

South Australia



ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001

EXPLOSIVES (MISCELLANEOUS) AMENDMENT ACT 2001

No. 31 of 2001

[Assented to 3 August 2001]

An Act to amend the Explosives Act 1936.

SUMMARY OF PROVISIONS

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2. Commencement
3. Amendment of s. 4—Interpretation
4. Amendment of s. 23—Keeping of explosives
5. Insertion of s. 48A
 - 48A. Conditions of licences and permits
6. Amendment of s. 50—Penalty on and removal of trespassers
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 52. Regulations
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SCHEDULE*Further Amendments of Principal Act*

The Parliament of South Australia enacts as follows:**Short title**

1. (1) This Act may be cited as the *Explosives (Miscellaneous) Amendment Act 2001*.
- (2) The *Explosives Act 1936* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended by striking out the definition of "inspector" and substituting the following definition:

"inspector" means a police officer or a person appointed as an inspector of explosives under section 9;

Amendment of s. 23—Keeping of explosives

4. Section 23 of the principal Act is amended by striking out from subsection (4) "or a member of the police force".

Insertion of s. 48A

5. The following section is inserted after section 48 of the principal Act:

Conditions of licences and permits

48A. (1) The issuing authority may, at any time, by notice in writing given personally or by post to the holder of a licence or permit granted under this Act, vary or revoke a condition of the licence or permit imposed by the issuing authority, or attach a further condition to the licence or permit.

(2) In this section—

"issuing authority" means the Minister or the Director responsible for granting licences or permits of the class concerned.

Amendment of s. 50—Penalty on and removal of trespassers

6. Section 50 of the principal Act is amended by striking out from subsection (1a) "member of the police force" and substituting "police officer".

Substitution of s. 52

7. Section 52 of the principal Act is repealed and the following section is substituted:

Regulations

52. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) provide for licences or permits in respect of—

(i) the mixing and use of Ammonium Nitrate mixture;

- (ii) the importation of explosives;
- (iii) the keeping and selling of explosives;
- (iv) the purchase of explosives;
- (v) the use of explosives;
- (vi) any other class of activity related to explosives;
- (b) prescribe or provide for the imposition of conditions of a licence or permit granted under this Act;
- (c) make provision for the suspension or revocation of a licence or permit granted under this Act;
- (d) prescribe or provide for the term of a licence or permit granted under this Act and for the renewal of such a licence or permit;
- (e) in relation to a factory for the manufacture of explosives, prescribe—
 - (i) rules to be observed in the factory; or
 - (ii) any matter in relation to—
 - (A) the construction of the factory; or
 - (B) the safety of persons in the factory or the public generally;
- (f) provide for or regulate the inspection or testing of explosives;
- (g) regulate or prohibit the manufacture, storage, receipt, removal, packaging, labelling, display or carriage of explosives or ingredients of explosives;
- (h) regulate or restrict the mixing of, or use of, products that may be used for blasting;
- (i) regulate or prohibit the sale of explosives or prescribe the conditions on which, or the persons to whom, explosives may be sold;
- (j) regulate or prohibit the importation into the State of explosives;
- (k) regulate or prohibit the use of explosives;
- (l) prescribe the forms or processes for making applications for the purposes of this Act;
- (m) exempt, or provide for the exemption of, classes of persons, explosives or activities from the application of this Act or specified provisions of this Act (either conditionally or unconditionally);
- (n) fix fees in respect of any matter under this Act and provide for their payment, recovery or waiver;

- (o) prescribe fines not exceeding \$5 000 for offences against the regulations.
- (3) The regulations may—
 - (a) be of general or limited application;
 - (b) vary in their application according to prescribed factors;
 - (c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, the Director, or an inspector.

Validation

8. (1) The regulations made or purportedly made under the principal Act before the commencement of this Act have the same force and effect, in relation to acts, omissions or things occurring after that commencement, as if made under the principal Act as amended by this Act.

