

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 31 October, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1974.

An Act to reduce the maximum amount of explosives that may be kept in places not licensed under the Explosives Act, 1905; to impose restrictions on the sale or supply of explosives; to create offences in connection with the use of explosives; to increase penalties for certain offences relating to explosives; for these and other purposes to amend the Explosives Act, 1905; and for purposes connected therewith.

BE

Explosives (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
5 follows:—

1. This Act may be cited as the "Explosives Short title.
(Amendment) Act, 1974".

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act
shall commence on such day as may be appointed by the
Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

3. Part I of the Explosives Act, 1905, is amended— Amendment
of Act No.
41, 1905.
(Part I.—
Pre-
liminary.)

15 (a) by inserting after section 2 the following section and Sec. 2A.
heading thereto :—

Division of Act.

2A. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–7.

20 PART II.—MANUFACTURE, IMPORTATION, KEEP-
ING, CONVEYANCE, SALE, SUPPLY AND USE OF
EXPLOSIVES—ss. 8–36A.

DIVISION 1.—*Manufacture of explosives*—ss. 8,
9.

25 DIVISION 2.—*Importation of explosives*—ss.
10–12.

DIVISION 3.—*Keeping of explosives*—ss. 13–17A.

DIVISION 4.—*Conveyance of explosives*—ss.
18–22.

DIVISION

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DIVISION 5.—*Sale or supply of explosives*—ss. 22A–25I.

DIVISION 6.—*Use of explosives*—ss. 25J, 25K.

DIVISION 7.—*Public display fireworks*—ss. 25L–25Q.

DIVISION 8.—*General provisions*—ss. 26–36A.

PART III.—ADMINISTRATIVE AND SUPPLEMENTAL
—ss. 37–60.

(b) (i) by omitting from section 7 the words “unless Sec. 7. the context otherwise requires,” and by inserting instead the words “except in so far as the context or subject-matter otherwise indicates or requires”; (Definition of words and expressions.)

(ii) by omitting the definition of “Court” and “court of summary jurisdiction” in section 7 and by inserting instead the following definition :—

“Court” and “court of summary jurisdiction” mean a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(iii) by omitting from paragraph (a) of the definition of “Explosive” in section 7 the word “Means” and by inserting instead the word “means”;

(iv) by omitting from the definition of “Justice” in section 7 the words “police or”;

(v) by inserting after the definition of “Occupier” in section 7 the following definition :—

“Pistol licence” means a pistol licence issued under the Firearms and Dangerous Weapons Act, 1973.

(vi)

Explosives (Amendment).

- (vi) by inserting after the definition of "Premises" in section 7 the following definition :—
 "Public display firework" means a firework of a class or description prescribed for the purposes of this definition.
- (vii) by omitting the definition of "Public magazine" in section 7 and by inserting instead the following definition :—
 "Public magazine" means a magazine declared to be a public magazine under subsection (4).
- (viii) by inserting after the definition of "Ship" in section 7 the following definition :—
 "Shooter's licence" means a shooter's licence issued under the Firearms and Dangerous Weapons Act, 1973.
- (ix) by omitting from the definition of "Superintendent" in section 7 the words "Explosives Department" and by inserting instead the words "Explosives Branch of the Department of Mines";
- (x) by inserting in the definition of "This Act" in section 7 after the word "license," the word "permit,";
- (xi) by inserting at the end of section 7 the following subsections :—
 (2) In sections 6, 22B, 26, 28 and 57, "sell" includes—
 (a) barter or exchange;
 (b) agree to sell, barter or exchange;
 (c) offer or expose for sale, barter or exchange;
 (d) send, forward or deliver for or on sale or for barter or exchange;
 (e)

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- (e) have in possession for sale, barter or exchange;
- 5 (f) cause or suffer to be sold, bartered, exchanged, offered for sale, exposed for sale or sent, forwarded or delivered for or on sale or for barter or exchange; and
- 10 (g) attempt to sell, barter, exchange, expose for sale or send, forward or deliver for or on sale or for barter or exchange.

15 (3) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to a license or permit is a reference to a license or permit, as the case may be, that is in force.

20 (4) The Governor may, by notification published in the Gazette, declare a magazine to be a public magazine for the storage of explosives.

4. Part II of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905.

(Part II.—
Manu-
facture,
importa-
tion,
keeping,
convey-
ance, sale,
supply and
use of ex-
plosives.)

- 25 (a) (i) by omitting from the heading to Part II the words "AND SALE" and by inserting instead the words "SALE, SUPPLY AND USE";

Heading before sec. 8.

(ii)

Explosives (Amendment).

- (ii) by omitting the words "*Manufacture of explosives.*" occurring before section 8 and by inserting instead the words "DIVISION 1.—*Manufacture of explosives.*";
- 5 (b) (i) by omitting from section 8 the words "explo- Sec. 8.
sive in connection with a licensed magazine or (Explosive
licensed premises, so that the occupier of such to be manu-
magazine or premises observe regulations pre- factured
scribed" and by inserting instead the words only at
factory
10 "gunpowder or nitrocellulose propellant licensed
powder in accordance with regulations under
made"; this Act.)
- (ii) by omitting from section 8 the words "in small quantities";
- 15 (c) (i) by omitting from section 9 (j) the words Sec. 9.
"Factories and Shops Act, 1912" and by (Governor
inserting instead the words "Factories, Shops may make
and Industries Act, 1962"; regula-
tions
relating to
factories
for the
manufac-
20 (ii) by omitting from section 9 (n) the words "in ture of
small quantities"; explosives.)
- (iii) by inserting after section 9 (n) the following paragraph :—
- (o) requiring the keeping and production
of records, and the making of returns,
25 with respect to—
- (i) the manufacture of explosives
in the factory; and
- (ii) the removal of explosives from
the factory.
- 30 (d) by omitting the words "*Importation of explosives.*" Heading
occurring before section 10 and by inserting instead before
sec. 10.
the words "DIVISION 2.—*Importation of
explosives.*";

(e)

Explosives (Amendment).

- (e) by inserting after section 12 (c) the following paragraph :—
- (d) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the importation of explosives; and
- (ii) the manner in which imported explosives are disposed of.
- (f) by omitting the words "*Keeping of explosives.*" occurring before section 13 and by inserting instead the words "*DIVISION 3.—Keeping of explosives.*";
- (g) (i) by omitting from section 13 (1) the words "An explosive" and by inserting instead the words "Subject to subsection (3), an explosive";
- (ii) by omitting the proviso to section 13 (1);
- (iii) by omitting from section 13 (2) the words "Any explosive kept" and by inserting instead the words "Subject to subsection (3), any explosive kept";
- (iv) by inserting after section 13 (2) the following subsections :—
- (3) Subsections (1) and (2) do not apply to—
- (a) the keeping in accordance with this Act, otherwise than for sale, of any explosive by a person if the

Sec. 12.
(Governor may make regulations as to importation of explosives.)

Heading before sec. 13.

Sec. 13.
(Explosives to be kept only in factory or authorised place.)

explosive

Explosives (Amendment).

explosive or explosives kept by him,
whether in one or more places, does
or do not comprise—

5

- (i) whether or not he is a person
referred to in subparagraph
(ii)—more than 2.5 kilo-
grams of blasting explosives,
110 detonators and 250
metres of detonating fuse;
and

10

- (ii) if he is the holder of a pistol
licence or shooter's licence
—more than 10 kilograms
of propellant powder;

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- (b) the keeping of any explosive in a
ship, boat or carriage while being
conveyed in the ship, boat or car-
riage in accordance with this Act;

20

- (c) the keeping in accordance with this
Act of safety fuses for blasting,
railway fog-signals, or percussion
caps, or any explosive exempted
from the operation of this section
by the regulations; or

25

- (d) the keeping in accordance with this
Act, otherwise than for sale, of
safety cartridges.

30

(4) For the purposes of subsection (3)
(a), in determining the amount of explosive or
explosives kept by a person, regard shall not
be had to the amount of explosive or explosives
kept by him at a place that is referred to in
subsection (1) (a), (b), (c) or (d) and that

is

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is more than one kilometre, measured in a direct line, from any other place (not so referred to) at which he keeps or kept an explosive at any relevant time.

5 (5) The holder of a pistol licence or shooter's licence is not, by virtue of subsection (3) (a) (i), authorised to keep any propellant powder in excess of the amount thereof referred to in subsection (3) (a) (ii).

10 (6) Where a person purchases or receives more than the amount of explosives referred to in subsection (3) (a) by virtue of a condition or conditions attaching to a permit under
15 Division 5 and specifying a maximum amount greater than the amount referred to in subsection (3) (a), he is not guilty of an offence under this section if he satisfies the court that he complied with the conditions of the permit to the extent to which they related to those
20 explosives.

(7) In this section—

“blasting explosives” means explosives other than—

25 (a) detonators or detonating fuse; or

(b) any explosive referred to in subsection (3) (c) or (d);

30 “propellant powder” means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(h)

Explosives (Amendment).

(h) by inserting after section 13A (3) the following subsections :—

Sec. 13A.
(Explosive
not to be
abandoned,
etc.)

(4) Without affecting section 25K, where an explosive is set to explode in any place but—

5 (a) it is not fired; or

(b) it misfires,

subsection (1) (a) does not apply to or in respect of that explosive while it remains in that place.

10 (5) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies but—

(a) it is not fired; or

15 (b) it misfires,

subsection (1) and any regulations made pursuant to subsection (2) do not apply to or in respect of that explosive while it remains in that place.

20 (i) by inserting after section 13A the following section :—

13B. (1) A person who has explosives in his possession, control or custody is guilty of an offence relating to possession of explosives. and liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both, unless he satisfies the court that—

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(a) he purchased or otherwise received the explosives under the authority (as referred to in section 22D) of a license or permit under this Act or of a pistol licence or shooter's licence;

30

(b)

Explosives (Amendment).

- 5 (b) he manufactured the explosives lawfully;
or
(c) the explosives came into his possession,
control or custody in any other lawful
manner.

10 (2) A person who has purchased or
received explosives under the authority of a permit
under Division 5 shall not, while the permit remains
in force, have in his possession, control or custody,
at any one time, more than the maximum amount
of explosives specified in a condition or conditions
referred to in section 25D (3) and attaching to the
permit.

Penalty : \$200.

15 (3) Subsection (2) does not apply where
the additional explosives are in a person's possession,
control or custody by virtue of his being the holder
of a pistol licence or shooter's licence or in the
prescribed circumstances.

20 (4) A person shall not be convicted of—
(a) offences under both subsection (1) and
section 22C; or
(b) offences under both subsection (2) and
section 13,

25 in respect of the same explosive.

(5) All or any part of an explosive sold in
contravention of subsection (1) or (2) may be
forfeited while in the possession, control or custody
of the person contravening that subsection.

30 (6) Nothing in this section applies to or
in respect of safety cartridges.

(j) by omitting from section 16 the word "Colonial";

Sec. 16.
(Payment of
store-rent
and
charges.)

(k)

Explosives (Amendment).

- (k) (i) by omitting from section 17 (ii) the words "the occupier" and by inserting instead the words "except as provided in paragraph (iii) —the occupier"; Sec. 17. (Regulations for keeping explosives.)
- 5 (ii) by inserting after section 17 (ii) the following paragraph :—
- 10 (iii) in the case of a breach of a provision of the regulations, in so far as that provision requires, or has the effect of requiring, explosives kept in a magazine or licensed premises to be kept in such compartment or other place, or in such receptacle, in the magazine or premises as may be specified or described in the regulations—the occupier shall be liable to a penalty not exceeding \$500, and, in the case of a second or subsequent offence, to an additional penalty not exceeding \$100 for every day during which the breach continues.
- 15 (l) by omitting from section 17A (1) the words "para-graph (a), (b), (c) or (d) of subsection (1) of section 13 does not apply by virtue of the proviso to that subsection" and by inserting instead the words "section 13 (1) does not apply by virtue of section 13 (3)"; Sec. 17A. (Governor may regulate the keeping of certain explosives.)
- 20 (m) by omitting the words "*Conveyance of explosives.*" occurring before section 18 and by inserting instead the words "*DIVISION 4.—Conveyance of explosives.*"; Heading before sec. 18.
- 30 (n) (i) by omitting from section 22 (j) the word "and" where secondly occurring; Sec. 22. (Governor may regulate the conveyance of explosives.)
- (ii)

Explosives (Amendment).

(ii) by inserting after section 22 (k) the following paragraph :—

5 (1) requiring the keeping and production of records, and the making of returns, with respect to the conveyance of explosives.

10 (o) by omitting the words “Sale of explosives.” occurring before section 23 and by inserting instead the words “DIVISION 5.—Sale or supply of explosives.”; Heading before sec. 23.

(p) by inserting before section 23 the following sections :— Secs. 22A–22D.

15 22A. (1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation: Div. 5 of Part II.

“license” means a license under this Division or under any other provision of this Act;
“officer” means a member of the Police Force;
“permit” means a permit under this Division.

20 (2) In this Division (other than sections 23, 24 and 25), “explosive” does not include safety cartridges or public display fireworks.

25 22B. (1) A person shall not sell any explosive unless he is the holder of a license authorising him to do so. Seller of explosives to be licensed.

Penalty: \$800 or imprisonment for 12 months, or both.

30 (2) All or any part of an explosive sold in contravention of subsection (1) may be forfeited while in the possession, control or custody of the person contravening that subsection.

(3)

Explosives (Amendment).

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold the explosive as the employee of, or under the supervision of, the holder of a license that authorises the holder to sell the explosive.

22c. (1) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the other person is guilty of an offence, unless he satisfies the court—

Purchaser,
etc., of
explosives
to be
holder of
license,
permit or
other
authority.

(a) that he was, at the time of the sale or supply, the holder of—

(i) a license, pistol licence or shooter's licence authorising the sale or supply; or

(ii) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that he—

(i) was, at the time of the sale or supply, the holder of a permit authorising the sale or supply; and

(ii) produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.

(2)

Explosives (Amendment).

(2) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the firstmentioned person is guilty of an offence, unless he satisfies the court—

5

(a) that—

(i) the other person was, at the time of the sale or supply; or

10

(ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the holder of—

15

(iii) a license, pistol licence or shooter's licence authorising the sale or supply; or

20

(iv) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that—

25

(i) the other person was, at the time of the sale or supply; or

30

(ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the

Explosives (Amendment).

5 the holder of a permit authorising the
sale or supply and that the other person
produced the permit for inspection, at
the time of the sale or supply, to the
firstmentioned person or an employee of
the firstmentioned person or, where the
firstmentioned person is a corporation, to
a director, within the meaning of the
Companies Act, 1961, or an employee,
10 of the corporation.

(3) A person is not guilty of an offence
under this section if he satisfies the court that—

15 (a) the explosive was supplied (otherwise
than by way of sale) to the other person
referred to in subsection (1) or (2), as
the case may require, for the purpose of
carrying out work in or about a mine,
quarry, farm, building site or other place
on the day on which it was so supplied;
20 and

(b) he and the other person were employed
or engaged in, or responsible for, carry-
ing out work in or about the mine,
quarry, farm, building site or other place.

25 (4) A person shall not be convicted of
offences under both subsection (1) and section
25D (9) in respect of the purchase or receipt by
him of explosives in contravention of a condition
attaching to a permit of which he is the holder.

30 (5) A person is not guilty of an offence
under subsection (2) if he satisfies the court that
he sold or otherwise supplied the explosive to a
person who was not, at the time of the sale or supply,
required by subsection (1) to be the holder of a
license, pistol licence, shooter's licence or
35 instrument referred to in subsection (2) (a) (iv).

(6)

Explosives (Amendment).

5 (6) All or any part of an explosive in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

(7) A person who is guilty of an offence under this section is liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both.

10 22D. (1) A license or permit shall, for the purposes of this Act, be deemed to authorise— Authority conferred by license or permit.

(a) a sale or other supply of an explosive to the holder thereof; and

15 (b) a purchase or other receipt of an explosive by the holder thereof, except in so far as the terms of, or the conditions attaching to, the license or permit, as the case may be, otherwise provide.

20 (2) A pistol licence or shooter's licence shall, for the purposes of this Act, be deemed to authorise—

(a) a sale or other supply of propellant powder to the holder thereof; or

25 (b) a purchase or other receipt of propellant powder by the holder thereof, except in so far as the amount thereof so sold, supplied, purchased or received at any one time exceeds 10 kilograms.

30 (3) In this section, "propellant powder" means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

Explosives (Amendment).

- (q) by omitting section 24 and by inserting instead the following section :—

24. (1) A person shall not sell or otherwise supply any explosive to a person who is under the age of eighteen years.

Sale or supply of explosives to minors.

Penalty : \$200.

(2) A person is not guilty of an offence under subsection (1) if he satisfies the court that he had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of eighteen years.

- (r) (i) by omitting from section 25 the words "one pound in weight" and by inserting instead the matter "0.5 kilogram";
- (ii) by omitting from section 25 the word "subsection" and by inserting instead the word "paragraph";

Sec. 25.
(Sale of explosives: to be in closed packages, labelled.)

- (s) by inserting after section 25A the following sections :—

Secs. 25B-25I.

25B. (1) Licenses may be granted authorising the sale of explosives.

Licenses for sale of explosives.

(2) The Governor may make regulations regulating the granting, renewing and altering of licenses under this section, and the fees payable therefor.

25c. (1) Permits may be granted for the purchase or receipt of explosives.

Permits for purchase or receipt of explosives.

(2) An application for a permit shall be made in the prescribed manner to the officer in charge for the time being of the police station in or nearest to the place where the applicant ordinarily resides.

(3)

Explosives (Amendment).

(3) Subject to this section, the officer may grant the application or may refuse the application.

(4) No fee is payable in respect of a permit.

5 (5) The officer shall not grant an application for a permit made by a person who—

(a) is not a natural person;

(b) is under the age of eighteen years;

10 (c) has been convicted in New South Wales or elsewhere of an offence and sentenced to penal servitude or imprisonment for twelve months or more and has been released from that penal servitude or imprisonment less than five years before the date of the application;

15 (d) is subject to a recognizance, granted in New South Wales or elsewhere, to keep the peace; or

20 (e) is the subject of a firearms prohibition order within the meaning of the Firearms and Dangerous Weapons Act, 1973.

(6) The officer shall not grant an application for a permit unless he is satisfied that the applicant is of good character and repute, has good reason for requiring the permit and can be trusted to have explosives in his possession and to use and carry explosives without danger to the public safety or to the peace.

25 (7) A permit shall be in or to the effect of the prescribed form.

30 (8) A permit shall, unless sooner revoked, remain in force for such period, not exceeding three months, as may be specified in the permit.

(9)

Explosives (Amendment).

(9) While two or more permits issued to a person would, but for this subsection, be in force at the same time, only the permit first issued shall be deemed to be in force for the purposes of this Act.

(10) The regulations may make provision for or with respect to the issue of substitute permits in the place of lost, damaged or destroyed permits.

25D. (1) Where an officer grants an application for a permit, the permit shall be issued subject to conditions. ^{Conditions attaching to permits.}

(2) The officer may attach to a permit such prescribed conditions, or such conditions of prescribed classes, as he may determine.

(3) The officer shall attach a condition or conditions to the effect that not more than the amount of explosives specified therein may be purchased or received under the authority of the permit at any one time.

(4) Subject to subsections (5) and (6), the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) is 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(5) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required by the applicant for a permit for use on the day of purchase or receipt of the explosives, and that it is proper that the applicant should have more than that amount

of

Explosives (Amendment).

5 of explosives, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to the permit is 50 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

10 (6) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required for use in a mine in relation to which an approval is in force under General Rule (2) in section 55 of the Mines Inspection Act, 1901, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit issued for the purpose of purchasing or receiving explosives for use therein is the maximum amount that may be stored in the mine under the authority of the approval.

20 (7) Without affecting the generality of subsection (2), nothing in this section prevents the regulations from prescribing a condition that may be attached to a permit and that provides—

(a) that—

25 (i) only a number, specified in the permit, of purchases or receipts of explosives may be made;

(ii) only a number, specified in the permit, of purchases or receipts of explosives may be made in any period, so specified;

30 (iii) only explosives of a class or description specified in the permit may be purchased or received; or

(iv)

Explosives (Amendment).

(iv) explosives of a class or description specified in the permit may not be purchased or received,

under the authority of the permit; or

5 (b) that blasting explosives purchased or received under the authority of the permit shall be used or otherwise disposed of on the day of the purchase or receipt.

10 (8) Without affecting the generality of subsection (2), where the condition or conditions referred to in subsection (3) and attaching to a permit specifies or specify, by virtue of subsection (5), an amount of blasting explosives that is more than 2.5 kilograms, the officer issuing the permit
15 shall attach to the permit a condition of the kind referred to in subsection (7) (b).

(9) The holder of a permit shall not, without reasonable excuse, fail to comply with any condition attaching to the permit.

20 Penalty: \$800 or imprisonment for 12 months, or both.

(10) In this section, "blasting explosives" means explosives other than detonators or detonating fuse.

25 25E. (1) The officer in charge of the police station who granted an application for the permit, or the officer in charge of that station for the time being, or the Commissioner of Police, may, by instrument in writing, revoke a permit—
Revocation of permits.

30 (a) if, had the permit not been issued, he would be required, under section 25C (5) or (6), to refuse an application for a permit made by the holder of the permit;

(b)

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(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii) failed to comply with any condition attaching to the permit;

(c) if he is satisfied that, at the time of the issue of the permit, another permit issued to the holder was in force; or

(d) if the holder of the permit has been convicted of an offence under this Division since the issue of the permit.

(2) Where an officer revokes a permit, he shall cause notice of the revocation to be served on the holder of the permit by sending the notice by post addressed to the holder at his address last known to the officer or by causing it to be delivered to the holder personally.

(3) The revocation of a permit shall take effect—

(a) where the notice of revocation is sent by post—when the notice would be delivered to the addressee in the ordinary course of post; or

(b) where the notice of revocation is delivered to the holder personally—when it is so delivered.

(4)

Explosives (Amendment).

(4) A permit shall be revoked if the holder of the permit so requests.

25F. (1) A person aggrieved by a decision of an officer— Appeals in relation to permits.

5 (a) to refuse to grant an application for a permit;

(b) to attach a condition to a permit; or

(c) to revoke a permit,

10 may, within the prescribed time and in the prescribed manner, appeal to the Minister.

(2) The decision of the Minister shall be final and shall be binding on the appellant and on the officer.

(3) The Minister—

15 (a) shall not grant the appeal unless he is satisfied that the decision appealed against is incorrect;

20 (b) shall refuse to grant the appeal if he is satisfied that the decision appealed against is correct; and

25 (c) subject to paragraph (a), may, on the appeal, direct that a permit be issued subject to such conditions as an officer is authorised by this Act to impose when granting an application for a permit.

(4) Notwithstanding anything in this Division, the Minister may, if he is satisfied that, in all the circumstances it is proper to do so, grant
an

Explosives (Amendment).

an appeal notwithstanding that, but for this subsection, the appellant would be precluded from holding a permit by reason only of section 25c (5) (c), (d) or (e).

5 25G. (1) A person shall not, without reasonable excuse, have in his possession a permit that was not issued to him. Unlawful possession, etc., of permits.

(2) A person shall not, with intent to deceive, forge or alter a permit.

10 (3) The holder of a permit shall not lend the permit, or allow it to be used by any other person, for the purpose of purchasing or receiving explosives.

15 Penalty : \$200 or imprisonment for 3 months, or both.

20 25H. The Governor may make regulations for or with respect to requiring the keeping and production of records, and the making of returns, with respect to the sale or other supply of explosives, or the purchase or other receipt of explosives, and, in particular, for or with respect to— Records.

(a) requiring details of the purchase or receipt of explosives under the authority of a permit to be made on a permit; and

25 (b) requiring the retention and production of a permit (whether or not any explosives have been purchased or received under its authority).

25I.

Explosives (Amendment).

25I. (1) The Governor may make regulations **Exemptions.**
for or with respect to exempting, to the extent
specified therein, and unconditionally or subject to
prescribed conditions—

- 5 (a) any person or class or description of
persons; or
- (b) any explosive or class or description of
explosive,
- 10 from any of the provisions of this Division specified
in the regulations.

(2) Subsection (1) does not affect the
generality of section 57.

- (t) by inserting before the heading occurring before **Divs. 6 and**
section 26 the following Divisions :— **7 of Part II.**

15 **DIVISION 6.—Use of explosives.**

25J. A person shall not negligently or carelessly **Negligent**
prepare for use, or explode, or cause to be exploded, **or careless**
any explosive in such a manner or in such **use of**
circumstances as— **explosives.**

- 20 (a) to endanger or be likely to endanger the
life of any person;
- (b) to cause or be likely to cause injury to
any person; or
- 25 (c) to damage or be likely to cause damage
to any property not belonging to the
firstmentioned person.

Penalty : \$800 or imprisonment for 12 months,
or both.

25K.

Explosives (Amendment).

25K. (1) Where a person sets, or causes to be set, an explosive to explode in any place, that person shall not—

Explosive not to be abandoned, etc., after set to explode.

(a) abandon that explosive; or

5 (b) leave that explosive unsupervised,

in that place until it has been exploded or has been rendered harmless, destroyed or otherwise disposed of.

Penalty : \$500.

10 (2) Where a person sets, or causes to be set, an explosive to explode in any place, an inspector may, if that explosive remains in that place, direct that person—

(a) to explode that explosive; or

15 (b) to render that explosive harmless, or destroy or otherwise dispose of it, in accordance with the conditions prescribed pursuant to section 13A (2).

20 (3) A person shall not, without reasonable excuse, fail to comply with a direction given to him under subsection (2).

Penalty : \$200.

(4) A direction under subsection (2) may be given orally or by instrument in writing.

25 (5) Subject to subsection (6), this section applies to and in respect of an explosive that has been set to explode, whether it has not been fired or whether it has misfired.

(6)

Explosives (Amendment).

(6) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies, but—

- (a) it is not fired; or
- (b) it misfires,

this section does not apply to or in respect of that explosive while it remains in that place.

DIVISION 7.—Public display fireworks.

25L. In this Division, “permit” means a permit under this Division.

