

CHAPTER 298

THE EXPLOSIVES ACT.

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CHAPTER 298

THE EXPLOSIVES ACT.

Commencement: 9 September, 1936.

An Act relating to the manufacture, storage, sale, transport, importation, exportation and use of explosives.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “authorised explosive” means any explosive named in the Schedule to this Act and any other explosive which the Minister may declare by statutory instrument to be an authorised explosive;
- (b) “blasting material” means any explosive used for the purpose of blasting;
- (c) “danger building” means any building or part of a building used as an explosives factory or explosives magazine or in connection with an explosives factory or explosives magazine, unless in respect of that building or part of a building a certificate has been granted in accordance with rules made under this Act;
- (d) “engineer” means the engineer-in-chief or any other officer whom the engineer may depute to exercise the powers conferred upon him or her by this Act;
- (e) “explosives” means—
 - (i) gunpowder, nitroglycerine, dynamite, guncotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those herein mentioned or not, which is used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect;
 - (ii) any fuse, rocket, detonator, cartridge and every adaptation or preparation of an explosive as herein defined;
 - (iii) any other substance which the Minister may from time to time by statutory instrument declare to be an explosive;
- (f) “explosives factory” means any site licensed under this Act for the manufacture of any explosives, together with every mound, building (including an explosives magazine), and work on the site for whatever purpose used;

- (g) “explosives magazine” means any building licensed under this Act for the storage of explosives;
- (h) “inspector” means an inspector of explosives, or any person appointed or deputed under section 2;
- (i) “local authority” means the council of any municipality or town withing the meaning of the Local Governments Act or any other Act, and in all other areas the district commissioner or such person, body of persons or authority as the Minister may, by statutory instrument, appoint to be the local authority for the purpose of this Act;
- (j) “manufacture” means the making and division of any explosive from or into its component parts by any process, the conversion of an explosive into an explosive of another kind and the alteration, fitting for use or repair of any explosive;
- (k) “premises” means any land, road, harbour, river, building, structure, ship, boat, aircraft or other vessel, or any part thereof, or any tent, railway truck, motor vehicle, cart, van or other vehicle;
- (l) “rules” means rules made and in force under this Act;
- (m) “unauthorised explosive” means any explosive which is not an authorised explosive.

2. Power to appoint inspectors.

(1) The Minister may appoint such inspectors and such other officers, as to him or her may seem necessary for carrying out the provisions of this Act, and shall notify all such appointments in the Gazette.

(2) The engineer may depute other persons to act as inspectors in certain localities and for certain purposes; and insofar as any such person is authorised so to act, he or she shall have the same powers and be subject to the same duties as are conferred and imposed upon inspectors by this Act.

Manufacture of explosives.

3. Restriction on manufacture of unauthorised explosive.

- (1) No person shall manufacture any unauthorised explosive unless—
- (a) it is manufactured solely for the purpose of chemical experiment and not for sale, and in quantities not exceeding one pound in weight at any one time, or five pounds in all; or

(b) it is manufactured solely for practical trial as an explosive, and not for sale, and in such quantities and under such conditions as may be prescribed in writing by an inspector.

(2) Any person who contravenes this section or any condition prescribed under the powers of this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or in default of payment to imprisonment for a period not exceeding six months, and the explosive in respect of which the contravention has taken place shall be forfeited.

(3) The owner and the occupier of any premises in or on which an unauthorised explosive has been manufactured in contravention of this section shall be deemed to be the manufacturer, unless the owner or occupier, as the case may be, satisfies the court before which he or she is charged that he or she was unaware that any such contravention was occurring or had occurred.

(4) The burden of proving that any manufacture of an unauthorised explosive was solely for purposes of chemical experiment or practical trial and not for sale shall, in any prosecution under this section, be upon the accused.

4. Restriction on manufacture of authorised explosive.

(1) No person shall manufacture any authorised explosive in any place other than an explosives factory.

(2) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or in default of payment to imprisonment for a period not exceeding six months, and the explosive in respect of which any such contravention has taken place shall be forfeited.

Storage of explosives.

