

CHAPTER 24:02
EXPLOSIVES
ARRANGEMENT OF SECTIONS

SECTION

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Law 31, 1961,
HMC Order 1, 1963,
L.N. 84, 1966,
Act 36, 1968,
S.I. 124, 1977.

An Act to provide for the control of the manufacture, importation, sale, transport, storage, use and disposal of explosives and for matters incidental thereto.

[Date of Commencement: 10th April, 1962]

1. Short title

This Act may be cited as the Explosives Act.

2. Interpretation

In this Act, unless the context requires-

"explosives" means-

- (a) nitroglycerine, dynamite, guncotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance or mixture which is used or manufactured with a view to producing a practical effort of explosion or a pyrotechnic effect;
- (b) any fuse, rocket, detonator, cartridge, and every adaptation or preparation of any explosive as herein defined;
- (c) any other substance which the President may by regulation, made under section 4 declare to be an explosive;

but shall not include any ammunition within the meaning of the Arms and Ammunition Act.

"military" includes that which pertains to any armed force (including a police force), whether such force is of a regular or irregular character.

3. Appointment of officers

The Minister may by notice published in the *Gazette* appoint-

- (a) a Chief Inspector of Explosives;
- (b) one or more Inspectors of Explosives;
- (c) Assistant Inspectors of Explosives; and
- (d) such other officers as may be required;

to perform the duties and to exercise the powers conferred upon them by or under this Act, and such appointments may be of named persons or may be *ex officio*.

4. Power to make regulations

The President may make regulations-

- (a) prohibiting or regulating the importation and transit of explosives;
- (b) regulating the transport and storage of explosives;
- (c) regulating the sale of and dealing in explosives;

- (d) prohibiting the introduction of explosives into any specified areas;
- (e) prohibiting the possession of explosives by any specified class of persons;
- (f) prohibiting or regulating the manufacture of explosives;
- (g) regulating the use of explosives;
- (h) regulating the disposal of explosives;
- (i) prescribing the fee to be paid for any licence or permit issued or examination or inspection made under or in pursuance of regulations;
- (j) providing for the seizure and forfeiture of any explosives in respect of which any offence against any regulations made under this section has been committed; and
- (k) generally to give force and effect to this Act or for its better administration.

(2) Regulations may provide that any person who contravenes any provision thereof or who fails to comply with any order, requirement or condition lawfully issued to or imposed on him by virtue of any regulation and with which it is his duty to comply shall be guilty of an offence.

(3) Regulations made under this section shall specify what penalty may be imposed for each offence thereby created and may also provide different penalties in the case of successive or continuous offences but such penalty shall not exceed a fine of P200 or a term of imprisonment for six months, or to both, except that, where the offence relates to the importation of explosives intended or adapted for military use, no such penalty shall exceed imprisonment for a term of four years.

5. Forfeiture of licence, certificate or permit

Any person convicted under regulations made under this Act who holds a licence, certificate or permit issued in pursuance of such regulations shall be liable, in addition to any other punishment, to cancellation of his licence, certificate or permit or to suspension thereof for such period as the court thinks fit.

6. Infliction of summary penalties

(1) The Chief inspector or an inspector of Explosives, if satisfied after suitable investigation that any person has committed an offence against regulations made under this Act, may summarily demand payment of a fine not exceeding P10 for such offence.

(2) Any person from whom payment of a fine has been demanded under this section may elect to admit his liability and pay the fine or dispute his liability and await prosecution, and he shall be so informed at the time by the Chief inspector or inspector.

(3) The payment forthwith, or within such time as the Chief inspector or inspector may specify, of any fine demanded under this section, shall operate as a bar to any further criminal proceedings against such person for such offence.

(4) If any person fail to pay the fine demanded forthwith or within the time specified, as the case may be, such summary demand shall not in any way relieve such person of any liability he may have incurred or be a bar to his conviction and punishment by a competent court in respect of such offence.

(5) The Chief inspector or inspector shall give a receipt to any person making a payment in accordance with subsection (2) or (3) and the receipt shall be in such form as may be approved by the President.

(6) Any payments received under this section by the Chief inspector or an inspector shall be paid into the general revenue of Botswana.

7. Penalty for causing explosion

(1) Any person who negligently causes an explosion whereby property is endangered, damaged or destroyed, shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

(2) Any person who negligently causes an explosion whereby any person is hurt or his life endangered, shall be guilty of an offence and liable to a fine not exceeding P1000 or to imprisonment for a term not exceeding 12 months, or to both.

(3) Any person who negligently causes an explosion which results in the death of any person shall be guilty of an offence and liable to a fine not exceeding P2000 or to imprisonment for a term not exceeding two years, or to both.

(4) Any person who by any wilful act or omission causes an explosion whereby life or property is endangered shall, if death does not result therefrom, be guilty of an offence and liable, to imprisonment for a term not exceeding 10 years.

(5) Nothing contained in this section shall be construed as exempting any person from being charged and punished under the Penal Code or any other law in respect of any act described in this section.