# CHAPTER 45
# THE EXPLOSIVES ACT

[PRINCIPAL LEGISLATION]

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# CHAPTER 45
# THE EXPLOSIVES ACT

**An Act to make provisions for the control of the manufacture, import, export, purchase, sale, possession and use of explosives, and for related matters.**

[16th November, 1964]

Acts Nos.
56 of 1963
9 of 2002

## PART I
## PRELIMINARY PROVISIONS (ss 1-6)

### 1. Short title

This Act may be cited as the Explosives Act.

### 2. Interpretation

(1) In this Act, unless the context otherwise requires–

**"boat"** includes any water-borne vessel other than a ferry;

**"Commissioner"** means the Commissioner for Mines;

**"explosives"** means–

(a) nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, azide of lead components improvised for explosives and every other substance, whether similar to the foregoing or not, used or manufactured with a view to produce a practical effect by explosion and every adaptation or preparation of an explosive as above defined, but does not include liquid oxygen, gun powder, fire-signals, fire-works, rockets, percussion caps and small-arms ammunition;

(b) detonators, detonating fuses, detonating relays, safety fuse, ignite cords and fuse ignite sticks; and

(c) any substance, whether herein before mentioned or not, which the Minister may, by Notice in the *Gazette*, declare to be an explosive for the purposes of this Act;

**"inspector"** means an inspector of explosives appointed under section 4 and includes the Commissioner;

**"magazine"** means a building used or to be used as a magazine for the storage of explosives and licensed under section 32;

**"manufacture"** includes the process of dividing up into its component parts or otherwise breaking up or unmaking of any explosive or remaking, altering or repairing any explosive;

**"Minister"** means the Minister for the time being responsible for matters relating to mines and mining;

**"owner"** in relation to explosives includes a person who acquires explosives on consignment from an importer either for his own use or for sale on behalf of such importer;

**"Port Management"** means the management as defined in regulation 2 of the East African Harbours Regulations, 1962 *(1);

**"prescribed"** means prescribed by Regulations made under this Act;

**"Railway Administration"** means the Tanzania Railways Corporation;

**"storage box"** means a box used or to be used as a storage box for explosives;

**"store"** means a building, structure or excavation used or to be used as a store for explosives and licensed under section 34.

(2) Where any substance is both an explosive, within the meaning ascribed to that word in this Act, and ammunition, within the meaning ascribed to the word in the Arms and Ammunition Act *(2), the Minister may, by order published in the *Gazette*, declare such substance either to be an explosive or ammunition and not to be the other, and where the Minister makes such declaration that a substance is an explosive and not ammunition, it shall be deemed not to be

ammunition within the meaning of such Act, or when he makes a declaration that a substance is ammunition and not an explosive, it shall be deemed not to be an explosive within the meaning of this Act.

### 3. Prohibition on possession of certain explosives

(1) Notwithstanding any other provisions of this Act, no person shall import, manufacture, possess, acquire or dispose of, sell, convey, deal or traffic in any explosive substance unless that substance has been approved by the Commissioner for use in Mainland Tanzania.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence and is liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than three years but not exceeding seven years or to both such fine and imprisonment.

### 4. Appointment of inspectors

The Minister may appoint any public officer to be an inspector of explosives either for all the purposes of this Act or for the purposes of such sections of this Act as he may specify.

### 5. Delegation of powers by Commissioner

The Commissioner may delegate any of the powers conferred upon him by this Act to any inspector appointed for all the purposes of this Act.

### 6. No person shall deal in explosives except in accordance with this Act

(1) No person shall manufacture, import, export, buy or otherwise acquire, sell or otherwise dispose of, be in possession of or use any explosive except in accordance with the provision of this Act.

(2) The provisions of this Act shall not apply to any member of the military forces of Tanzania acting in the course of his duties as a member of such forces.

## PART II
## MANUFACTURE OF EXPLOSIVES (ss 7-9)

### 7. Manufacture of explosives prohibited except under licence or permit

(1) No person shall manufacture explosives unless he is the holder of and complies with the conditions of a valid licence granted under section 8 or a valid permit issued under section 9:

Provided that the Minister shall not grant a licence under this section, unless he has first consulted the Minister responsible for Home Affairs.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and is liable upon conviction to a fine of not less than five million shillings or to imprisonment for a

term not less than three years but not exceeding seven years or to both such fine and imprisonment.