Interpretation:
Div. 7 of
Part II.

25M. (1) A person shall not sell or otherwise supply any public display firework unless he does so under the authority of a permit.

Sale, etc.,
of public
display
fireworks.

Penalty: \$500.

(2) A person shall not purchase or otherwise receive any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold or otherwise supplied the firework to a person who was not, at the time of the sale or supply, required by subsection (2) to be the holder of a permit.

(4) All or any part of a firework in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

25N. A person shall not set off any public display firework unless he does so under the authority of a permit.

Use of
public
display
firework.

Penalty: \$500.

25O.

Explosives (Amendment).

250. (1) Permits may be granted for any or all of the following :—

Permits for sale, purchase, use, etc., of public display fireworks.

- (a) the sale or other supply;
- (b) the purchase or other receipt; or
- (c) the setting off,

of public display fireworks.

(2) A permit shall, for the purposes of this Act, be deemed to authorise the holder thereof and any person employed by him or under his supervision to do any or all of the things for which the permit was granted.

(3) An application for a permit shall be made in the prescribed manner to the superintendent.

(4) Subject to this section, the Minister may grant the application or may refuse the application.

(5) No fee is payable in respect of a permit.

(6) The Minister shall not grant an application for a permit made by a person who is under the age of eighteen years.

(7) The Minister shall not grant an application for a permit unless he is satisfied that the applicant has good reason for holding the permit and can be trusted to have public display fireworks in his possession and, where relevant, to use and carry public display fireworks without danger to the public safety.

(8)

Explosives (Amendment).

(8) A permit shall be in such form as the Minister thinks fit.

5 (9) A permit shall, unless sooner revoked, remain in force for such period as may be specified in the permit.

25P. (1) The Minister may attach to a permit such conditions as he may determine relating to the matters in respect of which the permit was granted. Conditions attaching to permits.

10 (2) Without affecting the generality of subsection (1), the Minister shall attach such conditions to a permit as he considers necessary to ensure the safety of the public.

15 (3) The holder of the permit shall not fail to comply with any condition attaching to the permit.

Penalty for an offence under this subsection : \$500.

20 25Q. (1) The Minister may, by instrument in writing, revoke a permit— Revocation of permits.

(a) if, had the permit not been issued, he would be required, under section 25O, to refuse an application for a permit made by the holder of the permit;

25 (b) if he is satisfied that the holder of the permit—

30 (i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii)

Explosives (Amendment).

- (ii) failed to comply with any condition attaching to the permit; or
- (c) if he is satisfied that it is in the interests of the public safety to do so.
- 5 (2) A permit shall be revoked if the holder of the permit so requests.
- (u) by omitting the words "*General provisions.*" occurring before section 26 and by inserting instead the words "*DIVISION 8.—General provisions.*" ; Heading before sec. 26.
- 10 (v) by omitting from section 26 the words "under this Act" and by inserting instead the words "(which order the Minister is hereby authorised to make)" ; Sec. 26. (Governor may prohibit the manufacture, keeping, importation, conveyance, and sale of dangerous explosives.)
- (w) by inserting after section 27 the following section :— Sec. 27A.
- 15 27A. A person shall not, with intent to deceive— Alteration or falsification of entries in books.
- (a) alter or falsify any entry in a book or record required to be kept or made under this Act; or
- (b) make a false or misleading entry in any such book or record.
- 20
- Penalty : \$200 or imprisonment for 3 months, or both.

(x)

Explosives (Amendment).

(x) by inserting at the end of section 28 the following subsections :—

Sec. 28.
(Explosives must be in the packages prescribed, and be safe for transport, storage, and use.)

5 (2) Where an examination is made of any explosive or package under subsection (1), the fee prescribed in relation to an examination of the class or description to which that examination belongs shall be paid to the superintendent by the owner, importer or consignee of the explosive, and may, subject to subsection (3), be recovered in the same manner as a penalty under this Act.

(3) Where—

15 (a) the sum of the fees paid or payable by a person under subsection (2) and incurred during the one financial year exceeds the amount prescribed for the purposes of this subsection; and

20 (b) proceedings, if they were to be commenced against that person for the recovery of that sum or any part thereof and if successful, would result in the recovery of an amount which (together with the fees, if any, paid in relation to that year by him before the commencement of the proceedings) exceeds that prescribed amount,

25 those proceedings shall not be commenced unless the written approval of the Minister to do so has been obtained before the commencement of the proceedings.

30 (4) The Minister may waive, wholly or in part, payment of any expenses or fees payable under this section.

(5)

Explosives (Amendment).

(5) In subsection (3), "financial year" means any period of twelve months ending on the thirtieth day of June in any year.

5 (y) by inserting after section 31 the following section :—

31A. A person shall not, in an application made for a license or permit under this Act, make a statement that is false or misleading in a material particular. ^{False information in application.}

10 Penalty : \$200 or imprisonment for 3 months, or both.

15 (z) (i) by inserting in section 32 after the word "prescribed" where firstly occurring the words "but shall not be renewed in circumstances in which the grant of a new license would not be authorised by this Act"; ^{Sec. 32. (The granting, alteration and renewing of licenses.)}

20 (ii) by omitting from section 32 the words "All licenses shall expire on the thirtieth day of September in each year, but may be renewed.";

(iii) by inserting at the end of section 32 the following subsections :—

(2) A license under this Act—

25 (a) except as provided in paragraph (b)—expires on the thirtieth day of September next following its issue; or

Explosives (Amendment).

(b) where the license bears an endorsement to that effect—expires on the thirtieth day of September next following the day referred to in paragraph (a),

but nothing in this subsection prevents the license from being renewed.

(3) The Minister may waive, wholly or in part, payment of the fee payable for any license under this Act.

(aa) (i) by inserting in section 34 after the words “importation license” the words “, or a license under Division 5,”; Sec. 34. (License personal to grantee.)

(ii) by omitting from section 34 the words “, and unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be renewed annually”;

(bb) by inserting in section 35 after the words “importation license” the words “or a license under Division 5”; Sec. 35. (Provision in case of death, &c., of occupier of magazine, store, or licensed premises.)

(cc) (i) by omitting from section 36 (1) the words “regulations and”; Sec. 36. (Regulations and orders.)

(ii) by omitting section 36 (2) and by inserting instead the following subsection :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(dd)

Explosives (Amendment).

(dd) by inserting after section 36 the following section :—

5 36A. The Governor may, by notification published in the Gazette, revoke or amend any notification under this Act.

Revocation and amendment of notifications.

5. Part III of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905. (Part III.—Administrative and supplemental.)

(a) by inserting at the end of section 39 the following subsections :—

Sec. 39. (Powers of superintendent and inspectors.)

10 (2) The superintendent or an inspector may render harmless, destroy or otherwise dispose of any explosives if they were received by the superintendent or any inspector for that purpose or if the owner of the explosives consents thereto.

15 (3) Nothing in subsection (2) limits any power, authority, duty or function conferred or imposed on the superintendent or an inspector by or under this Act to render harmless, destroy or otherwise dispose of any explosives.

20 (4) Divisions 5 and 7 of Part II do not apply to or in respect of the receipt of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector or to or in respect of the supply of those explosives to the superintendent or inspector by another person.

(5)

Explosives (Amendment).

5 (5) Division 3 of Part II does not apply to or in respect of the keeping of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector.

(b) by omitting from section 41 (b) (ii) the words "explosives department" and by inserting instead the words "Explosives Branch of the Department of Mines";

Sec. 41.
(Search for explosive when in place in contravention of this Act.)

10 (c) (i) by omitting from section 42 (a) the words "explosives department" where firstly occurring and by inserting instead the words "Explosives Branch of the Department of Mines or";

Sec. 42.
(Seizure and detention of explosives liable to forfeiture.)

15 (ii) by omitting from section 42 (a) the words "explosives department" where secondly occurring and by inserting instead the words "Explosives Branch of the Department of Mines";

20 (d) by inserting after section 51 the following sections :—

Secs. 51A–51D.

25 51A. Proceedings for an offence, committed against this Act or the regulations after the commencement of section 5 of the Explosives (Amendment) Act, 1974, may be commenced at any time within twelve months after the offence was committed.

Time for commencement of proceedings.

30 51B. An allegation in an information in respect of an offence against this Act or the regulations that any substance in relation to which the offence is alleged to have been committed is an explosive

Evidence as to whether substance is an explosive,

within

Explosives (Amendment).

within the meaning of this Act shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

5 51c. (1) A director, within the meaning of the ^{Liability of} Companies Act, 1961, or an employee, of a cor- ^{directors,} ^{etc., of} ^{corporations.} poration which commits an offence arising under any provision of this Act or the regulations is guilty of the same offence and may be punished accordingly.

10 (2) A person is not guilty of an offence by reason of the operation of subsection (1) if he proves that—

- (a) the offence committed by the corporation was committed without his knowledge;
- 15 (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.
- 20

25 51d. (1) Where any person, as the employee ^{Liability of} of another person, who is in this section referred ^{employers.} to as “the employer”, contravenes this Act or the regulations or is guilty of an offence against this Act or the regulations, the employer is guilty of an offence against this Act or the regulations, as the case may be.

30 (2) The employer is not guilty of an offence by reason of subsection (1) if he proves that—

- (a) he did not authorise or permit the contravention or offence by the employee; and

(b)

Explosives (Amendment).

- (b) he used all due diligence to prevent such a contravention or the commission of such an offence.
- (3) The employer may be proceeded against and convicted pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under this Act.
- (4) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act or the regulations is actually committed.
- (e) (i) by omitting from section 58 the words **Sec. 58.** "section 55 subsection (2)" and by inserting **(Saving.)** instead the words "General Rule (2) in section 55";
- (ii) by omitting from section 58 the matter "1912-1931" and by inserting instead the words "1912, nor the Scaffolding and Lifts Act, 1912";
- (f) (i) by omitting from section 59 (b) the words **Sec. 59.** "or army" and by inserting instead the words **(Exceptions from operation of the Act.)** ", army or air force";
- (ii) by omitting section 59 (c) and by inserting instead the following paragraph :—
- (c) to any explosive that is on board any vessel and that is, by or under any Act or law, required to be carried as part of the vessel's equipment;
- (iii)

Explosives (Amendment).

(iii) by inserting after section 59 (d) the following paragraph :—

5 (e) to any explosive to which Part II of the Explosives Act 1961–1966, as subsequently amended, of the Parliament of the Commonwealth applies.

(g) by omitting from section 60 the words “of the explosives department”

Sec. 60.
(Saving clause for acts done from necessity.)

6. (1) A provision of the Explosives Act, 1905, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule. Further amendment of Act No. 41, 1905.

15 (2) Nothing in this Act affects the penalty, pecuniary or other, that may be imposed on conviction for an offence committed against the Explosives Act, 1905, or the regulations thereunder, before the commencement of this section.

7. (1) A license in force under the Explosives Act, 1905, immediately before the commencement of this section shall be deemed to have been issued under that Act, as amended by this Act, and shall expire on the day on which it would have expired had this Act not been enacted. Savings and transitional provisions.

(2) If this section commences before, on, or within three months after, the commencement of the Firearms and Dangerous Weapons Act, 1973—

25 (a) the Explosives Act, 1905, as amended by this Act, shall be construed as if it were amended—

(i) by omitting from section 13 (3) (a) (i) the words “whether or not he is a person referred to in subparagraph (ii)—”;

(ii)

Explosives (Amendment).

- (ii) by omitting from section 13 (3) (a) (ii) the words "if he is the holder of a pistol licence or shooter's licence—";
- 5 (iii) by omitting from section 13 (5) the words "The holder of a pistol licence or shooter's licence" and by inserting instead the words "A person";
- 10 (iv) by omitting from section 25D (4) the matter "and (6)" and by inserting instead the matter ", (6) and (6A)";
- (v) by inserting after section 25D (6) the following subsection :—
 - 15 (6A) Where the officer is satisfied that it is proper to do so, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit is—
 - 20 (a) 2.5 kilograms of blasting explosives (other than propellant powder within the meaning of section 22D), 110 detonators and 250 metres of detonating fuse; and
 - (b) 10 kilograms of propellant powder within the meaning of section 22D.
 - 25 (b) paragraph (a) ceases to have any effect on the expiration of the period of three months after the commencement of the Firearms and Dangerous Weapons Act, 1973, but nothing in this paragraph affects a permit in force, or any condition attaching thereto and in force, immediately before the
 - 30 expiration of that period.

Explosives (Amendment).

SCHEDULE.

Sec. 6.

Column 1.	Column 2.
5	Section 6 <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$1,000". Section 8 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 9 <i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100". Section 10 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 11 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 12 <i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200". 10 Section 12 <i>Omit</i> "twenty dollars"; <i>insert</i> instead "\$100". Section 13 (2) <i>Omit</i> "two hundred dollars or imprisonment for a period not exceeding three months"; <i>insert</i> instead "\$800 or to imprisonment for a period not exceeding twelve months, or both". 15 Section 13A (3) <i>Omit</i> "two hundred dollars or to imprisonment for a period not exceeding three months"; <i>insert</i> instead "\$800 or to imprisonment for a period not exceeding twelve months, or both". 20 Section 17 <i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100". Section 17A (3) (b) <i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$500". Section 18 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 19 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". 25 Section 20 <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500". Section 22 <i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$200". Section 23 <i>Omit</i> "four dollars"; <i>insert</i> instead "\$200". Section 25 <i>Omit</i> "four dollars"; <i>insert</i> instead "\$100". 30 Section 25A <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$100". Section 26 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 28 <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500". Section 29 <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500". 35 Section 30 <i>Omit</i> "one hundred dollars" wherever occurring; <i>insert</i> instead "\$500". Section 31 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 35A (2) (b) <i>Omit</i> "four dollars"; <i>insert</i> instead "\$100". Section 35A (2) (b) <i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100". 40 Section 39 <i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000". Section 40 <i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200". Section 41 <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500". Section 42 (a) <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500". Section 44 <i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200". 45 Section 46 <i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200". Section 47 <i>Omit</i> "ten dollars"; <i>insert</i> instead "\$100". Section 50 <i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$1,000". Section 50 <i>Omit</i> "twenty dollars"; <i>insert</i> instead "\$100". Section 51 After "months" <i>insert</i> "or, where the person is a corporation, to pay a penalty of \$5,000". 50 Section 55 <i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200". Section 57 <i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[35c]

126—D

No. , 1974.

A BILL

To reduce the maximum amount of explosives that may be kept in places not licensed under the Explosives Act, 1905; to impose restrictions on the sale or supply of explosives; to create offences in connection with the use of explosives; to increase penalties for certain offences relating to explosives; for these and other purposes to amend the Explosives Act, 1905; and for purposes connected therewith.

[MR FIFE—29 October, 1974.]

BE

Explosives (Amendment).

5 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Explosives Short title. (Amendment) Act, 1974".

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. Part I of the Explosives Act, 1905, is amended— Amendment
of Act No.
41, 1905.
(Part I.—
Pre-
liminary.)

15 (a) by inserting after section 2 the following section and Sec. 2A.
heading thereto :—

Division of Act.

2A. This Act is divided as follows :— Division
of Act.

PART I.—PRELIMINARY—ss. 1–7.

20 PART II.—MANUFACTURE, IMPORTATION, KEEP-
ING, CONVEYANCE, SALE, SUPPLY AND USE OF
EXPLOSIVES—ss. 8–36A.

DIVISION 1.—*Manufacture of explosives*—ss. 8,
9.

25 DIVISION 2.—*Importation of explosives*—ss.
10–12.

DIVISION 3.—*Keeping of explosives*—ss. 13–17A.

DIVISION 4.—*Conveyance of explosives*—ss.
18–22.

DIVISION

Explosives (Amendment).

DIVISION 5.—*Sale or supply of explosives—ss. 22A–25I.*

DIVISION 6.—*Use of explosives—ss. 25J, 25K.*

DIVISION 7.—*Public display fireworks—ss. 25L–25Q.*

DIVISION 8.—*General provisions—ss. 26–36A.*

PART III.—ADMINISTRATIVE AND SUPPLEMENTAL
—ss. 37–60.

(b) (i) by omitting from section 7 the words “unless Sec. 7. the context otherwise requires,” and by insert- (Definition of words and ex-
ing instead the words “except in so far as the pressions.)
context or subject-matter otherwise indicates or requires”;

(ii) by omitting the definition of “Court” and “court of summary jurisdiction” in section 7 and by inserting instead the following definition :—

“Court” and “court of summary jurisdiction” mean a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(iii) by omitting from paragraph (a) of the definition of “Explosive” in section 7 the word “Means” and by inserting instead the word “means”;

(iv) by omitting from the definition of “Justice” in section 7 the words “police or”;

(v) by inserting after the definition of “Occupier” in section 7 the following definition :—

“Pistol licence” means a pistol licence issued under the Firearms and Dangerous Weapons Act, 1973.

(vi)

Explosives (Amendment).

- (vi) by inserting after the definition of "Premises" in section 7 the following definition :—
 "Public display firework" means a firework of a class or description prescribed for the purposes of this definition.
- (vii) by omitting the definition of "Public magazine" in section 7 and by inserting instead the following definition :—
 "Public magazine" means a magazine declared to be a public magazine under subsection (4).
- (viii) by inserting after the definition of "Ship" in section 7 the following definition :—
 "Shooter's licence" means a shooter's licence issued under the Firearms and Dangerous Weapons Act, 1973.
- (ix) by omitting from the definition of "Superintendent" in section 7 the words "Explosives Department" and by inserting instead the words "Explosives Branch of the Department of Mines";
- (x) by inserting in the definition of "This Act" in section 7 after the word "license," the word "permit,";
- (xi) by inserting at the end of section 7 the following subsections :—
 (2) In sections 6, 22B, 26, 28 and 57, "sell" includes—
 (a) barter or exchange;
 (b) agree to sell, barter or exchange;
 (c) offer or expose for sale, barter or exchange;
 (d) send, forward or deliver for or on sale or for barter or exchange;
 (e)

Explosives (Amendment).

- 5 (e) have in possession for sale, barter or exchange;
- (f) cause or suffer to be sold, bartered, exchanged, offered for sale, exposed for sale or sent, forwarded or delivered for or on sale or for barter or exchange; and
- 10 (g) attempt to sell, barter, exchange, expose for sale or send, forward or deliver for or on sale or for barter or exchange.

15 (3) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to a license or permit is a reference to a license or permit, as the case may be, that is in force.

20 (4) The Governor may, by notification published in the Gazette, declare a magazine to be a public magazine for the storage of explosives.

4. Part II of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905.

(Part II.—
Manu-
facture,
importa-
tion,
keeping,
convey-
ance, sale,
supply and
use of ex-
plosives.)

- 25 (a) (i) by omitting from the heading to Part II the words “AND SALE” and by inserting instead the words “SALE, SUPPLY AND USE”;

Headings before sec. 8.

(ii)

Explosives (Amendment).

- (ii) by omitting the words "*Manufacture of explosives.*" occurring before section 8 and by inserting instead the words "DIVISION 1.—*Manufacture of explosives.*";
- 5 (b) (i) by omitting from section 8 the words "explo- Sec. 8.
sive in connection with a licensed magazine or (Explosive
licensed premises, so that the occupier of such to be manu-
magazine or premises observe regulations pre- factured
scribed" and by inserting instead the words only at
10 "gunpowder or nitrocellulose propellant factory
powder in accordance with regulations licensed
made"; under
this Act.)
- (ii) by omitting from section 8 the words "in small quantities";
- 15 (c) (i) by omitting from section 9 (j) the words Sec. 9.
"Factories and Shops Act, 1912" and by (Governor
inserting instead the words "Factories, Shops may make
and Industries Act, 1962"; regula-
tions
relating to
factories
for the
manufac-
ture of
explosives.)
- 20 (ii) by omitting from section 9 (n) the words "in small quantities";
- (iii) by inserting after section 9 (n) the following paragraph :—
- (o) requiring the keeping and production of records, and the making of returns, with respect to—
- 25 (i) the manufacture of explosives in the factory; and
- (ii) the removal of explosives from the factory.
- 30 (d) by omitting the words "*Importation of explosives.*" Heading
occurring before section 10 and by inserting instead before
the words "DIVISION 2.—*Importation of sec. 10.*
explosives.";

(e)

Explosives (Amendment).

(e) by inserting after section 12 (c) the following paragraph :—

Sec. 12.
(Governor
may make
regula-
tions
as to
importa-
tion of
explosives.)

(d) requiring the keeping and production of records, and the making of returns, with respect to—

(i) the importation of explosives; and

(ii) the manner in which imported explosives are disposed of.

(f) by omitting the words "*Keeping of explosives.*" occurring before section 13 and by inserting instead the words "*DIVISION 3.—Keeping of explosives.*";

Heading
before
sec. 13.

(g) (i) by omitting from section 13 (1) the words "An explosive" and by inserting instead the words "Subject to subsection (3), an explosive";

Sec. 13.
(Explosives
to be
kept only
in factory
or
authorised
place.)

(ii) by omitting the proviso to section 13 (1);

(iii) by omitting from section 13 (2) the words "Any explosive kept" and by inserting instead the words "Subject to subsection (3), any explosive kept";

(iv) by inserting after section 13 (2) the following subsections :—

(3) Subsections (1) and (2) do not apply to—

(a) the keeping in accordance with this Act, otherwise than for sale, of any explosive by a person if the

explosive

Explosives (Amendment).

explosive or explosives kept by him,
whether in one or more places, does
or do not comprise—

- 5 (i) whether or not he is a person
referred to in subparagraph
(ii)—more than 2.5 kilo-
grams of blasting explosives,
110 detonators and 250
10 metres of detonating fuse;
and
- (ii) if he is the holder of a pistol
licence or shooter's licence
—more than 10 kilograms
of propellant powder;
- 15 (b) the keeping of any explosive in a
ship, boat or carriage while being
conveyed in the ship, boat or car-
riage in accordance with this Act;
- 20 (c) the keeping in accordance with this
Act of safety fuses for blasting,
railway fog-signals, or percussion
caps, or any explosive exempted
from the operation of this section
by the regulations; or
- 25 (d) the keeping in accordance with this
Act, otherwise than for sale, of
safety cartridges.

- 30 (4) For the purposes of subsection (3)
(a), in determining the amount of explosive or
explosives kept by a person, regard shall not
be had to the amount of explosive or explosives
kept by him at a place that is referred to in
subsection (1) (a), (b), (c) or (d) and that

is

Explosives (Amendment).

is more than one kilometre, measured in a direct line, from any other place (not so referred to) at which he keeps or kept an explosive at any relevant time.

5 (5) The holder of a pistol licence or shooter's licence is not, by virtue of subsection (3) (a) (i), authorised to keep any propellant powder in excess of the amount thereof referred to in subsection (3) (a) (ii).

10 (6) Where a person purchases or receives more than the amount of explosives referred to in subsection (3) (a) by virtue of a condition or conditions attaching to a permit under
15 Division 5 and specifying a maximum amount greater than the amount referred to in subsection (3) (a), he is not guilty of an offence under this section if he satisfies the court that he complied with the conditions of the permit to the extent to which they related to those
20 explosives.

(7) In this section—

“blasting explosives” means explosives other than—

25 (a) detonators or detonating fuse; or

(b) any explosive referred to in subsection (3) (c) or (d);

30 “propellant powder” means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(h)

Explosives (Amendment).

- (h) by inserting after section 13A (3) the following subsections :—

Sec. 13A.
(Explosive
not to be
abandoned,
etc.)

(4) Without affecting section 25K, where an explosive is set to explode in any place but—

5 (a) it is not fired; or

(b) it misfires,

subsection (1) (a) does not apply to or in respect of that explosive while it remains in that place.

10 (5) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies but—

(a) it is not fired; or

15 (b) it misfires,

subsection (1) and any regulations made pursuant to subsection (2) do not apply to or in respect of that explosive while it remains in that place.

- 20 (i) by inserting after section 13A the following section :—

13B. (1) A person who has explosives in his possession, control or custody is guilty of an offence and liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both, unless he satisfies the court that—

Offences
relating
to posses-
sion of
explosives.

25 (a) he purchased or otherwise received the explosives under the authority (as referred to in section 22D) of a license or permit under this Act or of a pistol licence or shooter's licence;

30

(b)

Explosives (Amendment).

(b) he manufactured the explosives lawfully;
or

(c) the explosives came into his possession,
control or custody in any other lawful
manner.

(2) A person who has purchased or
received explosives under the authority of a permit
under Division 5 shall not, while the permit remains
in force, have in his possession, control or custody,
at any one time, more than the maximum amount
of explosives specified in a condition or conditions
referred to in section 25D (3) and attaching to the
permit.

Penalty : \$200.

(3) Subsection (2) does not apply where
the additional explosives are in a person's possession,
control or custody by virtue of his being the holder
of a pistol licence or shooter's licence or in the
prescribed circumstances.

(4) A person shall not be convicted of—

(a) offences under both subsection (1) and
section 22C; or

(b) offences under both subsection (2) and
section 13,

in respect of the same explosive.

(5) All or any part of an explosive sold in
contravention of subsection (1) or (2) may be
forfeited while in the possession, control or custody
of the person contravening that subsection.

(6) Nothing in this section applies to or
in respect of safety cartridges.

(j) by omitting from section 16 the word "Colonial"; Sec. 16.
(Payment of
store-rent
and
charges.)

(k)

Explosives (Amendment).

- (k) (i) by omitting from section 17 (ii) the words "the occupier" and by inserting instead the words "except as provided in paragraph (iii)—the occupier"; Sec. 17. (Regulations for keeping explosives.)
- 5 (ii) by inserting after section 17 (ii) the following paragraph :—
- (iii) in the case of a breach of a provision of the regulations, in so far as that provision requires, or has the effect of requiring, explosives kept in a maga-
 10 zine or licensed premises to be kept in such compartment or other place, or in such receptacle, in the magazine or premises as may be specified or described in the regulations—the occupier shall be liable to a penalty not exceeding \$500, and, in the case of a
 15 second or subsequent offence, to an additional penalty not exceeding \$100 for every day during which the breach continues.
- (l) by omitting from section 17A (1) the words "para-
 25 graph (a), (b), (c) or (d) of subsection (1) of section 13 does not apply by virtue of the proviso to that subsection" and by inserting instead the words "section 13 (1) does not apply by virtue of section 13 (3)"; Sec. 17A. (Governor may regulate the keeping of certain explosives.)
- (m) by omitting the words "*Conveyance of explosives.*" occurring before section 18 and by inserting instead the words "**DIVISION 4.—*Conveyance of explosives.***"; Heading before sec. 18.
- 30 (n) (i) by omitting from section 22 (j) the word "and" where secondly occurring; Sec. 22. (Governor may regulate the conveyance of explosives.)
- (ii)

Explosives (Amendment).

