

## **EXPLOSIVES ACT, 1884**

**4 of 1884**

**[26th February, 1884]**

### CONTENTS

1. Short title
2. Commencement
3. Repeal of portions of Act 12 of 1875
4. Definitions
  - 5 . Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives
  - 5A. Persons already in business in respect of certain explosives to carry on such business without licence for a certain period.-
  - 6 . Power for Central Government to prohibit the manufacture, possession or importa- tion of specially dangerous explosives
  - 6 A. Prohibition of manufacture, possession, sale or transport of explosives by young persons and certain other persons
  - 6B. Grant of licences
  - 6C. Refusal of licences
  - 6D. Licensing authority competent to impose conditions in addition to prescribed conditions
  - 6E. Variation suspension and revocation of licences
  - 6F. Appeals
- 7 . Power to make rules conferring powers of inspection, search, seizure detention and removal
8. Notice of accidents
9. Inquiry into accidents
  - 9A. Inquiry into more serious accidents
  - 9B. Punishment for certain offences
  - 9C. Offences by companies
10. Forfeiture of explosives
11. Distress of aircraft or vessel
12. Abetment and attempts
13. Power to arrest without warrant persons committing dangerous offences
14. Saving and power to exempt
15. Saving of (Arms Act, 1959)
16. Saving as to liability under other law
- 17 . Extension of definition of "explosive" to other explosive substances
- 17A. Power to delegate
18. Procedure for making, publication and confirmation of rules

## **EXPLOSIVES ACT, 1884**

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STATEMENT OF OBJECTS AND REASONS (1) "The object of this Bill is to provide a comprehensive law regulating the manufacture, keeping, sale, conveyance and importation of explosives throughout British India. The matter was first brought to the notice of the Government in connection with an application made by the Agents of Nobel's Explosive Company, Limited, for permission to import dynamite manufactured by the Company. The Government of Bombay, to whom the application was made referred the question to a Committee, which reported that the expediency of allowing the importation into that Presidency, of dynamite and other preparations of nitroglycerine was doubtful. The Government of Bombay forwarded a copy of this report to the Government of India with a request that the importation of preparations of nitro-glycerine might be prohibited until further notice by notification under the Sea Customs Act. Before complying with this request the Government of India thought it well to consult the Governments of Madras and Bengal. In reply, both Governments expressed an opinion that the importation of these explosives should not be forbidden. The Government of Bengal further submitted a draft set of rules to regulate the importation, package, transport and storage of dynamite and similar substances, together with a report which had been prepared by a Committee appointed by the Lieutenant-Governor to consider the entire subject. This Committee, while recommending that the draft rules should be published as rules under the Indian Arms Act, 1878, suggested the enactment of a comprehensive Imperial Act of a similar nature to the English Explosives Act, 1875 (38 Vie., c. 17), which would in a convenient and compendious Code deal with the subject of explosives in its entirety and furnish the public, as well as Government officials, with an easy means of ascertaining their duties, responsibilities and powers respecting articles which by their inflammable, explosive or dangerous nature imperil the public safety. It appears to the Government of India that it would be an abuse of the powers conferred by the Indian Arms Act, 1878, to make rules of the nature of those submitted by the Bengal Committee under that Act. There are, no doubt, powers conferred by the Indian Arms Act which might at first sight, seem to authorise the making of such

