

unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules¹ to be framed by the ²[Provincial Government]³ * * * ;

- (2) nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

Certain powers of Provincial Government to be exercisable by Board of Revenue or Financial Commissioner.

⁴[12. The powers conferred on a ²[Provincial Government] by sections 4 (1), 5(1) and 10 may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be : Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the ²[Provincial Government].]

THE EXPLOSIVES ACT, 1884

CONTENTS

SECTIONS

1. Short title.
- Local extent.
2. Commencement.
3. [Repealed.]
4. Definitions.
5. Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives.
6. Power for appropriate Government to prohibit the manufacture, possession or importation of specially dangerous explosives.
7. Power to make rules conferring powers of inspection, search, seizure, detention and removal.
8. Notice of accidents.
9. Inquiry into accidents.

¹ For such rules, see different local R. and O.

² Subs. by A. O., 1937, for "L. G."

³ The words "with the approval of the G. G. in C." rep. by the Land Improvement and Agriculturists' Loans (Amtd.) Act, 1906 (8 of 1906), s. 5.

⁴ S. 12 was ins. by the Decentralization Act, 1914 (4 of 1914), s. 2 and Sch., Pt. I. The original s. 12 was rep. by the Registration Act, 1908 (16 of 1908).

SECTIONS

- 9A. Inquiry into more serious accidents.
10. Forfeiture of explosives.
11. Distress of 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, 1878.
16. Saving as to liability under other law.
17. Extension of definition of "explosive" to other explosive substances.
18. Procedure for making publication and confirmation of rules.

¹ACT 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 ²* Explosives Act, 1884; and Short title.

¹For Statement of Objects and Reasons, see Gazette of India, 1883, Pt. V, p. 22; for Proceedings in Council, see *ibid.*, 1882, p. 1856, and *ibid.*, 1883, Supplement, p. 43, and *ibid.*, 1884, Supplement, p. 377.

This Act has been declared, under s. 5, of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in Baluchistan,—see Gazette of India, 1931, Pt. II-A, p. 358.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950) ; and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

This Act has been extended to the Baluchistan States Union, see the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953), as amended by the Baluchistan States Union (Federal Laws) (Extension) (Second Amtd.) Order, 1953 (G. G. O. 19 of 1953).

It has been extended to the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953), as amended by the Bahawalpur (Extension of Federal Laws) (Amtd.) Order, 1953 (G. G. O. 21 of 1953).

It has also been extended to the Khairpur State, see G. G. O. 5 of 1953, as amended by G. G. O. 24 of 1953.

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th September, 1958, by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications; see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950. It has been extended to the Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from 1st June, 1951, see N.W.F.P. Gazette, Extraordinary, dated 1-6-1951.

For the law relating to explosive substances, see also the Explosive Substances Act, 1908 (5 of 1908).

² The word "Indian" omitted by A. O., 1949, Sch.

RECEIVED
01 AUG 2006

229

Local extent

1[(2) It extends to the whole of Pakistan].

Commence-
ment.

2.--(1) This Act shall come into force on such day² as the [Federal Government], by notification in the [official Gazette], appoints :

* * * * *

3. [Repeal of portions of Act XII of 1875.] Rep. by the Indian Ports Act, 1889 (X of 1889)⁶, s. 2 and Sch. II.

Definitions

4. In this Act, unless there is something repugnant in the subject or context,—

(1) "explosive"⁷

(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

(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 harbour master) having for the time being command or charge of

¹ Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955) for "all the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3(2) and 4, for "the whole of British India".

² The 1st July 1887—see Gazette of India, 1887, Pt. I, p. 307.

³ Subs. by F. A. O. 1975, Art. 2 and Table, for "Central Government" which was previously subs. by A. O., 1937, for "G. G. in C."

⁴ Subs. *ibid.* for "Gazette of India".

⁵ Sub-section (2) was rep. by the Amending Act, 1891 (12 of 1891).

⁶ Rep. by the Ports Act, 1908 (15 of 1908).

⁷ For a list of authorised explosives, see Gazette of India, 1936, Pt. II,

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 [Pakistan] by sea or land.