### 8. Licence to manufacture explosives

(1) The Minister may, on application being made therefor in such form as may be prescribed and on payment of such fee as may be prescribed, grant to any person a licence to manufacture explosives:

Provided that the Minister shall not grant a licence under this section, unless he has first consulted the Minister responsible for Home Affairs.

(2) A licence granted under subsection (1) shall, subject to the provisions of section 53, remain in force for such period and shall be subject to such conditions as may be specified therein.

### 9. Permit to manufacture explosives for experimental purposes

(1) The Commissioner may, on application being made therefor in such form as may be prescribed and on payment of such fee as may be prescribed, issue to any person a permit to manufacture and use explosives for the purpose of chemical experiment or trial or blasting operations to be conducted by such person:

Provided that the Commissioner shall not grant a permit under this section unless he has first consulted the Director of Criminal Investigations.

(2) A permit issued under subsection (1) shall, subject to the provisions of section 53, remain in force for such period and shall be subject to such conditions as may be specified therein.

## PART III
## GENERAL RESPONSIBILITIES FOR THE CARE AND SECURITY OF EXPLOSIVES (ss 10-13)

### 10. Appointment of persons to be in charge of explosives

(1) Where any explosives are not–

(a) in the immediate charge of the owner thereof;

(b) stored in accordance with the provisions of this Act in a magazine or store;

(c) in the custody of the Railway Administration; or

(d) in the custody of a person declared by section 39(1) to be in charge of the explosives,

the owner thereof shall, by writing under his hand, appoint and at all times retain a responsible person to have charge of such explosives.

(2) Where under subsection (1) an owner appoints any person to have charge of any explosives he shall give him written instructions not inconsistent with the provisions of this Act and in a language which he is able to read explaining the nature and extent of his duties.

(3) Every person appointed under subsection (1) to have charge of explosives shall produce his written appointment for inspection on demand being made therefor by an inspector, an administrative officer or a police officer not below the rank of inspector.

(4) The owner of every magazine or store shall, if such magazine or store is not in his immediate charge, appoint a responsible person to have charge thereof and shall give him written instructions in accordance with the provisions of subsection (2).

### 11. Persons in charge of explosives

(1) Save where under the provisions of this Act explosives are declared to be in or under the charge of any other person, for the purposes of this Act the person in charge of any explosives shall be–

(a) where the explosives are stored in a magazine or store, the person in charge of the magazine or store;

(b) where the explosives are in the custody of the Railway Administration, the person appointed by that Administration to have for the time being charge of the explosives;

(c) in any other case, the person appointed under the provision of subsection (1) of section 10 to have charge of the explosives, or in default of or upon the termination of any such appointment the owner of the explosives.

(2) In addition to the persons declared in subsection (1) and elsewhere in this Act to be the person in charge of explosives, any person who for the time being has possession or custody of any explosives shall be deemed to be the person in charge of those explosives.

(3) It shall be the duty of the person in charge of any explosives to ensure that the provisions of this Act are observed.

(4) For the purposes of this section, where the owner of any explosives is the person in charge of explosives and such owner is a body corporate, the directors and the chief officer of such body corporate in Mainland Tanzania shall be deemed to be the persons or person, as the case may be, in charge of the explosives in addition to the body corporate.

### 12. General responsibility for care of explosives

(1) Every person in charge of explosives or engaged in the handling, storage, transport, guarding or use of explosives, and the occupier and person in charge of every factory, mine or other place where explosives are stored shall take all necessary precautions for the prevention of accident by fire or explosion and for preventing unauthorised persons having access thereto or obtaining possession thereof, and shall themselves abstain from any act likely to cause

accident, fire or explosion.

(2) Every such person as shall, so far as he is able, prevent any other person from doing any act likely to cause accident, fire or explosion.

(3) Any person who contravenes or fails to comply with the provisions of subsections (1) or (2) commits an offence.

(4) In any proceedings under subsection (3) against any person who is, or was at the material time, the person in charge of explosives or the occupier or person in charge of a factory, mine or other place where explosives are, or were at the material time, stored, the burden of proof that all necessary precautions in respect of such explosives were taken to prevent accident, fire and explosion or to prevent unauthorised persons having access thereto or obtaining possession thereof shall lie on such person.

(5) For the purposes of any proceedings under subsection (3), where explosives are lost or stolen, it shall be presumed, until the contrary is proved, that an unauthorised person has obtained possession thereof.

