

EXPLOSIVES ACT

Act 34 of 1959 – 12 December 1959

ARRANGEMENT OF SECTIONS

SECTION

- | | |
|---|---|
| 1. Short title | 16. Explosives which may be kept in boxes |
| 2. Interpretation | 17. Purchase of explosives |
| 3. Manufacture of explosives | 18. Sale of explosives |
| 4. Handling and care of explosives | 19. Explosives issued for use |
| 5. Precautions against fire or explosion | 20. Issue of blasting certificates |
| 6. Control of explosives | 20A. Minors not to handle explosives |
| 7. Import permits | 21. Powers of police officers |
| 8. Notice of intended import | 21A. Power to search for explosives |
| 9. Duty of Port Master | 21B. Seizure and detention of explosives |
| 10. Duty of Director-General | 22. Police officers may issue orders |
| 11. Permit to remove explosives | 23. Hiding and abandoning explosives |
| 12. Transport of explosives | 24. Returns to be furnished |
| 13. Storage of explosives | 25. Appeals to Minister |
| 14. Application for store licence | 26. Penalties |
| 15. Issue and revocation of store licence | 27. Regulations |

EXPLOSIVES ACT

1. Short title

This Act may be cited as the Explosives Act.

2. Interpretation

In this Act—

“Commissioner” means the Commissioner of Police;

“Director-General” means the Director General of the Mauritius Revenue Authority;

“explosive”—

(a) means—

- (i) gunpowder, nitroglycerine, dynamite, gun cotton, blasting powders, small arms ammunition, percussion caps, fuses, liquid oxygen, fulminate of mercury or of other metals, azide of lead and every other substance (whether similar to those above mentioned or not) used or manufactured with a view to producing an explosion; and
- (ii) such substance as the President may prescribe to be an explosive for the purposes of this Act;

(b) does not include fog-signals, fireworks and rockets;

“manufacture” includes the process of dividing into its component parts or otherwise breaking up or unmaking any explosive or remaking, altering or repairing any explosive;

“police officer” means any member of the Police Force not below the rank of Inspector.

[S. 2 amended by Act 48 of 1991.]

3. Manufacture of explosives

(1) No person shall manufacture any explosive unless he holds a permit issued by the Commissioner.

(2) The Commissioner may attach to a permit such conditions as he thinks fit to impose and may vary those conditions.

(3) The Commissioner may cancel or revoke any permit issued under subsection (1).

(4) The Commissioner shall not be required to give any reason for—

- (a) the refusal of a permit;
- (b) the imposition of any condition to the issue of a permit;
- (c) the variation of any condition attached to a permit; or
- (d) the cancellation or revocation of a permit.

(5) (a) Any person who is aggrieved by a decision of the Commissioner under this section may appeal to the Minister by giving notice in writing to the Permanent Secretary, Prime Minister’s Office, stating the grounds of his appeal, within 10 days of the date of notification of the decision of the Commissioner to him.

(b) The decision of the Minister shall be final.

(6) The Commissioner may, if he considers it necessary or expedient in the interest of defence, public safety or public order, by notice in writing, direct the holder of a permit issued under this section to stop the manufacture of explosives or to close the factory.

4. Handling and care of explosives

Every person engaged in the handling or use of explosives, or in charge of or employed in or about any store or other place where explosives are stored, shall take all due precaution for the prevention of accidents by fire or explosion, and for preventing unauthorised persons having access to such store, place or explosives.

5. Precautions against fire or explosion

(1) No person shall, in the vicinity of any explosives, smoke or do any act which tends to cause fire or explosion, or have in his possession any match, detonator or other article likely to cause fire or explosion.

(2) Nothing in this section shall be deemed to prohibit the carrying out of blasting operations by or under the supervision of the holder of a blasting certificate.

6. Control of explosives

(1) No person shall be in charge or otherwise in possession of explosives unless he holds a permit under this Act.

(2) The person in charge of explosives shall supervise the handling, use, transport and storing of such explosives, and shall ensure that this Act is complied with.

(3) The person in charge of the store or other place where explosives are stored shall be the person in charge of such explosives.

7. Import permits

(1) No person shall import explosives unless he has obtained from the Commissioner a permit issued in that behalf in the prescribed form.