5. Restriction on storage or possession of unauthorised explosive.

(1) No person shall keep, store or be in possession of any unauthorised explosive—

(a) unless it has been manufactured as provided by section 3(1)(a),

and does not exceed five pounds in weight; or (b) unless it has been manufactured as provided by section 3(1)(b), and is kept, stored or possessed in such manner and such quantities as have been approved in writing by an inspector.

(2) The provisions of section 3(2), (3) and (4) shall apply, *mutatis mutandis*, in the event of any contravention of this section or of any of the conditions prescribed under it.

6. Restriction on storage of authorised explosive.

(1) No person shall keep, store or be in possession of any authorised explosive in or on any premises other than an explosives factory or explosives magazine, unless the explosive is kept—

- (a) for private use, and not for sale or other disposal, and in accordance with rules;
- (b) for use in the construction of any railway, road or other public work, in quantities not exceeding five thousand pounds in weight, and is stored in a temporary magazine approved by an inspector and under conditions prescribed in writing by an inspector;
- (c) in quantities not exceeding one thousand pounds in weight, and is stored in an isolated place approved by an inspector and under conditions prescribed in writing by an inspector; or
- (d) by a person in possession of a licence, as provided in section 7, to deal in explosives, and in accordance with any conditions attached to that licence or prescribed by rules.

(2) Any person who contravenes this section or any condition prescribed under it or mentioned in it commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a period not exceeding three months, and the explosive in respect of which the contravention has taken place shall be forfeited.

(3) The owner and the occupier of any premises in, at or on which any contravention of this section has occurred is liable to the penalties prescribed for any such contravention, unless that owner or occupier, as the case may be, satisfies the court before which he or she is charged that he or she was unaware that any such contravention was occurring or had occurred.

Licensed dealers in explosives.

7. Licence necessary to deal in explosives.

(1) No person, other than the manufacturer, shall sell, deal in or dispose of, any explosive unless he or she is in possession of a licence granted under this Act by the engineer.

(2) A licence granted under this Act shall expire on the 31st December in the year of issue.

(3) There shall be payable for every such licence or any renewal of the license a fee as prescribed in the rules.

(4) For the purposes of this section, a mine manager who, in outlying areas and in accordance with rules made under this or any other Act, supplies other authorised consumers shall not be deemed to be a dealer, unless he or she sells at a profit.

8. Sale of blasting cartridges and detonators.

No dealer shall sell blasting cartridges or detonators to any person who is unable to produce to him or her a permit to purchase signed by an inspector of explosives or his or her deputy, or by an inspector of mines, magistrate, police officer not below the rank of inspector or other person deputed by the engineer in terms of section 2.

Importation, exportation and use of explosives.

9. No importation or exportation of explosives without permit.

No person shall import into or export from Uganda, or cause to be imported into or exported from Uganda, any authorised explosive, unless he or she has obtained a permit issued in accordance with this Act.

10. Prohibition of use of blasting materials without permit.

(1) No person shall use or cause to be used blasting materials, unless—

- (a) he or she is in possession of a permit issued under the authority of an inspector;

- (b) he or she is under the immediate supervision of a person to whom a permit has been issued; or
- (c) he or she is the holder of a miner's blasting certificate issued under any law relating to mines.

(2) There shall be payable for every such permit the fee prescribed in the rules.

(3) No such permit shall be issued unless the issuing authority is satisfied that the applicant may safely be entrusted with the use of blasting materials, and that their use is necessary by him or her.

11. Offences and penalties.

Any person who contravenes section 7, 8, 9 or 10 commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a period not exceeding three months.

Licensing of factories and explosives magazines.

12. Owners and occupiers of existing factories entitled to a licence.

The licence of any factory or magazine which is in force at the commencement of this Act shall continue to be valid, provided that the conditions under which the licence was granted are still applicable.

