
Vic. 3675, 1928, s. 55.

8. Nothing in this Act shall be deemed to prohibit the filling, carrying, conveying, or storing of any safety cartridges for private use only, and not for sale, in such quantities as may be prescribed by regulation.

Filling, &c., of safety cartridges.
U.K. 38 & 39 Vic., c. 17, s. 41.
Vic. 3675, 1928, s. 50.

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Appointment
of inspectors
1416, 1919,
s. 22.

9. (1) The Governor may appoint a Chief Inspector of Explosives, and such other inspectors of explosives as may be necessary for the purpose of carrying out the provisions of this Act.

(2) The Chief Inspector of Explosives and all inspectors of explosives under the Marine Board and Navigation Acts, 1881 to 1933, holding such offices at the commencement of this Act shall, without further appointment, be respectively the Chief Inspector of Explosives and inspectors of explosives under this Act.

PART II.

PART II.

MANUFACTURE OF EXPLOSIVES.

Persons carry-
ing on certain
processes to be
deemed manu-
facturers.

U.K. 38 & 39
Vict., c. 17,
s. 105.

Vic. 3675,
1928, s. 4.

10. Every person who carries on any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive or making fit for use any damaged explosive, or the process of remaking, altering, or repairing any explosive, shall be subject to the provisions of this Part, as if he manufactured an explosive, and the expression "manufacture" shall in this Part be construed accordingly.

Special rules for
regulation of
workmen in
factory.

U.K. 38 & 39
Vict., c. 17,
s. 11.

Vic. 3675,
1928, s. 6.

11. (1) Every occupier of a factory shall, with the sanction of the Minister, make special rules for the regulation of the persons managing or employed in or about the factory with a view to secure the observance of this Part therein and the safety and proper discipline of the said persons and the safety of the public.

(2) There may be annexed to any breach of special rules made in pursuance of this section such penalties not exceeding two pounds for each offence as may be deemed just.

(3) The occupier may, and if required by the Minister shall, with the sanction of the Minister repeal, alter, or add to any special rules made in pursuance of this section.

(4) If an occupier is required by the Minister to make, repeal, alter, or add to any rules under this section, and fails within three months after such requisition to comply therewith to the satisfaction of the Minister, the Minister may make, repeal, alter, or add to the special rules, and anything so done by the Minister shall have effect as if done by the occupier with the sanction of the Minister.

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(5) Section 38 of the Acts Interpretation Act, 1915, shall apply to all such rules and to the repeal, alteration, or addition to any such rules.

12. (1) The manufacture of any explosive shall not nor shall any process of such manufacture be carried on except at a factory licensed for the same under regulations made or for the time being in force under this Act: Provided that nothing in this section shall apply to the making of a small quantity of explosive for the purpose of chemical experiment, and not for practical use or for sale.

Licensing of
factories.
U.K. 38 & 39
Vict., c. 17,
s. 4.
Vic. 3675,
1928, s. 7.

(2) Every person who manufactures any explosive, or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, shall be deemed to manufacture an explosive at an unauthorised place.

(3) Where an explosive is manufactured at an unauthorised place—

- (a) all or any part of the explosive or the ingredients of any explosive which may be found either in or about such place or in the possession or under the control of any person convicted under this section may be forfeited to the Crown by a court of summary jurisdiction; and
- (b) the person so manufacturing shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds a day for every day during which he so manufactures.

13. (1) The occupier of every factory and every person employed in or about the same shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory or to the explosives therein, and shall abstain from any act whatever which tends to cause fire or explosion and is not reasonably necessary for the purpose of the work in the factory.

Precautions
against fire and
explosions.
U.K. 38 & 39
Vict., s. 17,
s. 23.
Vic. 3675,
1928, s. 8.

(2) Any breach (by act or default) of this section in any factory shall be deemed to be a breach of the regulations applying thereto.

14. For the purposes of the provisions of this Part and the regulations with respect to the manufacture and keeping of explosives, all buildings and places adjoining each other and occupied together shall be deemed to be the same factory, and shall accordingly be included in one licence.