(ii) by inserting after section 22 (k) the following paragraph :—

5 (1) requiring the keeping and production of records, and the making of returns, with respect to the conveyance of explosives.

10 (o) by omitting the words "*Sale of explosives.*" occurring before section 23 and by inserting instead the words "*DIVISION 5.—Sale or supply of explosives.*";

(p) by inserting before section 23 the following sections :—

15 22A. (1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

"license" means a license under this Division or under any other provision of this Act;
"officer" means a member of the Police Force;
"permit" means a permit under this Division.

20 (2) In this Division (other than sections 23, 24 and 25), "explosive" does not include safety cartridges or public display fireworks.

25 22B. (1) A person shall not sell any explosive unless he is the holder of a license authorising him to do so.

Penalty: \$800 or imprisonment for 12 months, or both.

30 (2) All or any part of an explosive sold in contravention of subsection (1) may be forfeited while in the possession, control or custody of the person contravening that subsection.

(3)

Explosives (Amendment).

5 (3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold the explosive as the employee of, or under the supervision of, the holder of a license that authorises the holder to sell the explosive.

22c. (1) Subject to subsection (3), where a Purchaser, etc., of explosives to be holder of license, permit or other authority.
 person sells or otherwise supplies an explosive to another person, the other person is guilty of an offence, unless he satisfies the court—

10 (a) that he was, at the time of the sale or supply, the holder of—

(i) a license, pistol licence or shooter's licence authorising the sale or supply; or

15 (ii) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that he—

25 (i) was, at the time of the sale or supply, the holder of a permit authorising the sale or supply; and

30 (ii) produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.

35

(2)

Explosives (Amendment).

(2) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the firstmentioned person is guilty of an offence, unless he satisfies the court—

5

(a) that—

(i) the other person was, at the time of the sale or supply; or

10

(ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the holder of—

15

(iii) a license, pistol licence or shooter's licence authorising the sale or supply; or

20

(iv) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that—

25

(i) the other person was, at the time of the sale or supply; or

30

(ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the

Explosives (Amendment).

5 the holder of a permit authorising the
sale or supply and that the other person
produced the permit for inspection, at
the time of the sale or supply, to the
firstmentioned person or an employee of
the firstmentioned person or, where the
firstmentioned person is a corporation, to
a director, within the meaning of the
Companies Act, 1961, or an employee,
10 of the corporation.

(3) A person is not guilty of an offence
under this section if he satisfies the court that—

15 (a) the explosive was supplied (otherwise
than by way of sale) to the other person
referred to in subsection (1) or (2), as
the case may require, for the purpose of
carrying out work in or about a mine,
quarry, farm, building site or other place
on the day on which it was so supplied;
20 and

(b) he and the other person were employed
or engaged in, or responsible for, carry-
ing out work in or about the mine,
quarry, farm, building site or other place.

25 (4) A person shall not be convicted of
offences under both subsection (1) and section
25D (9) in respect of the purchase or receipt by
him of explosives in contravention of a condition
attaching to a permit of which he is the holder.

30 (5) A person is not guilty of an offence
under subsection (2) if he satisfies the court that
he sold or otherwise supplied the explosive to a
person who was not, at the time of the sale or supply,
required by subsection (1) to be the holder of a
license, pistol licence, shooter's licence or
35 instrument referred to in subsection (2) (a) (iv).

(6)

Explosives (Amendment).

5 (6) All or any part of an explosive in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

(7) A person who is guilty of an offence under this section is liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both.

10 22D. (1) A license or permit shall, for the purposes of this Act, be deemed to authorise— Authority conferred by license or permit.

(a) a sale or other supply of an explosive to the holder thereof; and

15 (b) a purchase or other receipt of an explosive by the holder thereof, except in so far as the terms of, or the conditions attaching to, the license or permit, as the case may be, otherwise provide.

20 (2) A pistol licence or shooter's licence shall, for the purposes of this Act, be deemed to authorise—

(a) a sale or other supply of propellant powder to the holder thereof; or

25 (b) a purchase or other receipt of propellant powder by the holder thereof, except in so far as the amount thereof so sold, supplied, purchased or received at any one time exceeds 10 kilograms.

30 (3) In this section, "propellant powder" means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

Explosives (Amendment).

- (q) by omitting section 24 and by inserting instead the following section :—

24. (1) A person shall not sell or otherwise supply any explosive to a person who is under the age of eighteen years.

Sale or supply of explosives to minors.

Penalty : \$200.

(2) A person is not guilty of an offence under subsection (1) if he satisfies the court that he had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of eighteen years.

- (r) (i) by omitting from section 25 the words "one pound in weight" and by inserting instead the matter "0.5 kilogram";

Sec. 25.
(Sale of explosives: to be in closed packages, labelled.)

(ii) by omitting from section 25 the word "subsection" and by inserting instead the word "paragraph";

- (s) by inserting after section 25A the following sections :—

Secs.
25B-25I.

25B. (1) Licenses may be granted authorising the sale of explosives.

Licenses for sale of explosives.

(2) The Governor may make regulations regulating the granting, renewing and altering of licenses under this section, and the fees payable therefor.

25c. (1) Permits may be granted for the purchase or receipt of explosives.

Permits for purchase or receipt of explosives.

(2) An application for a permit shall be made in the prescribed manner to the officer in charge for the time being of the police station in or nearest to the place where the applicant ordinarily resides.

(3)

Explosives (Amendment).

(3) Subject to this section, the officer may grant the application or may refuse the application.

(4) No fee is payable in respect of a permit.

5 (5) The officer shall not grant an application for a permit made by a person who—

(a) is not a natural person;

(b) is under the age of eighteen years;

10 (c) has been convicted in New South Wales or elsewhere of an offence and sentenced to penal servitude or imprisonment for twelve months or more and has been released from that penal servitude or imprisonment less than five years before
15 the date of the application;

(d) is subject to a recognizance, granted in New South Wales or elsewhere, to keep the peace; or

20 (e) is the subject of a firearms prohibition order within the meaning of the Firearms and Dangerous Weapons Act, 1973.

(6) The officer shall not grant an application for a permit unless he is satisfied that the
25 applicant is of good character and repute, has good reason for requiring the permit and can be trusted to have explosives in his possession and to use and carry explosives without danger to the public safety or to the peace.

(7) A permit shall be in or to the effect of
30 the prescribed form.

(8) A permit shall, unless sooner revoked, remain in force for such period, not exceeding three months, as may be specified in the permit.

(9)

Explosives (Amendment).

5 (9) While two or more permits issued to a person would, but for this subsection, be in force at the same time, only the permit first issued shall be deemed to be in force for the purposes of this Act.

(10) The regulations may make provision for or with respect to the issue of substitute permits in the place of lost, damaged or destroyed permits.

10 25D. (1) Where an officer grants an application for a permit, the permit shall be issued subject to conditions. Conditions attaching to permits.

(2) The officer may attach to a permit such prescribed conditions, or such conditions of prescribed classes, as he may determine.

15 (3) The officer shall attach a condition or conditions to the effect that not more than the amount of explosives specified therein may be purchased or received under the authority of the permit at any one time.

20 (4) Subject to subsections (5) and (6), the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) is 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of
25 detonating fuse.

30 (5) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required by the applicant for a permit for use on the day of purchase or receipt of the explosives, and that it is proper that the applicant should have more than that amount

of

Explosives (Amendment).

5 of explosives, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to the permit is 50 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

10 (6) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required for use in a mine in relation to which an approval is in force under General Rule (2) in section 55 of the Mines Inspection Act, 1901, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit issued for the purpose of purchasing or receiving explosives for use therein is the maximum amount that may be stored in the mine under the authority of the approval.

20 (7) Without affecting the generality of subsection (2), nothing in this section prevents the regulations from prescribing a condition that may be attached to a permit and that provides—

(a) that—

25 (i) only a number, specified in the permit, of purchases or receipts of explosives may be made;

(ii) only a number, specified in the permit, of purchases or receipts of explosives may be made in any period, so specified;

30 (iii) only explosives of a class or description specified in the permit may be purchased or received; or

(iv)

Explosives (Amendment).

(iv) explosives of a class or description specified in the permit may not be purchased or received,

under the authority of the permit; or

5 (b) that blasting explosives purchased or received under the authority of the permit shall be used or otherwise disposed of on the day of the purchase or receipt.

10 (8) Without affecting the generality of subsection (2), where the condition or conditions referred to in subsection (3) and attaching to a permit specifies or specify, by virtue of subsection (5), an amount of blasting explosives that is more than 2.5 kilograms, the officer issuing the permit
15 shall attach to the permit a condition of the kind referred to in subsection (7) (b).

(9) The holder of a permit shall not, without reasonable excuse, fail to comply with any condition attaching to the permit.

20 Penalty: \$800 or imprisonment for 12 months, or both.

(10) In this section, "blasting explosives" means explosives other than detonators or detonating fuse.

25 25E. (1) The officer in charge of the police station who granted an application for the permit, or the officer in charge of that station for the time being, or the Commissioner of Police, may, by instrument in writing, revoke a permit—
Revocation of permits.

30 (a) if, had the permit not been issued, he would be required, under section 25C (5) or (6), to refuse an application for a permit made by the holder of the permit;

(b)

Explosives (Amendment).

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii) failed to comply with any condition attaching to the permit;

(c) if he is satisfied that, at the time of the issue of the permit, another permit issued to the holder was in force; or

(d) if the holder of the permit has been convicted of an offence under this Division since the issue of the permit.

(2) Where an officer revokes a permit, he shall cause notice of the revocation to be served on the holder of the permit by sending the notice by post addressed to the holder at his address last known to the officer or by causing it to be delivered to the holder personally.

(3) The revocation of a permit shall take effect—

(a) where the notice of revocation is sent by post—when the notice would be delivered to the addressee in the ordinary course of post; or

(b) where the notice of revocation is delivered to the holder personally—when it is so delivered.

(4)

Explosives (Amendment).

(4) A permit shall be revoked if the holder of the permit so requests.

25F. (1) A person aggrieved by a decision of an officer— Appeals in relation to permits.

- 5 (a) to refuse to grant an application for a permit;
- (b) to attach a condition to a permit; or
- (c) to revoke a permit,

10 may, within the prescribed time and in the prescribed manner, appeal to the Minister.

(2) The decision of the Minister shall be final and shall be binding on the appellant and on the officer.

(3) The Minister—

- 15 (a) shall not grant the appeal unless he is satisfied that the decision appealed against is incorrect;
- (b) shall refuse to grant the appeal if he is satisfied that the decision appealed against is correct; and
- 20 (c) subject to paragraph (a), may, on the appeal, direct that a permit be issued subject to such conditions as an officer is authorised by this Act to impose when
- 25 granting an application for a permit.

(4) Notwithstanding anything in this Division, the Minister may, if he is satisfied that, in all the circumstances it is proper to do so, grant
an

Explosives (Amendment).

an appeal notwithstanding that, but for this subsection, the appellant would be precluded from holding a permit by reason only of section 25c (5) (c), (d) or (e).

5 25G. (1) A person shall not, without reasonable excuse, have in his possession a permit that was not issued to him. Unlawful possession, etc., of permits.

(2) A person shall not, with intent to deceive, forge or alter a permit.

10 (3) The holder of a permit shall not lend the permit, or allow it to be used by any other person, for the purpose of purchasing or receiving explosives.

15 Penalty : \$200 or imprisonment for 3 months, or both.

20 25H. The Governor may make regulations for or with respect to requiring the keeping and production of records, and the making of returns, with respect to the sale or other supply of explosives, or the purchase or other receipt of explosives, and, in particular, for or with respect to— Records.

(a) requiring details of the purchase or receipt of explosives under the authority of a permit to be made on a permit; and

25 (b) requiring the retention and production of a permit (whether or not any explosives have been purchased or received under its authority).

25I.

Explosives (Amendment).

25i. (1) The Governor may make regulations **Exemptions.**
for or with respect to exempting, to the extent
specified therein, and unconditionally or subject to
prescribed conditions—

5 (a) any person or class or description of
persons; or

(b) any explosive or class or description of
explosive,

10 from any of the provisions of this Division specified
in the regulations.

(2) Subsection (1) does not affect the
generality of section 57.

(t) by inserting before the heading occurring before **Divs. 6 and**
section 26 the following Divisions :— **7 of Part II.**

15 **DIVISION 6.—Use of explosives.**

25j. A person shall not negligently or carelessly **Negligent**
prepare for use, or explode, or cause to be exploded, **or careless**
any explosive in such a manner or in such **use of**
circumstances as— **explosives.**

20 (a) to endanger or be likely to endanger the
life of any person;

(b) to cause or be likely to cause injury to
any person; or

25 (c) to damage or be likely to cause damage
to any property not belonging to the
firstmentioned person.

Penalty : \$800 or imprisonment for 12 months,
or both.

25k.

Explosives (Amendment).

25K. (1) Where a person sets, or causes to be set, an explosive to explode in any place, that person shall not—

Explosive not to be abandoned, etc., after set to explode.

(a) abandon that explosive; or

5 (b) leave that explosive unsupervised,

in that place until it has been exploded or has been rendered harmless, destroyed or otherwise disposed of.

Penalty : \$500.

10 (2) Where a person sets, or causes to be set, an explosive to explode in any place, an inspector may, if that explosive remains in that place, direct that person—

(a) to explode that explosive; or

15 (b) to render that explosive harmless, or destroy or otherwise dispose of it, in accordance with the conditions prescribed pursuant to section 13A (2).

20 (3) A person shall not, without reasonable excuse, fail to comply with a direction given to him under subsection (2).

Penalty : \$200.

(4) A direction under subsection (2) may be given orally or by instrument in writing.

25 (5) Subject to subsection (6), this section applies to and in respect of an explosive that has been set to explode, whether it has not been fired or whether it has misfired.

(6)

Explosives (Amendment).

5 (6) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies, but—

(a) it is not fired; or

(b) it misfires,

this section does not apply to or in respect of that explosive while it remains in that place.

10 DIVISION 7.—*Public display fireworks.*

25L. In this Division, “permit” means a permit under this Division.

Interpretation:
Div. 7 of
Part II.

15 25M. (1) A person shall not sell or otherwise supply any public display firework unless he does so under the authority of a permit.

Sale, etc.,
of public
display
fireworks.

Penalty: \$500.

(2) A person shall not purchase or otherwise receive any public display firework unless he does so under the authority of a permit.

20 Penalty: \$500.

25 (3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold or otherwise supplied the firework to a person who was not, at the time of the sale or supply, required by subsection (2) to be the holder of a permit.

30 (4) All or any part of a firework in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

25N. A person shall not set off any public display firework unless he does so under the authority of a permit.

Use of
public
display
firework.

Penalty: \$500.

25O.

Explosives (Amendment).

25o. (1) Permits may be granted for any or all of the following :—

Permits for sale, purchase, use, etc., of public display fireworks.

(a) the sale or other supply;

(b) the purchase or other receipt; or

5 (c) the setting off,

of public display fireworks.

10 (2) A permit shall, for the purposes of this Act, be deemed to authorise the holder thereof and any person employed by him or under his supervision to do any or all of the things for which the permit was granted.

(3) An application for a permit shall be made in the prescribed manner to the superintendent.

15 (4) Subject to this section, the Minister may grant the application or may refuse the application.

(5) No fee is payable in respect of a permit.

20 (6) The Minister shall not grant an application for a permit made by a person who is under the age of eighteen years.

25 (7) The Minister shall not grant an application for a permit unless he is satisfied that the applicant has good reason for holding the permit and can be trusted to have public display fireworks in his possession and, where relevant, to use and carry public display fireworks without danger to the public safety.

(8)

Explosives (Amendment).

(8) A permit shall be in such form as the Minister thinks fit.

(9) A permit shall, unless sooner revoked, remain in force for such period as may be specified in the permit.

25P. (1) The Minister may attach to a permit such conditions as he may determine relating to the matters in respect of which the permit was granted. Conditions attaching to permits.

(2) Without affecting the generality of subsection (1), the Minister shall attach such conditions to a permit as he considers necessary to ensure the safety of the public.

(3) The holder of the permit shall not fail to comply with any condition attaching to the permit.

Penalty for an offence under this subsection : \$500.

25Q. (1) The Minister may, by instrument in writing, revoke a permit— Revocation of permits.

(a) if, had the permit not been issued, he would be required, under section 25O, to refuse an application for a permit made by the holder of the permit;

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii)

Explosives (Amendment).

- (ii) failed to comply with any condition attaching to the permit; or
- (c) if he is satisfied that it is in the interests of the public safety to do so.
- 5 (2) A permit shall be revoked if the holder of the permit so requests.
- (u) by omitting the words "*General provisions.*" occurring before section 26 and by inserting instead the words "*DIVISION 8.—General provisions.*" ; Heading before sec. 26.
- 10 (v) by omitting from section 26 the words "under this Act" and by inserting instead the words "(which order the Minister is hereby authorised to make)"; Sec. 26. (Governor may prohibit the manufacture, keeping, importation, conveyance, and sale of dangerous explosives.)
- (w) by inserting after section 27 the following section :— Sec. 27A.
- 15 27A. A person shall not, with intent to deceive— Alteration or falsification of entries in books.
- (a) alter or falsify any entry in a book or record required to be kept or made under this Act; or
- (b) make a false or misleading entry in any such book or record.
- 20
- Penalty : \$200 or imprisonment for 3 months, or both.

(x)

Explosives (Amendment).

(x) by inserting at the end of section 28 the following subsections :—

Sec. 28.
(Explosives must be in the packages prescribed, and be safe for transport, storage, and use.)

5 (2) Where an examination is made of any explosive or package under subsection (1), the fee prescribed in relation to an examination of the class or description to which that examination belongs shall be paid to the superintendent by the owner, importer or consignee of the explosive, and may, subject to subsection (3), be recovered in the same manner as a penalty under this Act.

(3) Where—

15 (a) the sum of the fees paid or payable by a person under subsection (2) and incurred during the one financial year exceeds the amount prescribed for the purposes of this subsection; and

20 (b) proceedings, if they were to be commenced against that person for the recovery of that sum or any part thereof and if successful, would result in the recovery of an amount which (together with the fees, if any, paid in relation to that year by him before the commencement of the proceedings) exceeds that
25 prescribed amount,

those proceedings shall not be commenced unless the written approval of the Minister to do so has been obtained before the commencement of the proceedings.

30 (4) The Minister may waive, wholly or in part, payment of any expenses or fees payable under this section.

(5)

Explosives (Amendment).

(5) In subsection (3), "financial year" means any period of twelve months ending on the thirtieth day of June in any year.

5 (y) by inserting after section 31 the following *Sec. 31A.*
section :—

31A. A person shall not, in an application made **False**
for a license or permit under this Act, make a state- **information**
ment that is false or misleading in a material **in**
application.
particular.

10 Penalty : \$200 or imprisonment for 3 months,
or both.

15 (z) (i) by inserting in section 32 after the word *Sec. 32.*
"prescribed" where firstly occurring the words *(The*
", but shall not be renewed in circumstances *granting,*
in which the grant of a new license would not *alteration*
be authorised by this Act"; *and renewing*
of licenses.)

20 (ii) by omitting from section 32 the words "All
licenses shall expire on the thirtieth day of
September in each year, but may be
renewed.";

(iii) by inserting at the end of section 32 the
following subsections :—

(2) A license under this Act—

25 (a) except as provided in paragraph
(b)—expires on the thirtieth day of
September next following its issue;
or

Explosives (Amendment).

(b) where the license bears an endorsement to that effect—expires on the thirtieth day of September next following the day referred to in paragraph (a),

but nothing in this subsection prevents the license from being renewed.

(3) The Minister may waive, wholly or in part, payment of the fee payable for any license under this Act.

(aa) (i) by inserting in section 34 after the words “importation license” the words “, or a license under Division 5,”;

Sec. 34.
(License personal to grantee.)

(ii) by omitting from section 34 the words “, and unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be renewed annually”;

(bb) by inserting in section 35 after the words “importation license” the words “or a license under Division 5”;

Sec. 35.
(Provision in case of death, &c., of occupier of magazine, store, or licensed premises.)

(cc) (i) by omitting from section 36 (1) the words “regulations and”;

Sec. 36.
(Regulations and orders.)

(ii) by omitting section 36 (2) and by inserting instead the following subsection :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(dd)

Explosives (Amendment).

(dd) by inserting after section 36 the following **Sec. 36A.**
section :—

5 36A. The Governor may, by notification published in the Gazette, revoke or amend any notification under this Act. **Revocation and amendment of notifications.**

5. Part III of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905. (Part III.—Administrative and supplemental.)

(a) by inserting at the end of section 39 the following **Sec. 39.**
subsections :— **(Powers of superintendent and inspectors.)**

10 (2) The superintendent or an inspector may render harmless, destroy or otherwise dispose of any explosives if they were received by the superintendent or any inspector for that purpose or if the owner of the explosives consents thereto.

15 (3) Nothing in subsection (2) limits any power, authority, duty or function conferred or imposed on the superintendent or an inspector by or under this Act to render harmless, destroy or otherwise dispose of any explosives.

20 (4) Divisions 5 and 7 of Part II do not apply to or in respect of the receipt of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector or to or in respect of the supply of those explosives to the superintendent or
25 inspector by another person.

(5)

Explosives (Amendment).

5 (5) Division 3 of Part II does not apply to or in respect of the keeping of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector.

(b) by omitting from section 41 (b) (ii) the words "explosives department" and by inserting instead the words "Explosives Branch of the Department of Mines";

Sec. 41.
(Search for explosive when in place in contravention of this Act.)

10 (c) (i) by omitting from section 42 (a) the words "explosives department" where firstly occurring and by inserting instead the words "Explosives Branch of the Department of Mines or";

Sec. 42.
(Seizure and detention of explosives liable to forfeiture.)

15 (ii) by omitting from section 42 (a) the words "explosives department" where secondly occurring and by inserting instead the words "Explosives Branch of the Department of Mines";

20 (d) by inserting after section 51 the following sections :—

Secs. 51A–51D.

25 51A. Proceedings for an offence, committed against this Act or the regulations after the commencement of section 5 of the Explosives (Amendment) Act, 1974, may be commenced at any time within twelve months after the offence was committed.

Time for commencement of proceedings.

30 51B. An allegation in an information in respect of an offence against this Act or the regulations that any substance in relation to which the offence is alleged to have been committed is an explosive

Evidence as to whether substance is an explosive.

within

Explosives (Amendment).

within the meaning of this Act shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

5 51C. (1) A director, within the meaning of the Companies Act, 1961, or an employee, of a corporation which commits an offence arising under any provision of this Act or the regulations is guilty of the same offence and may be punished accordingly. **Liability of directors, etc., of corporations.**

10 (2) A person is not guilty of an offence by reason of the operation of subsection (1) if he proves that—

- (a) the offence committed by the corporation was committed without his knowledge;
- 15 (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.
- 20

25 51D. (1) Where any person, as the employee of another person, who is in this section referred to as "the employer", contravenes this Act or the regulations or is guilty of an offence against this Act or the regulations, the employer is guilty of an offence against this Act or the regulations, as the case may be. **Liability of employers.**

30 (2) The employer is not guilty of an offence by reason of subsection (1) if he proves that—

- (a) he did not authorise or permit the contravention or offence by the employee; and

(b)

Explosives (Amendment).

(b) he used all due diligence to prevent such a contravention or the commission of such an offence.

5 (3) The employer may be proceeded against and convicted pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under this Act.

10 (4) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act or the regulations is actually committed.

15 (e) (i) by omitting from section 58 the words *Sec. 58.* "section 55 subsection (2)" and by inserting *(Saving.)* instead the words "General Rule (2) in section 55";

(ii) by omitting from section 58 the matter "1912-1931" and by inserting instead the words "1912, nor the Scaffolding and Lifts Act, 1912";

20 (f) (i) by omitting from section 59 (b) the words *Sec. 59.* "or army" and by inserting instead the words *(Exceptions from operation of the Act.)* ", army or air force";

(ii) by omitting section 59 (c) and by inserting instead the following paragraph :—

25 (c) to any explosive that is on board any vessel and that is, by or under any Act or law, required to be carried as part of the vessel's equipment;

(iii)

Explosives (Amendment).

(iii) by inserting after section 59 (d) the following paragraph :—

5 (e) to any explosive to which Part II of the Explosives Act 1961–1966, as subsequently amended, of the Parliament of the Commonwealth applies.

(g) by omitting from section 60 the words “of the explosives department”

Sec. 60.
(Saving
clause
for acts
done from
necessity.)

6. (1) A provision of the Explosives Act, 1905, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule. Further amendment of Act No. 41, 1905.

15 (2) Nothing in this Act affects the penalty, pecuniary or other, that may be imposed on conviction for an offence committed against the Explosives Act, 1905, or the regulations thereunder, before the commencement of this section.

20 7. (1) A license in force under the Explosives Act, 1905, immediately before the commencement of this section shall be deemed to have been issued under that Act, as amended by this Act, and shall expire on the day on which it would have expired had this Act not been enacted. Savings and transitional provisions.

(2) If this section commences before, on, or within three months after, the commencement of the Firearms and Dangerous Weapons Act, 1973—

25 (a) the Explosives Act, 1905, as amended by this Act, shall be construed as if it were amended—

(i) by omitting from section 13 (3) (a) (i) the words “whether or not he is a person referred to in subparagraph (ii)—”;

(ii)

Explosives (Amendment).