13. Particulars to be stated on application.

(1) Every person who desires to establish or erect any factory for the manufacture of explosives shall make application in writing to the engineer accompanied by a draft licence together with diagrams or plans of the proposed factory, on such scale or scales as the engineer may prescribe, and the application shall set forth and specify—

- (a) the situation and extent or area of the land on which it is proposed to erect the factory, together with the area of land surrounding the factory which it is proposed to leave free of buildings;
- (b) the several distances which it is proposed to maintain between the several danger buildings respectively, and between those danger buildings and other buildings or works used in connection with the factory;

- (c) the materials to be used in, and the mode of construction of, all danger buildings and works on, in or used in connection with the factory;
- (d) the nature of the processes of manufacture to be used in the factory, the place at which each process of manufacture and every description of work is intended to be carried on in the factory and the places on or in which it is proposed to keep in store any ingredients of explosives or other articles liable to spontaneous ignition or combustion or otherwise dangerous;
- (e) the quantity of explosives or of any partly or wholly mixed ingredients of explosives, which it is proposed to use simultaneously in or near any building or in or near any machine;
- (f) the maximum number of persons which it is proposed to employ in each danger building in the factory;
- (g) any further particulars which the engineer may require, having regard to any special circumstances arising from the locality or construction of any buildings or works, or to the nature of any process to be carried on therein.

(2) The engineer may refuse any such application or direct that a public inquiry be held, as provided in section 14, as to the expediency of granting the application.

14. Notice of inquiry into expediency of granting licence and objections.

(1) If the engineer directs that such an inquiry as referred to in section 13(2) be held, he or she shall cause a notice to be published at the cost of the applicant, stating that an application has been made under this Act for the grant of a licence to erect a factory for the manufacture of explosives, describing as far as possible the proposed site of the factory, and stating that a commission will sit to hear any objections to the grant of the licence, and the date, time and place on or at which that commission will sit to hear the application.

(2) The notice shall be published in the Gazette, and once a week, during three consecutive weeks, in one or more newspapers circulating in the district or area in which it is proposed to erect or establish the factory; and the commission shall not sit until the expiration of at least one week from any last publication of the notice.

(3) The local authority having jurisdiction in an area in which, or within one mile of which, is situate the site of the proposed factory, and any person residing or carrying on business within a like distance, or any person who can show a substantial interest in opposing the grant of a licence, may, either individually or jointly with others, lodge an objection in writing to the grant of any such licence with the chairperson of the commission not later than seven days prior to the sitting of the commission.

(4) Every applicant for a licence or objector to the license may appear before the commission in support of his or her application or objection, either in person or by a deputy authorised thereto in writing by the applicant or objector.

15. Constitution, powers and duties of the commission.

The commission shall consist of an inspector, who shall be the chairperson of the commission, and two other persons appointed for the purpose by the engineer, and it shall, as soon as may be after the conclusion of its sitting, make a report to the engineer, with such recommendations as it may think fit.

16. Powers to grant or refuse licence on consideration of the report of the commission.

Upon consideration of the report and recommendations of the commission, the engineer may refuse the application for a licence, or may grant the application with or without modifications and conditions.

17. Issue of licence.

Any licence under this Act to erect, establish and maintain a factory for the manufacture of explosives shall, if granted, be issued by the engineer on payment of the fee prescribed in the rules; but no explosives shall be manufactured until the engineer is satisfied that the premises in respect of which the licence has been granted are in a sufficiently complete state to enable this Act and the rules to be carried out and complied with in all respects.

18. Amendment of licence.

(1) Any licence issued under section 17 or the conditions of the licence may, upon application, be amended by the engineer, who shall not

consent to the amendment except upon a report by an inspector that the safety of the public or of any person employed in or at the licensed factory will not be diminished by the amendment.

(2) Notwithstanding subsection (1), no such amendment shall be inconsistent with the provisions of this Act or of any rule.

(3) A fee as prescribed in the rules shall be payable on every occasion that a licence is amended under this section.

19. Transfer of licence.

(1) Any licence issued under section 17 may be transferred into the name of another.

(2) Four weeks' notice in writing of a desire to transfer shall be sent to the engineer, who shall not refuse such a transfer except on the ground that the proposed transferee is not a suitable person to hold the licence.

20. Revocation and lapse of licence.

(1) The engineer may revoke any licence issued under section 17.