Adjoining
places occupied
together.
U.K. 38 & 39
Vict., c. 17,
s. 27.
Vic. 3675,
1928, s. 9.

PART II.

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Reconstruction
of buildings
destroyed by
accident.

U.K. 38 & 39
Vict., c. 17,
s. 64.

Vic. 3675,
1928, s. 10.

15. (1) Where an accident by explosion or fire occurs in and wholly or partly destroys a factory, the factory shall not be reconstructed and any further supply of an explosive shall not be put therein except with the permission of the Minister, and any explosive put therein in contravention of this section shall be deemed to be manufactured in an unauthorised place, and the offence may be punished accordingly: Provided that this enactment shall not prevent the reconstruction of a factory magazine in any lawfully existing factory upon such site in the factory and with such precautions as seem reasonable to the Minister, due regard being had to the working of the factory as well as to the safety of the public and of the persons employed therein.

(2) Where an accident by explosion or fire in a factory wholly or partly destroys any building of the factory as to which an inspector has previously to the accident sent to the occupier a notice that the building is unduly near to some building or work outside the factory, the building shall be reconstructed only upon such site in the factory and with such precautions as may seem reasonable to the Minister, due regard being had to the working of the factory as well as to the safety of the public and of the persons employed therein.

(3) Where an accident by explosion or by fire in a factory wholly or partly destroys two or more buildings in the factory, not more than one of such buildings shall be reconstructed except with the permission of the Minister: Provided that this subsection shall not apply to any building in a lawfully existing factory if either, both, or all such buildings are incorporating mills, or if as regards any other buildings an inspector has not previously to the accident sent to the occupier a notice that the buildings are unduly near to each other.

(4) Where a building is constructed on a different site in pursuance of this section, the necessary alterations shall be made in the licence, and the alterations shall be deemed to be part of the licence.

(5) The reconstruction of any building in contravention of this section shall be deemed to be a breach of the terms of the licence, and shall be punished accordingly.

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PART III.

PART III.

CARRIAGE OF EXPLOSIVES.

16. (1) No explosive shall be carried in or on or by means of any vehicle or any railway unless—

(a) the quantity of the explosive does not exceed the prescribed quantity of any explosive ; and

(b) the explosive is carried in such manner and under such conditions as may be prescribed by any regulation under this Act.

(2) Any person who carries or causes to be carried any explosive contrary to the provisions of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

17. Where a carrier is prevented from complying with this Part by the wilful act, neglect, or default of the consignor or consignee of the explosive or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, the conviction of the consignor, consignee, or other person shall exempt the carrier from any penalty under this Part.

18. Every such consignor, consignee, or other person who by his wilful act, neglect, or default, or by his improper refusal to accept delivery of any explosive from a carrier causes the carrier to violate the provisions of this Part, shall himself be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

19. (1) Any person other than a carrier licensed by the chief inspector who in any vehicle carries any explosive in excess of the prescribed quantity of any explosive, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(2) A licence may be granted by the chief inspector to any person for the carriage of explosives by land.

Restrictions as to carriage of explosives.

Cf. 237, 1881, s. 349.

Vic. 3675, 1928, s. 11.

Exemption of carrier where consignee, &c., in fault.

U.K. 38 & 39 Vict., c. 17, s. 88.

Vic. 3675, 1928, s. 12.

Liability of consignor or consignee.

Vic. 3675, 1928, s. 13.

Licences for carriage of explosives.

Cf. 1416, 1910, s. 21.

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Government
magazines.
237, 1881,
s. 352.

20. (1) The Governor may by proclamation declare any place to be a Government magazine.

(2) Every Government magazine shall be under the control of the chief inspector.

(3) The Governor may by proclamation revoke any such proclamation or any proclamation made by the Treasurer pursuant to section 352 of the Marine Board and Navigation Act, 1881.