- (ii) by omitting from section 13 (3) (a) (ii) the words "if he is the holder of a pistol licence or shooter's licence—";
- 5 (iii) by omitting from section 13 (5) the words "The holder of a pistol licence or shooter's licence" and by inserting instead the words "A person";
- 10 (iv) by omitting from section 25D (4) the matter "and (6)" and by inserting instead the matter ", (6) and (6A)";
- (v) by inserting after section 25D (6) the following subsection :—
 - 15 (6A) Where the officer is satisfied that it is proper to do so, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit is—
 - 20 (a) 2.5 kilograms of blasting explosives (other than propellant powder within the meaning of section 22D), 110 detonators and 250 metres of detonating fuse; and
 - (b) 10 kilograms of propellant powder within the meaning of section 22D.
 - 25 (b) paragraph (a) ceases to have any effect on the expiration of the period of three months after the commencement of the Firearms and Dangerous Weapons Act, 1973, but nothing in this paragraph affects a permit in force, or any condition attaching thereto and in force, immediately before the
 - 30 expiration of that period.

SCHEDULE.

Explosives (Amendment).

SCHEDULE.

Sec. 6.

Column 1.	Column 2.
5	Section 6 <i>Omit "one hundred dollars"; insert instead "\$1,000".</i> Section 8 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 9 <i>Omit "twenty dollars" wherever occurring; insert instead "\$100".</i>
10	Section 10 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 11 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 12 <i>Omit "forty dollars"; insert instead "\$200".</i> Section 13 (2) <i>Omit "twenty dollars"; insert instead "\$100".</i> <i>Omit "two hundred dollars or imprisonment for a period not exceeding three months"; insert instead "\$800 or imprisonment for a period not exceeding twelve months, or both".</i>
15	Section 13A (3) <i>Omit "two hundred dollars or to imprisonment for a period not exceeding three months"; insert instead "\$800 or to imprisonment for a period not exceeding twelve months, or both".</i>
20	Section 17 <i>Omit "twenty dollars" wherever occurring; insert instead "\$100".</i> Section 17A (3) (b) <i>Omit "twenty dollars" wherever occurring; insert instead "\$500".</i>
25	Section 18 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 19 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 20 <i>Omit "one hundred dollars"; insert instead "\$500".</i> Section 22 <i>Omit "twenty dollars" wherever occurring; insert instead "\$200".</i>
30	Section 23 <i>Omit "four dollars"; insert instead "\$200".</i> Section 25 <i>Omit "four dollars"; insert instead "\$100".</i> Section 25A <i>Omit "one hundred dollars"; insert instead "\$100".</i> Section 26 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 28 <i>Omit "one hundred dollars"; insert instead "\$500".</i> Section 29 <i>Omit "one hundred dollars"; insert instead "\$500".</i> Section 30 <i>Omit "one hundred dollars" wherever occurring; insert instead "\$500".</i>
35	Section 31 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 35A (2) (b) <i>Omit "four dollars"; insert instead "\$100".</i> <i>Omit "twenty dollars" wherever occurring; insert instead "\$100".</i>
40	Section 39 <i>Omit "two hundred dollars"; insert instead "\$1,000".</i> Section 40 <i>Omit "forty dollars"; insert instead "\$200".</i> Section 41 <i>Omit "one hundred dollars"; insert instead "\$500".</i> Section 42 (a) <i>Omit "one hundred dollars"; insert instead "\$500".</i>
45	Section 44 <i>Omit "forty dollars"; insert instead "\$200".</i> Section 46 <i>Omit "forty dollars"; insert instead "\$200".</i> Section 47 <i>Omit "ten dollars"; insert instead "\$100".</i> <i>Omit "one hundred dollars"; insert instead "\$1,000".</i>
50	Section 50 <i>Omit "twenty dollars"; insert instead "\$100".</i> Section 51 <i>After "months" insert "or, where the person is a corporation, to pay a penalty of \$5,000".</i> Section 55 <i>Omit "forty dollars"; insert instead "\$200".</i> Section 57 <i>Omit "forty dollars"; insert instead "\$200".</i>

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[35c]

126—D

EXPLOSIVES (AMENDMENT) BILL, 1974

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to reduce the maximum amount of explosives that may be kept by a person in places not licensed under the Explosives Act, 1905 (herein referred to as "the Principal Act"), from 25 pounds to—
 - (i) 2.5 kilograms of blasting explosives (other than safety cartridges), 110 detonators and 250 metres of detonating fuse; and
 - (ii) if he holds a pistol licence or shooter's licence under the Firearms and Dangerous Weapons Act, 1973—10 kilograms of gunpowder or nitrocellulose propellant powder;
- (b) to prohibit the sale of explosives except by a person licensed under the Principal Act;
- (c) to prohibit a person from selling or otherwise supplying an explosive (other than safety cartridges) to another person who is not the holder of—
 - (i) a license under the Principal Act;
 - (ii) a permit referred to in paragraph (e) below; or
 - (iii) in respect of gunpowder or nitrocellulose propellant powder—a pistol licence or shooter's licence under the Firearms and Dangerous Weapons Act, 1973;
- (d) to prohibit a person from purchasing or otherwise receiving an explosive (other than safety cartridges) unless he is the holder of one of the documents referred to in paragraph (c) (i), (ii) or (iii) above;
- (e) to provide for the issue by the police of permits authorising the purchase or receipt of explosives by persons not licensed under the Principal Act;
- (f) to require a permit referred to in paragraph (e) above to be issued subject to prescribed conditions, including a condition limiting the amount of explosives (other than safety cartridges) that may be purchased or received to—
 - (i) subject to subparagraphs (ii) and (iii)—a maximum of 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse;
 - (ii) if the officer issuing the permit is satisfied that it is proper that the applicant for the permit should have more than that amount of explosives for use on the day of purchase or receipt of the explosives—a maximum of 50 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse; or

- (iii) if the explosives are required for use in a mine—the amount of explosives approved in relation to the mine under the Mines Inspection Act, 1901;
- (g) to provide that an appeal lies to the Minister against the refusal to issue a permit referred to in paragraph (e) above, the attaching of a condition to such a permit or the revocation of such a permit;
- (h) to make it an offence for a person to have in his possession, control or custody explosives (other than safety cartridges) that were obtained or manufactured by him unlawfully;
- (i) to increase to eighteen years the minimum age of persons to whom explosives may be sold or otherwise supplied;
- (j) to create the following offences in connection with the use of explosives:—
 - (i) negligently or carelessly preparing or detonating explosives whereby life or property is or is likely to be endangered;
 - (ii) abandoning or leaving unsupervised explosives that have been set to explode; and
 - (iii) failing to comply with a direction given by an inspector requiring explosives referred to in subparagraph (ii) above to be exploded or rendered harmless;
- (k) to prohibit the sale, supply, purchase, receipt or setting off of fireworks prescribed by the regulations as public display fireworks, except under the authority of a permit specially issued for the purpose by the Minister;
- (l) to authorise the issue of a permit referred to in paragraph (k) above subject to conditions;
- (m) to enable any quantity of explosives to be manufactured in a mine or other work for immediate use therein;
- (n) to enable regulations to be made requiring records to be kept, and returns to be made, with respect to the manufacture, importation, conveyance, sale, supply, purchase or receipt of explosives;
- (o) to enable regulations to be made prescribing a fee for the examination of explosives under section 28 of the Principal Act;
- (p) to empower the Minister to waive, wholly or in part, payment of fees referred to in paragraph (o) above or payment of fees for licenses;
- (q) to make it an offence for a person to make a false or misleading statement in an application for a license or permit under the Principal Act;
- (r) to enable licenses under the Principal Act to be issued for periods of up to two years;
- (s) to authorise inspectors to render harmless certain explosives;

- (t) to provide that proceedings for offences against the Principal Act or the regulations may be commenced within twelve months after the commission of the offence;
- (u) to require a court, before which proceedings are brought for an offence under the Principal Act or the regulations, to accept an allegation that a particular substance is an explosive within the meaning of the Principal Act, until the contrary is proved;
- (v) to make a director or employee of a company which, or the employer of an employee who, commits an offence against the Principal Act or the regulations guilty of the same offence, subject to certain defences provided in the Bill;
- (w) to provide that the Principal Act does not apply to explosives to which Part II of the Explosives Act 1961-1966 of the Parliament of the Commonwealth applies, including explosives that are the property of, or are in the possession or control of, the Commonwealth;
- (x) to increase penalties for offences under the Principal Act; and
- (y) to make other provisions of a minor, consequential or ancillary character.

The first of these is the fact that the
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PROOF

No. , 1974.

A BILL

To reduce the maximum amount of explosives that may be kept in places not licensed under the Explosives Act, 1905; to impose restrictions on the sale or supply of explosives; to create offences in connection with the use of explosives; to increase penalties for certain offences relating to explosives; for these and other purposes to amend the Explosives Act, 1905; and for purposes connected therewith.

[Mr FIFE—29 October, 1974.]

BE

Explosives (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
5 follows:—

1. This Act may be cited as the "Explosives Short title.
(Amendment) Act, 1974".

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act
shall commence on such day as may be appointed by the
Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

3. Part I of the Explosives Act, 1905, is amended—

Amendment
of Act No.
41, 1905.
(Part I.—
Pre-
liminary.)

15 (a) by inserting after section 2 the following section and Sec. 2A.
heading thereto :—

Division of Act.

2A. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–7.

20 PART II.—MANUFACTURE, IMPORTATION, KEEP-
ING, CONVEYANCE, SALE, SUPPLY AND USE OF
EXPLOSIVES—ss. 8–36A.

DIVISION 1.—*Manufacture of explosives*—ss. 8,
9.

25 DIVISION 2.—*Importation of explosives*—ss.
10–12.

DIVISION 3.—*Keeping of explosives*—ss. 13–17A.

DIVISION 4.—*Conveyance of explosives*—ss.
18–22.

DIVISION

Explosives (Amendment).

DIVISION 5.—*Sale or supply of explosives—ss. 22A–25L.*

DIVISION 6.—*Use of explosives—ss. 25J, 25K.*

DIVISION 7.—*Public display fireworks—ss. 25L–25Q.*

DIVISION 8.—*General provisions—ss. 26–36A.*

PART III.—ADMINISTRATIVE AND SUPPLEMENTAL
—ss. 37–60.

- 10 (b) (i) by omitting from section 7 the words “unless Sec. 7.
the context otherwise requires,” and by insert- (Definition
ing instead the words “except in so far as the of words
context or subject-matter otherwise indicates and ex-
or requires”; pressions.)
- 15 (ii) by omitting the definition of “Court” and
“court of summary jurisdiction” in section 7
and by inserting instead the following
definition :—
- 20 “Court” and “court of summary jurisdic-
tion” mean a court of petty sessions
constituted by a stipendiary magistrate
sitting alone.
- 25 (iii) by omitting from paragraph (a) of the
definition of “Explosive” in section 7 the word
“Means” and by inserting instead the word
“means”;
- (iv) by omitting from the definition of “Justice” in
section 7 the words “police or”;
- (v) by inserting after the definition of “Occupier”
in section 7 the following definition :—
- 30 “Pistol licence” means a pistol licence issued
under the Firearms and Dangerous
Weapons Act, 1973.
- (vi)

Explosives (Amendment).

(vi) by inserting after the definition of "Premises" in section 7 the following definition :—

5 "Public display firework" means a firework of a class or description prescribed for the purposes of this definition.

(vii) by omitting the definition of "Public magazine" in section 7 and by inserting instead the following definition :—

10 "Public magazine" means a magazine declared to be a public magazine under subsection (4).

(viii) by inserting after the definition of "Ship" in section 7 the following definition :—

15 "Shooter's licence" means a shooter's licence issued under the Firearms and Dangerous Weapons Act, 1973.

(ix) by omitting from the definition of "Superintendent" in section 7 the words "Explosives Department" and by inserting instead the words "Explosives Branch of the Department of Mines";

20

(x) by inserting in the definition of "This Act" in section 7 after the word "license," the word "permit,";

25

(xi) by inserting at the end of section 7 the following subsections :—

(2) In sections 6, 22B, 26, 28 and 57, "sell" includes—

- (a) barter or exchange;
- (b) agree to sell, barter or exchange;
- (c) offer or expose for sale, barter or exchange;
- (d) send, forward or deliver for or on sale or for barter or exchange;

30

(e)

Explosives (Amendment).

- 5 (e) have in possession for sale, barter or exchange;
- (f) cause or suffer to be sold, bartered, exchanged, offered for sale, exposed for sale or sent, forwarded or delivered for or on sale or for barter or exchange; and
- 10 (g) attempt to sell, barter, exchange, expose for sale or send, forward or deliver for or on sale or for barter or exchange.

15 (3) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to a license or permit is a reference to a license or permit, as the case may be, that is in force.

20 (4) The Governor may, by notification published in the Gazette, declare a magazine to be a public magazine for the storage of explosives.

4. Part II of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905.

(Part II.—
Manu-
facture,
importa-
tion,
keeping,
convey-
ance, sale,
supply and
use of ex-
plosives.)

- 25 (a) (i) by omitting from the heading to Part II the words "AND SALE" and by inserting instead the words "SALE, SUPPLY AND USE";

Headings before sec. 8.

(ii)

Explosives (Amendment).

- (ii) by omitting the words "*Manufacture of explosives.*" occurring before section 8 and by inserting instead the words "DIVISION 1.—*Manufacture of explosives.*";
- 5 (b) (i) by omitting from section 8 the words "explosive in connection with a licensed magazine or
 10 "gunpowder or nitrocellulose propellant powder in accordance with regulations made";
 (Explosive to be manufactured only at factory licensed under this Act.)
- (ii) by omitting from section 8 the words "in small quantities";
- 15 (c) (i) by omitting from section 9 (j) the words "Factories and Shops Act, 1912" and by
 inserting instead the words "Factories, Shops and Industries Act, 1962";
 (Sec. 9. Governor may make regulations relating to factories for the manufacture of explosives.)
- 20 (ii) by omitting from section 9 (n) the words "in small quantities";
- (iii) by inserting after section 9 (n) the following paragraph :—
- 25 (o) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the manufacture of explosives in the factory; and
- (ii) the removal of explosives from the factory.
- 30 (d) by omitting the words "*Importation of explosives.*" occurring before section 10 and by inserting instead the words "DIVISION 2.—*Importation of explosives.*";
 (Heading before sec. 10.)
- (e)

Explosives (Amendment).

- (e) by inserting after section 12 (c) the following paragraph :—
- (d) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the importation of explosives; and
- (ii) the manner in which imported explosives are disposed of.
- (f) by omitting the words "*Keeping of explosives.*" occurring before section 13 and by inserting instead the words "*DIVISION 3.—Keeping of explosives.*";
- (g) (i) by omitting from section 13 (1) the words "An explosive" and by inserting instead the words "Subject to subsection (3), an explosive";
- (ii) by omitting the proviso to section 13 (1);
- (iii) by omitting from section 13 (2) the words "Any explosive kept" and by inserting instead the words "Subject to subsection (3), any explosive kept";
- (iv) by inserting after section 13 (2) the following subsections :—
- (3) Subsections (1) and (2) do not apply to—
- (a) the keeping in accordance with this Act, otherwise than for sale, of any explosive by a person if the

Sec. 12.
(Governor
may make
regula-
tions
as to
importa-
tion of
explosives.)

Heading
before
sec. 13.

Sec. 13.
(Explosives
to be
kept only
in factory
or
authorised
place.)

explosive

Explosives (Amendment).

explosive or explosives kept by him,
whether in one or more places, does
or do not comprise—

5 (i) whether or not he is a person
referred to in subparagraph
(ii)—more than 2.5 kilo-
grams of blasting explosives,
110 detonators and 250
10 metres of detonating fuse;
and

(ii) if he is the holder of a pistol
licence or shooter's licence
—more than 10 kilograms
of propellant powder;

15 (b) the keeping of any explosive in a
ship, boat or carriage while being
conveyed in the ship, boat or car-
riage in accordance with this Act;

20 (c) the keeping in accordance with this
Act of safety fuses for blasting,
railway fog-signals, or percussion
caps, or any explosive exempted
from the operation of this section
by the regulations; or

25 (d) the keeping in accordance with this
Act, otherwise than for sale, of
safety cartridges.

30 (4) For the purposes of subsection (3)
(a), in determining the amount of explosive or
explosives kept by a person, regard shall not
be had to the amount of explosive or explosives
kept by him at a place that is referred to in
subsection (1) (a), (b), (c) or (d) and that

is

Explosives (Amendment).

is more than one kilometre, measured in a direct line, from any other place (not so referred to) at which he keeps or kept an explosive at any relevant time.

5 (5) The holder of a pistol licence or shooter's licence is not, by virtue of subsection (3) (a) (i), authorised to keep any propellant powder in excess of the amount thereof referred to in subsection (3) (a) (ii).

10 (6) Where a person purchases or receives more than the amount of explosives referred to in subsection (3) (a) by virtue of a condition or conditions attaching to a permit under
15 Division 5 and specifying a maximum amount greater than the amount referred to in subsection (3) (a), he is not guilty of an offence under this section if he satisfies the court that he complied with the conditions of the permit to the extent to which they related to those
20 explosives.

(7) In this section—

“blasting explosives” means explosives other than—

25 (a) detonators or detonating fuse; or

(b) any explosive referred to in subsection (3) (c) or (d);

30 “propellant powder” means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(h)

Explosives (Amendment).

(h) by inserting after section 13A (3) the following subsections :—

Sec. 13A.
(Explosive
not to be
abandoned,
etc.)

(4) Without affecting section 25K, where an explosive is set to explode in any place but—

5 (a) it is not fired; or

(b) it misfires,

subsection (1) (a) does not apply to or in respect of that explosive while it remains in that place.

10 (5) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies but—

(a) it is not fired; or

15 (b) it misfires,

subsection (1) and any regulations made pursuant to subsection (2) do not apply to or in respect of that explosive while it remains in that place.

20 (i) by inserting after section 13A the following section :—

25 13B. (1) A person who has explosives in his possession, control or custody is guilty of an offence and liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both, unless he satisfies the court that—

Offences
relating
to posses-
sion of
explosives.

30 (a) he purchased or otherwise received the explosives under the authority (as referred to in section 22D) of a license or permit under this Act or of a pistol licence or shooter's licence;

(b)

Explosives (Amendment).

- 5 (b) he manufactured the explosives lawfully;
or
(c) the explosives came into his possession,
control or custody in any other lawful
manner.

10 (2) A person who has purchased or
received explosives under the authority of a permit
under Division 5 shall not, while the permit remains
in force, have in his possession, control or custody,
at any one time, more than the maximum amount
of explosives specified in a condition or conditions
referred to in section 25D (3) and attaching to the
permit.

Penalty : \$200.

15 (3) Subsection (2) does not apply where
the additional explosives are in a person's possession,
control or custody by virtue of his being the holder
of a pistol licence or shooter's licence or in the
prescribed circumstances.

20 (4) A person shall not be convicted of—
(a) offences under both subsection (1) and
section 22C; or
(b) offences under both subsection (2) and
section 13,

25 in respect of the same explosive.

(5) All or any part of an explosive sold in
contravention of subsection (1) or (2) may be
forfeited while in the possession, control or custody
of the person contravening that subsection.

30 (6) Nothing in this section applies to or
in respect of safety cartridges.

- (j) by omitting from section 16 the word "Colonial"; Sec. 16.
(Payment of
store-rent
and
charges.)
(k)

Explosives (Amendment).

- (k) (i) by omitting from section 17 (ii) the words "the occupier" and by inserting instead the words "except as provided in paragraph (iii)—the occupier"; Sec. 17. (Regulations for keeping explosives.)
- 5 (ii) by inserting after section 17 (ii) the following paragraph :—
- (iii) in the case of a breach of a provision of the regulations, in so far as that provision requires, or has the effect of requiring, explosives kept in a maga-
10 zine or licensed premises to be kept in such compartment or other place, or in such receptacle, in the magazine or premises as may be specified or described in the regulations—the occupier shall be liable to a penalty not exceeding \$500, and, in the case of a
15 second or subsequent offence, to an additional penalty not exceeding \$100 for every day during which the breach continues.
- (l) by omitting from section 17A (1) the words "para-
25 graph (a), (b), (c) or (d) of subsection (1) of section 13 does not apply by virtue of the proviso to that subsection" and by inserting instead the words "section 13 (1) does not apply by virtue of section 13 (3)"; Sec. 17A. (Governor may regulate the keeping of certain explosives.)
- (m) by omitting the words "*Conveyance of explosives.*" occurring before section 18 and by inserting instead the words "**DIVISION 4.—*Conveyance of explosives.***"; Heading before sec. 18.
- 30 (n) (i) by omitting from section 22 (j) the word "and" where secondly occurring; Sec. 22. (Governor may regulate the conveyance of explosives.)
- (ii)

Explosives (Amendment).

(ii) by inserting after section 22 (k) the following paragraph :—

5 (1) requiring the keeping and production of records, and the making of returns, with respect to the conveyance of explosives.

10 (o) by omitting the words "*Sale of explosives.*" occurring before section 23 and by inserting instead the words "DIVISION 5.—*Sale or supply of explosives.*";

Heading before sec. 23.

(p) by inserting before section 23 the following sections :—

Secs. 22A–22D.

15 22A. (1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation: Div. 5 of Part II.

"license" means a license under this Division or under any other provision of this Act;
"officer" means a member of the Police Force;
"permit" means a permit under this Division.

20 (2) In this Division (other than sections 23, 24 and 25), "explosive" does not include safety cartridges or public display fireworks.

25 22B. (1) A person shall not sell any explosive unless he is the holder of a license authorising him to do so.

Seller of explosives to be licensed.

Penalty: \$800 or imprisonment for 12 months, or both.

30 (2) All or any part of an explosive sold in contravention of subsection (1) may be forfeited while in the possession, control or custody of the person contravening that subsection.

(3)

Explosives (Amendment).

5 (3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold the explosive as the employee of, or under the supervision of, the holder of a license that authorises the holder to sell the explosive.

22c. (1) Subject to subsection (3), where a Purchaser, person sells or otherwise supplies an explosive to etc., of explosives another person, the other person is guilty of an to be holder of offence, unless he satisfies the court— license, permit or other authority.

10 (a) that he was, at the time of the sale or supply, the holder of—

- 15 (i) a license, pistol licence or shooter's licence authorising the sale or supply; or
- (ii) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or
- 20

(b) that he—

- 25 (i) was, at the time of the sale or supply, the holder of a permit authorising the sale or supply; and
- (ii) produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.
- 30
- 35

(2)

Explosives (Amendment).

(2) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the firstmentioned person is guilty of an offence, unless he satisfies the court—

5

(a) that—

(i) the other person was, at the time of the sale or supply; or

10

(ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the holder of—

15

(iii) a license, pistol licence or shooter's licence authorising the sale or supply; or

20

(iv) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that—

25

(i) the other person was, at the time of the sale or supply; or

30

(ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the

Explosives (Amendment).

5 the holder of a permit authorising the
sale or supply and that the other person
produced the permit for inspection, at
the time of the sale or supply, to the
firstmentioned person or an employee of
the firstmentioned person or, where the
firstmentioned person is a corporation, to
a director, within the meaning of the
Companies Act, 1961, or an employee,
10 of the corporation.

(3) A person is not guilty of an offence
under this section if he satisfies the court that—

15 (a) the explosive was supplied (otherwise
than by way of sale) to the other person
referred to in subsection (1) or (2), as
the case may require, for the purpose of
carrying out work in or about a mine,
quarry, farm, building site or other place
on the day on which it was so supplied;
20 and

(b) he and the other person were employed
or engaged in, or responsible for, carry-
ing out work in or about the mine,
quarry, farm, building site or other place.

25 (4) A person shall not be convicted of
offences under both subsection (1) and section
25D (9) in respect of the purchase or receipt by
him of explosives in contravention of a condition
attaching to a permit of which he is the holder.

30 (5) A person is not guilty of an offence
under subsection (2) if he satisfies the court that
he sold or otherwise supplied the explosive to a
person who was not, at the time of the sale or supply,
required by subsection (1) to be the holder of a
license, pistol licence, shooter's licence or
35 instrument referred to in subsection (2) (a) (iv).

(6)

Explosives (Amendment).

(6) All or any part of an explosive in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

(7) A person who is guilty of an offence under this section is liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both.

22D. (1) A license or permit shall, for the purposes of this Act, be deemed to authorise— Authority conferred by license or permit.

(a) a sale or other supply of an explosive to the holder thereof; and

(b) a purchase or other receipt of an explosive by the holder thereof,

except in so far as the terms of, or the conditions attaching to, the license or permit, as the case may be, otherwise provide.

(2) A pistol licence or shooter's licence shall, for the purposes of this Act, be deemed to authorise—

(a) a sale or other supply of propellant powder to the holder thereof; or

(b) a purchase or other receipt of propellant powder by the holder thereof,

except in so far as the amount thereof so sold, supplied, purchased or received at any one time exceeds 10 kilograms.

(3) In this section, "propellant powder" means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

Explosives (Amendment).

- (q) by omitting section 24 and by inserting instead the Sec. 24.
following section :—

5 24. (1) A person shall not sell or otherwise Sale or supply of explosives to minors.
supply any explosive to a person who is under the
age of eighteen years.

Penalty : \$200.

10 (2) A person is not guilty of an offence
under subsection (1) if he satisfies the court that
he had reasonable grounds for believing, and did
in fact believe, that the person in respect of whom
the alleged offence was committed had attained the
age of eighteen years.

- 15 (r) (i) by omitting from section 25 the words "one Sec. 25.
pound in weight" and by inserting instead the (Sale of explosives: to be in closed packages, labelled.)
matter "0.5 kilogram";
(ii) by omitting from section 25 the word "sub-
section" and by inserting instead the word
"paragraph";

- 20 (s) by inserting after section 25A the following Secs. 25B-25I.
sections :—

25B. (1) Licenses may be granted authorising Licenses for sale of explosives.
the sale of explosives.

25 (2) The Governor may make regulations
regulating the granting, renewing and altering of
licenses under this section, and the fees payable
therefor.

25C. (1) Permits may be granted for the Permits for purchase or receipt of explosives.
purchase or receipt of explosives.