rules; but the object to which such rules are directed is altogether different from that of the Act. The object of the Arms Act was to enable the Government more effectually to prevent arms and ammunition (which term under section 4 includes gun-cotton, dynamite, lithofracteur and other fulminating substances) from getting into the hands of persons who would make a bad use of them. In other words, the main object of that Act was to restrict the possession of arms and ammunition. But the main object of the rules prepared by the Bengal Committee is not restrictive. Their object is to protect the public against the dangerous nature of the explosives to which they relate by regulating all dealings with those explosives. If they are restrictive, it is only so far as is necessary to carry out their protective object. Under these circumstances, it appears to the Government that the proposed rules could not properly be published under the Indian Arms Act, 1878. Nor does it appear that there is any other enactment, as the law at present stands, under which rules of the nature of those prepared by the Bengal Committee can be issued. Under the existing law, the only enactments relating to this subject are to be found in various fragmentary provisions, dealing with gun-powder and fire works only, which are in force in the Presidency-towns and in certain municipalities and Courts, It appears to the Government that it is unsatisfactory that the law should be in this state at a time when dynamite and other compounds of nitro-glycerine are rapidly taking the place of gun-powder in all works where blasting is necessary. Already these explosives have been used to a considerable extent in connection with various works undertaken both by the Government and by private enterprise throughout India; and it is only natural to suppose that, as their superiority to gunpowder becomes more widely known, their use will increase. Under these circumstances, the suggestion of the Committee that an Act drawn on the model of the English Explosive Act, 1875, and dealing comprehensively with the whole subject of explosives, should be added to the Indian Statute-book, recommends itself to the Government of India, as being the only satisfactory method of treating the subject. Accordingly, the present Bill has been prepared. It embodies such of the provisions of the English Act as are in the opinion of the Government necessary in this country. In addition to the omission from the Bill of certain provisions of the English Act, the Bill further differs from that Act in that, in accordance with the well recognised principle of Indian Legislation, it confers power on the Local Governments to provide by means of

rules, adapted to the varying local circumstances of the provinces under their administration, for many points for which there are specific provisions in the body of the English Act." ACT 32 OF 1978 (ii) The Indian Explosives Act, 1884 was enacted nearly a century ago when there were no indigenous manufacturers of high explosives in this country and only a few simpler types of explosives were manufactured. 2. After Independence many large and small companies began to manufacture high explosives. There was a general complaint from the industry that the Explosives Act, which was based on the old British pattern, was not adequate to meet the country's growing requirements and resulted in difficulties for the Industry. With a view to removing the short-comings in the Indian Explosives Act and to obviate the difficulties experienced by the Industry, the Government appointed in 1966 a Committee on Explosives to suggest ways and means for removal of the difficulties experienced in the working of the Act. This Committee submitted its report suggesting a number of amendments to the Indian Explosives Act. These recommendations have been accepted by the Government. The more important amongst these recommendations are- (a) enlargement of the definition of "explosive" to include therein some modern explosives; (b) providing for variations of conditions of licences granted under the Act or for suspension and revocation of the licence, for appeals against the orders of the licensing authority; and (c) empowering the Central Government to exempt any person or class of persons from the provisions of the Act or the rules made thereunder. The main object of the Bill is to give effect to the recommendations of the Committee on Explosives. 3. Opportunity is also being taken to insert a provision in the Act for the laying of rules made under the Act before the Parliament in accordance with the recommendations of the Committee on Subordinate Legislation.-S.O.R. Ga7-. of Ind., 19-4-78, Pt. II, S. 2, Ext., p. 410.

### **1. Short title :-**

- (1) This Act may be called the @[x x] Explosives Act, 1884; and Local extent
  - (2) It extends to the whole of India <sup>1</sup> [\* \* \* \* \*]
1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

### **2. Commencement :-**

(1) This Act shall come into force on such day<sup>1</sup> as the [Central Government], by notification in the [Official Gazette], appoints.

[(2) \* \* \* \* \* \* \* \* ]

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**3. Repeal of portions of Act 12 of 1875 :-**

Repealed by the Indian Ports Act, 1889 (10 of 1889), S. 2 and Schedule II.]

**4. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "aircraft" means any machine which can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface, and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;

(b) "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;

(c) "District Magistrate", in relation to any area for which a Commissioner of Police has been appointed, means the Commissioner of Police thereof and includes-

(a) any such Deputy Commissioner of Police, exercising jurisdiction over the whole or any part of such area, as may be specified by the State Government in this behalf in relation to such area or part; and

(b) an Additional District Magistrate;

(d) "explosive" means gunpowder, nitroglycerine, nitroglycol, gun-cotton, dinitro-toluene, tri-nitro-toluene, picric acid, di-nitro-phenol, tri-nitro-resorcinol (styphnic acid), cyclo-trimethylene-tri-nitramine, penta-trythritol-tetranitrate, tetryl, nitro-guanidine, lead azide, lead styphnate, fulminate of mercury or any other metal, diazo-dinitrophenol, coloured fires or any other substance whether a single chemical compound or a mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and includes fogsignals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as

defined in this clause;

