



# Explosives Act 1961

No. 65, 1961

## Compilation No. 8

<b>Compilation date:</b>	21 October 2016
<b>Includes amendments up to:</b>	Act No. 61, 2016
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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Explosives Act 1961* that shows the text of the law as amended and in force on 21 October 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act relating to Explosives**

## **Part I—Preliminary**

### **1 Short title**

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

### **2 Commencement**

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

### **5 Interpretation**

In this Act, unless the contrary intention appears:

*explosives* means:

- (a) substances or articles capable of producing an explosive, incendiary or pyrotechnic effect;
- (b) substances or articles prescribed by the regulations to be explosives; or
- (c) containers that have contained a substance or article to which paragraph (a) or (b) applies and have not been certified, in accordance with the regulations, to be free from explosives.

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

*vessel* means a ship, boat or other vessel used for any purpose on the sea or in navigation.

### **6 Act binds Crown**

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the

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Northern Territory and any authority constituted by or under a law of the Commonwealth, of a State or of a Territory.

**7 Act extends to Territories**

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

**7A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## **Part II—Handling of explosives**

### **8 Interpretation**

In this Part, *vessel* does not include a vessel belonging to the naval forces of the Commonwealth or of another part of the Queen's dominions.

### **9 Explosives to which this Part applies**

This Part applies to explosives that:

- (a) are the property of, or are in the possession or control of, the Commonwealth;
- (ab) have been manufactured by the Commonwealth and, in pursuance of an arrangement made with the Commonwealth, are intended to be, or are being, exported from the Commonwealth; or
- (b) are the property of, or are in the possession or control of, the government or the naval, military or air forces of another country and are in the Commonwealth or a Territory with the approval of the Commonwealth for the purposes of, or a purpose related to, the defence of the Commonwealth.

### **10 Regulations**

- (1) The regulations may make provision:
  - (a) for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of explosives to which this Part applies; and
  - (b) for or in relation to safety measures to be observed at, in or upon a place, vehicle, aircraft or vessel at, in, upon or in the vicinity of which there are explosives to which this Part applies.
- (2) Before making regulations for or in relation to the handling in a port of explosives to which this Part applies, the Governor-General

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shall take into consideration any recommendations with respect to the proposed regulations made to the Minister by the committee known as the Council of the Association of Australian Port and Marine Authorities.

### 11 Orders relating to the berthing of vessels

- (1) The regulations may empower a person to direct, by order, that a vessel in which explosives to which this Part applies are, or are to be, loaded may, for a purpose or purposes specified in the order, be berthed in a port so specified.
- (2) The regulations may provide that where:
  - (a) the port specified in an order referred to in subsection (1) is a prescribed port; and
  - (b) the vessel to which the order relates is not provided with a berth in the port or is provided with a berth in the port that, in the opinion of the person who made the order, is not suitable for the purpose or purposes specified in the order;that person may, by order, give such directions as are necessary for ensuring that the vessel is, for such period as is necessary, provided with a berth in the port that is so suitable.
- (3) Except in the case of explosives referred to in paragraph 9(ab) or (b), the powers conferred by regulations made by virtue of subsection (1) shall not be exercised otherwise than for a purpose related to the defence of the Commonwealth.

### 11A Orders relating to transporting explosives by railway

- (1) The regulations may empower a person to give, by order, such directions as are necessary for ensuring that such explosives to which this Part applies as are specified in the order are transported by railway between such places, on such day or days and in such manner as are so specified.
- (2) Except in the case of explosives referred to in paragraph 9(ab) or (b), the powers conferred by regulations made by virtue of

subsection (1) shall not be exercised otherwise than for a purpose related to the defence of the Commonwealth.

## **12 Indemnity**

- (1) The Commonwealth may indemnify a person from and against all actions, proceedings, claims, demands, costs and expenses relating to any loss, damage or injury to any person or property attributable to explosives to which this Part applies or to the handling of explosives to which this Part applies.
- (2) An indemnity given under section 10 of the *Explosives Act 1952*, or that Act as amended, and in force immediately before the commencement of this Act has, after the commencement of this Act, the same force and effect as if:
  - (a) the indemnity had been given under the last preceding subsection;
  - (b) any reference in the indemnity to the *Explosives Act 1952* or any amendment of that Act were a reference to this Act; and
  - (c) any reference in the indemnity to the regulations made under the *Explosives Act 1952* or any amendment of that Act or to Explosives Regulations were a reference to regulations made under this Act for the purposes of this Part.