### 13. Prohibition of dangerous acts, smoking, etc.

Any person who in the vicinity of any explosives–

(a) smokes or has in his possession, other than for the purpose of blasting operations, any matches, detonators or other articles likely to cause accident by fire or explosion; or

(b) does any act which he knows or has reason to believe is likely to cause accident by fire or explosion,

commits an offence and is liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than three years but not exceeding seven years or to both such fine and imprisonment.

## PART IV
## IMPORT OF EXPLOSIVES (ss 14-19)

### 14. No importation without permit

(1) No person shall–

(a) import any explosives unless he has first applied for in the prescribed form and obtained from the Commissioner an import permit in respect of such explosives; or

(b) unload any explosives from any aircraft, boat, train or vehicle unless the importer of such explosives has prior to such unloading applied for in the prescribed form and obtained from the Commissioner an import permit in respect of such explosives:

Provided that, the Commissioner shall not issue any permit under this subsection unless he

has first consulted the Director of Criminal Investigations.

(2) Any person who contravenes or fails to comply with provisions of subsection (1) or who contravenes or fails to comply with the conditions of any permit issued under subsection (1) commits an offence.

### 15. Import permits

Every import permit shall be in such form as may be prescribed and shall–

(a) state the quantity and nature of the explosives to be imported and the place at which they shall be imported;

(b) authorised the conveyance of such explosives to their destination upon such conditions as to route and method of conveyance as may be specified in the permit;

(c) indicate the nature of the premises where such explosives are to be stored upon arrival at their destination,

and may contain such other conditions as the Commissioner may consider desirable in the interests of safety and security.

### 16. General authority to import

(1) The Commissioner may, if he thinks fit, issue to the owner of a magazine or store on application being made therefor in the prescribed form an import permit in the form of a general authority to import explosives and convey them to the magazine or store.

(2) An import permit issued under subsection (1) shall be in such form as may be prescribed and shall, subject to the provisions of section 53, expire on the thirty-first day of December next following the date of issue.

(3) An import permit issued under subsection (1) may include permission to sell or otherwise dispose of the explosives in accordance with the provisions of this Act and the conditions of the permit.

(4) The holder of any import permit issued under subsection (1) shall–

(a) notify an inspector of every intended import of any explosives;

(b) render such returns of his dealings with explosives as may be prescribed or as the Commissioner may require; and

(c) carry out such written directions as may be given by an inspector with regard to–

(i) the route and method of conveyance of any explosives imported;

(ii) any other matter which in the opinion of an inspector concerns the safety or

security of explosives imported under the permit.

(5) The Commissioner shall, before issuing any permit under this section consult the Director of Criminal Investigations.

(6) Any person who contravenes or fails to comply with the provisions of subsection (4) commits an offence.

### 17. Notice of intended import

Every person who intends to import explosives by sea shall notify the Port Management at least twenty-four hours before the expected arrival of the ship carrying the explosives in the harbour and shall furnish such particulars of the explosives as may be prescribed or as the Port Management may require.

### 18. Responsibility of Port Management

(1) The Port Management shall appoint a responsible person to be in charge of explosives from the time they are unloaded from a ship until they are securely locked in a railway wagon or until they are delivered to the person in charge of a magazine or store or to a person appointed to have charge of such explosives under subsection (1) of section 10 whichever event shall first occur.

(2) The Port Management shall ensure that the person appointed under subsection (1) to be in charge of explosives is conversant with the provisions of this Act and any regulations made thereunder and with any conditions of the import permit relating to the explosives and any lawful directions issued by any person with regard to the explosives.

### 19. Form of packing to be approved

(1) No person shall import any explosives unless they are packed in a manner and enclosed in a container approved by the Commissioner.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

## PART V
## TRANSPORT OF EXPLOSIVES (ss 20-23)

### 20. Transport of explosives prohibited except under permit

(1) No person other than the Railway Administration shall transport and no person shall deliver for transportation any explosives except in accordance with a permit issued by an inspector.

(2) Subsection (1) shall not apply to the transportation of explosives within the area of a mine

or other workings from a magazine, store or storage box to a place where they are to be used.

(3) A permit issued under subsection (1) shall be in such form as may be prescribed and shall be subject to such conditions as may be specified therein.