(2) Every person applying for a permit for the importation of explosives shall notify the Commissioner of the quantity and nature of the explosives to be imported.

8. Notice of intended import

Every person importing explosives shall, at least 24 hours before the expected arrival into the harbour of the ship transporting his explosives, furnish the Port Master and the Director-General with such particulars of the explosives as may be prescribed.

9. Duty of Port Master

No loading or unloading of explosives shall take place in the harbour except in the prescribed manner and under the supervision of an officer deputed in that behalf by the Port Master.

10. Duty of Director-General

(1) All explosives shall on importation be conveyed in the prescribed manner to the Government Magazine, Fort George, or such other store as may be appointed by the Minister.

(2) The conveyance of the explosives shall be under the supervision of an officer deputed in that behalf by the Director-General and such explosives shall be stored in accordance with such conditions as may be prescribed.

11. Permit to remove explosives

(1) No explosive manufactured in Mauritius shall be removed from a factory except on a permit issued by the Commissioner.

(2) No imported explosive shall be removed from the Government Magazine except on a permit issued by the Commissioner and endorsed by the Director-General.

12. Transport of explosives

No person shall transport or deliver for transportation any explosive except on a permit granted by the Commissioner in such form and subject to such conditions as may be prescribed.

13. Storage of explosives

Subject to section 17, all explosives shall, on removal from a factory or from the Government Magazine, be stored in a licensed store in accordance with such conditions as may be prescribed.

14. Application for store licence

Application for the licensing of a store shall be made to the Superintendent of Police of the district in which the store is situate.

15. Issue and revocation of store licence

(1) Where the Superintendent of Police of the district in which the store is situate is satisfied that the store meets the prescribed requirement, he may, on payment of the prescribed fee, issue a licence authorising the storage of explosives there.

(2) Every store licence shall be in the prescribed form and shall state the quantity and nature of the explosives that the store may hold.

(3) The Commissioner may for good and sufficient reason revoke any store licence.

16. Explosives which may be kept in boxes

Explosives of the prescribed amount and nature may be stored in storage boxes made in accordance with the prescribed specifications and approved by the Commissioner.

17. Purchase of explosives

No person shall buy or otherwise acquire explosives unless he holds a permit granted in that behalf by the Commissioner in such form and upon such conditions as may be prescribed.

18. Sale of explosives

No person shall sell explosives unless—

- (a) he holds a permit granted in that behalf by the Commissioner in such form and upon such conditions as may be prescribed; and
- (b) the purchaser produces a permit issued under section 17.

19. Explosives issued for use

(1) Explosives issued for use in respect of blasting operations shall be under the charge of a holder of a blasting certificate who shall deal with them in the prescribed manner.

(2) Every holder of a blasting certificate shall be in possession of a copy of this Act and of the regulations made under it.

20. Issue of blasting certificates

(1) Applications for a blasting certificate shall be made to the Permanent Secretary of the Ministry responsible for the subject of public infrastructure.

(2) No blasting certificate shall be granted or renewed unless the Permanent Secretary is satisfied that the applicant is a fit and proper person to be in charge of explosives and competent to conduct blasting operations.

(3) (a) Every blasting certificate shall be in the prescribed form and shall specify the nature of the work upon which the holder may engage in connection with explosives.

(b) A blasting certificate may be restricted to a particular area, location or piece of work.

(4) Blasting certificates shall be valid, and may be renewed, for such periods as the Permanent Secretary may decide.

(5) Every person to whom a blasting certificate is granted shall forthwith sign it with his usual signature.

(6) The Permanent Secretary may for good and sufficient reason revoke or suspend any blasting certificate.

20A. Minors not to handle explosives

No person shall cause or permit any minor to handle any explosive.

[S. 20A inserted by Act 15 of 1998.]

21. Powers of police officers

Any police officer may, for the purpose of ascertaining whether this Act is complied with—

- (a) enter any premises or place where explosives are manufactured, stored, kept or used, at any hour of the day or night;
- (b) take samples of explosives or any substance resembling explosives in the possession of any person;
- (c) require the occupier or owner of any magazine or store or any place where explosives are kept or the person in charge or possession of any explosives to give such information as he may reasonably require; and

- (d) stop and detain for examination any vehicle which he has reasonable grounds to believe is being used for the conveyance of explosives.