Licensing of
private
magazines.
237, 1881,
s. 353.
814, 1902,
s. 27.
1416, 1919,
ss. 11 and 20.

21. (1) The chief inspector may license as a magazine any suitable building which is approved by him as suitable with regard to its situation and external and internal construction for the safe custody of explosives.

(2) No magazine shall be licensed if it is situated within two hundred yards of any building or public street or road: Provided that a magazine may be licensed if it is situated within two hundred yards, but not less than one hundred yards, of any building or public street or road if it is protected by solidly constructed earth mounds on such sides of and at such distance from the magazine as may be deemed advisable by the chief inspector, and extending to a height equal to that of the ceilings of the magazine.

(3) The chief inspector may issue a licence to the owner of the magazine or other person intended to have charge of the magazine. The licence shall be valid only for the person named therein, and for the quantities of explosives therein mentioned.

(4) If any wilful neglect of the provisions of this Act occurs on the part of any person licensed as aforesaid—

(a) the licensee shall be guilty of an offence against this Act and liable to a penalty of not more than ten pounds for every day during which the neglect continues; and

(b) the whole or any part of the explosives in the magazine may be forfeited to the Crown by a court of summary jurisdiction; and

(c) the licence may be revoked by the chief inspector.

Licensing of
premises.
237, 1881,
s. 355.
1416, 1919,
ss. 12 and 13.

22. (1) The chief inspector may license any person to store explosives upon any premises subject to this Act.

(2) The licence shall be valid only for the person named therein and for the quantities of explosives named therein.

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(3) If any wilful neglect of the provisions of this Act occurs on the part of any person licensed as aforesaid—

- (a) the licensee shall be guilty of an offence against this Act and liable to a penalty of not more than ten pounds for every day during which the neglect continues ; and
- (b) the licence may be revoked by the chief inspector.

23. (1) Subject to subsection (2), explosives shall be kept only—

- (a) in a Government magazine ; or
- (b) in a magazine duly licensed by the chief inspector ; or
- (c) on any premises duly licensed by the chief inspector as premises whereon explosives may be stored ; or
- (d) in the underground workings of a mine in accordance with the provisions of the Mines and Works Inspection Act, 1920, and the regulations made under that Act.

Keeping of
explosives.
237, 1881,
s. 352.
691, 1897,
s. 14.
917, 1906, s. 4
1416, 1919,
s. 10.

(2) This section shall not apply to explosives kept by any person for his own use, the weight of which in the case of gunpowder does not exceed twenty-five pounds, or in the case of any other explosive, five pounds : Provided that in no case shall the exemption provided for by this subsection extend to the keeping of more than one hundred detonators.

(3) If any explosives are kept contrary to this section—

- (a) the occupier of the place in which the explosives are kept, and also the owner of the explosives, shall each be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds :
- (b) the explosives may be seized by any inspector or member of the police force, and may be declared forfeited to the Crown by any court of summary jurisdiction.

24. The storage rent and other charges for any explosives deposited in a Government magazine shall—

- (a) be fixed from time to time by the Minister :
- (b) be payable by the person depositing the explosives :
- (c) be recoverable from the said person by the chief inspector as a debt due to the chief inspector by action in any competent court.

Storage charges
in Government
magazines.
Cf. 237, 1881,
s. 347.

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Power to sell
explosives.
237, 1881,
s. 348.

25. (1) If the storage rent and other charges and expenses incurred in respect of any explosives deposited in a Government magazine are not paid within twelve months after the explosives are so deposited, or within one month after demand is made for payment thereof by the chief inspector, the chief inspector may from time to time cause the explosives, or so much thereof as may appear to be necessary to satisfy all such rent, charges, and expenses, to be sold by public auction.

(2) Every such sale shall be advertised at least twice in the *Government Gazette*.

(3) The proceeds of any such sale shall be applied first to the payment of the said storage rent, charges, and expenses, and the surplus (if any) shall be paid to the person who deposited the explosives.

Explosives to
be in secure
packages.
Vic. 3875,
1928, s. 17.