(e) "export" means taking out of India to a place outside India by land, sea or air;

(f) "import" means to bring into India from a place outside India by land, sea or air;

(g) "master",-

(a) in relation to any vessel or aircraft means any person, other than a pilot, harbour master, assistant harbour master or berthing master, having for the time being the charge or control of such vessel or aircraft, as the case may be; and

(b) in relation to any boat belonging to a ship, means the master of that ship;

(h) "manufacture" in relation to an explosive includes the process of-

(1) dividing the explosive into its component parts or otherwise breaking up or unmaking the explosive, or making fit for use any damaged explosive; and

(2) remaking, altering or repairing the explosive;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "vessel" includes any ship, boat, sailing vessel, or other description of vessel used in navigation whether propelled by oars or otherwise and anything made for the conveyance, mainly by water, of human beings or of goods and a caisson.]

## **5. Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives :-**

(1) The <sup>1</sup> [Central Government] may for any part of [India] [\* \* \*] 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, import and export] of explosives,, or any specified class of explosives.

(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; [\*]
- [(ee) the authority to which appeals may be preferred under Section 6F , the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the circumstances under which such fees may be refunded;
- (eea) the total quantity of explosive that a licensee can purchase in a given period of time;
- (eeb) the fees to be charged by the Chief Controller of Explosives or any officer authorised by him in this behalf, for services rendered in connection with the manufacture, transport, import or export of explosives;]
- (f) the exemption absolutely or subject to conditions of any explosives @ [or any person or class of persons] from the operation of the rules.

[(3) \* \* \* ]

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**5A. Persons already in business in respect of certain explosives to carry on such business without licence for a certain period.- :-**

Notwithstanding anything in Section 5 or in the rules made thereunder where, immediately before the commencement of the Indian Explosives (Amendment) Act, 1978, any person was carrying on the business of manufacture, sale, transport, import or export of any explosive (for which no licence was required under this Act before its amendment by the Indian Explosives (Amendment) Act, 1978), then, such person shall be entitled to continue to carry on such business without licence in respect of such explosive-

- (a) for a period of three months from the date of such commencement; or
- (b) if before the expiry of the said period of three months, such person has made an application for grant of licence under this Act for such business in such explosive, until the final disposal of his application, whichever is later.]

**6. Power for Central Government to prohibit the manufacture, possession or importation of specially dangerous explosives :-**

(1) Notwithstanding anything in the rules under the last foregoing section, the <sup>1</sup>[Central Government] may, from time to time, by notification in the <sup>1</sup> [Official Gazette],-

(a) prohibit, either absolutely or subject to conditions, the manufacture, possession or importation of any explosive which is of so dangerous a character that, in the opinion of the Central Government, it is expedient for the public safety to issue the notification; [\* \* \*]

[(b) \* \* \* \* \* \* \* ]

[(2) The Customs Act, 1962 shall have effect in relation to any explosive with regard to the importation of which a notification has been issued under this section and the vessel, carriage of aircraft containing such explosive as that Act has in relation to any article the importation of which is prohibited or regulated thereunder and the vessel, carriage or aircraft containing such article.]

[(3) \* \* \*]

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**6A. Prohibition of manufacture, possession, sale or transport of explosives by young persons and certain other persons :-**

Notwithstanding anything in foregoing provisions of this Act,-

- (a) no person,-
  - (i) who has not completed the age of eighteen years, or
  - (ii) who has been sentenced on conviction of any offence involving violence or moral turpitude for a term of not less than six months,

at any time during a period of five years after the expiration of the sentence, or

(iii) who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1973, a bond for keeping the peace or for good behaviour, at any time during the term of the bond, or

(iv) whose licence under this Act has been cancelled, whether before or after the commencement of the Indian Explosives (Amendment) Act, 1978, for contravention of the provisions of this Act or of the rules made thereunder, at any time during a period of five years from the date of cancellation of such licence shall,-

(1) manufacture, sell, transport, import or export any explosive, or

(2) possess any such explosive as the Central Government may, having regard to the nature thereof, by notification in the Official Gazette, specify;

(b) no person shall sell, deliver or despatch any explosive to a person whom he knows or has reason to believe at the time of such sale, delivery or despatch,-

(i) to be prohibited under clause (a) to manufacture, sell, transport, import, export or possess such explosive, or

(ii) to be of unsound mind.

