

PARLIAMENT OF CEYLON

4th Session 1955-56



Explosives Act, No. 21 of 1956

Date of Assent: February 17, 1956

Printed on the Orders of Government

Printed at the CEYLON GOVT. PRESS, COLOMBO. To be purchased at the GOVT. PUBLICATIONS BUREAU, COLOMBO Annual Subscription (including Bills) Rs. 25, payable in advance to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, Post Office Box 500, Secretariat, Colombo 1

Price: 50 cents.

Postage: 10 cents.

L. D.—O. 38/51.

AN ACT TO CONTROL, AND TO ENABLE THE PROHIBITION OF, THE MANUFACTURE, IMPORTATION, POSSESSION, SALE, SUPPLY, PURCHASE, USE AND TRANSPORT OF ANY EXPLOSIVES, AND TO REPEAL THE EXPLOSIVES ORDINANCE.

[Date of Assent: February 17, 1956.]

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. (1) This Act may be cited as the Explosives Act, No. 21 of 1956.

(2) The provisions of this Act, other than the provisions specified in sub-section (3), shall come into operation on such date (hereinafter referred to as "the appointed date") as the Minister may appoint by Order published in the *Gazette*.

(3) The provisions of this section and of sections 2, 3 (1), 6, 11, 13, 14, 15, 16, 19, 22, 32, 33 and 37 shall come into operation when this Act becomes an Act of Parliament.

PART I.

ADMINISTRATION.

2. (1) The Permanent Secretary shall be the Controller of Explosives for the purposes of this Act.

Controller
and Assistant
Controllers
of Explosives.

(2) Every Assistant Secretary to the Ministry shall be an Assistant Controller of Explosives for the purposes of this Act.

3. (1) There may be appointed such number of persons, by name or by office, to be or to act as Inspectors of Explosives, and such number of other officers and servants as may be necessary for the purposes of this Act.

Inspectors of
Explosives and
other staff.

(2) Every police officer not below the rank of Sergeant shall be deemed to be an Inspector of Explosives for the purposes of this Act.

4. The powers of an Inspector of Explosives may be exercised by the Controller or any Assistant Controller, or by any licensing authority within his District.

Inspectors of Explosives and licensing authorities to be subject to directions of Controller.

5. (1) Every Inspector of Explosives shall, in the exercise or performance of his powers or duties, be subject to the general or special directions of the Controller.

(2) Every licensing authority shall, in the exercise or performance of his powers or duties, be subject to the general or special directions of the Controller.

Licensing authorities may delegate their powers and duties.

6. The powers or duties of any licensing authority may be exercised or performed by any public officer authorised in writing in that behalf by such licensing authority.

PART II.

RETURNS, LICENCES AND PERMITS.

Persons having stocks of explosives on the appointed date to furnish returns.

7. (1) Subject to the provisions of sub-section (2), every person who, on the appointed date, has in his possession or under his control a stock of any explosive, shall, within a period of fourteen days reckoned from that date, furnish to the licensing authority for the District in which such stock is kept a return specifying—

- (i) the name and address of that person;
- (ii) the nature and quantity of such stock; and
- (iii) the purpose for which and the premises in which such stock is kept.

(2) The provisions of sub-section (1) shall not apply to such quantity of safety cartridges or fireworks as does not exceed the prescribed quantity.

Prohibition of importation, manufacture, sale or supply of explosives by persons other than licensees.

8. No person, other than a licensee who is authorised by his licence to do so, shall import, manufacture, sell or supply any explosive.

Licences and permits for controlling the manufacture, importation, supply and acquisition of explosives.

9. (1) No person shall, except under the authority of a licence, carry on the business of a manufacturer, importer, or supplier of any explosives, or acquire, possess, transport or use any explosives for the purposes of such business.

(2) Subject to the provisions of section 10, no person shall, except under the authority of a permit, acquire, possess, transport or use any explosives for any purpose other than that of such business as is referred to in sub-section (1).

10. No permit shall be required for the acquisition, possession, transport and use of such quantity of safety cartridges or fireworks as does not exceed the prescribed quantity.

Exemption in case of safety cartridges and fireworks.

11. Regulations may be made under this Act--

Regulations relating to explosives.

- (a) to classify explosives;
- (b) to prohibit or regulate the manufacture, importation, possession, use, and supply of any explosives;
- (c) to regulate the loading, unloading and transport of any explosives; and
- (d) to regulate the storage of any explosives.

12. (1) A licence granted for the purpose of carrying on the business of a manufacturer 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, authorise the licensee—

Authority granted by licences and permits.