26. No explosives shall be received at or removed from any Government magazine, licensed magazine, or licensed premises, except in the quantities and kinds of packages prescribed by the regulations, and the packages shall be so secured that no part of the explosive contained therein can be scattered in the removal thereof. In case of failure thereof an inspector may direct that the contents of the said packages be removed into fresh packages by such person and in such manner and place as he prescribes, and the magazine-keeper or person licensed in respect of the magazine or premises, as the case may be, shall charge the expenses attending the same to the owner thereof, and may refuse to deliver the explosive so removed into fresh packages until the said expenses are first paid.

Testing of
explosives in
Government
magazine.
1416, 1919,
s. 29.

27. (1) No person shall remove any explosive from any Government magazine unless the prescribed fees for inspecting or testing the explosives have been first paid to the chief inspector.

(2) Explosives shall not be delivered from a Government magazine until the chief inspector has certified in writing that all fees due to the chief inspector with respect to the explosives which it is desired to remove have been paid, and that the explosives are in a satisfactory condition.

(3) Any person offending against subsection (1) shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Sale or transfer
to be reported
to the officer in
charge.
237, 1881,
s. 346.

28. If the owner of any explosive, while it is deposited in any Government magazine, sells or transfers the whole or any part of the same to any other person, the sale or transfer shall be immediately reported in writing to the chief inspector or magazine-keeper, and a certificate of the sale or transfer,

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together with any other documents necessary for claiming transfer and delivery of the explosive from the owner, shall also be produced to the chief inspector or magazine-keeper, in order that the same may be duly registered, otherwise the magazine-keeper may refuse to deliver up the said explosive to any other than the recipient of the original certificate. The owner shall pay to the chief inspector such fee (if any) for every registration of the sale or transfer as the chief inspector may direct.

PART V.**PART V.****CONTROL OF EXPLOSIVES IN SHIPS.**

29. (1) The master of any ship on board of which there are any explosives exceeding twenty-five pounds in weight of gunpowder or five pounds in weight of any other explosive shall on approaching a port exhibit from the mast head or some other conspicuous position on the ship, by day, flag B of the international code, and, by night, a red light.

Vessels arriving with explosives to hoist flag.
237, 1881, s. 333.
691, 1893, s. 14.
917, 1906, s. 4.
1416, 1919, s. 9

(2) The master of any ship shall during the time the ship is within any port and—

- (a) any explosives exceeding twenty-five pounds in weight of gunpowder or five pounds in weight of any other explosive are on board the ship; or
- (b) any boat is alongside the ship and there are on board such boat explosives exceeding twenty-five pounds in weight of gunpowder or five pounds weight of any other explosive,

exhibit from the mast head or some other conspicuous position on the ship, by day, flag B of the international code, and, by night, a red light.

(3) The master of any ship who fails to comply with any requirement of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

30. (1) The board may from time to time by notice published in the *Government Gazette* declare that the whole or any part of any port shall be a prohibited area.

Prohibited areas.
Cf. 237, 1881, s. 334.

(2) The board may from time to time revoke or vary any such notice by notice published in the *Government Gazette*.

PART V.

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ships carrying
explosives.
Cf. 237, 1881,
s. 334.
691, 1897,
s. 14.
919, 1906,
s. 4.

31. (1) Subject to subsection (3), no ship or boat on board of which there are any explosives exceeding twenty-five pounds in weight of gunpowder or five pounds in weight of any other explosive shall be brought within or be within any prohibited area except as authorised by this section.

(2) Subject to subsection (3), the master of every such ship or boat shall, before the ship or boat is brought within any prohibited area, discharge all explosives in excess of the weight specified in subsection (1) into such magazine or magazines as are appointed by the chief inspector.

(3) The board may grant an authority to the master of any ship or boat to bring or cause the ship to be within any prohibited area for the purpose of discharging explosives as provided by this section. Any such authority may be granted subject to any conditions thought fit by the board.