### **6B. Grant of licences :-**

(1) Where a person makes an application for licence under section 5 , the authority prescribed in the rules made under that section for grant of licences (hereinafter referred to in this Act as the licensing authority), after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing either grant the licence or refuse to grant the same.

(2) The licensing authority shall grant a licence-

(a) where it is required for the purpose of manufacture of explosives if the licensing authority is satisfied that the person by whom licence is required-

(i) possesses technical know-how and experience in the manufacture of explosives; or

- (ii) has in his employment or undertakes to employ a person or persons possessing such technical know-how and experience; or
- (b) where it is required for any other purpose, if the licensing authority is satisfied that the person by whom licence is required has a good reason for obtaining the same.

#### **6C. Refusal of licences :-**

- (1) Notwithstanding anything contained in section 6B , the licensing authority shall refuse to grant a licence-
  - (a) where such licence is required in respect of any prohibited explosive; or
  - (b) where such licence is required by a person whom the licensing authority has reason to believe-
    - (i) to be prohibited by this Act or by any other law for the time being in force to manufacture possess, sell, transport import or export any explosive, or
    - (ii) to be of unsound mind, or
    - (iii) to be for any reason unfit for a licence under this Act; or
  - (c) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.
- (2) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of opinion that it will not be in the public interest to furnish such statement.

#### **6D. Licensing authority competent to impose conditions in addition to prescribed conditions :-**

A licence granted under section 6B may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

#### **6E. Variation suspension and revocation of licences :-**

- (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the holder of licence by notice in writing to deliver-up the licence to it within

such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may, by order in writing, suspend a licence for such period as it thinks fit or revoke a licence,-

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export any explosive, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c). if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for the licence; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying the conditions of a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke a licence; Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(7) An order of suspension or revocation under sub-section (6) may also be made by an appellate court or by the High Court when

exercising its powers of revision.

(8) The Central Government may, by order in the Official Gazette, suspend or revoke, or direct any licensing authority to suspend or revoke, all or any licences granted under this Act throughout India or any part thereof.

(9) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

#### **6F. Appeals :-**

(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed: Provided that no appeal shall lie against an order made by, or under the direction of, the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor: Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963, with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed: Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority

conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.]

**7. Power to make rules conferring powers of inspection, search, seizure detention and removal :-**

(1) The <sup>1</sup> [Central 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, aircraft, carriage or vessel] in which an explosive is being manufactured, possessed, used, sold, transported or imported under a licence 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, imported or exported] in contravention of this Act or of the rules made under this Act;

(b) to search for explosives therein;

(c) to take samples of any explosive found therein on payment of the value thereof; and

[(d) to seize, detain and remove any explosive or ingredient thereof found therein and, if necessary, also destroy such explosive or ingredient.]

(2) The provisions of the [Code of Criminal Procedure, 1973] relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section.

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**8. Notice of accidents :-**

<sup>1</sup> [(1)] Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or [any aircraft, 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 aircraft or 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 Controller of Explosives] and] and to the officer in charge of the nearest police station. [ \* \* \* \* \* ]

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

## **9. Inquiry into accidents :-**

(1) Where any accident such as is referred to in section 8 occurs in or about or in connection with [any place, aircraft, carriage or vessel] under the control of any of [Armed Forces of the Union] an inquiry into the causes of the accident shall be held by the naval, military, or air force authority concerned, and where any such accident occurs in any other circumstances, the District Magistrate [\* \* \* \* \*] shall, in cases attended by loss of human life, or may, in any other case, hold or -direct a Magistrate subordinate 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, 1973] 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 Central Government stating the causes of the accident and its circumstances.

(4) The Central Government may make rules-

(a) to regulate the procedure at inquiries under this section:

(b) to enable the [Chief Controller of Explosives] to be present or represented at any such inquiry;

(c) to permit the Chief Inspector of Explosives in India or his representative to examine any witnesses at the inquiry;

(d) to provide that where the Chief Inspector of Explosives in India 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.]