30 (2) An application for a permit shall be
made in the prescribed manner to the officer in
charge for the time being of the police station in
or nearest to the place where the applicant
ordinarily resides.

(3)

Explosives (Amendment).

(3) Subject to this section, the officer may grant the application or may refuse the application.

(4) No fee is payable in respect of a permit.

5 (5) The officer shall not grant an application for a permit made by a person who—

(a) is not a natural person;

(b) is under the age of eighteen years;

10 (c) has been convicted in New South Wales or elsewhere of an offence and sentenced to penal servitude or imprisonment for twelve months or more and has been released from that penal servitude or imprisonment less than five years before
15 the date of the application;

(d) is subject to a recognizance, granted in New South Wales or elsewhere, to keep the peace; or

20 (e) is the subject of a firearms prohibition order within the meaning of the Firearms and Dangerous Weapons Act, 1973.

(6) The officer shall not grant an application for a permit unless he is satisfied that the applicant is of good character and repute, has good
25 reason for requiring the permit and can be trusted to have explosives in his possession and to use and carry explosives without danger to the public safety or to the peace.

30 (7) A permit shall be in or to the effect of the prescribed form.

(8) A permit shall, unless sooner revoked, remain in force for such period, not exceeding three months, as may be specified in the permit.

(9)

Explosives (Amendment).

(9) While two or more permits issued to a person would, but for this subsection, be in force at the same time, only the permit first issued shall be deemed to be in force for the purposes of this Act.

(10) The regulations may make provision for or with respect to the issue of substitute permits in the place of lost, damaged or destroyed permits.

25D. (1) Where an officer grants an application for a permit, the permit shall be issued subject to conditions. Conditions attaching to permits.

(2) The officer may attach to a permit such prescribed conditions, or such conditions of prescribed classes, as he may determine.

(3) The officer shall attach a condition or conditions to the effect that not more than the amount of explosives specified therein may be purchased or received under the authority of the permit at any one time.

(4) Subject to subsections (5) and (6), the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) is 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(5) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required by the applicant for a permit for use on the day of purchase or receipt of the explosives, and that it is proper that the applicant should have more than that amount

of

Explosives (Amendment).

of explosives, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to the permit is 50 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(6) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required for use in a mine in relation to which an approval is in force under General Rule (2) in section 55 of the Mines Inspection Act, 1901, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit issued for the purpose of purchasing or receiving explosives for use therein is the maximum amount that may be stored in the mine under the authority of the approval.

(7) Without affecting the generality of subsection (2), nothing in this section prevents the regulations from prescribing a condition that may be attached to a permit and that provides—

(a) that—

(i) only a number, specified in the permit, of purchases or receipts of explosives may be made;

(ii) only a number, specified in the permit, of purchases or receipts of explosives may be made in any period, so specified;

(iii) only explosives of a class or description specified in the permit may be purchased or received; or

(iv)

Explosives (Amendment).

(iv) explosives of a class or description specified in the permit may not be purchased or received,

under the authority of the permit; or

5 (b) that blasting explosives purchased or received under the authority of the permit shall be used or otherwise disposed of on the day of the purchase or receipt.

10 (8) Without affecting the generality of subsection (2), where the condition or conditions referred to in subsection (3) and attaching to a permit specifies or specify, by virtue of subsection (5), an amount of blasting explosives that is more than 2.5 kilograms, the officer issuing the permit
15 shall attach to the permit a condition of the kind referred to in subsection (7) (b).

(9) The holder of a permit shall not, without reasonable excuse, fail to comply with any condition attaching to the permit.

20 Penalty: \$800 or imprisonment for 12 months, or both.

(10) In this section, "blasting explosives" means explosives other than detonators or detonating fuse.

25 25E. (1) The officer in charge of the police station who granted an application for the permit, or the officer in charge of that station for the time being, or the Commissioner of Police, may, by instrument in writing, revoke a permit—

30 (a) if, had the permit not been issued, he would be required, under section 25C (5) or (6), to refuse an application for a permit made by the holder of the permit;

(b)

Revocation of permits.

Explosives (Amendment).

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii) failed to comply with any condition attaching to the permit;

(c) if he is satisfied that, at the time of the issue of the permit, another permit issued to the holder was in force; or

(d) if the holder of the permit has been convicted of an offence under this Division since the issue of the permit.

(2) Where an officer revokes a permit, he shall cause notice of the revocation to be served on the holder of the permit by sending the notice by post addressed to the holder at his address last known to the officer or by causing it to be delivered to the holder personally.

(3) The revocation of a permit shall take effect—

(a) where the notice of revocation is sent by post—when the notice would be delivered to the addressee in the ordinary course of post; or

(b) where the notice of revocation is delivered to the holder personally—when it is so delivered.

(4)

Explosives (Amendment).

(4) A permit shall be revoked if the holder of the permit so requests.

25F. (1) A person aggrieved by a decision of an officer— Appeals in relation to permits.

5 (a) to refuse to grant an application for a permit;

(b) to attach a condition to a permit; or

(c) to revoke a permit,

10 may, within the prescribed time and in the prescribed manner, appeal to the Minister.

(2) The decision of the Minister shall be final and shall be binding on the appellant and on the officer.

(3) The Minister—

15 (a) shall not grant the appeal unless he is satisfied that the decision appealed against is incorrect;

20 (b) shall refuse to grant the appeal if he is satisfied that the decision appealed against is correct; and

25 (c) subject to paragraph (a), may, on the appeal, direct that a permit be issued subject to such conditions as an officer is authorised by this Act to impose when granting an application for a permit.

(4) Notwithstanding anything in this Division, the Minister may, if he is satisfied that, in all the circumstances it is proper to do so, grant

an

Explosives (Amendment).

an appeal notwithstanding that, but for this subsection, the appellant would be precluded from holding a permit by reason only of section 25c (5) (c), (d) or (e).

5

25G. (1) A person shall not, without reasonable excuse, have in his possession a permit that was not issued to him. Unlawful possession, etc., of permits.

(2) A person shall not, with intent to deceive, forge or alter a permit.

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(3) The holder of a permit shall not lend the permit, or allow it to be used by any other person, for the purpose of purchasing or receiving explosives.

15

Penalty : \$200 or imprisonment for 3 months, or both.

20

25H. The Governor may make regulations for or Records. with respect to requiring the keeping and production of records, and the making of returns, with respect to the sale or other supply of explosives, or the purchase or other receipt of explosives, and, in particular, for or with respect to—

25

(a) requiring details of the purchase or receipt of explosives under the authority of a permit to be made on a permit; and

(b) requiring the retention and production of a permit (whether or not any explosives have been purchased or received under its authority).

25I.

Explosives (Amendment).

25I. (1) The Governor may make regulations Exemptions.
for or with respect to exempting, to the extent
specified therein, and unconditionally or subject to
prescribed conditions—

5 (a) any person or class or description of
persons; or

(b) any explosive or class or description of
explosive,
from any of the provisions of this Division specified
10 in the regulations.

(2) Subsection (1) does not affect the
generality of section 57.

(t) by inserting before the heading occurring before Divs. 6 and
section 26 the following Divisions :— 7 of Part II.

15 DIVISION 6.—*Use of explosives.*

25J. A person shall not negligently or carelessly Negligent
prepare for use, or explode, or cause to be exploded, or careless
any explosive in such a manner or in such use of
circumstances as— explosives.

20 (a) to endanger or be likely to endanger the
life of any person;

(b) to cause or be likely to cause injury to
any person; or

25 (c) to damage or be likely to cause damage
to any property not belonging to the
firstmentioned person.

Penalty : \$800 or imprisonment for 12 months,
or both.

25K.

Explosives (Amendment).

25k. (1) Where a person sets, or causes to be set, an explosive to explode in any place, that person shall not—

Explosive not to be abandoned, etc., after set to explode.

(a) abandon that explosive; or

5 (b) leave that explosive unsupervised,

in that place until it has been exploded or has been rendered harmless, destroyed or otherwise disposed of.

Penalty : \$500.

10 (2) Where a person sets, or causes to be set, an explosive to explode in any place, an inspector may, if that explosive remains in that place, direct that person—

(a) to explode that explosive; or

15 (b) to render that explosive harmless, or destroy or otherwise dispose of it, in accordance with the conditions prescribed pursuant to section 13A (2).

20 (3) A person shall not, without reasonable excuse, fail to comply with a direction given to him under subsection (2).

Penalty : \$200.

(4) A direction under subsection (2) may be given orally or by instrument in writing.

25 (5) Subject to subsection (6), this section applies to and in respect of an explosive that has been set to explode, whether it has not been fired or whether it has misfired.

(6)

Explosives (Amendment).

5 (6) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies, but—

(a) it is not fired; or

(b) it misfires,

this section does not apply to or in respect of that explosive while it remains in that place.

10 DIVISION 7.—*Public display fireworks.*

25L. In this Division, “permit” means a permit under this Division. Interpretation: Div. 7 of Part II.

15 25M. (1) A person shall not sell or otherwise supply any public display firework unless he does so under the authority of a permit. Sale, etc., of public display fireworks.

Penalty: \$500.

(2) A person shall not purchase or otherwise receive any public display firework unless he does so under the authority of a permit.

20 Penalty: \$500.

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold or otherwise supplied the firework to a person who was not, at the time of the sale or supply, required by subsection (2) to be the holder of a permit.

25 (4) All or any part of a firework in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

30 25N. A person shall not set off any public display firework unless he does so under the authority of a permit. Use of public display firework.

Penalty: \$500.

25o.

Explosives (Amendment).

250. (1) Permits may be granted for any or all of the following :—

Permits for sale, purchase, use, etc., of public display fireworks.

- (a) the sale or other supply;
- (b) the purchase or other receipt; or
- (c) the setting off,

of public display fireworks.

(2) A permit shall, for the purposes of this Act, be deemed to authorise the holder thereof and any person employed by him or under his supervision to do any or all of the things for which the permit was granted.

(3) An application for a permit shall be made in the prescribed manner to the superintendent.

(4) Subject to this section, the Minister may grant the application or may refuse the application.

(5) No fee is payable in respect of a permit.

(6) The Minister shall not grant an application for a permit made by a person who is under the age of eighteen years.

(7) The Minister shall not grant an application for a permit unless he is satisfied that the applicant has good reason for holding the permit and can be trusted to have public display fireworks in his possession and, where relevant, to use and carry public display fireworks without danger to the public safety.

(8)

Explosives (Amendment).

(8) A permit shall be in such form as the Minister thinks fit.

5 (9) A permit shall, unless sooner revoked, remain in force for such period as may be specified in the permit.

25p. (1) The Minister may attach to a permit such conditions as he may determine relating to the matters in respect of which the permit was granted. Conditions attaching to permits.

10 (2) Without affecting the generality of subsection (1), the Minister shall attach such conditions to a permit as he considers necessary to ensure the safety of the public.

15 (3) The holder of the permit shall not fail to comply with any condition attaching to the permit.

Penalty for an offence under this subsection : \$500.

20 25q. (1) The Minister may, by instrument in writing, revoke a permit— Revocation of permits.

(a) if, had the permit not been issued, he would be required, under section 25o, to refuse an application for a permit made by the holder of the permit;

25 (b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

30

(ii)

Explosives (Amendment).

- (ii) failed to comply with any condition attaching to the permit; or
- (c) if he is satisfied that it is in the interests of the public safety to do so.
- 5 (2) A permit shall be revoked if the holder of the permit so requests.
- (u) by omitting the words "*General provisions.*" occurring before section 26 and by inserting instead the words "*DIVISION 8.—General provisions.*"; **Heading before sec. 26.**
- 10 (v) by omitting from section 26 the words "under this Act" and by inserting instead the words "(which order the Minister is hereby authorised to make)"; **Sec. 26. (Governor may prohibit the manufacture, keeping, importation, conveyance, and sale of dangerous explosives.)**
- (w) by inserting after section 27 the following **Sec. 27A.**
section :—
- 15 27A. A person shall not, with intent to deceive— **Alteration or falsification of entries in books.**
- (a) alter or falsify any entry in a book or record required to be kept or made under this Act; or
- (b) make a false or misleading entry in any
20 such book or record.
- Penalty : \$200 or imprisonment for 3 months, or both.
- (x)

Explosives (Amendment).

(x) by inserting at the end of section 28 the following subsections :—

Sec. 28.
(Explosives must be in the packages prescribed, and be safe for transport, storage, and use.)

5 (2) Where an examination is made of any explosive or package under subsection (1), the fee prescribed in relation to an examination of the class or description to which that examination belongs shall be paid to the superintendent by the owner, importer or consignee of the explosive, and may, subject to subsection (3), be recovered in the same manner as a penalty under this Act.

(3) Where—

15 (a) the sum of the fees paid or payable by a person under subsection (2) and incurred during the one financial year exceeds the amount prescribed for the purposes of this subsection; and

20 (b) proceedings, if they were to be commenced against that person for the recovery of that sum or any part thereof and if successful, would result in the recovery of an amount which (together with the fees, if any, paid in relation to that year by him before the commencement of the proceedings) exceeds that prescribed amount,

25 those proceedings shall not be commenced unless the written approval of the Minister to do so has been obtained before the commencement of the proceedings.

30 (4) The Minister may waive, wholly or in part, payment of any expenses or fees payable under this section.

(5)

Explosives (Amendment).

(5) In subsection (3), "financial year" means any period of twelve months ending on the thirtieth day of June in any year.

5 (y) by inserting after section 31 the following section :—

31A. A person shall not, in an application made for a license or permit under this Act, make a statement that is false or misleading in a material particular. ^{False information in application.}

10 Penalty : \$200 or imprisonment for 3 months, or both.

15 (z) (i) by inserting in section 32 after the word "prescribed" where firstly occurring the words "^{Sec. 32. (The granting, alteration and renewing of licenses.)}but shall not be renewed in circumstances in which the grant of a new license would not be authorised by this Act";

(ii) by omitting from section 32 the words "All licenses shall expire on the thirtieth day of September in each year, but may be renewed.";

20 (iii) by inserting at the end of section 32 the following subsections :—

(2) A license under this Act—

25 (a) except as provided in paragraph (b)—expires on the thirtieth day of September next following its issue; or

Explosives (Amendment).

(b) where the license bears an endorsement to that effect—expires on the thirtieth day of September next following the day referred to in paragraph (a).

but nothing in this subsection prevents the license from being renewed.

(3) The Minister may waive, wholly or in part, payment of the fee payable for any license under this Act.

(aa) (i) by inserting in section 34 after the words "importation license" the words "or a license under Division 5,"; Sec. 34. (License personal to grantee.)

(ii) by omitting from section 34 the words "and unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be renewed annually";

(bb) by inserting in section 35 after the words "importation license" the words "or a license under Division 5"; Sec. 35. (Provision in case of death, &c., of occupier of magazine, store, or licensed premises.)

(cc) (i) by omitting from section 36 (1) the words "regulations and"; Sec. 36. (Regulations and orders.)

(ii) by omitting section 36 (2) and by inserting instead the following subsection :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(dd)

Explosives (Amendment).

(dd) by inserting after section 36 the following section :—

5 36A. The Governor may, by notification published in the Gazette, revoke or amend any notification under this Act.

Revocation and amendment of notifications.

5. Part III of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905. (Part III.—Administrative and supplemental.)

(a) by inserting at the end of section 39 the following subsections :—

Sec. 39. (Powers of superintendent and inspectors.)

10 (2) The superintendent or an inspector may render harmless, destroy or otherwise dispose of any explosives if they were received by the superintendent or any inspector for that purpose or if the owner of the explosives consents thereto.

15 (3) Nothing in subsection (2) limits any power, authority, duty or function conferred or imposed on the superintendent or an inspector by or under this Act to render harmless, destroy or otherwise dispose of any explosives.

20 (4) Divisions 5 and 7 of Part II do not apply to or in respect of the receipt of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector or to or in respect of the supply of those explosives to the superintendent or
25 inspector by another person.

(5)

Explosives (Amendment).

- 5 (5) Division 3 of Part II does not apply to or in respect of the keeping of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector.
- (b) by omitting from section 41 (b) (ii) the words "explosives department" and by inserting instead the words "Explosives Branch of the Department of Mines"; Sec. 41. (Search for explosive when in place in contravention of this Act.)
- 10 (c) (i) by omitting from section 42 (a) the words "explosives department" where firstly occurring and by inserting instead the words "Explosives Branch of the Department of Mines or"; Sec. 42. (Seizure and detention of explosives liable to forfeiture.)
- 15 (ii) by omitting from section 42 (a) the words "explosives department" where secondly occurring and by inserting instead the words "Explosives Branch of the Department of Mines";
- 20 (d) by inserting after section 51 the following sections :— Secs. 51A–51D.
- 25 51A. Proceedings for an offence, committed against this Act or the regulations after the commencement of section 5 of the Explosives (Amendment) Act, 1974, may be commenced at any time within twelve months after the offence was committed. Time for commencement of proceedings.
- 30 51B. An allegation in an information in respect of an offence against this Act or the regulations that any substance in relation to which the offence is alleged to have been committed is an explosive Evidence as to whether substance is an explosive.
- within

Explosives (Amendment).

within the meaning of this Act shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

5 51c. (1) A director, within the meaning of the Companies Act, 1961, or an employee, of a corporation which commits an offence arising under any provision of this Act or the regulations is guilty of the same offence and may be punished accordingly. Liability of directors, etc., of corporations.

10 (2) A person is not guilty of an offence by reason of the operation of subsection (1) if he proves that—

- (a) the offence committed by the corporation was committed without his knowledge;
- 15 (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

20 51d. (1) Where any person, as the employee of another person, who is in this section referred to as “the employer”, contravenes this Act or the regulations or is guilty of an offence against this Act or the regulations, the employer is guilty of an offence against this Act or the regulations, as the case may be. Liability of employers.

25 (2) The employer is not guilty of an offence by reason of subsection (1) if he proves that—

- (a) he did not authorise or permit the contravention or offence by the employee; and

(b)

Explosives (Amendment).

(b) he used all due diligence to prevent such a contravention or the commission of such an offence.

5 (3) The employer may be proceeded against and convicted pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under this Act.

10 (4) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act or the regulations is actually committed.

15 (e) (i) by omitting from section 58 the words "section 55 subsection (2)" and by inserting instead the words "General Rule (2) in section 55";

(ii) by omitting from section 58 the matter "1912-1931" and by inserting instead the words "1912, nor the Scaffolding and Lifts Act, 1912";

20 (f) (i) by omitting from section 59 (b) the words "or army" and by inserting instead the words " , army or air force";

Sec. 59.
(Exceptions from operation of the Act.)

(ii) by omitting section 59 (c) and by inserting instead the following paragraph :—

25 (c) to any explosive that is on board any vessel and that is, by or under any Act or law, required to be carried as part of the vessel's equipment;

(iii)

Explosives (Amendment).

(iii) by inserting after section 59 (d) the following paragraph :—

5 (e) to any explosive to which Part II of the Explosives Act 1961–1966, as subsequently amended, of the Parliament of the Commonwealth applies.

(g) by omitting from section 60 the words “of the explosives department”

Sec. 60.
(Saving clause for acts done from necessity.)

6. (1) A provision of the Explosives Act, 1905, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule. Further amendment of Act No. 41, 1905.

(2) Nothing in this Act affects the penalty, pecuniary or other, that may be imposed on conviction for an offence committed against the Explosives Act, 1905, or the regulations thereunder, before the commencement of this section.

7. (1) A license in force under the Explosives Act, 1905, immediately before the commencement of this section shall be deemed to have been issued under that Act, as amended by this Act, and shall expire on the day on which it would have expired had this Act not been enacted. Savings and transitional provisions.

(2) If this section commences before, on, or within three months after, the commencement of the Firearms and Dangerous Weapons Act, 1973—

25 (a) the Explosives Act, 1905, as amended by this Act, shall be construed as if it were amended—

(i) by omitting from section 13 (3) (a) (i) the words “whether or not he is a person referred to in subparagraph (ii)—”;

(ii)

Explosives (Amendment).

- (ii) by omitting from section 13 (3) (a) (ii) the words "if he is the holder of a pistol licence or shooter's licence—";
- 5 (iii) by omitting from section 13 (5) the words "The holder of a pistol licence or shooter's licence" and by inserting instead the words "A person";
- 10 (iv) by omitting from section 25D (4) the matter "and (6)" and by inserting instead the matter ", (6) and (6A)";
- (v) by inserting after section 25D (6) the following subsection :—
 - 15 (6A) Where the officer is satisfied that it is proper to do so, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit is—
 - 20 (a) 2.5 kilograms of blasting explosives (other than propellant powder within the meaning of section 22D), 110 detonators and 250 metres of detonating fuse; and
 - (b) 10 kilograms of propellant powder within the meaning of section 22D.
 - 25 (b) paragraph (a) ceases to have any effect on the expiration of the period of three months after the commencement of the Firearms and Dangerous Weapons Act, 1973, but nothing in this paragraph affects a permit in force, or any condition attaching thereto and in force, immediately before the
 - 30 expiration of that period.

Explosives (Amendment).

SCHEDULE.

Sec. 6.

	Column 1.	Column 2.
5	Section 6	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 8	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 9	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100".
	Section 10	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 11	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
10	Section 12	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
		<i>Omit</i> "twenty dollars"; <i>insert</i> instead "\$100".
	Section 13 (2) ..	<i>Omit</i> "two hundred dollars or imprisonment for a period not exceeding three months"; <i>insert</i> instead "\$800 or to imprisonment for a period not exceeding twelve months, or both".
15	Section 13A (3) ..	<i>Omit</i> "two hundred dollars or to imprisonment for a period not exceeding three months"; <i>insert</i> instead "\$800 or to imprisonment for a period not exceeding twelve months, or both".
20	Section 17	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100".
	Section 17A (3) (b) ..	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$500".
	Section 18	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 19	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
25	Section 20	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
	Section 22	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$200".
	Section 23	<i>Omit</i> "four dollars"; <i>insert</i> instead "\$200".
	Section 25	<i>Omit</i> "four dollars"; <i>insert</i> instead "\$100".
30	Section 25A	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$100".
	Section 26	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 28	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
	Section 29	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
35	Section 30	<i>Omit</i> "one hundred dollars" wherever occurring; <i>insert</i> instead "\$500".
		<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 31	<i>Omit</i> "four dollars"; <i>insert</i> instead "\$100".
	Section 35A (2) (b) ..	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100".
40	Section 39	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000."
	Section 40	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
	Section 41	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
	Section 42 (a)	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
	Section 44	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
45	Section 46	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
	Section 47	<i>Omit</i> "ten dollars"; <i>insert</i> instead "\$100".
		<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$1,000".
	Section 50	<i>Omit</i> "twenty dollars"; <i>insert</i> instead "\$100".
50	Section 51	After "months" <i>insert</i> "or, where the person is a corporation, to pay a penalty of \$5,000".
	Section 55	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
	Section 57	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 77, 1974.

An Act to reduce the maximum amount of explosives that may be kept in places not licensed under the Explosives Act, 1905; to impose restrictions on the sale or supply of explosives; to create offences in connection with the use of explosives; to increase penalties for certain offences relating to explosives; for these and other purposes to amend the Explosives Act, 1905; and for purposes connected therewith. [Assented to, 27th November, 1974.]

BE

Explosives (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Explosives (Amendment) Act, 1974".

Commence- 2. (1) This section and section 1 shall commence on the
ment. date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment 3. Part I of the Explosives Act, 1905, is amended—
of Act No.
41, 1905.

(Part I.—
Pre-
liminary.)

Sec. 2A. (a) by inserting after section 2 the following section and heading thereto :—

Division of Act.

Division
of Act.

2A. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–7.

PART II.—MANUFACTURE, IMPORTATION, KEEP-
ING, CONVEYANCE, SALE, SUPPLY AND USE OF
EXPLOSIVES—ss. 8–36A.

DIVISION 1.—*Manufacture of explosives*—ss. 8,
9.

DIVISION 2.—*Importation of explosives*—ss.
10–12.

DIVISION 3.—*Keeping of explosives*—ss. 13–17A.

DIVISION 4.—*Conveyance of explosives*—ss.
18–22.

DIVISION

Explosives (Amendment).

DIVISION 5.—*Sale or supply of explosives—ss. 22A–25L.*

DIVISION 6.—*Use of explosives—ss. 25J, 25K.*

DIVISION 7.—*Public display fireworks—ss. 25L–25Q.*

DIVISION 8.—*General provisions—ss. 26–36A.*

PART III.—ADMINISTRATIVE AND SUPPLEMENTAL
—ss. 37–60.

- (b) (i) by omitting from section 7 the words “unless Sec. 7. the context otherwise requires,” and by insert- (Definition of words and expressions.) ing instead the words “except in so far as the context or subject-matter otherwise indicates or requires”;
- (ii) by omitting the definition of “Court” and “court of summary jurisdiction” in section 7 and by inserting instead the following definition :—
- “Court” and “court of summary jurisdiction” mean a court of petty sessions constituted by a stipendiary magistrate sitting alone.
- (iii) by omitting from paragraph (a) of the definition of “Explosive” in section 7 the word “Means” and by inserting instead the word “means”;
- (iv) by omitting from the definition of “Justice” in section 7 the words “police or”;
- (v) by inserting after the definition of “Occupier” in section 7 the following definition :—
- “Pistol licence” means a pistol licence issued under the Firearms and Dangerous Weapons Act, 1973.
- (vi)

Explosives (Amendment).

- (vi) by inserting after the definition of "Premises" in section 7 the following definition :—

"Public display firework" means a firework of a class or description prescribed for the purposes of this definition.

- (vii) by omitting the definition of "Public magazine" in section 7 and by inserting instead the following definition :—

"Public magazine" means a magazine declared to be a public magazine under subsection (4).

- (viii) by inserting after the definition of "Ship" in section 7 the following definition :—

"Shooter's licence" means a shooter's licence issued under the Firearms and Dangerous Weapons Act, 1973.