(4) The master of any ship or boat which is brought into or is within any prohibited area contrary to this section, or who contravenes any condition of any such authority, shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred pounds.

(5) Subject to section 38, the provisions of this section shall not apply to any boat under the control of the chief inspector.

Procedure at
magazine.
237, 1881,
s. 334.

32. (1) Upon the receipt of any such explosives at any Government magazine so appointed as aforesaid, the magazine-keeper shall give to the master or agent of the master, a receipt describing the packages containing the same, which receipt shall be deemed in law to maintain any lien which the master or owner of the ship or boat may have upon the said explosives therein described for freight or other lawful charges upon the same respectively. The master, owner, or agent of the master or owner shall forthwith give to the chief inspector notice in writing of any such lien.

(2) Every person to whom any such explosives are consigned shall, within forty-eight hours after the arrival of the ship or boat at the port, deliver to the magazine-keeper a full description of the explosives, showing the quantity with the marks and numbers of the packages containing the same, which description the magazine-keeper shall enter, together with the name of such person, in a book to be kept for that purpose, and shall thereupon give a certificate of the entry to the said person.

(3) No person shall be entitled to receive any explosives from any Government magazine unless he produces to the chief inspector or magazine-keeper such certificate, nor unless the storage and any other charges authorised by this Act have been paid to the magazine-keeper, or other person authorised by the chief inspector to receive the same.

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33. (1) The master of every ship arriving in any port with explosives exceeding twenty-five pounds in weight in gunpowder or five pounds in weight of any other explosive on board the ship shall, previously to the landing of the explosives for the purpose of being deposited in a Government or licensed magazine or magazines, report the same to the chief inspector and the board.

Explosives on arrival to be reported.

237, 1881,
s. 336.
691, 1897,
s. 14.
917, 1906,
s. 4.

(2) So soon as the same are reported to the chief inspector, he may, subject to section 31, grant a permit or permits to the master of the ship to land the explosives in order that the same may be deposited in a Government magazine or licensed magazine.

34. (1) Explosives shall be discharged from and loaded into any ship or boat in any port only between such hours as may be appointed by the board.

Explosives removed from ship.

237, 1881,
s. 337.

(2) When any quantity or quantities of explosives are so removed, the same shall be brought direct from the ship or boat to such place as is appointed by the board for the landing of the explosives.

35. (1) No ship or boat shall, except with the authority of the board, come alongside any wharf in any port until all explosives exceeding twenty-five pounds in weight of gunpowder or five pounds in weight of any other explosive which may be on board are first landed as provided by this Part.

Penalty on going alongside wharves.

237, 1881,
s. 338.
691, 1897,
s. 14.
917, 1906, s. 4.

(2) The board may grant authority to the master of any ship or boat to come alongside any such wharf without requiring the explosive to be landed as aforesaid. Any such authority may be granted subject to any conditions thought fit by the board.

(3) The master of any ship or boat in respect of which any contravention of this section is committed shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(4) Subject to section 38, the provisions of this section shall not apply to any boat under the control of the chief inspector

36. (1) No explosives shall be landed or shipped in any port in South Australia, other than at such landing places or shipping places as are appointed for that purpose by the board.

Explosives to be landed at the place appointed for the purpose.

237, 1881,
s. 339.

(2) Any person who lands or attempts to land, or ships or attempts to ship, any explosives contrary to the provisions of this section, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

PART V.

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Explosives not to be shipped within certain limits.
237, 1881, s. 340.
601, 1897, s. 14.
917, 1906, s. 4.

37. (1) No ship or boat shall, except with the authority of the board, take on board any explosives exceeding twenty-five pounds in weight of gunpowder or five pounds in weight of any other explosive whilst within any prohibited area.

(2) The board may grant authority to the master of any ship or boat to take on board explosives within a prohibited area. Any such authority may be granted subject to any conditions thought fit by the board.

(3) Any master of a ship or boat in respect of which any contravention of this section is committed, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(4) Subject to section 38, the provisions of this section shall not apply to any boat under the control of the chief inspector.