#### **9A. Inquiry into more serious accidents :-**

(1) The Central 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 Controller of Explosives] 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 Central 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 Indian Penal Code, 1860 .

(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 Central 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 Central Government shall cause every report so made to be published at such time and in such manner as it may think fit.

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

#### **9B. Punishment for certain offences :-**

(1) Whoever, in contravention of rules made under section 5 or of the conditions of a licence granted under the said rules-

- (a) manufacturers, imports or exports any explosive shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;
- (b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees or with both; and
- (c) in any any other case, with fine which may extend to one thousand rupees.

(2) Whoever in contravention of a notification issued under section 6 manufactures, possesses or imports any-explosive shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both, and in the case of importation by water, the owner and master of the vessel or in the case of importation by air, the owner and the master of the aircraft, in which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with fine which may extend to five thousand rupees.

(3) Whoever,-

- (a) manufactures, sells, transports, imports, exports or possesses any explosive in contravention of the provisions of clause (a) of section 6A ; or
- (b) sells, delivers or despatches any explosive in contravention of the provisions of clause (b) of that section, shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; or
- (c) in contravention of the provisions of section 8 fails to give notice of any accident shall be punishable,-
  - (i) with fine which may extend to five hundred rupees, or
  - (ii) if the accident is attended by loss of human life, with imprisonment for a term which may extend to three months or with fine or with both.

### **9C. Offences by companies :-**

(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed

was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-sec. (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.- For the purposes of this section,-

- (a) "company" means any body corporate, and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.]

#### **10. Forfeiture of explosives :-**

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 receptacle containing the same, be forfeited.

#### **11. Distress of aircraft or vessel :-**

Where the owner or master of any aircraft or vessel is adjudged under this Act to pay a fine for any offence committed with, or in relation to, that aircraft or 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,-

- (a) the aircraft and its furniture or so much of the furniture, or
- (b) the vessel and the tackle, apparel and furniture of such vessel or so much of the tackle, apparel and furniture thereof,

as is necessary for the payment of the fine.]

**12. Abetment and attempts :-**

Whoever abets, within the meaning of the Indian 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.

**13. Power to arrest without warrant persons committing dangerous offences :-**

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,<sup>1</sup> [aircraft or vessel], may be apprehended without warrant by a Police Officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place, or by any agent or servant of, or other person authorized by, the railway administration or [conservator of the port or officer in charge of the airport], and be removed from the place where he is arrested and conveyed as soon as conveniently may be before a Magistrate.

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**14. Saving and power to exempt :-**

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

(a) by any of [the [Armed Forces of the Union and Ordnance factories or other establishments of such forces]] in accordance with rules or regulations made by [\* \* \*] the Central Government;

(b) by any person employed under [the Central Government or under a [State] Government] in execution of this Act.

(2) The Central 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 and any person or class of persons from all or any of the provisions of this Act or the rules made thereunder].

**15. Saving of (Arms Act, 1959) :-**

Nothing in this Act shall affect the provisions of the <sup>1</sup> [Arms Act, 1959]. 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.

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**16. Saving as to liability under other law :-**

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.

**17. Extension of definition of "explosive" to other explosive substances :-**

The <sup>1</sup>[Central Government] may, from time to time, by notification in the <sup>1</sup>[Official Gazette], declare that any substance which appears to the <sup>1</sup> [Central 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 of the term "explosive" in this Act.

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.

**17A. Power to delegate :-**

The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under section 5 , section 6 , section 6A , section 14 and section 17 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by

- (a) such officer or authority subordinate to the Central Government, or
- (b) such State Government or such officer or authority subordinate to the State Government.]

**18. Procedure for making, publication and confirmation of rules :-**

- (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.
- (2) The publication shall be made in such manner as the <sup>1</sup>[Central Government], from time to time, by notification in the <sup>1</sup>[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 <sup>1</sup> [Official Gazette] of 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.
- (8) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Substituted for words "transport and importation", by Act 32 of 1978, S. 2.