(2) If a licence, permit, exemption, approval, authorisation, consent or direction purportedly in force under the regulations at the commencement of this Act could, if granted or given after that commencement, have been validly granted or given, the licence, permit, exemption, approval, authorisation, consent or direction—

- (a) is (and is taken always to have been) a valid licence, permit, exemption, approval, authorisation, consent or direction; and
- (b) is subject to any conditions purportedly in force at the commencement of this Act that could have been validly imposed after that commencement.

Further amendments of principal Act

9. The principal Act is further amended as set out in the Schedule.

SCHEDULE
Further Amendments of Principal Act

Provision Amended	How Amended
Section 3	Strike out this section.
Section 11(2)	Strike out "a division 9 fine" and substitute "\$750".
Section 12(3)	Strike out the penalty provision and substitute the following penalty provision: Maximum penalty: (a) in the case of a body corporate—\$35 000; (b) in any other case—\$5 000 or imprisonment for 12 months, or both.
Section 13(1)	Strike out the penalty provision and substitute the following penalty provision: Maximum penalty: (a) in the case of a body corporate—\$35 000; (b) in any other case—\$5 000 or imprisonment for 12 months, or both.
Section 16(2)	Strike out the penalty provision and substitute the following penalty provision: Maximum penalty: (a) in the case of a body corporate—\$35 000; (b) in any other case—\$5 000 or imprisonment for 12 months, or both.
Section 18	Strike out the penalty provision and substitute the following penalty provision: Maximum penalty: (a) in the case of a body corporate—\$35 000; (b) in any other case—\$5 000 or imprisonment for 12 months, or both.
Section 19(1)	Strike out the penalty provision and substitute the following penalty provision: Maximum penalty: (a) in the case of a body corporate—\$35 000; (b) in any other case—\$5 000 or imprisonment for 12 months, or both.
Section 21(4)	Strike out the penalty provision and substitute the following penalty provision: Maximum penalty: (a) in the case of a body corporate—\$35 000; (b) in any other case—\$5 000 or imprisonment for 12 months, or both.

Provision Amended	How Amended
Section 22(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty:</p> <p>(a) in the case of a body corporate—\$35 000;</p> <p>(b) in any other case—\$5 000 or imprisonment for 12 months, or both.</p>
Section 23(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty:</p> <p>(a) in the case of a body corporate—\$35 000;</p> <p>(b) in any other case—\$5 000 or imprisonment for 12 months, or both.</p> <p>Expiation fee: \$315.</p>
Section 27(1)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty: \$750.</p>
Section 29(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty: \$5 000.</p>
Section 31(4)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty: \$5 000 or imprisonment for 12 months, or both.</p>
Section 33(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty: \$5 000.</p>
Section 34(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty: \$5 000.</p>
Section 35(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty: \$5 000 or imprisonment for 12 months, or both.</p>
Section 36(2)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p>Maximum penalty:</p> <p>(a) in the case of a body corporate—\$35 000;</p> <p>(b) in any other case—\$5 000 or imprisonment for 12 months, or both.</p>

Provision Amended	How Amended
Section 37(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty: \$5 000 or imprisonment for 12 months, or both.</p>
Section 38(2)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty: \$5 000 or imprisonment for 12 months, or both.</p>
Section 39(2)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty:</p> <p style="padding-left: 80px;">(a) in the case of a body corporate—\$35 000;</p> <p style="padding-left: 80px;">(b) in any other case—\$5 000 or imprisonment for 12 months, or both.</p>
Section 43	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty: \$5 000.</p>
Section 44(1)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty: \$5 000.</p>
Section 48(3)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty:</p> <p style="padding-left: 80px;">(a) in the case of a body corporate—\$35 000;</p> <p style="padding-left: 80px;">(b) in any other case—\$5 000 or imprisonment for 12 months, or both.</p>
Section 50(1)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty: \$1 250 or imprisonment for 3 months.</p>
Section 50(2)	<p>Strike out the penalty provision and substitute the following penalty provision:</p> <p style="padding-left: 40px;">Maximum penalty: \$5 000 or imprisonment for 12 months, or both.</p>