Control over ships and boats in ports.

38. (1) The board may from time to time direct at what times and in what manner ships and boats carrying explosives exceeding twenty-five pounds in weight of gunpowder or five pounds in weight of any other explosive, shall enter or leave or be navigated within any port.

(2) The master of any ship or boat who fails to comply with any such directions shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(3) This section shall apply to any boat under the control of the chief inspector.

Boats carrying explosives to be licensed and provided with tarpaulins.
237, 1881, s. 342.

39. (1) No boat shall be used for the conveyance of explosives unless—

(a) it is approved by the chief inspector or it is the property of the board; and

(b) it is provided with such tarpaulins or other coverings as the chief inspector may direct.

(2) Any person who conveys or causes to be conveyed any explosives in any boat not so approved or owned and provided with tarpaulins or other coverings as aforesaid, shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Power to delegate authority.

40. (1) The board may from time to time in writing authorise any officer or officers of the board to exercise all or any of the powers of the board under this Part, except the powers given by section 31. Any such authority may be revoked by the board.

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- (2) Any such officer while authorised as aforesaid—
- (a) may exercise the powers conferred as aforesaid in the same manner and to the extent to which the powers could be exercised by the board ; and
 - (b) shall in the exercise of the powers be deemed to be entitled to the same immunities and privileges as a member of the board.

41. This Part shall not apply to any gunpowder, rockets, or other explosives in respect of any ship which are required to be carried as part of the ship's equipments for the purpose of making signals.

Savings as to ships rockets, etc.
237, 1881,
s. 387.
U.K. 38 & 39
Vict. c. 17,
s. 101.

PART VI.

PART VI.

MISCELLANEOUS.

42. (1) Any inspector may—
- (a) at any time enter, inspect, and examine any magazine or premises licensed by the chief inspector or any place where he believes any explosives may be found :
 - (b) make any general or particular inquiries as to the observance of, 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 as are necessary for the examination and testing thereof :
 - (d) seize, detain, and remove any explosive and any package or vehicle in which the same is contained if he has reasonable cause to believe that there has been a contravention of this Act in respect of the explosive ; and
 - (e) where he believes it necessary in the public interest, with the consent of the Minister destroy or otherwise dispose of any explosive : Provided that in cases of imminent danger he may so act without such consent.

Powers of inspectors.
1416, 1919,
s. 23.

(2) The expense of destruction or disposal of any explosive under paragraph (e) of subsection (1) shall be borne by the owner of the explosive.

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Inspector may
be assisted.
1416, 1919,
s. 24.

43. Every person on or about the place inspected who—

- (a) does not, upon being requested so to do by an inspector facilitate the entry, inspection, and examination authorised by this Act by the inspector ; or
- (b) does not, upon being so requested, facilitate the taking of samples, or the seizure, detention, or removal of any explosive, packages, or vehicle, or the destruction or disposal of any explosive authorised by this Act,

shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Obstructing
inspectors.
1416, 1919,
s. 25.

44. Any person who—

- (a) obstructs or hinders any inspector ; or
- (b) in any way interferes with or prevents the exercise of any of the powers conferred by this Act upon inspectors ; or
- (c) disobeys any lawful order or direction of an inspector ;
or
- (d) refuses or neglects to answer truly any inquiry made by an inspector under the authority of this Act,

shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Protection to
inspector.
1416, 1919,
s. 26.

45. No inspector shall be liable, except in respect of any wilful neglect or default, to any legal proceedings for anything done in pursuance of this Act.

Powers of
chief inspector.
1416, 1919,
s. 27.

46. (1) If in the opinion of the chief inspector any explosive under the control of the chief inspector—

- (a) has been damaged, or from its condition is, or is likely to become, dangerous to life or property during storage, transport, or use ; or
- (b) has not been defined and classified as provided in section 6, or does not conform in composition, quality, and character to the definition made in accordance with that section,

the chief inspector may destroy the explosive, or may order the same to be destroyed or otherwise disposed of.