## Part III—Control of Commonwealth explosives areas

### 13 Interpretation

In this Part:

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

**Commonwealth land** means land the property of the Commonwealth and includes any other land:

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

### 14 Regulations

- (1) The regulations may make provision for ensuring the safety of persons who are, and the protection from damage of property that is, in or in the vicinity of a Commonwealth explosives area.
- (2) Without limiting the generality of subsection (1), the regulations may make provision:
  - (a) for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of explosives and other goods in or in the vicinity of a Commonwealth explosives area;
  - (b) for or in relation to safety measures to be observed in or in the vicinity of a Commonwealth explosives area;
  - (c) prohibiting or regulating the entry of persons, vehicles, aircraft and vessels into, and the movement of persons,

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

## **Part IV—Miscellaneous**

### **15 Orders**

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

### **16 General provisions applicable to orders**

- (1) Orders made under the regulations are legislative instruments.
- (4) Where the regulations confer power to make orders, the power includes, unless the contrary intention appears, power exercisable in the like manner, and subject to the like conditions (if any), to repeal, revoke, amend or vary an order so made.

### **17 Date from which orders take effect**

An order made under the regulations takes effect from the date of notification of the order, or on such later date as is prescribed or as is fixed under the regulations.

### **18 Proof of instruments**

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

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

**19 Committees of advice**

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

**20 Offences**

A person who contravenes, or fails to comply with, a provision of the regulations or of an order made under the regulations commits an offence against this Act punishable upon conviction by:

- (a) imprisonment for a term not exceeding 6 months or a fine not exceeding 10 penalty units, or both, and in addition, if the offence is a continuing offence, by a fine not exceeding 2 penalty units for each day during which the offence continues; or
- (b) such lesser penalty as is prescribed.

**21 Regulations**

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

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled

Endnote 1—About the endnotes

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law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Explosives Act 1961	65, 1961	24 Oct 1961	30 July 1962 (s 2 and gaz 1962, p. 2641)	
Explosives Act 1964	47, 1964	28 May 1964	4 Feb 1965 (s 2 and gaz 1965, p. 639)	—
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	First Sch and Second Sch: 1 Dec 1966 (s 2(1))	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	s 9(1), 10, Sch 1 and Sch 2: 31 Dec 1973 (s 2)	s 9(1) and 10
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 103–106: 20 Oct 1982 (s 2(16))	—
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	Sch: 2 Dec 1988 (s 2)	—
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001	143, 2001	1 Oct 2001	s 4 and Sch 3 (item 53): 2 Oct 2001 (s 2)	s 4
Defence Legislation Amendment Act (No. 1) 2005	121, 2005	6 Oct 2005	Sch 5 (item 24): 1 Jan 2005 (s 2(1) (item 3))	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 3 (item 13): 10 Dec 2015 (s 2(1) item 7)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 162): 10 Mar 2016 (s 2(1) item 6)	—

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (item 231): 21 Oct 2016 (s 2(1) item 1)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part I</b>	
s 3 .....	am No 47, 1964 rep No 216, 1973
s 4 .....	rep No 216, 1973
s 5 .....	am No 80, 1982
s 6 .....	am No 216, 1973, No 145, 2015
s 7 .....	am No 216, 1973
s 7A.....	ad No 143, 2001
<b>Part II</b>	
Part II heading.....	rs No 47, 1964
s 9 .....	am No 47, 1964; No 216, 1973
s 10 .....	am No 216, 1973
s 11 .....	am No 47, 1964; No 80, 1982
s 11A.....	ad No 47, 1964 am No 80, 1982
s 12 .....	am No 80, 1982
<b>Part III</b>	
s 14 .....	am No 80, 1982
<b>Part IV</b>	
s 16 .....	am No 80, 1982; No 99, 1988; No 121, 2005
s 17 .....	rs No 80, 1982
s 20 .....	am No 93, 1966; No 80, 1982; No 4, 2016; No 61, 2016