- (ix) by omitting from the definition of "Superintendent" in section 7 the words "Explosives Department" and by inserting instead the words "Explosives Branch of the Department of Mines";

- (x) by inserting in the definition of "This Act" in section 7 after the word "license," the word "permit,";

- (xi) by inserting at the end of section 7 the following subsections :—

(2) In sections 6, 22B, 26, 28 and 57, "sell" includes—

- (a) barter or exchange;
- (b) agree to sell, barter or exchange;
- (c) offer or expose for sale, barter or exchange;
- (d) send, forward or deliver for or on sale or for barter or exchange;

(e)

Explosives (Amendment).

- (e) have in possession for sale, barter or exchange;
- (f) cause or suffer to be sold, bartered, exchanged, offered for sale, exposed for sale or sent, forwarded or delivered for or on sale or for barter or exchange; and
- (g) attempt to sell, barter, exchange, expose for sale or send, forward or deliver for or on sale or for barter or exchange.

(3) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to a license or permit is a reference to a license or permit, as the case may be, that is in force.

(4) The Governor may, by notification published in the Gazette, declare a magazine to be a public magazine for the storage of explosives.

4. Part II of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905.

(Part II.—
Manu-
facture,
importa-
tion,
keeping,
convey-
ance, sale,
supply and
use of ex-
plosives.)

- (a) (i) by omitting from the heading to Part II the words "AND SALE" and by inserting instead the words "SALE, SUPPLY AND USE";

Heading before sec. 8.

(ii)

Explosives (Amendment).

- (ii) by omitting the words "*Manufacture of explosives.*" occurring before section 8 and by inserting instead the words "DIVISION 1.—*Manufacture of explosives.*";

Sec. 8.
(Explosive to be manufactured only at factory licensed under this Act.)

- (b) (i) by omitting from section 8 the words "explosive in connection with a licensed magazine or licensed premises, so that the occupier of such magazine or premises observe regulations prescribed" and by inserting instead the words "gunpowder or nitrocellulose propellant powder in accordance with regulations made";
- (ii) by omitting from section 8 the words "in small quantities";

Sec. 9.
(Governor may make regulations relating to factories for the manufacture of explosives.)

- (c) (i) by omitting from section 9 (j) the words "Factories and Shops Act, 1912" and by inserting instead the words "Factories, Shops and Industries Act, 1962";
- (ii) by omitting from section 9 (n) the words "in small quantities";
- (iii) by inserting after section 9 (n) the following paragraph :—
- (o) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the manufacture of explosives in the factory; and
- (ii) the removal of explosives from the factory.

Heading before sec. 10.

- (d) by omitting the words "*Importation of explosives.*" occurring before section 10 and by inserting instead the words "DIVISION 2.—*Importation of explosives.*";

(e)

Explosives (Amendment).

- (e) by inserting after section 12 (c) the following paragraph :—
- (d) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the importation of explosives; and
- (ii) the manner in which imported explosives are disposed of.
- (f) by omitting the words “*Keeping of explosives.*” occurring before section 13 and by inserting instead the words “*DIVISION 3.—Keeping of explosives.*” ;
- (g) (i) by omitting from section 13 (1) the words “An explosive” and by inserting instead the words “Subject to subsection (3), an explosive” ;
- (ii) by omitting the proviso to section 13 (1);
- (iii) by omitting from section 13 (2) the words “Any explosive kept” and by inserting instead the words “Subject to subsection (3), any explosive kept” ;
- (iv) by inserting after section 13 (2) the following subsections :—
- (3) Subsections (1) and (2) do not apply to—
- (a) the keeping in accordance with this Act, otherwise than for sale, of any explosive by a person if the

Sec. 12.
(Governor may make regulations as to importation of explosives.)

Heading before sec. 13.

Sec. 13.
(Explosives to be kept only in factory or authorised place.)

explosive

Explosives (Amendment).

explosive or explosives kept by him, whether in one or more places, does or do not comprise—

- (i) whether or not he is a person referred to in subparagraph (ii)—more than 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse; and
 - (ii) if he is the holder of a pistol licence or shooter's licence—more than 10 kilograms of propellant powder;
- (b) the keeping of any explosive in a ship, boat or carriage while being conveyed in the ship, boat or carriage in accordance with this Act;
 - (c) the keeping in accordance with this Act of safety fuses for blasting, railway fog-signals, or percussion caps, or any explosive exempted from the operation of this section by the regulations; or
 - (d) the keeping in accordance with this Act, otherwise than for sale, of safety cartridges.
- (4) For the purposes of subsection (3) (a), in determining the amount of explosive or explosives kept by a person, regard shall not be had to the amount of explosive or explosives kept by him at a place that is referred to in subsection (1) (a), (b), (c) or (d) and that

is

Explosives (Amendment).

is more than one kilometre, measured in a direct line, from any other place (not so referred to) at which he keeps or kept an explosive at any relevant time.

(5) The holder of a pistol licence or shooter's licence is not, by virtue of subsection (3) (a) (i), authorised to keep any propellant powder in excess of the amount thereof referred to in subsection (3) (a) (ii).

(6) Where a person purchases or receives more than the amount of explosives referred to in subsection (3) (a) by virtue of a condition or conditions attaching to a permit under Division 5 and specifying a maximum amount greater than the amount referred to in subsection (3) (a), he is not guilty of an offence under this section if he satisfies the court that he complied with the conditions of the permit to the extent to which they related to those explosives.

(7) In this section—

“blasting explosives” means explosives other than—

(a) detonators or detonating fuse; or

(b) any explosive referred to in subsection (3) (c) or (d);

“propellant powder” means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(h)

Explosives (Amendment).

Sec. 13A.
(Explosive not to be abandoned, etc.)

(h) by inserting after section 13A (3) the following subsections :—

(4) Without affecting section 25K, where an explosive is set to explode in any place but—

(a) it is not fired; or

(b) it misfires,

subsection (1) (a) does not apply to or in respect of that explosive while it remains in that place.

(5) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies but—

(a) it is not fired; or

(b) it misfires,

subsection (1) and any regulations made pursuant to subsection (2) do not apply to or in respect of that explosive while it remains in that place.

Sec. 13B.

(i) by inserting after section 13A the following section :—

Offences relating to possession of explosives

13B. (1) A person who has explosives in his possession, control or custody is guilty of an offence and liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both, unless he satisfies the court that—

(a) he purchased or otherwise received the explosives under the authority (as referred to in section 22D) of a license or permit under this Act or of a pistol licence or shooter's licence;

(b)

Explosives (Amendment).

- (b) he manufactured the explosives lawfully;
or
- (c) the explosives came into his possession,
control or custody in any other lawful
manner.

(2) A person who has purchased or received explosives under the authority of a permit under Division 5 shall not, while the permit remains in force, have in his possession, control or custody, at any one time, more than the maximum amount of explosives specified in a condition or conditions referred to in section 25D (3) and attaching to the permit.

Penalty : \$200.

(3) Subsection (2) does not apply where the additional explosives are in a person's possession, control or custody by virtue of his being the holder of a pistol licence or shooter's licence or in the prescribed circumstances.

- (4) A person shall not be convicted of—
 - (a) offences under both subsection (1) and section 22C; or
 - (b) offences under both subsection (2) and section 13,

in respect of the same explosive.

(5) All or any part of an explosive sold in contravention of subsection (1) or (2) may be forfeited while in the possession, control or custody of the person contravening that subsection.

(6) Nothing in this section applies to or in respect of safety cartridges.

- (j) by omitting from section 16 the word "Colonial";

Sec. 16.
(Payment of
store-rent
and
charges.)

(k)

Explosives (Amendment).

Sec. 17.
(Regulations for
keeping
explosives.)

(k) (i) by omitting from section 17 (ii) the words "the occupier" and by inserting instead the words "except as provided in paragraph (iii) —the occupier";

(ii) by inserting after section 17 (ii) the following paragraph :—

(iii) in the case of a breach of a provision of the regulations, in so far as that provision requires, or has the effect of requiring, explosives kept in a magazine or licensed premises to be kept in such compartment or other place, or in such receptacle, in the magazine or premises as may be specified or described in the regulations—the occupier shall be liable to a penalty not exceeding \$500, and, in the case of a second or subsequent offence, to an additional penalty not exceeding \$100 for every day during which the breach continues.

Sec. 17A.
(Governor may
regulate
the keep-
ing of
certain
explosives.)

(l) by omitting from section 17A (1) the words "paragraph (a), (b), (c) or (d) of subsection (1) of section 13 does not apply by virtue of the proviso to that subsection" and by inserting instead the words "section 13 (1) does not apply by virtue of section 13 (3)";

Heading
before
sec. 18.

(m) by omitting the words "*Conveyance of explosives.*" occurring before section 18 and by inserting instead the words "DIVISION 4.—*Conveyance of explosives.*";

Sec. 22.
(Governor may
regulate
the con-
veyance
of explo-
sives.)

(n) (i) by omitting from section 22 (j) the word "and" where secondly occurring;

(ii)

Explosives (Amendment).

(ii) by inserting after section 22 (k) the following paragraph :—

(1) requiring the keeping and production of records, and the making of returns, with respect to the conveyance of explosives.

(o) by omitting the words "*Sale of explosives.*" occurring before section 23 and by inserting instead the words "*DIVISION 5.—Sale or supply of explosives.*";

Heading before sec. 23.

(p) by inserting before section 23 the following sections :—

Secs. 22A–22D.

22A. (1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation: Div. 5 of Part II.

"license" means a license under this Division or under any other provision of this Act;

"officer" means a member of the Police Force;

"permit" means a permit under this Division.

(2) In this Division (other than sections 23, 24 and 25), "explosive" does not include safety cartridges or public display fireworks.

22B. (1) A person shall not sell any explosive unless he is the holder of a license authorising him to do so.

Seller of explosives to be licensed.

Penalty: \$800 or imprisonment for 12 months, or both.

(2) All or any part of an explosive sold in contravention of subsection (1) may be forfeited while in the possession, control or custody of the person contravening that subsection.

Explosives (Amendment).

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold the explosive as the employee of, or under the supervision of, the holder of a license that authorises the holder to sell the explosive.

Purchaser,
etc., of
explosives
to be
holder of
license,
permit or
other
authority.

22c. (1) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the other person is guilty of an offence, unless he satisfies the court—

(a) that he was, at the time of the sale or supply, the holder of—

- (i) a license, pistol licence or shooter's licence authorising the sale or supply; or
- (ii) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that he—

- (i) was, at the time of the sale or supply, the holder of a permit authorising the sale or supply; and
- (ii) produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.

(2)

Explosives (Amendment).

(2) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the firstmentioned person is guilty of an offence, unless he satisfies the court—

(a) that—

- (i) the other person was, at the time of the sale or supply; or
- (ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the holder of—

- (iii) a license, pistol licence or shooter's licence authorising the sale or supply; or
- (iv) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that—

- (i) the other person was, at the time of the sale or supply; or
- (ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the

Explosives (Amendment).

the holder of a permit authorising the sale or supply and that the other person produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.

(3) A person is not guilty of an offence under this section if he satisfies the court that—

- (a) the explosive was supplied (otherwise than by way of sale) to the other person referred to in subsection (1) or (2), as the case may require, for the purpose of carrying out work in or about a mine, quarry, farm, building site or other place on the day on which it was so supplied; and
- (b) he and the other person were employed or engaged in, or responsible for, carrying out work in or about the mine, quarry, farm, building site or other place.

(4) A person shall not be convicted of offences under both subsection (1) and section 25D (9) in respect of the purchase or receipt by him of explosives in contravention of a condition attaching to a permit of which he is the holder.

(5) A person is not guilty of an offence under subsection (2) if he satisfies the court that he sold or otherwise supplied the explosive to a person who was not, at the time of the sale or supply, required by subsection (1) to be the holder of a license, pistol licence, shooter's licence or instrument referred to in subsection (2) (a) (iv).

(6)

Explosives (Amendment).

(6) All or any part of an explosive in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

(7) A person who is guilty of an offence under this section is liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both.

22D. (1) A license or permit shall, for the purposes of this Act, be deemed to authorise—

Authority
conferred
by license
or permit.

(a) a sale or other supply of an explosive to the holder thereof; and

(b) a purchase or other receipt of an explosive by the holder thereof,

except in so far as the terms of, or the conditions attaching to, the license or permit, as the case may be, otherwise provide.

(2) A pistol licence or shooter's licence shall, for the purposes of this Act, be deemed to authorise—

(a) a sale or other supply of propellant powder to the holder thereof; or

(b) a purchase or other receipt of propellant powder by the holder thereof,

except in so far as the amount thereof so sold, supplied, purchased or received at any one time exceeds 10 kilograms.

(3) In this section, "propellant powder" means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(q)

Explosives (Amendment).

Sec. 24.

(q) by omitting section 24 and by inserting instead the following section :—

Sale or
supply of
explosives
to minors.

24. (1) A person shall not sell or otherwise supply any explosive to a person who is under the age of eighteen years.

Penalty : \$200.

(2) A person is not guilty of an offence under subsection (1) if he satisfies the court that he had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of eighteen years.

Sec. 25.

(Sale of
explosives:
to be in
closed
packages,
labelled.)

(r) (i) by omitting from section 25 the words "one pound in weight" and by inserting instead the matter "0.5 kilogram";

(ii) by omitting from section 25 the word "subsection" and by inserting instead the word "paragraph";

Secs.
25B-25I.

(s) by inserting after section 25A the following sections :—

Licenses
for sale of
explosives.

25B. (1) Licenses may be granted authorising the sale of explosives.

(2) The Governor may make regulations regulating the granting, renewing and altering of licenses under this section, and the fees payable therefor.

Permits for
purchase or
receipt of
explosives.

25c. (1) Permits may be granted for the purchase or receipt of explosives.

(2) An application for a permit shall be made in the prescribed manner to the officer in charge for the time being of the police station in or nearest to the place where the applicant ordinarily resides.

(3)

Explosives (Amendment).

(3) Subject to this section, the officer may grant the application or may refuse the application.

(4) No fee is payable in respect of a permit.

(5) The officer shall not grant an application for a permit made by a person who—

- (a) is not a natural person;
- (b) is under the age of eighteen years;
- (c) has been convicted in New South Wales or elsewhere of an offence and sentenced to penal servitude or imprisonment for twelve months or more and has been released from that penal servitude or imprisonment less than five years before the date of the application;
- (d) is subject to a recognizance, granted in New South Wales or elsewhere, to keep the peace; or
- (e) is the subject of a firearms prohibition order within the meaning of the Firearms and Dangerous Weapons Act, 1973.

(6) The officer shall not grant an application for a permit unless he is satisfied that the applicant is of good character and repute, has good reason for requiring the permit and can be trusted to have explosives in his possession and to use and carry explosives without danger to the public safety or to the peace.

(7) A permit shall be in or to the effect of the prescribed form.

(8) A permit shall, unless sooner revoked, remain in force for such period, not exceeding three months, as may be specified in the permit.

(9)

Explosives (Amendment).

(9) While two or more permits issued to a person would, but for this subsection, be in force at the same time, only the permit first issued shall be deemed to be in force for the purposes of this Act.

(10) The regulations may make provision for or with respect to the issue of substitute permits in the place of lost, damaged or destroyed permits.

Conditions
attaching
to permits.

25D. (1) Where an officer grants an application for a permit, the permit shall be issued subject to conditions.

(2) The officer may attach to a permit such prescribed conditions, or such conditions of prescribed classes, as he may determine.

(3) The officer shall attach a condition or conditions to the effect that not more than the amount of explosives specified therein may be purchased or received under the authority of the permit at any one time.

(4) Subject to subsections (5) and (6), the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) is 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(5) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required by the applicant for a permit for use on the day of purchase or receipt of the explosives, and that it is proper that the applicant should have more than that amount

of

Explosives (Amendment).

of explosives, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to the permit is 50 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(6) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required for use in a mine in relation to which an approval is in force under General Rule (2) in section 55 of the Mines Inspection Act, 1901, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit issued for the purpose of purchasing or receiving explosives for use therein is the maximum amount that may be stored in the mine under the authority of the approval.

(7) Without affecting the generality of subsection (2), nothing in this section prevents the regulations from prescribing a condition that may be attached to a permit and that provides—

(a) that—

- (i) only a number, specified in the permit, of purchases or receipts of explosives may be made;
- (ii) only a number, specified in the permit, of purchases or receipts of explosives may be made in any period, so specified;
- (iii) only explosives of a class or description specified in the permit may be purchased or received; or

(iv)

Explosives (Amendment).

- (iv) explosives of a class or description specified in the permit may not be purchased or received, under the authority of the permit; or
- (b) that blasting explosives purchased or received under the authority of the permit shall be used or otherwise disposed of on the day of the purchase or receipt.

(8) Without affecting the generality of subsection (2), where the condition or conditions referred to in subsection (3) and attaching to a permit specifies or specify, by virtue of subsection (5), an amount of blasting explosives that is more than 2.5 kilograms, the officer issuing the permit shall attach to the permit a condition of the kind referred to in subsection (7) (b).

(9) The holder of a permit shall not, without reasonable excuse, fail to comply with any condition attaching to the permit.

Penalty: \$800 or imprisonment for 12 months, or both.

(10) In this section, "blasting explosives" means explosives other than detonators or detonating fuse.

Revocation
of permits.

25E. (1) The officer in charge of the police station who granted an application for the permit, or the officer in charge of that station for the time being, or the Commissioner of Police, may, by instrument in writing, revoke a permit—

- (a) if, had the permit not been issued, he would be required, under section 25C (5) or (6), to refuse an application for a permit made by the holder of the permit;

(b)

Explosives (Amendment).

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii) failed to comply with any condition attaching to the permit;

(c) if he is satisfied that, at the time of the issue of the permit, another permit issued to the holder was in force; or

(d) if the holder of the permit has been convicted of an offence under this Division since the issue of the permit.

(2) Where an officer revokes a permit, he shall cause notice of the revocation to be served on the holder of the permit by sending the notice by post addressed to the holder at his address last known to the officer or by causing it to be delivered to the holder personally.

(3) The revocation of a permit shall take effect—

(a) where the notice of revocation is sent by post—when the notice would be delivered to the addressee in the ordinary course of post; or

(b) where the notice of revocation is delivered to the holder personally—when it is so delivered.

(4)

Explosives (Amendment).

(4) A permit shall be revoked if the holder of the permit so requests.

Appeals in
relation
to permits.

25F. (1) A person aggrieved by a decision of an officer—

- (a) to refuse to grant an application for a permit;
- (b) to attach a condition to a permit; or
- (c) to revoke a permit,

may, within the prescribed time and in the prescribed manner, appeal to the Minister.

(2) The decision of the Minister shall be final and shall be binding on the appellant and on the officer.

(3) The Minister—

- (a) shall not grant the appeal unless he is satisfied that the decision appealed against is incorrect;
- (b) shall refuse to grant the appeal if he is satisfied that the decision appealed against is correct; and
- (c) subject to paragraph (a), may, on the appeal, direct that a permit be issued subject to such conditions as an officer is authorised by this Act to impose when granting an application for a permit.

(4) Notwithstanding anything in this Division, the Minister may, if he is satisfied that, in all the circumstances it is proper to do so, grant

an

Explosives (Amendment).

an appeal notwithstanding that, but for this subsection, the appellant would be precluded from holding a permit by reason only of section 25c (5) (c), (d) or (e).

25G. (1) A person shall not, without reasonable excuse, have in his possession a permit that was not issued to him. Unlawful possession, etc., of permits.

(2) A person shall not, with intent to deceive, forge or alter a permit.

(3) The holder of a permit shall not lend the permit, or allow it to be used by any other person, for the purpose of purchasing or receiving explosives.

Penalty : \$200 or imprisonment for 3 months, or both.

25H. The Governor may make regulations for or Records. with respect to requiring the keeping and production of records, and the making of returns, with respect to the sale or other supply of explosives, or the purchase or other receipt of explosives, and, in particular, for or with respect to—

- (a) requiring details of the purchase or receipt of explosives under the authority of a permit to be made on a permit; and
- (b) requiring the retention and production of a permit (whether or not any explosives have been purchased or received under its authority).

Explosives (Amendment).

Exemptions.

25I. (1) The Governor may make regulations for or with respect to exempting, to the extent specified therein, and unconditionally or subject to prescribed conditions—

(a) any person or class or description of persons; or

(b) any explosive or class or description of explosive,

from any of the provisions of this Division specified in the regulations.

(2) Subsection (1) does not affect the generality of section 57.

Divs. 6 and
7 of Part II.

(t) by inserting before the heading occurring before section 26 the following Divisions :—

DIVISION 6.—*Use of explosives.*Negligent
or careless
use of
explosives.

25J. A person shall not negligently or carelessly prepare for use, or explode, or cause to be exploded, any explosive in such a manner or in such circumstances as—

(a) to endanger or be likely to endanger the life of any person;

(b) to cause or be likely to cause injury to any person; or

(c) to damage or be likely to cause damage to any property not belonging to the firstmentioned person.

Penalty : \$800 or imprisonment for 12 months, or both.

Explosives (Amendment).

25K. (1) Where a person sets, or causes to be set, an explosive to explode in any place, that person shall not—

Explosive not to be abandoned, etc., after set to explode.

(a) abandon that explosive; or

(b) leave that explosive unsupervised,

in that place until it has been exploded or has been rendered harmless, destroyed or otherwise disposed of.

Penalty : \$500.

(2) Where a person sets, or causes to be set, an explosive to explode in any place, an inspector may, if that explosive remains in that place, direct that person—

(a) to explode that explosive; or

(b) to render that explosive harmless, or destroy or otherwise dispose of it, in accordance with the conditions prescribed pursuant to section 13A (2).

(3) A person shall not, without reasonable excuse, fail to comply with a direction given to him under subsection (2).

Penalty : \$200.

(4) A direction under subsection (2) may be given orally or by instrument in writing.

(5) Subject to subsection (6), this section applies to and in respect of an explosive that has been set to explode, whether it has not been fired or whether it has misfired.

(6)

Explosives (Amendment).

(6) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies, but—

(a) it is not fired; or

(b) it misfires,

this section does not apply to or in respect of that explosive while it remains in that place.

DIVISION 7.—Public display fireworks.

Interpretation:
Div. 7 of
Part II.

25L. In this Division, “permit” means a permit under this Division.

Sale, etc.,
of public
display
fireworks.

25M. (1) A person shall not sell or otherwise supply any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

(2) A person shall not purchase or otherwise receive any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold or otherwise supplied the firework to a person who was not, at the time of the sale or supply, required by subsection (2) to be the holder of a permit.

(4) All or any part of a firework in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

Use of
public
display
firework.

25N. A person shall not set off any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

Explosives (Amendment).

250. (1) Permits may be granted for any or all of the following :—

Permits for sale, purchase, use, etc., of public display fireworks.

- (a) the sale or other supply;
- (b) the purchase or other receipt; or
- (c) the setting off,

of public display fireworks.

(2) A permit shall, for the purposes of this Act, be deemed to authorise the holder thereof and any person employed by him or under his supervision to do any or all of the things for which the permit was granted.

(3) An application for a permit shall be made in the prescribed manner to the superintendent.

(4) Subject to this section, the Minister may grant the application or may refuse the application.

(5) No fee is payable in respect of a permit.

(6) The Minister shall not grant an application for a permit made by a person who is under the age of eighteen years.

(7) The Minister shall not grant an application for a permit unless he is satisfied that the applicant has good reason for holding the permit and can be trusted to have public display fireworks in his possession and, where relevant, to use and carry public display fireworks without danger to the public safety.

(8)

Explosives (Amendment).

(8) A permit shall be in such form as the Minister thinks fit.

(9) A permit shall, unless sooner revoked, remain in force for such period as may be specified in the permit.

**Conditions
attaching
to permits.**

25P. (1) The Minister may attach to a permit such conditions as he may determine relating to the matters in respect of which the permit was granted.

(2) Without affecting the generality of subsection (1), the Minister shall attach such conditions to a permit as he considers necessary to ensure the safety of the public.

(3) The holder of the permit shall not fail to comply with any condition attaching to the permit.

Penalty for an offence under this subsection : \$500.

**Revocation
of permits.**

25Q. (1) The Minister may, by instrument in writing, revoke a permit—

(a) if, had the permit not been issued, he would be required, under section 25O, to refuse an application for a permit made by the holder of the permit;

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii)

Explosives (Amendment).

(ii) failed to comply with any condition attaching to the permit; or

(c) if he is satisfied that it is in the interests of the public safety to do so.

(2) A permit shall be revoked if the holder of the permit so requests.

(u) by omitting the words "*General provisions.*" occurring before section 26 and by inserting instead the words "*DIVISION 8.—General provisions.*" ;

Heading
before
sec. 26.

(v) by omitting from section 26 the words "under this Act" and by inserting instead the words "(which order the Minister is hereby authorised to make)";

Sec. 26.
(Governor may prohibit the manufacture, keeping, importation, conveyance, and sale of dangerous explosives.)

(w) by inserting after section 27 the following section :—

27A. A person shall not, with intent to deceive—

Alteration
or falsi-
fication of
entries in
books.

(a) alter or falsify any entry in a book or record required to be kept or made under this Act; or

(b) make a false or misleading entry in any such book or record.

Penalty : \$200 or imprisonment for 3 months, or both.

(x)

Explosives (Amendment).

Sec. 28.
(Explosives must be in the packages prescribed, and be safe for transport, storage, and use.)

- (x) by inserting at the end of section 28 the following subsections :—

(2) Where an examination is made of any explosive or package under subsection (1), the fee prescribed in relation to an examination of the class or description to which that examination belongs shall be paid to the superintendent by the owner, importer or consignee of the explosive, and may, subject to subsection (3), be recovered in the same manner as a penalty under this Act.

(3) Where—

- (a) the sum of the fees paid or payable by a person under subsection (2) and incurred during the one financial year exceeds the amount prescribed for the purposes of this subsection; and
- (b) proceedings, if they were to be commenced against that person for the recovery of that sum or any part thereof and if successful, would result in the recovery of an amount which (together with the fees, if any, paid in relation to that year by him before the commencement of the proceedings) exceeds that prescribed amount,

those proceedings shall not be commenced unless the written approval of the Minister to do so has been obtained before the commencement of the proceedings.

(4) The Minister may waive, wholly or in part, payment of any expenses or fees payable under this section.