(2) The expense of the destruction or disposal shall be borne by the owner of the explosive.

When explo-
sives deemed
to be under the
control of chief
inspector.
1416, 1919,
s. 28.

47. For the purposes of section 46, an explosive shall be deemed to be under the control of the chief inspector—

- (a) if it is in a Government magazine ;

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- (b) if it is in a magazine afloat ;
- (c) if it is on board any ship or boat in any port ;
- (d) if it is in course of being landed from any such ship or boat ;
- (e) if it is in course of being shipped in any port ;
- (f) if it is on board any boat approved by the chief inspector under section 39, or owned by the board ; or
- (g) if it is in course of removal from or to any magazine to or from any ship or boat in any port.

48. Notwithstanding anything in this Act, the Governor may from time to time by proclamation prohibit, either absolutely, or subject to conditions or restrictions, the manufacture, keeping, conveyance, and sale, or any of them, of any explosive when in the judgment of the Governor it is expedient for the public safety to make such proclamation.

Power to prohibit manufacture, storage, and carriage of specially dangerous explosives.
U.K. 38 & 39
Vict., c. 17,
s. 43.
Vic. 3675,
1923, s. 56.

(2) Any explosive manufactured in contravention of any such proclamation shall be deemed to be manufactured in an unauthorised place.

(3) If any explosive is conveyed, sold, or kept in contravention of any such proclamation—

- (a) all or any part of the explosive may be forfeited to the Crown by a court of summary jurisdiction ; and
- (b) the person so conveying the explosive or causing it to be so conveyed shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds ; and
- (c) the person to whom it was delivered and the person selling or keeping the same shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

(4) The Governor may by proclamation revoke any proclamation made as aforesaid.

49. Notwithstanding anything contained in this Act it shall not be necessary for any person licensed to keep a magazine or other premises pursuant to Part IV. to take out a licence for a factory by reason only that in connection with his magazine or licensed premises he fills for sale or otherwise any cartridge for small arms with any explosive if in so doing he invariably complies with the provisions of this Act or any regulation thereunder relating to the filling of cartridges.

Factory licence unnecessary in certain cases.
Vic. 3675,
1923, s. 47.

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Penalty on and removal of trespassers.
U.K. 38 & 39
Vict., c. 17,
s. 77.
Vic. 3675,
1928, s. 37.

50. (1) Any person who enters without permission or otherwise trespasses upon any magazine or factory, whether licensed or not, or the land immediately adjoining thereto which is occupied in connection with the magazine or by the occupier of the factory shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds, and may be forthwith removed from the magazine, factory, or land by any member of the police force or by the keeper or occupier of the magazine or factory, or any agent or servant of or other person authorised by the keeper or occupier.

(2) Any person other than the keeper, occupier of, or person employed in or about any such magazine or factory who is found committing any act which tends to cause explosion or fire in or about the magazine or factory shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds.

(3) The keeper or occupier of any such magazine or factory shall post up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under this section, but the absence of any such notice or notices shall not exempt a person from a penalty under this section.

Supplemental provisions as to forfeiture of explosive.
U.K. 38 & 39
Vict., c. 17,
s. 89.
Vic. 3675,
1928, s. 41.

51. (1) Where a court before which a person is convicted of an offence against this Act has power to forfeit any explosive owned by or found in the possession or under the control of such person, the court may, if it thinks it just and expedient, in lieu of forfeiting the explosive, impose upon such person in addition to any other penalty or punishment a penalty not exceeding such sum as appears to the court to be the value of the explosive so liable to be forfeited.

(2) Where any explosive or ingredient of an explosive is alleged to be liable under this Act to be forfeited, any complaint may be laid against the owner of the explosive or ingredient for the purpose only of enforcing the forfeiture; and where the owner is unknown or cannot be found the court may cause a notice to be advertised stating that, unless cause is shown to the contrary at the time and place named in the notice, the explosive may be forfeited, and at such time and place the court after hearing the owner or any person in his behalf (who may be present) may order all or any part of the explosive or ingredient to be forfeited.