(2) Every such licence shall ipso facto expire if the holder of the licence has ceased to carry on, for a period of one year, any work authorised by the licence, and shall become void if the premises in respect of which the licence was granted have been used for any trade or work not authorised by the licence.

21. Penalties for contravention of conditions of licence.

Any person who contravenes any condition upon which any such licence was granted commits an offence and is liable on conviction to a fine not exceeding five thousand shillings or in default of payment to imprisonment for a period not exceeding twelve months.

22. Permission to erect or use explosives magazine.

(1) Any person desiring to erect or carry on a magazine for the storage of explosives shall make application for a licence to erect or carry on a magazine to the engineer, who may grant the licence, subject to the

observance of the rules and after consultation with the local authority, if any, and in the case of a mine magazine the commissioner of geological survey and mines, and upon such other conditions as he or she may think fit to attach to the licence.

(2) Any person who contravenes any condition of a licence granted under this section commits an offence and is liable on conviction to the penalties mentioned in section 21.

(3) Sections 18, 19 and 20 shall, *mutatis mutandis*, apply in respect of any licence granted under this section.

(4) There shall be payable for any licence granted under this section a fee as prescribed in the rules.

23. Issue of duplicates of licences or permits.

When any licence or permit granted under this Act is lost or accidentally destroyed, the inspector or other person authorised to grant the licence or permit may issue a duplicate to the holder of the licence or permit on payment of the fee prescribed in the rules.

24. Right of appeal.

Any person dissatisfied by a decision of the engineer under section 13, 16 or 20 may appeal against the decision to the Minister, whose decision shall be final.

Powers of inspectors.

25. Powers of inspectors to enter and inspect factories, etc.

Any inspector may—

- (a) enter any explosives factory or explosives magazine at any hour of the day or night for the purpose of inspecting it and of making inquiries relative to compliance with this Act and the rules, or relative to the means used in the explosives factory or explosives magazine for preserving the safety of the public or of any person employed in it;
- (b) enter at any hour of the day or night upon any premises in which explosives are kept, or in which there is good reason to suspect

that explosives are being manufactured or stored or kept or conveyed in contravention of this Act or the rules, and inspect any such premises and to make all such inquiries thereon as he or she may think fit; (c) require the occupier or other person for the time being in charge of any explosives factory, explosives magazine, or other premises mentioned in this section, to furnish for purposes of analysis or test, samples of explosives or ingredients of explosives, or any substance found therein or suspected of being an explosive or an ingredient of an explosive, but no such powers as are conferred by this section shall be so exercised as unnecessarily to hinder the work carried on in any such factory, magazine or premises aforesaid.

26. Penalties for obstructing inspector or refusing to answer inquiries, etc.

Any person who wilfully obstructs or hinders any inspector in the exercise of the powers or duties conferred or imposed upon him or her by this Act or the rules, or disobeys any lawful order of an inspector, or who upon demand fails to answer as far as he or she may be able any question lawfully put by an inspector, or who gives false information to an inspector, whether in answer to any such question or not, commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a period not exceeding three months.

27. Power of inspector to order discontinuance of dangerous methods.

If upon any such inspection an inspector discovers that any method of work, packing or storage is being used which is in conflict with this Act or any rules, or which, in his or her opinion, is calculated to endanger the safety of the public or of any person employed in the premises inspected, he or she may require the immediate discontinuance of that method; but any person who is dissatisfied with a decision that a method is calculated to endanger safety may, within fourteen days of the decision, lodge an appeal as provided by rules.

Miscellaneous.

28. Duty of occupier of a factory to make special rules.

(1) Every occupier of a factory shall, subject to the approval of an inspector, make special rules, not inconsistent with this Act, for regulating the persons employed in that factory with a view to securing the observance in the factory of the provisions of this Act and the rules, the safety and proper discipline of all such persons and the safety of the public.

(2) The occupier of any explosives magazine or of any premises where explosives are dealt in shall, if it seems to an inspector to be necessary, make such special rules, not inconsistent with this Act, as are described in subsection (1).

(3) The occupier of any such factory, magazine or premises shall take all reasonable steps for ensuring or enforcing the observance of any such special rules.