(4) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

### 21. General provisions relating to care of explosives in transit

(1) When explosives are being transported by boat, road, rail or other means, the person in charge of such explosives shall ensure–

(a) that the explosives are securely and properly loaded and that no person is carried in the conveyance carrying the explosives except those persons necessary for the due and proper control thereof;

(b) that no unauthorised person is at any time allowed access to the explosives or to the conveyance in which they are carried;

(c) that the explosives are effectually protected from accident by fire and, unless carried in a wholly enclosed conveyance, that they are completely covered with a tarpaulin or other spark resisting material; and

(d) that if any explosive escapes from the package in which it is contained, or is spilt, it is carefully collected and disposed of, and all traces of it removed from the conveyance in which the explosives are being carried.

(2) Detonators shall not be carried in the same conveyance as other explosives:

Provided that–

(a) in this subsection "explosives" shall not include safety fuse; and

(b) detonators in quantities of less than two thousand may be carried in the same conveyance as other explosives if the packages of detonators are packed in a strong outer container and surrounded with sawdust, straw, shavings or similar material and are so secured that there is a space of not less than three inches between the packages of detonators and the outer container, and if such container is stored as far away from the other explosives as is reasonable practicable.

(3) Any person who contravenes or fails to comply with the provisions of this section commits an offence.

(4) The Minister may, by Order published in the *Gazette*, modify the provisions of paragraphs (a) and (b) of subsection (1) of this section in relation to the transport of explosives into or out of Mainland Tanzania, and where he so modifies such provisions, this section shall have effect in

respect of the transportation provided for in the Order, as so modified.

### 22. Conveyance of explosives by boat

(1) When explosives are being transported by boat, otherwise then when under the control or authority of the Railway Administration, the person in charge of the explosives shall comply with the provisions of section 21 and shall also ensure that–

(a) there is flown by day in the bow so as to be visible from all sides a red flag measuring at least two feet by two feet;

(b) there is shown by night a red light in an elevated position above the deck so as to be clearly visible on all sides from a distance of two hundred yards;

(c) the boat does not go alongside any other boat and no other boat comes alongside it except for the purpose of shipping, unshipping or transhipping explosives;

(d) any relevant conditions contained in any import or other permit are complied with; and

(e) any directions given by an inspector with regard to the manning of the boat or otherwise are obeyed.

(2) No person shall–

(a) load into, carry in or unload from any boat any explosives between the hours of sunset and sunrise; or

(b) use any mechanically propelled boat for the carriage of explosives,

unless he is the holder of a written permit issued in that behalf by an inspector and complies with the conditions of the permit.

(3) Any person who contravenes or fails to comply with the provisions of subsection (1) or (2) commits an offence.

### 23. Conveyance of explosives by road

(1) Where explosives are in transit by road, the person in charge of the explosives shall comply with the provisions of section 21 and shall also ensure that–

(a) no vehicle carrying explosives remains stationary within one hundred yards of any building or in the vicinity of any town or village;

(b) no explosives are between the hours of sunset and sunrise kept within one hundred yards of any highway or railway;

(c) no vehicle carrying explosives is loaded beyond seventy-five percent of its authorised load;

(d) no explosives are moved along a road between the hours of sunset and sunrise;

(e) no persons carrying explosives approach within fifty yards of a railway except when crossing the same by a recognised path or road or when necessary for the purpose of carrying the explosives to or from a railway station;

(f) there is affixed to every vehicle carrying explosives a red flag at least two feet by two feet visible from all direction; and

(g) at resting places a guard is at all times kept over the explosives.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

## PART VI
## ACQUISITION, POSSESSION AND DISPOSAL OF EXPLOSIVES (ss 24-26)

### 24. Acquisition of explosives

(1) No person shall purchase or otherwise acquire explosives unless–

(a) he is the holder of a valid licence issued by the Commissioner to purchase or acquire such explosives;

(b) he is the holder of a valid import permit issued under section 15 or section 16 in respect of such explosives; or

(c) he is otherwise authorised to acquire the explosives under this Act.

(2) The Commissioner shall before issuing a licence under subsection (1)(a), consult the Director of Criminal Investigations.

(3) A licence issued under paragraph (a) of subsection (1) shall be in such form and shall be subject to such conditions as may be prescribed.

(4) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

### 25. Possession of explosives

(1) No person shall be in possession of any explosives save in accordance with the provisions of this Act.

(2) Any person who is in possession of any explosives shall give to an inspector such information as to the explosives and his dealings with them as the inspector may reasonably require.

(3) Any person who contravenes or fails to comply with provisions of subsections (1) or (2)

commits an offence.