²[(7) "appropriate Government" means, in relation to—³ importation, and transport between provinces of explosives, the [Federal Government], and in relation to other matters, the Provincial Government.]

5.—(1) The [appropriate Government] may for any part of [Pakistan], ⁶ make rules⁷ 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.

(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) ⁸[Rules made under this section may] impose penalties on all persons manufacturing, possessing, using, selling, transporting

¹ Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

² Added by A. O., 1964, Art. 2 and Sch.

³ The word "manufacture", omitted by F.A.O., 1975, Art. 2 and Sch.

⁴ Subs. *ibid.*, Art. 2 and Table, for "Central Government".

⁵ Subs. by A.O., 1964, Art. 2 and Sch., for "General Government" which had been subs. by A.O., 1937, for "G. G. in C."

⁶ The words "and each L. G. with the previous sanction of the G. G. in C., may for any part of the territories under its administration," rep. by A. O., 1937.

⁷ For rules made by the Central Government under this section and section 7 to regulate the manufacture, possession, sale, transport and importation of explosives, see Gen. R. and O.

For the Karachi Supplementary Explosives Rules, 1954, see Gazette of Pakistan, 1954, Pt. I, pp. 239-242.

⁸ Subs. by A. O., 1937, for "The authority making rules under this section may by the rules".

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

or importing explosives in breach of the rules, or otherwise contravening the rules :

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

- (a) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees ;
- (b) in the case of a person so possessing, using or transporting an explosive, a fine which may extend to one thousand rupees ;
- (c) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees ; and
- (d) in any other case, two hundred rupees.

Power for appropriate 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 ¹[appropriate Government] may, from time to time, by notification in the ²[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 ¹[appropriate Government] it is expedient for the public safety to issue the notification ; ³

3* * * *

(2) The officers of ⁴* customs at every port 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 vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to ⁴* customs⁵ and the vessel containing the same ; and the enactments for the time being in force relating to ⁴* customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing or importing an explosive in contravention of a notification issued under this section shall be punished with fine which may extend to three thousand rupees, and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

¹ Subs. by A. O., 1964, Art. 2 and Sch. for "Central Government" which had been subs. by A. O., 1937, for "G. G. in C."

² Subs. by A. O., 1937, for "Gazette of India".

³ The word "and" and clause (b) rep. by the Repealing and Amending Act, 1914 (10 of 1914).

⁴ The word "sea" omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

⁵ See Chapter IV of the Sea Customs Act, 1878 (8 of 1878).

7.—(1) The ¹[appropriate Government] ²* * * 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 ;
- (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.

Act V of 1898.

(2) The provisions of the ³[Code of Criminal Procedure, 1898] 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.

8.—⁴[(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 ⁵[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 ⁶[Chief Inspector of Explosives in Pakistan] and to the officer in charge of the nearest police-station.

Notice of accidents.

⁷[(2)] Whoever in contravention of sub-section (1) fails to give notice of any accident shall be punishable with fine which may extend to five hundred rupees or 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.]

¹ Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government" which had been subs. by A.O., 1937, for "G. G. in C."

² The words "or the L.G. with the previous sanction of the G. G. in C." rep. by A. O., 1937.

³ Subs. by Ordinance 27 of 1981, s. 3 and 2nd Sch., for "Code of Criminal Procedure".

⁴ Re-numbered by the Explosives (Amdt.) Ordinance, 1945 (18 of 1945), s. 2.

⁵ Subs. *ibid.*, for "forthwith give notice thereof".

⁶ Subs. by A. O., 1949, Sch., for "Chief Inspector of Explosives in India".

⁷ Added by Ordinance 18 of 1945, s. 2.

Inquiry into accidents.

19.—(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 2[the armed forces of Pakistan], 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 3* * * 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, 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 4[appropriate Government] stating the causes of the accident and its circumstances.

(4) The 4[appropriate Government] may make rules—

- (a) to regulate the procedure at inquiries under this section;
- (b) to enable the 5[Chief Inspector of Explosives in Pakistan] to be present or represented at any such inquiry;
- (c) to permit the 5[Chief Inspector of Explosives in Pakistan] or his representative to examine any witnesses at the inquiry;
- (d) to provide that where the 5[Chief Inspector of Explosives in Pakistan] 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.

