

PARLIAMENT OF CEYLON

5th Session 1969-70



Explosives (Amendment) Act, No. 33 of 1969

Date of Assent : December 9, 1969

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AN ACT TO AMEND THE EXPLOSIVES ACT.

[Date of Assent: December 9, 1969]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Explosives (Amendment) Act, No. 33 of 1969.

Short title.

2. The long title of the Explosives Act (hereinafter referred to as the "principal Act") is hereby amended, by the substitution, for the expression "Importation, Possession, Sale," of the expression "Importation, Exportation, Possession, Sale, Exposure for Sale,".

Amendment of the long title of Chapter 183.

3. Section 8 of the principal Act is hereby repealed and the following new section substituted therefor:—

Replacement of section 8 of the principal Act.

" Prohibition of importation, exportation, manufacture, sale, exposure for sale or supply of explosives by persons other than licensees or permittees.

8. (1) No person, other than a licensee or permittee who is authorized by his licence or permit to do so, shall import or export any explosive.

(2) No person, other than a licensee who is authorized by his licence to do so, shall manufacture, sell, expose for sale or supply any explosive."

4. Section 9 of the principal Act is hereby amended as follows:—

Amendment of section 9 of the principal Act.

(1) in subsection (1) of that section, by the substitution, for the expression "manufacturer, importer or supplier of any explosives, or acquire, possess, transport", of the expression "manufacturer, importer, exporter or supplier of any explosives, or acquire, possess, transport, sell, expose for sale";

(2) in sub-section (2) of that section, by the substitution, for the expression "acquire, possess, transport or use", of the expression "import, export, acquire, possess, transport or use"; and

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- (3) by the substitution, for the marginal note to that section, of the following new marginal note:—

“ Licences and permits relating to explosives.”.

Amendment of section 10 of the principal Act.

5. Section 10 of the principal Act is hereby amended as follows:—

- (1) by the substitution, for the expression “quantity of safety cartridges or fireworks as does not exceed the prescribed quantity.”, of the expression “quantity of any class of explosives as does not exceed the quantity prescribed in respect of such class of explosives.”; and

- (2) by the substitution, for the marginal note to that section, of the following new marginal note:—

“ Exemption up to prescribed quantity of any class of explosives.”.

Amendment of section 11 of the principal Act.

6. Section 11 of the principal Act is hereby amended as follows:—

- (1) in paragraph (b) of that section, by the substitution, for the expression “importation,”, of the expression “importation, exportation, sale, exposure for sale,”;

- (2) by the relettering of paragraphs (c) and (d) of that section as paragraphs (d) and (e) of that section, respectively; and

- (3) by the insertion, immediately after paragraph (b) of that section, of the following new paragraph:—

“ (c) to exempt, subject to such conditions as may be imposed, any school or other educational institution from the requirement of obtaining a permit for the acquisition, possession, transportation or use of any class or classes of explosives;”.

Amendment of section 12 of the principal Act.

7. Section 12 of the principal Act is hereby amended as follows:—

- (1) in sub-section (1) of that section, by the substitution, in paragraph (b) of that sub-section, for the expression “transport and sell”, of the expression “transport, sell, expose for sale”;

- (2) in sub-section (2) of that section, by the substitution, in paragraph (b) of that sub-section, for the expression "transport and sell", of the expression "transport, sell, expose for sale";
- (3) by the renumbering of sub-sections (3) and (4) of that section as sub-sections (4) and (5) of that section, respectively;
- (4) by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

"(3) A licence granted for the purpose of carrying on the business of an exporter of explosives shall, subject to the conditions set out in the licence and the provisions of this Act and of the regulations made under this Act, authorize the licensee—

- (a) to export explosives of the class or classes specified in the licence, and
- (b) to acquire, possess and transport the explosives to be exported under the authority of the licence."

- (5) in the renumbered sub-section (4) of that section, by the substitution, in paragraph (b) of that sub-section, for the expression "transport and sell", of the expression "transport, sell, expose for sale";
- (6) in the renumbered sub-section (5) of that section, by the substitution,—
 - (a) for the expression "A permit shall," of the expression "A permit, other than a permit granted for the importation or exportation of explosives, shall,"; and
 - (b) for the expression "class so specified.", of the expression "class or classes specified."; and
- (7) by the insertion, immediately after the renumbered sub-section (5) of that section, of the following new sub-sections:—

"(6) A permit granted for the importation of any explosives shall, subject to the conditions set out in the permit and

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the provisions of this Act and of the regulations made under this Act, authorize the permittee to import explosives of the class or classes specified in the permit and to possess, transport and use the explosives imported under the authority of the permit.