### 26. Disposal of explosives

(1) No person shall sell or otherwise dispose of any explosives to any other person unless–

(a) he is the holder of a valid permit to import and sell the explosives issued under section 16; or

(b) he is the holder of a permit to sell or dispose of the explosives issued in writing by the Commissioner; and

(c) the person who purchases or otherwise acquires the explosives is entitled so to do under section 24.

(2) The Commissioner shall, before issuing any permit under subsection (1)(b), consult the Director of Criminal Investigations and such permit shall be subject to such conditions as may be specified therein.

(3) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

## PART VII
## STORAGE OF EXPLOSIVES (ss 27-37)

### A. - *General Provisions* (ss 27-30)

### 27. Explosives to be stored in accordance with this Part

(1) Explosives shall be stored only in accordance with the provisions of this Part.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

### 28. General provisions relating to storage of explosives

(1) Explosives, other than detonators, in quantities exceeding one thousand pounds in weight, shall be stored in a magazine.

(2) Explosives, other than detonators, in quantities exceeding one hundred pounds in weight but not exceeding one thousand pounds in weight, if not stored in a magazine, shall be stored in a store.

(3) Explosives, other than detonators, in quantities not exceeding one hundred pounds in weight, if not stored in a magazine or store, shall be stored in a storage box kept in a place approved by an inspector.

(4) Detonators exceeding four hundred thousand in number shall be stored in a magazine.

(5) Detonators exceeding ten thousand but not exceeding four hundred thousand in number shall, if not stored in a magazine, be stored in a stored in a magazine, be stored in a store.

(6) Detonators not exceeding ten thousand in number shall, if not stored in a magazine or store, be stored in a storage box kept in a place approved by an inspector.

(7) No detonator shall be stored in a magazine or store which contains other explosives.

(8) Notwithstanding the foregoing provisions of this section, safety fuse, fuse ignite cord and any other type of fuse ignite which contains only combustible compounds may be stored in a magazine or store which contains other explosives:

Provided that–

(i) detonating fuse shall not be stored with detonators; and

(ii) detonating relays may be stored with detonators but shall not be stored with any other explosive.

(9) Every place where explosives are stored shall be indicated by means of the word "Hatari" and underneath the words "Baruti-Explosives" or "Fataki-Detonators", as the case may be, displayed in such a manner as to be clearly visible to any person approaching such place.

(10) The door of every building, structure or excavation where explosives are stored and every storage box shall at all times when not in use for the issue of explosives or other lawful purpose be securely fastened under lock and key and the key shall be in the possession of the person in charge of the explosives.

### 29. Reports to be made of thefts, etc.

(1) If any place where explosives are stored is broken into, damaged by fire or otherwise, or if any explosives are lost or stolen, a report shall forthwith be made by the person in charge of the explosives to the nearest police officer or administrative officer and to an inspector.

(2) Any person who fails to comply with the provisions of subsection (1) commits an offence.

### 30. Storage underground

Explosives exceeding the estimated requirements for twenty-four hours shall not be stored in underground mine workings, other than in an underground store, except with the permission of an inspector and subject to such conditions as he may impose.

## B. - *Magazines* (ss 31-32)

### 31. Permit for erection of magazine

(1) No person shall construct a magazine unless he is the holder of a written permit issued in that behalf by the Commissioner.

(2) Any application for a permit under subsection (1) shall be made to the Commissioner in such form as may be prescribed and shall be accompanied by–

(a) plans and specifications of the proposed magazine, in triplicate;

(b) a detailed map to a scale of not less than 1: 1,000 of the area within such radius of the proposed magazine as may be prescribed or as the Commissioner may require;

(c) such additional information as to the rights of the applicant over the site on which the proposed magazine is intended to be built, or otherwise, as the Commissioner may require.

(3) In considering whether to issue a permit under subsection (1), the Commissioner shall have due regard to any rights which persons other than the applicant may have over the land in the vicinity of the proposed magazine.

### 32. Issue of a magazine licence

(1) Every proposed magazine when constructed shall be inspected by an inspector.

(2) If on inspection under subsection (1) the proposed magazine is considered to be in all respects suitable for the storage of explosives, a magazine licence may on payment of the prescribed fee be issued by the Commissioner to the owner of the magazine.

(3) Every magazine licence shall be in such form as may be prescribed, shall have attached thereto a copy of the plans and specifications of the magazine, and shall state the quantity and nature of the explosives which may be stored and the manner in which they shall be stored in the magazine.