(5)

Explosives (Amendment).

(5) In subsection (3), "financial year" means any period of twelve months ending on the thirtieth day of June in any year.

(y) by inserting after section 31 the following **Sec. 31A.**
section :—

31A. A person shall not, in an application made **False**
for a license or permit under this Act, make a state- **information**
ment that is false or misleading in a material **in**
application.
particular.

Penalty : \$200 or imprisonment for 3 months,
or both.

(z) (i) by inserting in section 32 after the word **Sec. 32.**
"prescribed" where firstly occurring the words (The
", but shall not be renewed in circumstances **granting,**
in which the grant of a new license would not **alteration**
and renewing
be authorised by this Act"; **of licenses.)**

(ii) by omitting from section 32 the words "All
licenses shall expire on the thirtieth day of
September in each year, but may be
renewed.";

(iii) by inserting at the end of section 32 the
following subsections :—

(2) A license under this Act—

(a) except as provided in paragraph
(b)—expires on the thirtieth day of
September next following its issue;
or

Explosives (Amendment).

- (b) where the license bears an endorsement to that effect—expires on the thirtieth day of September next following the day referred to in paragraph (a),

but nothing in this subsection prevents the license from being renewed.

(3) The Minister may waive, wholly or in part, payment of the fee payable for any license under this Act.

Sec. 34.
(License
personal
to grantee.)

- (aa) (i) by inserting in section 34 after the words “importation license” the words “, or a license under Division 5,”;
- (ii) by omitting from section 34 the words “, and unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be renewed annually”;

Sec. 35.
(Provision
in case of
death, &c.,
of occupier
of magazine,
store, or
licensed
premises.)

- (bb) by inserting in section 35 after the words “importation license” the words “or a license under Division 5”;

Sec. 36.
(Regulations
and
orders.)

- (cc) (i) by omitting from section 36 (1) the words “regulations and”;
- (ii) by omitting section 36 (2) and by inserting instead the following subsection :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(dd)

Explosives (Amendment).

- (dd) by inserting after section 36 the following Sec. 36A.
section :—

36A. The Governor may, by notification published in the Gazette, revoke or amend any notification under this Act.

Revocation
and
amendment
of notifica-
tions.

5. Part III of the Explosives Act, 1905, is amended—

Further
amendment
of Act No.
41, 1905.
(Part III.—
Administra-
tive and
supple-
mental.)

- (a) by inserting at the end of section 39 the following subsections :—

Sec. 39.
(Powers of
superin-
tendent and
inspectors.)

(2) The superintendent or an inspector may render harmless, destroy or otherwise dispose of any explosives if they were received by the superintendent or any inspector for that purpose or if the owner of the explosives consents thereto.

(3) Nothing in subsection (2) limits any power, authority, duty or function conferred or imposed on the superintendent or an inspector by or under this Act to render harmless, destroy or otherwise dispose of any explosives.

(4) Divisions 5 and 7 of Part II do not apply to or in respect of the receipt of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector or to or in respect of the supply of those explosives to the superintendent or inspector by another person.

Explosives (Amendment).

(5) Division 3 of Part II does not apply to or in respect of the keeping of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector.

Sec. 41.
(Search for explosive when in place in contravention of this Act.)

- (b) by omitting from section 41 (b) (ii) the words “explosives department” and by inserting instead the words “Explosives Branch of the Department of Mines”;

Sec. 42.
(Seizure and detention of explosives liable to forfeiture.)

- (c) (i) by omitting from section 42 (a) the words “explosives department” where firstly occurring and by inserting instead the words “Explosives Branch of the Department of Mines or”;

- (ii) by omitting from section 42 (a) the words “explosives department” where secondly occurring and by inserting instead the words “Explosives Branch of the Department of Mines”;

Secs. 51A–51D.

- (d) by inserting after section 51 the following sections :—

Time for commencement of proceedings.

51A. Proceedings for an offence, committed against this Act or the regulations after the commencement of section 5 of the Explosives (Amendment) Act, 1974, may be commenced at any time within twelve months after the offence was committed.

Evidence as to whether substance is an explosive.

51B. An allegation in an information in respect of an offence against this Act or the regulations that any substance in relation to which the offence is alleged to have been committed is an explosive

within

Explosives (Amendment).

within the meaning of this Act shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

51C. (1) A director, within the meaning of the Companies Act, 1961, or an employee, of a corporation which commits an offence arising under any provision of this Act or the regulations is guilty of the same offence and may be punished accordingly. **Liability of directors, etc., of corporations.**

(2) A person is not guilty of an offence by reason of the operation of subsection (1) if he proves that—

- (a) the offence committed by the corporation was committed without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

51D. (1) Where any person, as the employee of another person, who is in this section referred to as “the employer”, contravenes this Act or the regulations or is guilty of an offence against this Act or the regulations, the employer is guilty of an offence against this Act or the regulations, as the case may be. **Liability of employers.**

(2) The employer is not guilty of an offence by reason of subsection (1) if he proves that—

- (a) he did not authorise or permit the contravention or offence by the employee; and

(b)

Explosives (Amendment).

- (b) he used all due diligence to prevent such a contravention or the commission of such an offence.

(3) The employer may be proceeded against and convicted pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under this Act.

(4) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act or the regulations is actually committed.

Sec. 58.
(Saving.)

- (e) (i) by omitting from section 58 the words "section 55 subsection (2)" and by inserting instead the words "General Rule (2) in section 55";
- (ii) by omitting from section 58 the matter "1912-1931" and by inserting instead the words "1912, nor the Scaffolding and Lifts Act, 1912";

Sec. 59.
(Exceptions
from
operation
of the
Act.)

- (f) (i) by omitting from section 59 (b) the words "or army" and by inserting instead the words ", army or air force";
- (ii) by omitting section 59 (c) and by inserting instead the following paragraph :—
- (c) to any explosive that is on board any vessel and that is, by or under any Act or law, required to be carried as part of the vessel's equipment;

(iii)

Explosives (Amendment).

(iii) by inserting after section 59 (d) the following paragraph :—

(e) to any explosive to which Part II of the Explosives Act 1961–1966, as subsequently amended, of the Parliament of the Commonwealth applies.

(g) by omitting from section 60 the words “of the explosives department”.

Sec. 60.
(Saving clause for acts done from necessity.)

6. (1) A provision of the Explosives Act, 1905, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule.

Further amendment of Act No. 41, 1905.

(2) Nothing in this Act affects the penalty, pecuniary or other, that may be imposed on conviction for an offence committed against the Explosives Act, 1905, or the regulations thereunder, before the commencement of this section.

7. (1) A license in force under the Explosives Act, 1905, immediately before the commencement of this section shall be deemed to have been issued under that Act, as amended by this Act, and shall expire on the day on which it would have expired had this Act not been enacted.

Savings and transitional provisions.

(2) If this section commences before, on, or within three months after, the commencement of the Firearms and Dangerous Weapons Act, 1973—

(a) the Explosives Act, 1905, as amended by this Act, shall be construed as if it were amended—

(i) by omitting from section 13 (3) (a) (i) the words “whether or not he is a person referred to in subparagraph (ii)—”;

(ii)

Explosives (Amendment).

- (ii) by omitting from section 13 (3) (a) (ii) the words “if he is the holder of a pistol licence or shooter’s licence—”;
 - (iii) by omitting from section 13 (5) the words “The holder of a pistol licence or shooter’s licence” and by inserting instead the words “A person”;
 - (iv) by omitting from section 25D (4) the matter “and (6)” and by inserting instead the matter “, (6) and (6A)”;
 - (v) by inserting after section 25D (6) the following subsection :—
 - (6A) Where the officer is satisfied that it is proper to do so, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit is—
 - (a) 2.5 kilograms of blasting explosives (other than propellant powder within the meaning of section 22D), 110 detonators and 250 metres of detonating fuse; and
 - (b) 10 kilograms of propellant powder within the meaning of section 22D.
- (b) paragraph (a) ceases to have any effect on the expiration of the period of three months after the commencement of the Firearms and Dangerous Weapons Act, 1973, but nothing in this paragraph affects a permit in force, or any condition attaching thereto and in force, immediately before the expiration of that period.

Explosives (Amendment).

SCHEDULE.

Sec. 6.

Column 1.	Column 2.
Section 6	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$1,000".
Section 8	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 9	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100".
Section 10	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 11	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 12	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
	<i>Omit</i> "twenty dollars"; <i>insert</i> instead "\$100".
Section 13 (2) ..	<i>Omit</i> "two hundred dollars or imprisonment for a period not exceeding three months"; <i>insert</i> instead "\$800 or imprisonment for a period not exceeding twelve months, or both".
Section 13A (3) ..	<i>Omit</i> "two hundred dollars or to imprisonment for a period not exceeding three months"; <i>insert</i> instead "\$800 or to imprisonment for a period not exceeding twelve months, or both".
Section 17	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100".
Section 17A (3) (b) ..	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$500".
Section 18	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 19	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 20	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
Section 22	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$200".
Section 23	<i>Omit</i> "four dollars"; <i>insert</i> instead "\$200".
Section 25	<i>Omit</i> "four dollars"; <i>insert</i> instead "\$100".
Section 25A	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$100".
Section 26	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 28	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
Section 29	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
Section 30	<i>Omit</i> "one hundred dollars" wherever occurring; <i>insert</i> instead "\$500".
	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000".
Section 31	<i>Omit</i> "four dollars"; <i>insert</i> instead "\$100".
Section 35A (2) (b) ..	<i>Omit</i> "twenty dollars" wherever occurring; <i>insert</i> instead "\$100".
Section 39	<i>Omit</i> "two hundred dollars"; <i>insert</i> instead "\$1,000."
Section 40	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
Section 41	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
Section 42 (a)	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$500".
Section 44	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
Section 46	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
Section 47	<i>Omit</i> "ten dollars"; <i>insert</i> instead "\$100".
	<i>Omit</i> "one hundred dollars"; <i>insert</i> instead "\$1,000".
Section 50	<i>Omit</i> "twenty dollars"; <i>insert</i> instead "\$100".
Section 51	After "months" <i>insert</i> "or, where the person is a corporation, to pay a penalty of \$5,000".
Section 55	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".
Section 57	<i>Omit</i> "forty dollars"; <i>insert</i> instead "\$200".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of New South Wales.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 November, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 77, 1974.

An Act to reduce the maximum amount of explosives that may be kept in places not licensed under the Explosives Act, 1905; to impose restrictions on the sale or supply of explosives; to create offences in connection with the use of explosives; to increase penalties for certain offences relating to explosives; for these and other purposes to amend the Explosives Act, 1905; and for purposes connected therewith. [Assented to, 27th November, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Explosives (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Explosives (Amendment) Act, 1974".

Commence-
ment. 2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment
of Act No.
41, 1905.
(Part I.—
Pre-
liminary.)

3. Part I of the Explosives Act, 1905, is amended—

Sec. 2A.

(a) by inserting after section 2 the following section and heading thereto:—

Division of Act.

Division
of Act.

2A. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–7.

PART II.—MANUFACTURE, IMPORTATION, KEEP-
ING, CONVEYANCE, SALE, SUPPLY AND USE OF
EXPLOSIVES—ss. 8–36A.

DIVISION 1.—*Manufacture of explosives*—ss. 8,
9.

DIVISION 2.—*Importation of explosives*—ss.
10–12.

DIVISION 3.—*Keeping of explosives*—ss. 13–17A.

DIVISION 4.—*Conveyance of explosives*—ss.
18–22.

DIVISION

Explosives (Amendment).

DIVISION 5.—*Sale or supply of explosives—ss. 22A–25I.*

DIVISION 6.—*Use of explosives—ss. 25J, 25K.*

DIVISION 7.—*Public display fireworks—ss. 25L–25Q.*

DIVISION 8.—*General provisions—ss. 26–36A.*

PART III.—ADMINISTRATIVE AND SUPPLEMENTAL
—ss. 37–60.

- (b) (i) by omitting from section 7 the words “unless ^{Sec. 7.} the context otherwise requires,” and by insert- ^(Definition of words and ex-pressions.) ing instead the words “except in so far as the context or subject-matter otherwise indicates or requires”;
- (ii) by omitting the definition of “Court” and “court of summary jurisdiction” in section 7 and by inserting instead the following definition :—
- “Court” and “court of summary jurisdiction” mean a court of petty sessions constituted by a stipendiary magistrate sitting alone.
- (iii) by omitting from paragraph (a) of the definition of “Explosive” in section 7 the word “Means” and by inserting instead the word “means”;
- (iv) by omitting from the definition of “Justice” in section 7 the words “police or”;
- (v) by inserting after the definition of “Occupier” in section 7 the following definition :—
- “Pistol licence” means a pistol licence issued under the Firearms and Dangerous Weapons Act, 1973.
- (vi)

Explosives (Amendment).

- (vi) by inserting after the definition of "Premises" in section 7 the following definition :—

"Public display firework" means a firework of a class or description prescribed for the purposes of this definition.

- (vii) by omitting the definition of "Public magazine" in section 7 and by inserting instead the following definition :—

"Public magazine" means a magazine declared to be a public magazine under subsection (4).

- (viii) by inserting after the definition of "Ship" in section 7 the following definition :—

"Shooter's licence" means a shooter's licence issued under the Firearms and Dangerous Weapons Act, 1973.

- (ix) by omitting from the definition of "Superintendent" in section 7 the words "Explosives Department" and by inserting instead the words "Explosives Branch of the Department of Mines";

- (x) by inserting in the definition of "This Act" in section 7 after the word "license," the word "permit,";

- (xi) by inserting at the end of section 7 the following subsections :—

(2) In sections 6, 22B, 26, 28 and 57, "sell" includes—

- (a) barter or exchange;
- (b) agree to sell, barter or exchange;
- (c) offer or expose for sale, barter or exchange;
- (d) send, forward or deliver for or on sale or for barter or exchange;

(e)

Explosives (Amendment).

- (e) have in possession for sale, barter or exchange;
- (f) cause or suffer to be sold, bartered, exchanged, offered for sale, exposed for sale or sent, forwarded or delivered for or on sale or for barter or exchange; and
- (g) attempt to sell, barter, exchange, expose for sale or send, forward or deliver for or on sale or for barter or exchange.

(3) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to a license or permit is a reference to a license or permit, as the case may be, that is in force.

(4) The Governor may, by notification published in the Gazette, declare a magazine to be a public magazine for the storage of explosives.

4. Part II of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905.

(Part II.—
Manu-
facture,
importa-
tion,
keeping,
convey-
ance, sale,
supply and
use of ex-
plosives.)

- (a) (i) by omitting from the heading to Part II the words "AND SALE" and by inserting instead the words "SALE, SUPPLY AND USE";

Heading before sec. 8.

(ii)

Explosives (Amendment).

- (ii) by omitting the words "*Manufacture of explosives.*" occurring before section 8 and by inserting instead the words "DIVISION 1.—*Manufacture of explosives.*";
- Sec. 8.
(Explosive to be manufactured only at factory licensed under this Act.)
- (b) (i) by omitting from section 8 the words "explosive in connection with a licensed magazine or licensed premises, so that the occupier of such magazine or premises observe regulations prescribed" and by inserting instead the words "gunpowder or nitrocellulose propellant powder in accordance with regulations made";
- (ii) by omitting from section 8 the words "in small quantities";
- Sec. 9.
(Governor may make regulations relating to factories for the manufacture of explosives.)
- (c) (i) by omitting from section 9 (j) the words "Factories and Shops Act, 1912" and by inserting instead the words "Factories, Shops and Industries Act, 1962";
- (ii) by omitting from section 9 (n) the words "in small quantities";
- (iii) by inserting after section 9 (n) the following paragraph :—
- (o) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the manufacture of explosives in the factory; and
- (ii) the removal of explosives from the factory.
- Heading before sec. 10.
- (d) by omitting the words "*Importation of explosives.*" occurring before section 10 and by inserting instead the words "DIVISION 2.—*Importation of explosives.*";
- (e)

Explosives (Amendment).

- (e) by inserting after section 12 (c) the following paragraph :—
- (d) requiring the keeping and production of records, and the making of returns, with respect to—
- (i) the importation of explosives; and
- (ii) the manner in which imported explosives are disposed of.
- (f) by omitting the words “*Keeping of explosives.*” occurring before section 13 and by inserting instead the words “*DIVISION 3.—Keeping of explosives.*” ;
- (g) (i) by omitting from section 13 (1) the words “An explosive” and by inserting instead the words “Subject to subsection (3), an explosive” ;
- (ii) by omitting the proviso to section 13 (1) ;
- (iii) by omitting from section 13 (2) the words “Any explosive kept” and by inserting instead the words “Subject to subsection (3), any explosive kept” ;
- (iv) by inserting after section 13 (2) the following subsections :—
- (3) Subsections (1) and (2) do not apply to—
- (a) the keeping in accordance with this Act, otherwise than for sale, of any explosive by a person if the

Sec. 12.
(Governor may make regulations as to importation of explosives.)

Heading before sec. 13.

Sec. 13.
(Explosives to be kept only in factory or authorised place.)

explosive

Explosives (Amendment).

explosive or explosives kept by him, whether in one or more places, does or do not comprise—

- (i) whether or not he is a person referred to in subparagraph (ii)—more than 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse; and
- (ii) if he is the holder of a pistol licence or shooter's licence—more than 10 kilograms of propellant powder;
- (b) the keeping of any explosive in a ship, boat or carriage while being conveyed in the ship, boat or carriage in accordance with this Act;
- (c) the keeping in accordance with this Act of safety fuses for blasting, railway fog-signals, or percussion caps, or any explosive exempted from the operation of this section by the regulations; or
- (d) the keeping in accordance with this Act, otherwise than for sale, of safety cartridges.

(4) For the purposes of subsection (3) (a), in determining the amount of explosive or explosives kept by a person, regard shall not be had to the amount of explosive or explosives kept by him at a place that is referred to in subsection (1) (a), (b), (c) or (d) and that

is

Explosives (Amendment).

is more than one kilometre, measured in a direct line, from any other place (not so referred to) at which he keeps or kept an explosive at any relevant time.

(5) The holder of a pistol licence or shooter's licence is not, by virtue of subsection (3) (a) (i), authorised to keep any propellant powder in excess of the amount thereof referred to in subsection (3) (a) (ii).

(6) Where a person purchases or receives more than the amount of explosives referred to in subsection (3) (a) by virtue of a condition or conditions attaching to a permit under Division 5 and specifying a maximum amount greater than the amount referred to in subsection (3) (a), he is not guilty of an offence under this section if he satisfies the court that he complied with the conditions of the permit to the extent to which they related to those explosives.

(7) In this section—

“blasting explosives” means explosives other than—

(a) detonators or detonating fuse; or

(b) any explosive referred to in subsection (3) (c) or (d);

“propellant powder” means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(h)

Explosives (Amendment).

Sec. 13A.
(Explosive
not to be
abandoned,
etc.)

(h) by inserting after section 13A (3) the following subsections :—

(4) Without affecting section 25K, where an explosive is set to explode in any place but—

(a) it is not fired; or

(b) it misfires,

subsection (1) (a) does not apply to or in respect of that explosive while it remains in that place.

(5) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies but—

(a) it is not fired; or

(b) it misfires,

subsection (1) and any regulations made pursuant to subsection (2) do not apply to or in respect of that explosive while it remains in that place.

Sec. 13B.

(i) by inserting after section 13A the following section :—

Offences
relating
to possession
of
explosives.

13B. (1) A person who has explosives in his possession, control or custody is guilty of an offence and liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both, unless he satisfies the court that—

(a) he purchased or otherwise received the explosives under the authority (as referred to in section 22D) of a license or permit under this Act or of a pistol licence or shooter's licence;

(b)

Explosives (Amendment).

- (b) he manufactured the explosives lawfully;
or
- (c) the explosives came into his possession,
control or custody in any other lawful
manner.

(2) A person who has purchased or received explosives under the authority of a permit under Division 5 shall not, while the permit remains in force, have in his possession, control or custody, at any one time, more than the maximum amount of explosives specified in a condition or conditions referred to in section 25D (3) and attaching to the permit.

Penalty : \$200.

(3) Subsection (2) does not apply where the additional explosives are in a person's possession, control or custody by virtue of his being the holder of a pistol licence or shooter's licence or in the prescribed circumstances.

- (4) A person shall not be convicted of—
- (a) offences under both subsection (1) and section 22C; or
 - (b) offences under both subsection (2) and section 13,

in respect of the same explosive.

(5) All or any part of an explosive sold in contravention of subsection (1) or (2) may be forfeited while in the possession, control or custody of the person contravening that subsection.

(6) Nothing in this section applies to or in respect of safety cartridges.

- (j) by omitting from section 16 the word "Colonial"; Sec. 16.

(k) (Payment of
store-rent
and
charges.)

Explosives (Amendment).

Sec. 17.
(Regulations for
keeping
explosives.)

- (k) (i) by omitting from section 17 (ii) the words "the occupier" and by inserting instead the words "except as provided in paragraph (iii)—the occupier";
- (ii) by inserting after section 17 (ii) the following paragraph :—
- (iii) in the case of a breach of a provision of the regulations, in so far as that provision requires, or has the effect of requiring, explosives kept in a magazine or licensed premises to be kept in such compartment or other place, or in such receptacle, in the magazine or premises as may be specified or described in the regulations—the occupier shall be liable to a penalty not exceeding \$500, and, in the case of a second or subsequent offence, to an additional penalty not exceeding \$100 for every day during which the breach continues.

Sec. 17A.
(Governor may
regulate the keep-
ing of
certain
explosives.)

- (l) by omitting from section 17A (1) the words "paragraph (a), (b), (c) or (d) of subsection (1) of section 13 does not apply by virtue of the proviso to that subsection" and by inserting instead the words "section 13 (1) does not apply by virtue of section 13 (3)";

Heading
before
sec. 18.

- (m) by omitting the words "*Conveyance of explosives.*" occurring before section 18 and by inserting instead the words "DIVISION 4.—*Conveyance of explosives.*";

Sec. 22.
(Governor may
regulate the con-
veyance
of explo-
sives.)

- (n) (i) by omitting from section 22 (j) the word "and" where secondly occurring;

(ii)

Explosives (Amendment).

(ii) by inserting after section 22 (k) the following paragraph :—

(1) requiring the keeping and production of records, and the making of returns, with respect to the conveyance of explosives.

(o) by omitting the words "*Sale of explosives.*" occurring before section 23 and by inserting instead the words "*DIVISION 5.—Sale or supply of explosives.*"; Heading before sec. 23.

(p) by inserting before section 23 the following sections :— Secs. 22A–22D.

22A. (1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation: Div. 5 of Part II.

"license" means a license under this Division or under any other provision of this Act;

"officer" means a member of the Police Force;

"permit" means a permit under this Division.

(2) In this Division (other than sections 23, 24 and 25), "explosive" does not include safety cartridges or public display fireworks.

22B. (1) A person shall not sell any explosive unless he is the holder of a license authorising him to do so. Seller of explosives to be licensed.

Penalty: \$800 or imprisonment for 12 months, or both.

(2) All or any part of an explosive sold in contravention of subsection (1) may be forfeited while in the possession, control or custody of the person contravening that subsection.

(3)

Explosives (Amendment).

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold the explosive as the employee of, or under the supervision of, the holder of a license that authorises the holder to sell the explosive.

Purchaser,
etc., of
explosives
to be
holder of
license,
permit or
other
authority.

22c. (1) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the other person is guilty of an offence, unless he satisfies the court—

(a) that he was, at the time of the sale or supply, the holder of—

- (i) a license, pistol licence or shooter's licence authorising the sale or supply; or
- (ii) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that he—

- (i) was, at the time of the sale or supply, the holder of a permit authorising the sale or supply; and
- (ii) produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.

(2)

Explosives (Amendment).

(2) Subject to subsection (3), where a person sells or otherwise supplies an explosive to another person, the firstmentioned person is guilty of an offence, unless he satisfies the court—

(a) that—

- (i) the other person was, at the time of the sale or supply; or
- (ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the holder of—

- (iii) a license, pistol licence or shooter's licence authorising the sale or supply; or
- (iv) an instrument specified or described, for the purposes of this section, in the regulations or issued or given, for the purposes of this section, under the regulations; or

(b) that—

- (i) the other person was, at the time of the sale or supply; or
- (ii) the firstmentioned person had, at the time of the sale or supply, reasonable grounds for believing, and did in fact believe, that the other person was,

the

Explosives (Amendment).

the holder of a permit authorising the sale or supply and that the other person produced the permit for inspection, at the time of the sale or supply, to the firstmentioned person or an employee of the firstmentioned person or, where the firstmentioned person is a corporation, to a director, within the meaning of the Companies Act, 1961, or an employee, of the corporation.

(3) A person is not guilty of an offence under this section if he satisfies the court that—

- (a) the explosive was supplied (otherwise than by way of sale) to the other person referred to in subsection (1) or (2), as the case may require, for the purpose of carrying out work in or about a mine, quarry, farm, building site or other place on the day on which it was so supplied; and
- (b) he and the other person were employed or engaged in, or responsible for, carrying out work in or about the mine, quarry, farm, building site or other place.

(4) A person shall not be convicted of offences under both subsection (1) and section 25D (9) in respect of the purchase or receipt by him of explosives in contravention of a condition attaching to a permit of which he is the holder.

(5) A person is not guilty of an offence under subsection (2) if he satisfies the court that he sold or otherwise supplied the explosive to a person who was not, at the time of the sale or supply, required by subsection (1) to be the holder of a license, pistol licence, shooter's licence or instrument referred to in subsection (2) (a) (iv).

(6)

Explosives (Amendment).

(6) All or any part of an explosive in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

(7) A person who is guilty of an offence under this section is liable to a penalty not exceeding \$800 or to imprisonment for a period not exceeding twelve months, or both.

22D. (1) A license or permit shall, for the purposes of this Act, be deemed to authorise—

Authority
conferred
by license
or permit.

(a) a sale or other supply of an explosive to the holder thereof; and

(b) a purchase or other receipt of an explosive by the holder thereof,

except in so far as the terms of, or the conditions attaching to, the license or permit, as the case may be, otherwise provide.

