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THE EXPLOSIVES ACT, 1884

ACT NO IV OF 1884

[26th February, 1884]

***An Act to regulate the manufacture, possession, use, sale, transport and importation of Explosives.**

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport and importation of explosives; It is hereby enacted as follows:—

1. (1) This Act may be called the Explosives Act, 1884; Short title
and
- (2) It extends to the whole of Bangladesh. Local extent
2. (1) This Act shall come into force on such day as the Government, by notification in the official Gazette, appoints. Commencement
- (2) [Repealed by the Amending Act, 1891 (Act XII of 1891).]
3. [Repealed by section 2 and Schedule II of the Indian Ports Act, 1889 (Act X of 1889).]
4. In this Act, unless there is something repugnant in the subject or context,— Definitions
- (1) “explosive”
- (a) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

* Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government” and “Taka” were substituted, for the words “Pakistan”, “appropriate Government” or “appropriate Government or any Provincial Government” or “Central Government” and “rupees” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973)

- (b) includes fog-signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined:
- (2) “Manufacture” includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive:
- (3) “vessel” includes every ship, boat and other vessel used in navigation, whether propelled by oars or otherwise:
- (4) “carriage” includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods, or passengers by land, in whatever manner the same may be propelled:
- (5) “master” includes every person (except a pilot or harbourmaster) having for the time being command or charge of a vessel: provided that, in reference to any boat belonging to a ship, “master” shall mean the master of the ship:
- (6) “import” means to bring into Bangladesh by ¹[air, sea] or land.
- ²[* * *]

Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives

5. (1) The Government may for any part of Bangladesh, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport and importation of explosives, or any specified class of explosives.

¹ The words and comma “air, sea” were substituted, for the word “sea” by section 2 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

² Clause 7 was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

- (a) the authority by which licenses may be granted;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;
- (c) the manner in which applications for licenses must be made, and the matters to be specified in such applications;
- (d) the form in which, and the conditions on and subject to which, licenses must be granted;
- (e) the period for which licenses are to remain in force; and
- (f) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) Rules made under this section may impose penalties on all persons manufacturing, possessing, using, selling, transporting or importing explosives in breach of the rules, or otherwise contravening the rules:

¹[Provided that the penalty which may be imposed by any such rules shall be,—

- (a) in the case of a person so manufacturing, using or importing an explosive, an imprisonment for a term which may extend to ten years and shall not be less than two years, and also a fine which may extend to fifty thousand Taka in default of which a further imprisonment for a term which may extend to one year,
- (b) in the case of a person so selling or transporting an explosive, an imprisonment for a term which may extend to seven years and shall not be less than one year and also a fine which may extend to thirty thousand Taka in default of which a further imprisonment for a term which may extend to one year,

¹ The proviso was substituted, for the former proviso by section 3 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

- (c) in the case of a person so possessing an explosive, an imprisonment for a term which may extend to five years and shall not be less than six months, and also a fine which may extend to twenty thousand Taka in default of which a further imprisonment for a term which may extend to six months,
- (d) in any other case, an imprisonment for a term which may extend to two years and shall not be less than three months, and also a fine which may extend to ten thousand Taka in default of which a further imprisonment for a term which may extend to three month.]

Power for Government to prohibit the manufacture, possession or importation of specially dangerous explosives

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Government may, from time to time by notification in the official Gazette,—

- (a) prohibit, either absolutely or subject to conditions, the manufacture, possession ¹[use, sales, transportation] or importation of any explosive which is of so dangerous a character that, in the opinion of the Government it is expedient for the public safety to issue the notification;
- (b) [*Repealed by the Repealing and Amending Act 1914 (Act No. X of 1914).*]

(2) The officers of ²[* * *] customs at every ³[port or border check-post] shall have the same power in respect of any explosive with regard to the importation of which a notification has been issued under this section and the ⁴[vessel or carriage] containing the explosive as they have for the time-being in respect of any article the importation of which is prohibited or

¹ The words and commas “use, sale, transportation” were inserted by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

² The word “sea” was omitted by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

³ The words “port or border check-post” were substituted, for the word “port” by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

⁴ The words “vessel or carriage” were substituted, for the word “vessel” by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

regulated by the law relating to ¹[* * *] customs and the ²[vessel or carriage] containing the same; and the enactments for the time being in force relating to ³[* * *] customs or any such article or ⁴[vessel or carriage] shall apply accordingly.

⁵[(3) Any person manufacturing, possessing, using, selling, transporting or importing an explosive in contravention of a notification issued under this section shall be punishable with imprisonment for a term which may extend to ten years and shall not be less than two years and also with a fine which may extend to fifty thousand Taka, in default of which with a further imprisonment for a term which may extend to one year, and in the case of importation by water or land, the owner and master of the vessel or carriage in which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with imprisonment for a term which may extend to ten years and shall not be less than two years and also with a fine which may extend to fifty thousand Taka, in default of which with a further imprisonment for a term which may extend to one year.]

7.(1) The Government may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office—

- (a) to enter, inspect and examine any place, carriage or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported or imported in contravention of this Act or of the rules made under this Act;
- (b) to search for explosives therein;

Power to make rules conferring powers of inspection, search, seizure, detention and removal

¹ The word “sea” was omitted by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

² The words “vessel or carriage” were substituted, for the word “vessel” by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

³ The word “sea” was omitted by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

⁴ The words “vessel or carriage” were substituted, for the word “vessel” by section 4 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

⁵ Sub-section (3) was substituted, for the former sub-section (3) by the Explosives (Amendment) Act, 1987 (Act No. XX of 1987), section 4.

- (c) to take samples of any explosive found therein on payment of the value thereof; and
- (d) to seize, detain, remove and, if necessary, destroy any explosive found therein.