Inquiry into more serious accidents.

9A.—(1) The 4[appropriate 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 5[Chief Inspector of Explosives in Pakistan] 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.

1 Subs. by the Explosives (Amdt.) Ordinance, 1945 (18 of 1945), s. 2, for the original section 9, as amended by A. O., 1937.

2 Subs. by A. O., 1961, Art. 2 and Sch., for "His Majesty's Forces" (with effect from the 23rd March, 1956).

3 The words and brackets " (or in a Presidency-town, the Commissioner of Police) " omitted by A. O., 1949, Sch.

4 Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

5 Subs. by A. O., 1949, Sch., for "Chief Inspector of Explosives in India".

(2) Where the 1[appropriate 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 Pakistan 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 1[appropriate 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 1[appropriate Government] shall cause every report so made to be published at such time and in such manner as it may think fit.

(6) The 1[appropriate Government] may make rules for regulating the procedure at inquiries under this section.]

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 Pakistan 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.

1 Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

Power to arrest without warrant persons committing dangerous offences.

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 a 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, and be removed from the place where he is arrested and conveyed as soon as conveniently may be before a Magistrate.

Saving and power to exempt.

114.—(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 2[the armed forces of Pakistan] in accordance with rules or regulations made by 3* * * the 4[Federal Government] ;

(b) by any person employed under 5[the appropriate Government 6* * *] in execution of this Act.

(2) The 7[appropriate 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.

15. Nothing in this Act shall affect the provisions of the Arms Act, 1878 8[and the Pakistan Arms Ordinance, 1965.]

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 Subs. by the Explosives (Amdt.) Ordinance, 1945 (18 of 1945), s. 4, for the original section 14, as amended by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, and A. O., 1937.

² Subs. by A. O., 1961, Art. 2 and Sch., for "His Majesty's Forces" (with effect from the 23rd March, 1956).

³ The words "His Majesty's Government in the United Kingdom" or "omitted, *ibid.* (with effect from the 23rd March, 1956).

⁴ The original words "Central Government" have successively been amended by A. O., 1964, Art. 2 and Sch. and F. A. O., 1975, Art. 2 and Sch., to read as above.

⁵ The original words "any Government in British India" have successively been amended by A. O., 1949, Sch. and A. O., 1964, Art. 2 and Sch., to read as above.

⁶ The words "or any Provincial Government", omitted by F. A. O., 1975, Art. 2 and Sch.

⁷ Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

⁸ Ins. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

W.P.
Ordinance
No.
XX of
1965.

XI of
1878.

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.

Saving a
to liability
under oth
law.

17. The 1[appropriate Government] may, from time to time, by notification in the 2[official Gazette], declare³ that any substance which appears to the 4[appropriate 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.

Extension
definition
"explosi
to other
explosive
substance

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.

Procedu
for mak
publicat
and con
mation
rules.

(2) The publication shall be made in such manner as the 1[appropriate Government], from time to time, by notification in the 2[official Gazette] prescribes⁵.

(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 6* * * until it has been published in the 2[official Gazette], 7* * *.

(6) The publication in the 2[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.

¹ Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government", which had been subs. by A. O., 1937, for "G. G. in C."

² Subs. by A. O., 1937, for "Gazette of India".

³ Picric acid with certain exceptions has been declared to be an explosive within the meaning of this Act, see Gazette of India, 1926, Pt. I, p. 1264.

⁴ Sub-sections (1) to (4) of section 18 were deemed to have been omitted during the Continuance of the Explosives (Amdt.) Ordinance, 1945 (18 of 1945), since rep. by the Federal Laws (Revision and Declaration) Act, 1951 (25 of 1951), s. 2.

⁵ For mode prescribed, see Gazette of India, 1927, Pt. I, p. 769.

⁶ The words "if it is made by the G.G. in C." rep. by A. O., 1937.

⁷ The words "and if it is made by the L. G. until it has been published in the local official Gazette" rep., *ibid.*