(2) A pistol licence or shooter's licence shall, for the purposes of this Act, be deemed to authorise—

(a) a sale or other supply of propellant powder to the holder thereof; or

(b) a purchase or other receipt of propellant powder by the holder thereof,

except in so far as the amount thereof so sold, supplied, purchased or received at any one time exceeds 10 kilograms.

(3) In this section, "propellant powder" means gunpowder or nitrocellulose propellant powder, other than gunpowder or nitrocellulose propellant powder contained in a safety cartridge.

(q)

Explosives (Amendment).

Sec. 24.

- (q) by omitting section 24 and by inserting instead the following section :—

Sale or
supply of
explosives
to minors.

24. (1) A person shall not sell or otherwise supply any explosive to a person who is under the age of eighteen years.

Penalty : \$200.

(2) A person is not guilty of an offence under subsection (1) if he satisfies the court that he had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of eighteen years.

Sec. 25.
(Sale of
explosives:
to be in
closed
packages,
labelled.)

- (r) (i) by omitting from section 25 the words "one pound in weight" and by inserting instead the matter "0.5 kilogram";
(ii) by omitting from section 25 the word "subsection" and by inserting instead the word "paragraph";

Secs.
25B-25I.

- (s) by inserting after section 25A the following sections :—

Licenses
for sale of
explosives.

25B. (1) Licenses may be granted authorising the sale of explosives.

(2) The Governor may make regulations regulating the granting, renewing and altering of licenses under this section, and the fees payable therefor.

Permits for
purchase or
receipt of
explosives.

25C. (1) Permits may be granted for the purchase or receipt of explosives.

(2) An application for a permit shall be made in the prescribed manner to the officer in charge for the time being of the police station in or nearest to the place where the applicant ordinarily resides.

(3)

Explosives (Amendment).

(3) Subject to this section, the officer may grant the application or may refuse the application.

(4) No fee is payable in respect of a permit.

(5) The officer shall not grant an application for a permit made by a person who—

- (a) is not a natural person;
- (b) is under the age of eighteen years;
- (c) has been convicted in New South Wales or elsewhere of an offence and sentenced to penal servitude or imprisonment for twelve months or more and has been released from that penal servitude or imprisonment less than five years before the date of the application;
- (d) is subject to a recognizance, granted in New South Wales or elsewhere, to keep the peace; or
- (e) is the subject of a firearms prohibition order within the meaning of the Firearms and Dangerous Weapons Act, 1973.

(6) The officer shall not grant an application for a permit unless he is satisfied that the applicant is of good character and repute, has good reason for requiring the permit and can be trusted to have explosives in his possession and to use and carry explosives without danger to the public safety or to the peace.

(7) A permit shall be in or to the effect of the prescribed form.

(8) A permit shall, unless sooner revoked, remain in force for such period, not exceeding three months, as may be specified in the permit.

(9)

Explosives (Amendment).

(9) While two or more permits issued to a person would, but for this subsection, be in force at the same time, only the permit first issued shall be deemed to be in force for the purposes of this Act.

(10) The regulations may make provision for or with respect to the issue of substitute permits in the place of lost, damaged or destroyed permits.

Conditions
attaching
to permits.

25D. (1) Where an officer grants an application for a permit, the permit shall be issued subject to conditions.

(2) The officer may attach to a permit such prescribed conditions, or such conditions of prescribed classes, as he may determine.

(3) The officer shall attach a condition or conditions to the effect that not more than the amount of explosives specified therein may be purchased or received under the authority of the permit at any one time.

(4) Subject to subsections (5) and (6), the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) is 2.5 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(5) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required by the applicant for a permit for use on the day of purchase or receipt of the explosives, and that it is proper that the applicant should have more than that amount

(2)
of

Explosives (Amendment).

of explosives, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to the permit is 50 kilograms of blasting explosives, 110 detonators and 250 metres of detonating fuse.

(6) Where the officer is satisfied that more than the maximum amount of explosives referred to in subsection (4) is required for use in a mine in relation to which an approval is in force under General Rule (2) in section 55 of the Mines Inspection Act, 1901, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit issued for the purpose of purchasing or receiving explosives for use therein is the maximum amount that may be stored in the mine under the authority of the approval.

(7) Without affecting the generality of subsection (2), nothing in this section prevents the regulations from prescribing a condition that may be attached to a permit and that provides—

(a) that—

- (i) only a number, specified in the permit, of purchases or receipts of explosives may be made;
- (ii) only a number, specified in the permit, of purchases or receipts of explosives may be made in any period, so specified;
- (iii) only explosives of a class or description specified in the permit may be purchased or received; or

(iv)

Explosives (Amendment).

(iv) explosives of a class or description specified in the permit may not be purchased or received,

under the authority of the permit; or

(b) that blasting explosives purchased or received under the authority of the permit shall be used or otherwise disposed of on the day of the purchase or receipt.

(8) Without affecting the generality of subsection (2), where the condition or conditions referred to in subsection (3) and attaching to a permit specifies or specify, by virtue of subsection (5), an amount of blasting explosives that is more than 2.5 kilograms, the officer issuing the permit shall attach to the permit a condition of the kind referred to in subsection (7) (b).

(9) The holder of a permit shall not, without reasonable excuse, fail to comply with any condition attaching to the permit.

Penalty: \$800 or imprisonment for 12 months, or both.

(10) In this section, "blasting explosives" means explosives other than detonators or detonating fuse.

Revocation
of permits.

25E. (1) The officer in charge of the police station who granted an application for the permit, or the officer in charge of that station for the time being, or the Commissioner of Police, may, by instrument in writing, revoke a permit—

(a) if, had the permit not been issued, he would be required, under section 25C (5) or (6), to refuse an application for a permit made by the holder of the permit;

(b)

Explosives (Amendment).

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii) failed to comply with any condition attaching to the permit;

(c) if he is satisfied that, at the time of the issue of the permit, another permit issued to the holder was in force; or

(d) if the holder of the permit has been convicted of an offence under this Division since the issue of the permit.

(2) Where an officer revokes a permit, he shall cause notice of the revocation to be served on the holder of the permit by sending the notice by post addressed to the holder at his address last known to the officer or by causing it to be delivered to the holder personally.

(3) The revocation of a permit shall take effect—

(a) where the notice of revocation is sent by post—when the notice would be delivered to the addressee in the ordinary course of post; or

(b) where the notice of revocation is delivered to the holder personally—when it is so delivered.

(4)

Explosives (Amendment).

(4) A permit shall be revoked if the holder of the permit so requests.

Appeals in
relation
to permits.

25F. (1) A person aggrieved by a decision of an officer—

- (a) to refuse to grant an application for a permit;
- (b) to attach a condition to a permit; or
- (c) to revoke a permit,

may, within the prescribed time and in the prescribed manner, appeal to the Minister.

(2) The decision of the Minister shall be final and shall be binding on the appellant and on the officer.

(3) The Minister—

- (a) shall not grant the appeal unless he is satisfied that the decision appealed against is incorrect;
- (b) shall refuse to grant the appeal if he is satisfied that the decision appealed against is correct; and
- (c) subject to paragraph (a), may, on the appeal, direct that a permit be issued subject to such conditions as an officer is authorised by this Act to impose when granting an application for a permit.

(4) Notwithstanding anything in this Division, the Minister may, if he is satisfied that, in all the circumstances it is proper to do so, grant

an

Explosives (Amendment).

an appeal notwithstanding that, but for this subsection, the appellant would be precluded from holding a permit by reason only of section 25c (5) (c), (d) or (e).

25G. (1) A person shall not, without reasonable excuse, have in his possession a permit that was not issued to him. Unlawful possession, etc., of permits.

(2) A person shall not, with intent to deceive, forge or alter a permit.

(3) The holder of a permit shall not lend the permit, or allow it to be used by any other person, for the purpose of purchasing or receiving explosives.

Penalty : \$200 or imprisonment for 3 months, or both.

25H. The Governor may make regulations for or Records. with respect to requiring the keeping and production of records, and the making of returns, with respect to the sale or other supply of explosives, or the purchase or other receipt of explosives, and, in particular, for or with respect to—

- (a) requiring details of the purchase or receipt of explosives under the authority of a permit to be made on a permit; and
- (b) requiring the retention and production of a permit (whether or not any explosives have been purchased or received under its authority).

25I.

Explosives (Amendment).

Exemptions.

25i. (1) The Governor may make regulations for or with respect to exempting, to the extent specified therein, and unconditionally or subject to prescribed conditions—

(a) any person or class or description of persons; or

(b) any explosive or class or description of explosive,

from any of the provisions of this Division specified in the regulations.

(2) Subsection (1) does not affect the generality of section 57.

Divs. 6 and 7 of Part II.

(t) by inserting before the heading occurring before section 26 the following Divisions :—

DIVISION 6.—*Use of explosives.*

Negligent or careless use of explosives.

25j. A person shall not negligently or carelessly prepare for use, or explode, or cause to be exploded, any explosive in such a manner or in such circumstances as—

(a) to endanger or be likely to endanger the life of any person;

(b) to cause or be likely to cause injury to any person; or

(c) to damage or be likely to cause damage to any property not belonging to the firstmentioned person.

Penalty : \$800 or imprisonment for 12 months, or both.

25k.

Explosives (Amendment).

25K. (1) Where a person sets, or causes to be set, an explosive to explode in any place, that person shall not—

Explosive
not to be
abandoned,
etc., after
set to
explode.

(a) abandon that explosive; or

(b) leave that explosive unsupervised,

in that place until it has been exploded or has been rendered harmless, destroyed or otherwise disposed of.

Penalty : \$500.

(2) Where a person sets, or causes to be set, an explosive to explode in any place, an inspector may, if that explosive remains in that place, direct that person—

(a) to explode that explosive; or

(b) to render that explosive harmless, or destroy or otherwise dispose of it, in accordance with the conditions prescribed pursuant to section 13A (2).

(3) A person shall not, without reasonable excuse, fail to comply with a direction given to him under subsection (2).

Penalty : \$200.

(4) A direction under subsection (2) may be given orally or by instrument in writing.

(5) Subject to subsection (6), this section applies to and in respect of an explosive that has been set to explode, whether it has not been fired or whether it has misfired.

(6)

Explosives (Amendment).

(6) Where an explosive is set to explode in any place in connection with any work to which the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or the Scaffolding and Lifts Act, 1912, applies, but—

(a) it is not fired; or

(b) it misfires,

this section does not apply to or in respect of that explosive while it remains in that place.

DIVISION 7.—Public display fireworks.

25L. In this Division, “permit” means a permit under this Division.

25M. (1) A person shall not sell or otherwise supply any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

(2) A person shall not purchase or otherwise receive any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

(3) A person is not guilty of an offence under subsection (1) if he satisfies the court that he sold or otherwise supplied the firework to a person who was not, at the time of the sale or supply, required by subsection (2) to be the holder of a permit.

(4) All or any part of a firework in respect of which an offence under this section is committed may be forfeited while in the possession, control or custody of the person committing the offence.

25N. A person shall not set off any public display firework unless he does so under the authority of a permit.

Penalty: \$500.

25O.

Interpretation:
Div. 7 of
Part II.

Sale, etc.,
of public
display
fireworks.

Use of
public
display
firework.

Explosives (Amendment).

25o. (1) Permits may be granted for any or all of the following :—

Permits for sale, purchase, use, etc., of public display fireworks.

- (a) the sale or other supply;
- (b) the purchase or other receipt; or
- (c) the setting off,

of public display fireworks.

(2) A permit shall, for the purposes of this Act, be deemed to authorise the holder thereof and any person employed by him or under his supervision to do any or all of the things for which the permit was granted.

(3) An application for a permit shall be made in the prescribed manner to the superintendent.

(4) Subject to this section, the Minister may grant the application or may refuse the application.

(5) No fee is payable in respect of a permit.

(6) The Minister shall not grant an application for a permit made by a person who is under the age of eighteen years.

(7) The Minister shall not grant an application for a permit unless he is satisfied that the applicant has good reason for holding the permit and can be trusted to have public display fireworks in his possession and, where relevant, to use and carry public display fireworks without danger to the public safety.

(8)

Explosives (Amendment).

(8) A permit shall be in such form as the Minister thinks fit.

(9) A permit shall, unless sooner revoked, remain in force for such period as may be specified in the permit.

Conditions
attaching
to permits.

25P. (1) The Minister may attach to a permit such conditions as he may determine relating to the matters in respect of which the permit was granted.

(2) Without affecting the generality of subsection (1), the Minister shall attach such conditions to a permit as he considers necessary to ensure the safety of the public.

(3) The holder of the permit shall not fail to comply with any condition attaching to the permit.

Penalty for an offence under this subsection : \$500.

Revocation
of permits.

25Q. (1) The Minister may, by instrument in writing, revoke a permit—

(a) if, had the permit not been issued, he would be required, under section 25O, to refuse an application for a permit made by the holder of the permit;

(b) if he is satisfied that the holder of the permit—

(i) made a statement in or in connection with his application for the permit that is false or misleading in a material particular; or

(ii)

Explosives (Amendment).

- (ii) failed to comply with any condition attaching to the permit; or
- (c) if he is satisfied that it is in the interests of the public safety to do so.
- (2) A permit shall be revoked if the holder of the permit so requests.
- (u) by omitting the words "*General provisions.*" occurring before section 26 and by inserting instead the words "*DIVISION 8.—General provisions.*" ; Heading before sec. 26.
- (v) by omitting from section 26 the words "under this Act" and by inserting instead the words "(which order the Minister is hereby authorised to make)" ; Sec. 26.
(Governor may prohibit the manufacture, keeping, importation, conveyance, and sale of dangerous explosives.)
- (w) by inserting after section 27 the following section :— Sec. 27A.
 - 27A. A person shall not, with intent to deceive— Alteration or falsification of entries in books.
 - (a) alter or falsify any entry in a book or record required to be kept or made under this Act; or
 - (b) make a false or misleading entry in any such book or record.

Penalty : \$200 or imprisonment for 3 months, or both.

(x)

Explosives (Amendment).

Sec. 28.
(Explosives
must be in
the packages
prescribed,
and be safe
for transport,
storage, and
use.)

- (x) by inserting at the end of section 28 the following subsections :—

(2) Where an examination is made of any explosive or package under subsection (1), the fee prescribed in relation to an examination of the class or description to which that examination belongs shall be paid to the superintendent by the owner, importer or consignee of the explosive, and may, subject to subsection (3), be recovered in the same manner as a penalty under this Act.

- (3) Where—

- (a) the sum of the fees paid or payable by a person under subsection (2) and incurred during the one financial year exceeds the amount prescribed for the purposes of this subsection; and
- (b) proceedings, if they were to be commenced against that person for the recovery of that sum or any part thereof and if successful, would result in the recovery of an amount which (together with the fees, if any, paid in relation to that year by him before the commencement of the proceedings) exceeds that prescribed amount,

those proceedings shall not be commenced unless the written approval of the Minister to do so has been obtained before the commencement of the proceedings.

(4) The Minister may waive, wholly or in part, payment of any expenses or fees payable under this section.

(5)

Explosives (Amendment).

(5) In subsection (3), "financial year" means any period of twelve months ending on the thirtieth day of June in any year.

- (y) by inserting after section 31 the following Sec. 31A.
section :—

31A. A person shall not, in an application made ~~False~~ False information in application. for a license or permit under this Act, make a statement that is false or misleading in a material ~~in~~ particular.

Penalty : \$200 or imprisonment for 3 months, or both.

- (z) (i) by inserting in section 32 after the word Sec. 32.
"prescribed" where firstly occurring the words (The
", but shall not be renewed in circumstances granting,
in which the grant of a new license would not alteration
be authorised by this Act"; and renewing of licenses.)

- (ii) by omitting from section 32 the words "All licenses shall expire on the thirtieth day of September in each year, but may be renewed.";

- (iii) by inserting at the end of section 32 the following subsections :—

(2) A license under this Act—

- (a) except as provided in paragraph
(b)—expires on the thirtieth day of
September next following its issue;
or

(b)

Explosives (Amendment).

- (b) where the license bears an endorsement to that effect—expires on the thirtieth day of September next following the day referred to in paragraph (a),

but nothing in this subsection prevents the license from being renewed.

(3) The Minister may waive, wholly or in part, payment of the fee payable for any license under this Act.

Sec. 34.
(License
personal
to grantee.)

- (aa) (i) by inserting in section 34 after the words “importation license” the words “, or a license under Division 5,”;

- (ii) by omitting from section 34 the words “, and unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, shall be renewed annually”;

Sec. 35.
(Provision
in case of
death, &c.,
of occupier
of magazine,
store, or
licensed
premises.)

- (bb) by inserting in section 35 after the words “importation license” the words “or a license under Division 5”;

Sec. 36.
(Regulations
and
orders.)

- (cc) (i) by omitting from section 36 (1) the words “regulations and”;

- (ii) by omitting section 36 (2) and by inserting instead the following subsection :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(dd)

Explosives (Amendment).

(dd) by inserting after section 36 the following section :—

36A. The Governor may, by notification published in the Gazette, revoke or amend any notification under this Act.

Revocation and amendment of notifications.

5. Part III of the Explosives Act, 1905, is amended—

Further amendment of Act No. 41, 1905. (Part III.—Administrative and supplemental.)

(a) by inserting at the end of section 39 the following subsections :—

Sec. 39. (Powers of superintendent and inspectors.)

(2) The superintendent or an inspector may render harmless, destroy or otherwise dispose of any explosives if they were received by the superintendent or any inspector for that purpose or if the owner of the explosives consents thereto.

(3) Nothing in subsection (2) limits any power, authority, duty or function conferred or imposed on the superintendent or an inspector by or under this Act to render harmless, destroy or otherwise dispose of any explosives.

(4) Divisions 5 and 7 of Part II do not apply to or in respect of the receipt of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector or to or in respect of the supply of those explosives to the superintendent or inspector by another person.

(5)

Explosives (Amendment).

(5) Division 3 of Part II does not apply to or in respect of the keeping of explosives by the superintendent or an inspector in connection with his powers, authorities, duties or functions as superintendent or inspector.

Sec. 41.
(Search for explosive when in place in contravention of this Act.)

- (b) by omitting from section 41 (b) (ii) the words "explosives department" and by inserting instead the words "Explosives Branch of the Department of Mines";

Sec. 42.
(Seizure and detention of explosives liable to forfeiture.)

- (c) (i) by omitting from section 42 (a) the words "explosives department" where firstly occurring and by inserting instead the words "Explosives Branch of the Department of Mines or";

- (ii) by omitting from section 42 (a) the words "explosives department" where secondly occurring and by inserting instead the words "Explosives Branch of the Department of Mines";

Secs. 51A–51D.

- (d) by inserting after section 51 the following sections :—

Time for commencement of proceedings.

51A. Proceedings for an offence, committed against this Act or the regulations after the commencement of section 5 of the Explosives (Amendment) Act, 1974, may be commenced at any time within twelve months after the offence was committed.

Evidence as to whether substance is an explosive.

51B. An allegation in an information in respect of an offence against this Act or the regulations that any substance in relation to which the offence is alleged to have been committed is an explosive

within

Explosives (Amendment).

within the meaning of this Act shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

51C. (1) A director, within the meaning of the Companies Act, 1961, or an employee, of a corporation which commits an offence arising under any provision of this Act or the regulations is guilty of the same offence and may be punished accordingly. Liability of directors, etc., of corporations.

(2) A person is not guilty of an offence by reason of the operation of subsection (1) if he proves that—

- (a) the offence committed by the corporation was committed without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

51D. (1) Where any person, as the employee of another person, who is in this section referred to as “the employer”, contravenes this Act or the regulations or is guilty of an offence against this Act or the regulations, the employer is guilty of an offence against this Act or the regulations, as the case may be. Liability of employers.

(2) The employer is not guilty of an offence by reason of subsection (1) if he proves that—

- (a) he did not authorise or permit the contravention or offence by the employee; and

(b)

Explosives (Amendment).

(b) he used all due diligence to prevent such a contravention or the commission of such an offence.

(3) The employer may be proceeded against and convicted pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under this Act.

(4) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act or the regulations is actually committed.

Sec. 58.
(Saving.)

- (e) (i) by omitting from section 58 the words "section 55 subsection (2)" and by inserting instead the words "General Rule (2) in section 55";
- (ii) by omitting from section 58 the matter "1912-1931" and by inserting instead the words "1912, nor the Scaffolding and Lifts Act, 1912";

Sec. 59.
(Exceptions
from
operation
of the
Act.)

- (f) (i) by omitting from section 59 (b) the words "or army" and by inserting instead the words ", army or air force";
- (ii) by omitting section 59 (c) and by inserting instead the following paragraph :—
- (c) to any explosive that is on board any vessel and that is, by or under any Act or law, required to be carried as part of the vessel's equipment;

(iii)

Explosives (Amendment).

(iii) by inserting after section 59 (d) the following paragraph :—

(e) to any explosive to which Part II of the Explosives Act 1961–1966, as subsequently amended, of the Parliament of the Commonwealth applies.

(g) by omitting from section 60 the words “of the explosives department”.

Sec. 60.
(Saving
clause
for acts
done from
necessity.)

6. (1) A provision of the Explosives Act, 1905, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule. Further amendment of Act No. 41, 1905.

(2) Nothing in this Act affects the penalty, pecuniary or other, that may be imposed on conviction for an offence committed against the Explosives Act, 1905, or the regulations thereunder, before the commencement of this section.

7. (1) A license in force under the Explosives Act, 1905, immediately before the commencement of this section shall be deemed to have been issued under that Act, as amended by this Act, and shall expire on the day on which it would have expired had this Act not been enacted. Savings and transitional provisions.

(2) If this section commences before, on, or within three months after, the commencement of the Firearms and Dangerous Weapons Act, 1973—

(a) the Explosives Act, 1905, as amended by this Act, shall be construed as if it were amended—

(i) by omitting from section 13 (3) (a) (i) the words “whether or not he is a person referred to in subparagraph (ii)—”;

(ii)

Explosives (Amendment).

- (ii) by omitting from section 13 (3) (a) (ii) the words "if he is the holder of a pistol licence or shooter's licence—";
- (iii) by omitting from section 13 (5) the words "The holder of a pistol licence or shooter's licence" and by inserting instead the words "A person";
- (iv) by omitting from section 25D (4) the matter "and (6)" and by inserting instead the matter ", (6) and (6A)";
- (v) by inserting after section 25D (6) the following subsection :—

(6A) Where the officer is satisfied that it is proper to do so, the maximum amount of explosives that may be specified in a condition or conditions referred to in subsection (3) and attaching to a permit is—

- (a) 2.5 kilograms of blasting explosives (other than propellant powder within the meaning of section 22D), 110 detonators and 250 metres of detonating fuse; and
 - (b) 10 kilograms of propellant powder within the meaning of section 22D.
- (b) paragraph (a) ceases to have any effect on the expiration of the period of three months after the commencement of the Firearms and Dangerous Weapons Act, 1973, but nothing in this paragraph affects a permit in force, or any condition attaching thereto and in force, immediately before the expiration of that period.

SCHEDULE.

Explosives (Amendment).

SCHEDULE.

Sec. 6.

Column 1.	Column 2.
Section 6	<i>Omit "one hundred dollars"; insert instead "\$1,000".</i>
Section 8	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 9	<i>Omit "twenty dollars" wherever occurring; insert instead "\$100".</i>
Section 10	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 11	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 12	<i>Omit "forty dollars"; insert instead "\$200".</i>
	<i>Omit "twenty dollars"; insert instead "\$100".</i>
Section 13 (2) ..	<i>Omit "two hundred dollars or imprisonment for a period not exceeding three months"; insert instead "\$800 or imprisonment for a period not exceeding twelve months, or both".</i>
Section 13A (3) ..	<i>Omit "two hundred dollars or to imprisonment for a period not exceeding three months"; insert instead "\$800 or to imprisonment for a period not exceeding twelve months, or both".</i>
Section 17	<i>Omit "twenty dollars" wherever occurring; insert instead "\$100".</i>
Section 17A (3) (b) ..	<i>Omit "twenty dollars" wherever occurring; insert instead "\$500".</i>
Section 18	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 19	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 20	<i>Omit "one hundred dollars"; insert instead "\$500".</i>
Section 22	<i>Omit "twenty dollars" wherever occurring; insert instead "\$200".</i>
Section 23	<i>Omit "four dollars"; insert instead "\$200".</i>
Section 25	<i>Omit "four dollars"; insert instead "\$100".</i>
Section 25A	<i>Omit "one hundred dollars"; insert instead "\$100".</i>
Section 26	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 28	<i>Omit "one hundred dollars"; insert instead "\$500".</i>
Section 29	<i>Omit "one hundred dollars"; insert instead "\$500".</i>
Section 30	<i>Omit "one hundred dollars" wherever occurring; insert instead "\$500".</i>
	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 31	<i>Omit "four dollars"; insert instead "\$100".</i>
Section 35A (2) (b) ..	<i>Omit "twenty dollars" wherever occurring; insert instead "\$100".</i>
Section 39	<i>Omit "two hundred dollars"; insert instead "\$1,000".</i>
Section 40	<i>Omit "forty dollars"; insert instead "\$200".</i>
Section 41	<i>Omit "one hundred dollars"; insert instead "\$500".</i>
Section 42 (a)	<i>Omit "one hundred dollars"; insert instead "\$500".</i>
Section 44	<i>Omit "forty dollars"; insert instead "\$200".</i>
Section 46	<i>Omit "forty dollars"; insert instead "\$200".</i>
Section 47	<i>Omit "ten dollars"; insert instead "\$100".</i>
	<i>Omit "one hundred dollars"; insert instead "\$1,000".</i>
Section 50	<i>Omit "twenty dollars"; insert instead "\$100".</i>
Section 51	<i>After "months" insert "or, where the person is a corporation, to pay a penalty of \$5,000".</i>
Section 55	<i>Omit "forty dollars"; insert instead "\$200".</i>
Section 57	<i>Omit "forty dollars"; insert instead "\$200".</i>

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

A. R. CUTLER,
Governor.

Government House,
Sydney, 27th November, 1974.