(2) The provisions of the Code of Criminal Procedure relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorised by rules under this section.

Notice of accidents

8. (1) Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or any carriage or vessel either conveying an explosive or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall within such time and in such manner as may be by rule prescribed give notice thereof and of the attendant loss of human life or personal injury, if any, to the Chief Inspector of Explosives in Bangladesh and to the officer in charge of the nearest police-station.

¹[(2) Whoever in contravention of sub-section (1) fails to give notice of any accident shall be punishable with imprisonment for a term which may extend to three months and also with a fine which may extend to five thousand Taka, in default of which with a further imprisonment for a term which may extend to one month, and, if the accident is attended by loss of human life, with imprisonment for a term which may extend to one year and also with a fine which may extend to ten thousand Taka, in default of which with a further imprisonment which may extend to two months.]

Inquiry into accidents

²[**9.**(1) Where any accident such as is referred to in section 8 occurs in or about or in connection with any place, carriage or vessel under the control of any of the armed forces of Bangladesh, an inquiry into the causes of the accident shall

¹ Sub-section (2) was substituted, for the former sub-section (2) by section 5 of the Explosives (Amendment) Act, 1987 (Act No. XX of 1987).

² Sections 9 and 9A were substituted, for section 9 by the Explosives (Amendment) Ordinance, 1945 (Ordinance No. XVIII of 1945).

be held by the naval, military, or air force authority concerned, and where any such accident occurs in any other circumstances, the district Magistrate ¹[or, in ²[a Metropolitan Area], the Police Commissioner] shall, in cases attended by loss of human life, or may, in any other case, hold or direct a Magistrate ³[or a police officer, as the case may be,] sub-ordinate to him to hold, such an inquiry.

(2) Any person holding an inquiry under this section shall have all the powers of a Magistrate in holding an inquiry into an offence under the Code of Criminal Procedure, 1898 and may exercise such of the powers conferred on any officer by rules under section 7 as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(3) The person holding an inquiry under this section shall make a report to the Government stating the causes of the accident and its circumstances.

(4) The Government may make rules—

- (a) to regulate the procedure at inquires under this section;
- (b) to enable the Chief Inspector of Explosives in Bangladesh to be present or represented at any such inquiry;
- (c) to permit the Chief Inspector of Explosives in Bangladesh or his representative to examine any witnesses at the inquiry;
- (d) to provide that where the Chief Inspector of Explosives in Bangladesh is not present or represented at any such inquiry, a report of the proceedings thereof shall be sent to him;
- (e) to prescribe the manner in which and the time within which notices referred to in section 8 shall be given.

¹ The words and commas “or, in the Dacca Metropolitan Area, the Police Commissioner” were inserted by section 12 and Schedule of the Dhaka Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

² The letter and words “a Metropolitan Area” were substituted, for the words “the Dacca Metropolitan Area” by second Schedule of the Chittagong Metropolitan Police (Amendment) Ordinance, 1978 (Ordinance No. XLVIII of 1978).

³ The words, letter and commas “or a police officer, as the case may be,” were inserted by section 12 and Schedule of the Dhaka Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1978).

Inquiry into
more serious
accidents

9A. (1) The Government may, where it is of opinion, whether or not it has received the report of an inquiry under section 9, that an inquiry of more formal character should be held into the causes of an accident such as is referred to in section 8, appoint the Chief Inspector of Explosives in Bangladesh or any other competent person to hold such inquiry, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) Where the Government orders an inquiry under this section, it may also direct that any inquiry under section 9 pending at the time shall be discontinued.

(3) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the ¹[Penal Code].

(4) Any person holding an inquiry under this section may exercise such of the powers conferred on any officer by rules under section 7 as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(5) The person holding an inquiry under this section shall make a report to the Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make; and the Government shall cause every report so made to be published at such time and in such manner as it may think fit.

(6) The Government may make rules for regulating the procedure at inquiries under this section.]

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.

Forfeiture of
explosives

11. Where the owner or master of a Vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Distress of
vessel

12. Whoever abets, within the meaning of the ¹[Penal Code], the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

Abetment and
attempts

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, ship or boat, may be apprehended without warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorised by the occupier of, that place, or by any agent or servant of, or other person authorised by, the railway administration or conservator of the port, and be removed from the place where he is arrested and conveyed as soon as conveniently may be before a Magistrate.

Power to arrest
without
warrant
persons
committing
dangerous
offences

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Saving and
power to
exempt

14. (1) Nothing in this Act, except sections 8, 9 and 9A, shall apply to the manufacture, possession, use, transport or importation of any explosive—

- (a) by any of the armed forces of Bangladesh in accordance with rules or regulations made by the Government;
- (b) by any person employed under the Government in execution of this Act.

(2) The Government may by notification in the official Gazette exempt, absolutely or subject to any such conditions as it may think fit to impose, any explosive from all or any of the provisions of this Act.

Saving of Arms
Act, 1878

15. Nothing in this Act shall affect the provisions of the Arms Act, 1878:

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport or importation of an explosive may, if empowered in this behalf by the rules under which the license is granted, direct by an order written on the license that it shall have the effect of a like license granted under the said Arms Act.

Saving as to
liability under
other law

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules: Provided that a person shall not be punished twice for the same offence.

Extension of
definition of
“explosive” to
other explosive
substances

17. The Government may, from time to time, by notification in the official Gazette, declare that any substance which appears to the Government to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act, and the provisions of this Act (subject to such exceptions, limitations, and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition or the term “explosive” in this Act.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making publication and confirmation of rules

(2) The publication shall be made in such manner as the Government, from time to time, by notification in the official Gazette prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been published in the official Gazette.

(6) The publication in the official Gazette or a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

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