(7) A permit granted for the exportation of any explosives shall, subject to the conditions set out in the permit and the provisions of this Act and of the regulations made under this Act, authorize the permittee to export explosives of the class or classes specified in the permit and to acquire, possess and transport the explosives to be exported under the authority of the permit."

Amendment of section 14 of the principal Act.

8. Section 14 of the principal Act is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for paragraph (a) of that sub-section, of the following new paragraph:—

" (a) who is convicted of any offence under any of the sections of the Penal Code enumerated in the Schedule to this Act, or under the Offensive Weapons Act, No. 18 of 1966, or "; and

(2) in sub-section (3) of that section—

(a) by the substitution, in paragraph (b) of that sub-section, for the expression " was used ", of the expression " was used, or "; and

(b) by the insertion, immediately after paragraph (b) of that sub-section, of the following new paragraphs:—

" (c) when (for reasons to be recorded by him in writing) the licensing authority deems it necessary for the security of the public peace to refuse to issue a licence or permit to an applicant, or

(d) if the licensing authority is satisfied that the possession and use of explosives by an applicant is dangerous to the life or property of any other person or persons. "

9. Section 16 of the principal Act is hereby amended as follows:—

Amendment of section 16 of the principal Act.

- (1) by the insertion, immediately after sub-section (4) of that section, of the following new sub-section:—

“(5) The Controller may in such circumstances as he may deem necessary, cause the issue of copies of licences or permits issued under this Act to the holders thereof on payment of the prescribed fee.”; and

- (2) in the marginal note to that section, by the substitution, for the expression “and permits.”, of the expression “and permits and copies thereof.”.

10. Section 18 of the principal Act is hereby amended as follows:—

Amendment of section 18 of the principal Act.

- (1) in sub-section (1) of that section, by the substitution, for the expression “within thirty days”, of the expression “not less than thirty days”;

- (2) by the renumbering of sub-section (2) of that section as sub-section (3) of that section; and

- (3) by the insertion, immediately after sub-section (1) of that section, of the following new sub-section:—

“(2) Where any person fails to make the necessary application for the renewal of a licence within the time specified in sub-section (1), the licensing authority may in his discretion allow the renewal of such licence on payment, in addition to the fee prescribed for such licence, of a fine equal to the amount of the fee prescribed for such a licence.”.

11. Section 21 of the principal Act is hereby amended, by the substitution, for sub-section (1) of that section, of the following new sub-section:—

Amendment of section 21 of the principal Act.

- “(1) (a) Where a licensee or permittee is convicted by a court of an offence under any of the sections of the Penal Code enumerated in the Schedule to this Act, or under the Offensive

Weapons Act, No. 18 of 1966, the court shall cause notice of such conviction to be given to the licensing authority who granted a licence or permit to such licensee or permittee, and such licensing authority shall, upon receipt of such notice, by written order cancel that licence or permit. Such order shall specify the grounds of cancellation of such licence or permit.

(b) Where a licensee or permittee is convicted by a court of an offence under this Act, or of any offence under any other written law which was committed in connection with the possession or use of any gun or explosive or in the commission of which any gun or explosive was used, the court shall cause notice of such conviction to be given to the licensing authority who granted a licence or permit to such licensee or permittee, and such licensing authority may, upon receipt of such notice, by written order suspend that licence or permit for a period specified in the order or cancel that licence or permit. Such order shall specify the grounds of suspension or cancellation of such licence or permit. ”.

Amendment of
section 25 of
the principal
Act.

12. Section 25 of the principal Act is hereby amended as follows:—

(1) by the substitution, for paragraph (a) of that section, of the following new paragraph:—

“(a) enter and inspect any place, or stop, enter and inspect any vehicle or vessel in which —

(i) any explosive is manufactured, possessed, used, supplied, sold, exposed for sale, transported, imported or exported under a licence or permit, or

(ii) he has reason to believe that any explosive has been or is manufactured, possessed, used, supplied, sold, exposed for sale, transported, imported or exported in contravention of this Act or of any regulations made under this Act; or

(iii) he has reason to believe that any explosive, in a deteriorated condition is possessed; ”;

(2) in paragraph (c) of that section, by the substitution, for the expression "value thereof; and", of the expression "value thereof;";

(3) by the relettering of paragraph (d) of that section as paragraph (e) of that section; and

(4) by the insertion, immediately after paragraph (e) of that section, of the following new paragraph:—

"(d) where he has reason to believe that any explosive found in any such place, vehicle or vessel is in a deteriorated condition—

(i) cause such explosive to be removed from such place, vehicle or vessel without payment therefor; and

(ii) give directions as to the use or disposal of such explosive; and"

13. Section 26 of the principal Act is hereby amended as follows:—

Amendment of section 26 of the principal Act.