- (a) to manufacture explosives of the class or classes specified in the licence,
- (b) to possess, transport and sell or supply the explosives manufactured under the authority of the licence, and
- (c) to acquire, possess, transport and use, for the purpose of such manufacture as aforesaid, any explosives specified in the licence as being required for that purpose.

(2) A licence granted for the purpose of carrying on the business of an importer 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, authorise the licensee—

- (a) to import explosives of the class or classes specified in the licence, and
- (b) to possess, transport and sell or supply the explosives imported under the authority of the licence.

(3) A licence granted for the purpose of carrying on the business of a supplier 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, authorise the licensee—

- (a) to acquire explosives of the class or classes specified in the licence, and

(b) to possess, transport and sell or supply the explosives acquired under the authority of the licence.

(4) A permit shall, subject to the conditions set out in the permit and the provisions of this Act and of the regulations made under this Act, authorise the permittee to acquire, possess, transport and use, for the purpose specified in the permit, explosives of the class so specified.

Applications
for licences
and permits.

13. (1) Every application for a licence or permit shall—

(a) be made to the licensing authority for the District in which the explosives in respect of which the application is made will be kept,

(b) be substantially in such one of the prescribed forms as may be appropriate to the case,

(c) state the particulars which that form requires to be stated, and

(d) be signed by the applicant.

(2) A licensing authority may direct an applicant for a licence or permit to furnish him with such information as he may indicate in the direction for the purpose of enabling him to dispose of the application; and if the applicant fails to comply with any such direction, the licensing authority may refuse to grant the licence or permit to the applicant.

Eligibility
for licences
and permits.

Cap. 18.

14. (1) No licence or permit shall be granted to any person—

(a) who is a registered criminal within the meaning of the Prevention of Crimes Ordinance, or

(b) who has not attained the age of eighteen years, or

(c) during the period of the suspension of any licence or permit previously granted to him.

(2) A licence or permit granted to any person in contravention of sub-section (1) shall be invalid.

(3) A person may be refused a licence or permit—

(a) if a licence or permit previously granted to him has been cancelled or suspended, or

(b) if he has been convicted of an offence under this Act, or of an 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:

15. No licence or permit shall be granted to any person except upon the payment of such one of the prescribed fees as may be appropriate to the case. The fee shall be paid in the prescribed manner.

Fees for licences and permits.

16. (1) Subject as hereinbefore provided in this Act, a licensing authority may in his discretion grant or refuse to grant a licence or permit to an applicant therefor.

Grant of licences and permits.

(2) A licensing authority may grant a licence or permit subject to such conditions as he may deem necessary. Such conditions shall be set out in the licence or permit.

(3) A licensing authority shall, in exercising his discretion under sub-section (1), have regard to all the circumstances of the case and particularly the fitness of the applicant to be a licensee or permittee.

(4) The decision of a licensing authority to grant or refuse to grant a licence or permit shall, subject to any decision on an appeal under this Act from the decision of the licensing authority, be final and conclusive and shall not be called in question in any court.

17. (1) Subject to the provisions of sub-section (3), every licence shall, unless it is earlier cancelled, expire on the thirtieth day of June next succeeding the date on which it is expressed to come into force.

Duration of licences and permits.

(2) Subject to the provisions of sub-section (3), every permit shall, unless it is earlier cancelled, be in force for such period as shall be specified therein.

(3) A licence or permit which is suspended for any period shall not be in force during that period

18. (1) The licensing authority who issued a licence may, on application made to him within thirty days prior to the date of the expiry of the licence, renew the licence. A licence which is renewed shall,

Renewal of licences.

unless it is earlier cancelled, expire on the thirtieth day of June next succeeding the date of expiry of the licence immediately preceding its renewal.

(2) The provision of sections 13 to 16 (both inclusive) shall, *mutatis mutandis*, apply in the case of a renewal of a licence in like manner as they apply in the case of the grant of a licence.

Communication
of refusal to
applicant.

19. Where a licensing authority refuses to grant a licence or permit or to renew a licence, he shall cause notice of the refusal to be given to the applicant for the licence or permit or for the renewal. The notice shall set out the grounds of the refusal.

General
conditions
applicable
to licences
and permits.

20. Every licence or permit shall be subject to the following conditions:—

- (a) all explosives which by virtue of the licence or permit are in the possession or under the control of the licensee or permittee shall be loaded, unloaded, transported and kept in accordance with regulations made under this Act;
- (b) no such explosive shall be used or appropriated otherwise than is authorised by the licence or permit;
- (c) the licensee or permittee shall, in respect of such explosives, maintain in such form as may be approved by the licensing authority by whom the licence or permit was granted such records as that authority may require; and
- (d) the licensee or permittee shall furnish to such licensing authority returns or other information which such licensing authority may require in respect of such explosives.