Regulations.
691, 1897,
s. 15.
1416, 1919,
s. 30.

52. The Governor may make regulations for all or any of the following purposes:—

1. Licensing factories for the manufacture of explosives:

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- II. Prescribing the conditions upon which licences will be issued, and the fees payable thereon :
- III. Prescribing the rules to be observed by the owner, occupier, and persons employed in the factory :
- IV. Prescribing the mode of construction and the purposes for which the factory or any particular part thereof may be used :
- V. Regulating the attaching of lightning conductors to the factory :
- VI. Defining the part of the factory in which any particular explosive or ingredient shall be kept, the quantity that may be so kept, and the mode in which it shall be packed :
- VII. Regulating the use or retention in the factory of charcoal, oiled cotton, and any articles liable to spontaneous ignition, the cleaning of the building, the quantity of any explosives or ingredient that may be allowed in the factory or any part thereof at any one time, and prescribing the materials of which tools used may be made :
- VIII. Regulating in the factory or any part thereof the mixing, sifting, and carriage of any explosives or the ingredients thereof, persons smoking, and the introduction of fire, matches, or any substance or article likely to cause explosion by fire, or any iron, steel, or grit :
- IX. Regulating the employment in the factory of persons under the age of sixteen years :
 - x. Prescribing the period for which licences may be issued and the effect (if any) of change of owners or occupiers of the factory :
- XI. Regulating the inspection of explosives and the marking of cases containing the same by an inspector before the removal of the explosives from the factory :
- XII. Generally for regulating any matter relating to factories which public safety or convenience may require :
- XIII. Licensing carriers of explosives, and prescribing the fees to be payable for licences :
- XIV. Prescribing the quantity and quality of explosives or of any particular kinds of explosive, and also the variety of explosives which may be carried in the same railway truck or vehicle of any kind :

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- xv. Generally for regulating the carriage by land of explosives :
- xvi. The licensing by the chief inspector of magazines and premises for the storage of explosives, and prescribing the terms and conditions on which licences shall be granted and the fees payable therefor :
- xvii. The conveyance to, receipt at, delivering from, or storage in magazines and such premises of any explosives :
- xviii. The inspection, examination, and testing from time to time of explosives stored in magazines and such premises, and prescribing the fees therefor :
- xix. Providing for the storage of the several substances included in the definition of explosives in this Act in separate magazines and premises licensed as aforesaid, and prohibiting any of such substances being stored in the same magazine or premises with any other of such substances :
- xx. Prescribing the quantities and kinds of packages in which the several kinds of explosives may be received at and removed from any magazine or premises licensed as aforesaid :
- xxi. The inspection of explosives before being landed, transhipped, or received into a magazine :
- xxii. To regulate the carriage of explosives in any ship or boat :
- xxiii. The definition of safety cartridges and safety fuses, and the exemption of such or any other explosives from all or any of the provisions of this Act, and the conditions (if any) of such exemption :
- xxiv. Providing penalties for the breach of any regulation not exceeding one hundred pounds.

Magazines in municipalities.

53. No regulation nor any licence issued under this Act shall be construed to authorise the storage of any explosive in any municipality contrary to the provisions of any by-law made by the council of that municipality.

Continuance of regulations.

54. All regulations relating to explosives made pursuant to the Marine Board and Navigation Acts, 1881 to 1933, shall, so far as not inconsistent with this Act, continue in force as if made under this Act until expressly or impliedly repealed by regulations made under this Act.

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55. The provisions of this Act shall be construed as in addition to and not in substitution for the provisions of the Harbors Act, 1936, and the Marine Act, 1936. Saving provision

56. All proceedings for offences against this Act shall be disposed of summarily. Summary proceedings.

57. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes. Financial provision.

58. Section 189 of the Harbors Act, 1936, is hereby repealed. Repeal of s. 189 of Harbors Act, 1936.

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

W. DUGAN, Governor.