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THE EXPLOSIVES ACT, 1961

*Date of commencement: 10th February, 1961.*

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*Short title.*

1. This Act may be cited as the Explosives Act, 1961.

*Interpretation.*

2. In this Act, unless the context otherwise requires —

“explosives” means —

- (a) gunpowder, nitroglycerine, dynamite, guncotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance which is used or manufactured with a view to producing a practical effect by 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 Minister may, by notice in the gazette, declare to be an explosive;

but does not include any ammunition, gunpowder or percussion caps dealt with under the provisions of any other law or fog or signal detonators for railway use; (Amended P.45/1964.)

“inspector of mines” means any inspector of mines duly appointed under any law authorising such appointment;

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“Minister” means the Minister for Natural Resources and Energy.

*Inspector of explosives.*

3. The Minister may appoint one or more persons to be an inspector of explosives for the purpose of issuing or granting licences, certificates, permits and permission required by this Act and generally for carrying out and supervising the carrying out of this Act.

*Power to make Regulations.*

4. The Minister may make Regulations generally for carrying this Act into effect and in particular and without prejudice to the generality of the foregoing to —

(a) provide for the appointment of officers for the purpose of carrying out, and supervising the carrying out, of the provisions of this Act;

(b) prohibit or regulate the importation and transit of explosives;

(c) regulate the transport and storage of explosives;



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- (d) regulate the sale of and dealing in explosives;
  - (e) prohibit the introduction of explosives into any specific areas;
  - (f) prohibit the possession of explosives by any specified class of persons;
  - (g) prohibit or regulate the manufacture of explosives;
  - (h) regulate the use of explosives;
  - (j) regulate the disposal of explosives;
  - (k) prescribe the fee to be paid for any licence or permit issued or examination or inspection made under or in pursuance of the Regulations;
  - (l) provide for the seizure and forfeiture of any explosives in respect of which any offence against the Regulations has been committed;
  - (m) provide for the issue, suspension or cancellation of blasting licences and permits; and
  - (n) provide for the punishment of any person who —
    - (i) commits an offence against the Regulations;
    - (ii) contravenes or fails to comply with orders issued under any Regulation which provides that such contravention or failure shall be an offence;
    - (iii) wilfully obstructs or resists the lawful exercise of any powers conferred by or which are necessary for the administration of any Regulation which provides that such obstruction or resistance shall be an offence; or

- (iv) contravenes or fails to comply with any condition or requirement of any licence, permit, or authority issued on forms prescribed under any Regulation which provides that such contravention or failure shall be an offence:

Provided that such Regulations —

- (i) shall provide what punishment may be imposed for each offence constituted by them; and
- (ii) may provide for such punishment by means of a fine not exceeding five hundred emalangeneni or in default of payment thereof, imprisonment with or without hard labour not exceeding twelve months, or both or such imprisonment without such option.

(Amended K.O-I-C. 41/1977.)

*Forfeiture of licence or permit.*

5. Any person convicted of an offence against the Regulations who holds a licence or permit issued in pursuance of such Regulations shall be liable, in addition to any other punishment, to the cancellation of his licence or permit or to a suspension thereof for such period as the court thinks fit.

*Inquiries by inspector of explosives.*

6. Where an inspector of explosives appointed under section 3 has reason to believe that any provision of this Act has been contravened, he may hold an inquiry into any such contravention. (Added P.55/1963.)

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*Infliction of summary penalties.*

7. (1) An inspector of mines or of explosives may, if satisfied after suitable investigation that any person has committed an offence against the Regulations, summarily demand payment of a fine not exceeding ten emalangeni 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 such fine or dispute his liability and await prosecution, and he shall be so informed at the time by the inspector.

(3) The payment forthwith, or within such time as the 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) Should such 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 inspector shall give a receipt to any person making a payment in accordance with subsection (2) or (3) and such receipt shall be in such form as may be approved by the Minister.

(6) Any payment received under this section by the inspector shall be paid into the Consolidated Fund.

*Penalties for endangering safety, or causing loss, of life or property.*

8. (1) Any person causing an explosion whereby life or property is endangered shall be guilty of an offence and liable on conviction to the following penalties —

- (a) a fine of two thousand emalangeni or imprisonment for two years or imprisonment without the option of a fine if the explosion is negligently caused and life or property is endangered;
- (b) a fine of four thousand emalangeni or imprisonment for four years if the explosion is negligently caused and death or destruction of property results therefrom; and
- (c) imprisonment without the option of a fine for a period not exceeding fifteen years if the act or omission causing danger to life or property is wilful but death or destruction of property does not result therefrom.

(2) For purposes of this section "explosion" includes a fire caused by an explosive.

(Amended K.O-I-C. 41/1977.)

*Penalties for possession of explosives under certain circumstances.*

9. Any person who is found to have in his possession or under his control any explosive under such circumstances as to give rise to a reasonable suspicion that he intended to use such explosive for the purpose of injuring any person or damaging any property shall, unless he satisfies the court that he had no such intention, be guilty of an offence and liable on conviction to the penalties in section 8(1)(c). (Added K.O-I-C. 41/1977.)

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