Suspension or
cancellation
of licences
and permits.

21. (1) 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 the 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.

(2) Where a licensing authority makes order suspending or cancelling a licence or permit under sub-section (1), he shall cause notice of the order to be given to the licensee or permittee.

(3) An order under sub-section (1) suspending or cancelling a licence or permit shall, subject to any decision on an appeal under this Act from that order, be final and conclusive and shall not be called in question in any court.

(4) An order under sub-section (1) suspending or cancelling a licence or permit shall not take effect during the time allowed for the making of an appeal under this Act from such order and, if such an appeal is made, during the pendency of the appeal, but no act authorised by the licence or permit to be done shall be done during the time allowed for the making of such appeal or during the pendency of such appeal. Where no such appeal is made within the time allowed therefor, such order shall take effect on the expiry of that time, and where such an appeal is made and disallowed, such order shall take effect on the day immediately following the date on which the appeal is disallowed.

22. (1) An applicant for a licence or permit or for the renewal of a licence who is aggrieved by the decision of a licensing authority refusing to grant the licence or permit or to renew the licence, and a licensee or permittee who is aggrieved by the order of a licensing authority suspending or cancelling his licence or permit, may appeal in writing from that decision or order to the Controller within a period of fourteen days reckoned from the date of the service of notice of that decision or order on him.

Appeals.

(2) The Controller shall, in considering an appeal under sub-section (1), have regard to all the circumstances of the case and particularly the fitness of the appellant to be, or to continue to be, a licensee or permittee.

(3) The decision of the Controller on any appeal preferred under the preceding provisions of this section shall be final and conclusive and shall not be called in question in any court.

Continuance
of business
of a
deceased
licensee.

23. Where a licensee dies,—

- (a) his legal representative or, if there is no such representative, the person having the control and management of the deceased's business in explosives shall forthwith notify in writing such death and the date of such death to the Controller and to the licensing authority who granted a licence to such licensee, and
- (b) such representative or, if there is no such representative, the person having the control and management of such business may, notwithstanding that he is not authorised to do so by a licence, carry on such business for a period not exceeding one month commencing on the date of such death, and it shall not be an offence under this Act to carry on such business for that period without a licence.

Directions as
to disposal of
explosives
where a licence
or permit
ceases to be
in force.

24. Where, while any explosives are possessed by a licensee or permittee under the authority of his licence or permit, such licence or permit ceases to be in force, he or, if he is dead, his legal representative or, if there is no such representative, the person having the control and management of the deceased's business in explosives shall comply with such directions relating to the disposal of those explosives as may be issued by the licensing authority who granted such licence or permit.

PART III.

POWERS OF INSPECTORS OF EXPLOSIVES, AND OFFENCES AND PENALTIES.

Powers of
inspection
and search.

25. An Inspector of Explosives may—

- (a) enter and inspect any place, or stop, enter and inspect any vehicle or vessel, in which any explosive is manufactured, possessed, used, supplied, transported or imported under a licence or permit, or in which he has reason to believe that any explosive has been or is manufactured, possessed, used, supplied, transported or imported in contravention of this Act or of any regulations made under this Act;

- (b) search for explosives in such place, vehicle or vessel;
- (c) take samples of any explosive found in such place, vehicle or vessel on payment of the value thereof; and
- (d) examine any records maintained under this Act and take copies of such records.

26. (1) An Inspector of Explosives may, if he has reason to believe that any offence under this Act has been or is committed, seize and detain any article in connection with which the offence is believed to have been or to be committed or which is believed to have been or to be used in or in connection with the commission of the offence.

Power to
seize
articles.

(2) Where an Inspector of Explosives seizes any article under sub-section (1), he shall produce that article as soon as possible before the Magistrate's Court within whose jurisdiction that article is seized, and upon the production of that article, the Court—

(a) shall make such order as it may deem fit relating to the custody of that article pending its disposal under sub-section (3); and

(b) either of its own motion or at the request of such Inspector or of the person from whose possession that article was seized, may, if that article is or is suspected to be an explosive, cause a sample of that article to be sent to the Government Analyst for an analysis thereof and a report on the results of the analysis.

