

## **EXPLOSIVE SUBSTANCES ACT, 1908**

**6 of 1908**

**[8th June, 1908]**

### CONTENTS

1. Short title, extent and application
2. Definitions
3. Punishment for causing explosion likely to endanger life or property
4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property
5. Punishment for making or possessing explosives under suspicious circumstances
6. Punishment of abettors
7. Restriction on trial of offences

## **EXPLOSIVE SUBSTANCES ACT, 1908**

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STATEMENT OF OBJECTS AND REASONS "Recent events have brought prominently to notice the inadequacy of the existing law to deal with crimes committed by means of explosive substances. Explosives Act, 1884. was framed to prevent accidents rather than to prevent crime and its provisions are clearly inadequate to meet the present emergency. No sentence of imprisonment can be imposed under that Act and the maximum penalty is only a fine of three thousand rupees. The Indian Arms Act, 1878, though it applies to the possession of explosives as well as arms. is also inadequate in respect of both of the penalties it allows and the scope of its provisions for dealing promptly with preparations to manufacture bombs and other explosives. The Penal Code provides for the punishment of persons who cause hurt or mischief by means of explosive substances and it also deals with attempts to cause hurt or mischief but only when any act towards the commission of the offence is actually done. But it does not provide any penalty for making or possessing explosive substances with unlawful intent and

it does not in other cases always provide such severe penalties as are requisite. The Governor-General in Council, therefore, considers it necessary to supplement the existing law by an Act on the lines of English Explosive Substances Act, 1883, which was enacted for the expressed purpose of dealing with anarchist crimes. The Bill which has been drafted to give effect to this decision provides for a punishment of any person who causes an explosion likely to endanger life or property, or who attempts to cause such an explosion, or makes or has in his possession any explosive substance with intent to endanger life or property. It further makes the manufacture or possession of explosive substances for any other than a lawful object a substantive offence and throws on the person who makes or is in possession of any explosive substance the onus of proving that the making or possession was lawful. It also provides adequately for the punishment both of principals and accessories." - Gazette of India, 1903, Pt. V, p. 170.

### **1. Short title, extent and application :-**

(1) This Act may be called The Explosive Substances Act, 1908.

<sup>1</sup>[(2) It extends to the whole of India <sup>2</sup>[\* \* \* \* \*], and applies also to citizens of India <sup>3</sup> [outside India],]

1. The words "the Local Government or" were omitted by A. O., 1937.
2. Substituted for the words "Governor-General in Council", the Part-B States (Laws) Act, 1951 (3 of 1951), S.3 and Schedule (1-4-1951) .
3. Substituted for "wherever they may be", the Part-B States (Laws) Act, 1951 (3 of 1951). S. 3 and Schedule (1-4-1951) .

### **2. Definitions :-**

<sup>1</sup> In this Act,

(a) the expression "explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement;

(b) the expression "special category explosive substance" shall be deemed to include research development explosive (RDX), penta erythritol tetra nitrate (PETN), high melting explosive (HMX), tri nitro toluene (TNT). low temperature plastic explosive (LTPE),

composition exploding (CE) (2, 4, 6 phenyl methyl nitramine or tetryl), OCTOL (mixture of high melting explosive and tri nitro toluene), plastic explosive kirkee-1 (PEK-1) and RDX/TNT compounds and other similar type of explosives and a combination thereof and remote control devices causing explosion and any other substance and a combination thereof which the Central Government may, by notification in the Official Gazette, specify for the purposes of this Act.

1. Sections 2 to 5, shall be substituted, by Explosive Substances (Amendment) Act, 2001. (54 of 2001) Received the assent of the President on December 11, 2001 and published in the Gazette of India, Extra.. Part 11. Section 1.

### **3. Punishment for causing explosion likely to endanger life or property :-**

<sup>1</sup> Any person who unlawfully and maliciously causes by

(a) any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with imprisonment for life, or with rigorous imprisonment of either description which shall not be less than ten years, and shall also be liable to fine;

(b) any special category explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with death, or rigorous imprisonment for life, and shall also be liable to fine.

1. Sections 2 to 5, shall be substituted, by Explosive Substances (Amendment) Act, 2001. (54 of 2001) Received the assent of the President on December 11, 2001 and published in the Gazette of India, Extra.. Part 11. Section 1.

### **4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property :-**

<sup>1</sup> Any person who unlawfully and maliciously

(a) does any act with intent to cause by an explosive substance or special category explosive substance, or conspires to cause by an explosive substance or special category explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property; or

(b) makes or has in his possession or under his control any explosive substance or special category explosive substance with intent by means thereof to endanger life, or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property in India,

shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused to not, be punished.

(i) in the case of any explosive substance, with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

(ii) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term .which may extend to ten years, and shall also be liable to fine.

1. Sections 2 to 5, shall be substituted, by Explosive Substances (Amendment) Act, 2001. (54 of 2001) Received the assent of the President on December 11, 2001 and published in the Gazette of India, Extra.. Part 11. Section 1.

## **5. Punishment for making or possessing explosives under suspicious circumstances :-**

**<sup>1</sup>** Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object. be punished,

(a) in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;

(b) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.'.

1. Sections 2 to 5, shall be substituted, by Explosive Substances (Amendment) Act, 2001. (54 of 2001) Received the assent of the President on December 11, 2001 and published in the Gazette of India, Extra.. Part 11. Section 1.

## **6. Punishment of abettors :-**

Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

## **7. Restriction on trial of offences :-**

No Court shall proceed to the trial of any person for an offence against this Act except with the consent of <sup>1</sup>[\* \* \*] the <sup>2</sup> ["District Magistrate" ].

1. The words "the Local Government or" were omitted by A. O., 1937.
2. In Sections 7 the word "Central Government" shall be substituted, by Explosive Substances (Amendment) Act, 2001. (54 of 2001) Received the assent of the President on December 11, 2001 and published in the Gazette of India, Extra.. Part 11. Section 1.