21A. Power to search for explosives

(1) Where any member of the Police has reasonable cause to believe that any offence has been, is being, or is about to be committed with respect to explosives, he may, on showing reasonable grounds upon oath, obtain from a Magistrate a warrant to search for such explosives.

(2) The member of the Police may, on the strength of any such warrant, which he shall exhibit if requested to do so, enter any place specified in the warrant at any time, and, if need be, by force, and search for explosives therein, and take samples of any explosives or of any substance he has reasonable grounds to suppose to be explosives which may be found there.

(3) The member of the Police may, where the place is closed, gain access by means of breaking if, after notification of his office and purpose and demand of admission duly made, he is, otherwise unable to obtain admittance.

21B. Seizure and detention of explosives

(1) Where any member of the Police has reasonable cause to believe that any explosive or other substance found by him is liable to be forfeited under this Act, he may seize such explosive or other substance.

(2) The member of Police who seizes the explosive or other substance may—

- (a) require the occupier of the place in which they were seized to keep them in such place or in any other place under the control of such occupier;
- (b) remove them in such manner and to such place as he thinks necessary; or
- (c) where there is a risk of public danger, if authorised by a Magistrate or a Superintendent of Police, cause them to be destroyed or otherwise rendered harmless.

(3) No occupier shall, by himself or by any other person, fail to keep the explosive or other substance which he is required to keep under this section, and no such occupier or other person shall, except with the authority of the member of the Police seizing the same or of a Superintendent of Police, or in case of emergency for the purpose of preventing any explosion or fire remove, alter, or in any way tamper or deal with the same while so kept.

(4) The receptacles containing the explosive or other substance may be seized, kept and removed in like manner as the contents.

(5) The member of the Police seizing the explosive or other substance may, for the keeping, removal or transport thereof, use any vessel or vehicle in which the same was seized, and the owner shall be paid a reasonable compensation for such use.

(6) The explosive or other substance shall, so far as practicable, be kept, removed or transported with all due precaution as provided by this Act to prevent accidents.

(7) The member of the Police seizing or dealing with the explosive or other substance under this section shall not be liable in damages or otherwise in respect of such seizure or dealing or any incidental or consequential act unless it is proved that he made such seizure without reasonable cause or that he caused damage to the article seized by some neglect or default.

22. Police officers may issue orders

(1) Any police officer may issue orders in writing to any person in charge of explosives requiring him to do any act in relation to such explosives which may be necessary in the interests of safety.

(2) (a) Such orders shall be carried out forthwith.

(b) Any person aggrieved by such orders may refer the matter to the Commissioner who may confirm, vary or cancel the orders.

(c) Pending the Commissioner's decision on any objection under paragraph (b), the police officer may, with due regard to public safety, by writing, suspend the orders.

23. Hiding and abandoning explosives

(1) No person shall hide or abandon explosives.

(2) No prosecution for an offence against this section shall be instituted without the consent of the Director of Public Prosecutions.

24. Returns to be furnished

Every importer of or dealer in explosives shall on or before the tenth of each month submit in duplicate to the Superintendent of Police of his district a return in the prescribed form in respect of all explosives imported, sold or otherwise disposed of by him during the preceding month.

25. Appeals to Minister

Any person aggrieved by a decision of the Director-General, the Permanent Secretary of the Ministry responsible for the subject of public infrastructure or the Commissioner under this Act may, within 10 days of such decision being notified to him, by petition, appeal to the Minister who may vary, cancel or maintain any such decision.

26. Penalties

Any person who—

(a) contravenes this Act;

(b) fails to comply with the conditions of any licence or permit issued under this Act; or

- (c) fails to obey any lawful order issued, or supply any return or information requested by the Commissioner, Director-General, Port Master or a police officer under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding one year, and any explosive in respect of which any offence has been committed may be forfeited.

27. Regulations

The President may make such regulations as he thinks fit for the purposes of this Act and in the interest of public safety, the protection of life and property and the avoidance of accidents, and, without prejudice to the generality of this power, he may, by regulations—

- (a) prescribe the fees to be paid for anything to be done under this Act;
- (b) classify different kinds of explosives;
- (c) provide for the report of and inquiry into accidents involving explosives.

[S. 27 amended by Act 48 of 1991.]