(1) in sub-section (2) of that section, by the substitution—

(a) in paragraph (a) of that sub-section, for the expression "sub-section (3); and", of the expression "sub-section (5); and"; and

(b) in paragraph (b) of that sub-section, for the expression "for an analysis thereof and a report on the results of the analysis.", of the expression "for an analysis thereof and a certificate specifying the results of the analysis.";

(2) by the renumbering of sub-section (3) of that section as sub-section (5) of that section;

(3) by the insertion, immediately after sub-section (2) of that section, of the following new sub-sections:—

"(3) Where in any prosecution of a person for an offence under this Act, a certificate of the Government Analyst is

produced in court to the effect that he is satisfied that an article in respect of which the offence is alleged to have been committed is an explosive as defined in this Act, the court shall presume, until the contrary is proved, that the article in respect of which the offence is alleged to have been committed is an explosive as defined in this Act.

(4) Where in any prosecution of a person for an offence under this Act, a certificate of the Government Analyst is produced in court to the effect that he is satisfied that an article in respect of which the offence is alleged to have been committed is not an authorized explosive as defined in the regulations made under this Act, the court shall presume, until the contrary is proved, that the article in respect of which the offence is alleged to have been committed is not an authorized explosive as defined in the regulations made under this Act. ”; and

(4) in the renumbered sub-section (5) of that section, by the substitution, in paragraph (a) of that sub-section, for the expression “ period of fourteen days ”, of the expression “ period of three months ” .

Amendment of
section 27 of
the principal
Act.

14. Section 27 of the principal Act is hereby amended as follows:—

(1) in sub-section (1) of that section, as follows:—

(a) by the substitution, in paragraph (b) of that sub-section, for the expression “ of a licence, ”, of the expression “ of a licence or permit, ”; and

(b) by the substitution, for the expression “ term not exceeding one year ”, of the expression “ term not exceeding two years ”; and

(2) in sub-section (2) of that section, by the substitution, in paragraph (b) of that sub-section, for the expression “ of a licence, ”, of the expression “ of a licence or permit, ”.

15. Section 37 of the principal Act is hereby amended as follows:—

Amendment of section 37 of the principal Act

(1) in the definition of "explosives", by the substitution, in paragraph (b) of that definition, for the expression "by reason of its explosive properties," of the expression "by reason of its explosive properties, or any substance which, for the reason that it develops explosive properties when in contact with any other substance,"; and

(2) by the insertion, immediately after the definition of "explosives", of the following new definition:—

“ “ Government Analyst ” includes an Assistant Government Analyst;”.

16. The following Schedule is hereby inserted immediately after section 37 of the principal Act:—

Insertion of Schedule in the principal Act.

SECTIONS 14 AND 21. SCHEDULE

<i>Section of Penal Code.</i>	<i>Nature of Offence.</i>
114 to 126 (inclusive) ...	Offences against the State.
128 to 133 (inclusive) and 135 ...	Offences relating to the Army, Navy and Air Force.
140, 141, 142, and 144 to 155 (inclusive) ...	Unlawful assembly and rioting.
219, 219A, 220 and 220A (inclusive) ...	Resistance to lawful apprehension.
226 to 256 (inclusive) ...	Offences relating to coin and Government stamps.
296, 297, 298, 300, and 301 ...	Culpable homicide, death by negligence, &c.
315 to 324 (inclusive) ...	Voluntarily causing hurt by dangerous weapons, &c.
344 and 347 ...	Criminal force.
357 to 371 (inclusive) ...	Theft, theft of cattle, &c.
373 to 378 (inclusive) ...	Extortion, &c.
380 to 385 (inclusive) ...	Robbery, &c.
387 ...	Criminal misappropriation.
389 to 392 (inclusive) but excluding 392A and 392B ...	Criminal breach of trust.
394 to 397 (inclusive) ...	Dishonestly receiving stolen property.

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<i>Section of Penal Code</i>	<i>Nature of Offence</i>	
400 to 403 (inclusive)	...	Cheating.
411 to 426 (inclusive)	...	Mischief, &c.
433 to 451 (inclusive)	...	House-trespass, lurking house-trespass, house- breaking, &c.
452 to 466 (inclusive)	...	Forgery, &c.
478A to 478D (inclusive)	...	Offences relating to currency notes and bank notes.
486 	Criminal intimidation.
101 to 113B (inclusive) and 490		Abetting, conspiring, attempt- ing, &c., to commit any offence against the sections of the Penal Code enu- merated in this Schedule."