(4) In respect of penalties, any special rules made under this section shall be deemed to be rules under this Act.

29. Penalties for endangering safety or causing loss of life.

Any person causing an explosion by which life or property is endangered commits an offence and is liable to the following penalties, according as the explosion was negligently or wilfully caused—

- (a) if the explosion is negligently caused and property is endangered, he or she is liable on conviction to a fine not exceeding five thousand shillings or in default of payment to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment;
- (b) if the explosion is negligently caused and life is endangered, he or she is liable on conviction to a fine not exceeding ten thousand shillings or in default of payment to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment;
- (c) if the explosion is wilfully caused and life or property is endangered, he or she is liable on conviction to imprisonment for a term not exceeding twelve years.

30. Rules.

- (1) The Minister may make rules as to all or any of the following matters—
- (a) the construction of explosives factories, explosives magazines, and other danger buildings;
 - (b) the conditions under which the manufacture of explosives may be carried on;
 - (c) the storage of explosives, whether in explosives magazines or elsewhere;
 - (d) the use of explosives;
 - (e) the packing, transport, importation and exportation of explosives, and the making of special rules governing the packing and transport at individual places, and the landing and handling of explosives in ports and harbours;
 - (f) the issue of licences to dealers in explosives, the conditions of any such licence, the restrictions which may be placed upon the sale or disposal of explosives to particular classes of persons, and the quantity of any explosive which may be purchased by any person or company under permit from the officer authorised by such rules;
 - (g) the inquiry into the circumstances of explosions endangering or causing injury to persons or property or death, and for the giving of notice of all such explosions;
 - (h) the prevention of trespass in or upon an explosives factory, or in or upon any explosives magazine or other place where explosives are kept;
 - (i) the tests to which explosives, or the raw materials from which explosives are manufactured, are liable to be submitted;
 - (j) the manner in which appeals under section 24 shall be notified and conducted;
 - (k) prescribing the statistics which manufacturers, dealers and users may be called upon to supply;
 - (l) prescribing the fees payable for any licence or permit issued under this Act, and generally for the protection of life and property and for better carrying out the objects and purposes of this Act.

(2) Any such rules may provide penalties for the contravention of the rules not exceeding in any case a fine of three thousand shillings or in default of payment imprisonment for a term of twelve months, and the rules may

further provide that the explosive, if any, in respect of which the contravention has taken place may be forfeited.

(3) The rules may prescribe daily penalties for a continuing contravention or increased penalties for a second or subsequent contravention.

(4) Different rules may be made in respect of different areas of Uganda.

31. Application of the Act.

Nothing in this Act shall apply—

- (a) to the importation, storage, use or transport, of any explosives by the Uganda Peoples' Defence Forces or a police force constituted under any written law;
- (b) to any ammunition, a licence to possess or to deal in which is regulated by any other law;
- (c) to the use or storage underground of any explosive at any mine as defined by the law for the time being in force regulating mines, works and machinery;
- (d) to the possession or conveyance of any explosive taken as a sample for the purpose of this Act by an inspector or other duly authorised person if the quantity is not more than is reasonably necessary for the performance of his or her duty and every such sample is kept and conveyed with all due precaution;
- (e) to the keeping for sale of fireworks, in such quantities and subject to such conditions as may be prescribed by rules.

Schedule.

s. 1.

Authorised explosives.

1. The undermentioned explosives are declared to be authorised explosives under this Act—
 - Ammunition of various kinds (cartridges)
 - Detonators
 - Fireworks of various kinds
 - Fuse igniters or tshisa sticks
 - Gelatinous explosives (such as blasting gelatine, gelignite, gelatine dynamite, etc.) Gunpowder Nitro-cotton
 - Nongelatinous explosives (such as dynamite, ligdyn, farmers' dynamite, etc.)
 - Percussion caps Safety fuse Sporting powder
2. Imported explosives, whether contained in the above list or not, shall be deemed to be authorised explosives if included in and conforming to the “authorised list” in force in Great Britain.

History: Cap. 309.

Cross Reference

Local Governments Act, Cap. 243.