(3) Where any article is seized under sub-section (1) from the possession of any person, then,—

(a) if no prosecution for the alleged offence is instituted within a period of fourteen days reckoned from the date of the seizure, that article shall be returned to that person forthwith upon the expiration of that period, and

(b) if such prosecution is instituted within that period, that article shall be returned to that person forthwith after the final determination of the prosecution unless it is forfeited to Her Majesty under section 28.

Offences
and penalties.

27. (1) Any person who—

- (a) acts in contravention of or fails to comply with any provision of this Act or any regulation made thereunder,
- (b) acts in contravention of or fails to comply with any condition of a licence,
- (c) fails to comply with any direction given by any officer in the exercise of his powers under this Act, or
- (d) resists or obstructs any officer in the exercise of his powers or the performance of his duties under this Act,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(2) Any person who—

- (a) acts in contravention of or fails to comply with any provision of this Act or any regulation made thereunder, or
- (b) acts in contravention of or fails to comply with any condition of a licence,

shall, in addition to any other penalty which may be imposed under sub-section (1), be liable to a fine of one hundred rupees for each day on which the contravention or failure is continued after conviction thereof.

Forfeiture
of articles.

28. The Magistrate may, on the conviction of any person of any offence under this Act, make order that any article in connection with which the offence was committed or which was used in or in connection with the commission of the offence, shall be forfeited to Her Majesty.

Offences to
be cognizable.
Cap. 16.

29. Notwithstanding anything in the First Schedule to the Criminal Procedure Code, every offence under this Act shall be a cognizable offence within the meaning of that Code.

Explosives
which are
held by or
on behalf
of the Crown.

30. (1) This Act shall not apply to explosives which are held by, or on behalf of, the Crown.

(2) The Minister may, by Order published in the *Gazette*, make provision as to the loading, unloading, transport and storage of the explosives referred to in sub-section (1).

(3) Any person who contravenes or fails to comply with any provision of any Order made under sub-section (2) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees.

PART IV.

GENERAL.

31. The Controller, every Assistant Controller, every licensing authority, and every Inspector of Explosives shall each be deemed to be a peace officer within the meaning of the Criminal Procedure Code for the purpose of exercising, in relation to any offence under this Act, any power conferred upon a peace officer by that Code.

Controller,
Assistant
Controllers,
licensing
authorities and
Inspectors of
Explosives
deemed to be
peace officers.
Cap. 16.

32. (1) A notice to any person under this Act shall be given by letter despatched to him by registered post.

Manner of
giving notice.

(2) A notice given to any person by letter as provided in sub-section (1) shall be deemed to have been served on him at the time at which the letter would have been delivered in the ordinary course of post.

33. (1) The Minister may make regulations for the purpose of carrying out the provisions and giving effect to the principles of this Act.

Regulations.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations for or in respect of all matters stated or required by this Act to be prescribed or in respect of which regulations are authorised or required to be made.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder. Every regulation so approved shall be as valid and effectual as though it were herein enacted.

Application of
Customs
Ordinance
to explosives.
Cap. 185.

34. For the purpose of the application of the Customs Ordinance in relation to explosives,—

(a) any explosives the importation of which is prohibited by this Act or by regulation made under this Act shall be deemed to be goods the importation of which is prohibited by Ordinance, and

(b) any explosives the importation of which is restricted by this Act or by regulations made under this Act shall be deemed to be goods the importation of which is restricted by Ordinance.

This Act to be
in addition to
and not in
derogation of
Factories
Ordinance.

35. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Factories Ordinance, No. 45 of 1942.

Repeal of
Chapter 140.

36. The Explosives Ordinance is hereby repealed.

Interpretation.

37. In this Act unless the context otherwise requires—

“article” includes any explosive, document, vehicle, or vessel;

“Assistant Controller” means an Assistant Controller of Explosives;

“Controller” means the Controller of Explosives;

“District” means an Administrative District;

“Explosives” means gunpowder, nitro glycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, or any other substance or mixture used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect, and includes—

(a) fog signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of every description, and every adaptation or preparation of any explosive as hereinbefore defined: and

(b) any substance which, by reason of its explosive properties, is declared by the Minister to be an explosive by Order published in the *Gazette*;

“gun” has the same meaning as in the Firearms Ordinance;

Cap. 139.

“licence” means a licence granted under this Act;

“licensing authority”, in relation to any District, means the Government Agent, any Additional Government Agent, any Assistant Government Agent or any Additional Assistant Government Agent, for that District;

“permit” means a permit granted under this Act;

“prescribed” means prescribed by regulation made under this Act; and

“safety cartridges” means cartridges for small-arms the case of which can be extracted from the small-arms after firing and which are so closed as to prevent any explosion in one cartridge being communicated to the other.