(4) Pending inspection under subsection (1) the Commissioner may, in writing, permit, subject to such conditions as he may impose, explosives to be stored therein.

(5) Every magazine licence shall remain in force until it is revoked or surrendered.

## C. - *Stores* (ss 33-34)

### 33. Application for store licence

Application for the licensing of any building, structure or excavation as an explosives store shall be made to an inspector and shall be accompanied by plans and specifications of the building, structure or excavation, in triplicate, and by such other information as the inspector may require.

### 34. Issue of store licence

(1) If the inspector is satisfied that the building, structure or excavation in respect of which application is made under section 33 is in all respects suitable for use as an explosives store he may, on payment of the prescribed fee, issue a licence authorising the storage of explosives therein.

(2) The inspector may, if he thinks fit, before issuing a licence under subsection (1) inspect the building, structure or excavation in respect of which the application is made.

(3) Every licence issued under subsection (1) shall be in such form as may be prescribed, shall have attached thereto the plans and specifications of the store and shall state the quantity and nature of the explosives which may be stored and the manner in which they shall be stored in the store.

(4) Every licence issued under subsection (1) shall remain in force until is revoked or surrendered.

## D. - *Storage Boxes* (ss 35-37)

### 35. Storage boxes to be of approved pattern, etc.

(1) Every storage box shall be constructed in accordance with such standards as may be prescribed and shall be of pattern approved by the Commissioner.

(2) Every storage box containing explosives shall be kept only at a place approved by an inspector and no storage box shall be kept or placed within six feet of any other such box.

(3) Detonators shall not be stored in the same storage box as other explosives.

(4) Notwithstanding the foregoing provision of this section, safety fuse, fuse ignite cord and any other type of fuse ignite which contains only combustible compounds may be stored in a storage box which contains other explosives:

Provided that–

(i) detonating fuse shall not be stored with detonators; and

(ii) detonating relays may be stored with detonators but shall not be stored with any other explosive.

### 36. Storage underground

Where any storage box containing explosive are stored in underground mine workings–

(a) the box shall be kept in a dry and secluded place, which shall be capable of being locked, at a safe distance from any place where work is carried on;

(b) no box shall contain more than two hundred detonators;

(c) the box shall be kept locked and the person in charge of the explosives shall keep the keys thereto and shall unlock them only when he places explosives therein or removes explosives therefrom.

### 37. Register of transactions to be kept

(1) In every magazine or store where explosives are stored, there shall be kept a register in which the person in charge of the explosives shall forthwith enter details of every receipt and issue of explosives as it occurs.

(2) A second register shall be maintained by the person in charge of explosives at some convenient place other than the magazine or store and such person shall enter therein daily all details mentioned in the first register.

(3) The registers mentioned in subsection (1) and (2) shall be maintained so as to show the quantity and description of all explosives received and issued, the date and time of each receipt and issue, the person to whom the explosives were issued and the balance of every description of explosives remaining in stock at the end of each day.

(4) Any person who contravenes or fails to comply with the provisions of subsection (1), (2) or (3) commits an offence.

(5) An inspector may by notice in writing addressed to the person in charge of explosives thereat apply the provisions of subsection (1), (2) and (3) to any place, other than a magazine or store, at which explosives are kept and thereupon such person shall keep registers in accordance with the provisions of that subsection.

## PART VIII
## USE OF EXPLOSIVES (ss 38-43)

### 38. Use of explosives

(1) No person shall use any explosives otherwise than in accordance with the provisions of this part and with any conditions contained in any permit, licence or authorisation issued in respect of such explosives.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence.

### 39. Person in charge of explosives issued for use

(1) Explosives issued for use from a magazine, store or storage box shall be under the immediate charge of the holder of a blasting certificate issued under the provisions of section 42 from the time they are issued until they are used.

(2) Explosives may be conveyed from a magazine, store or storage box to the place where they are to be used by a responsible person holding a special or general authority in writing in

that behalf issued by the owner of the magazine, store or storage box or by a mine or works manager, and such person shall be in charge of such explosives.

(3) Explosives issued for use shall be placed, kept and carried in locked wooden boxes or such other containers as may be approved by the Commissioner until required for use.

### 40. Blasting operations to be performed by holder of a certificate

(1) No person shall supervise, conduct or perform any blasting operations, prepare or fire any charge or primer cartridge, charge any hole with explosives, or deal with any misfire unless he is the holder of a blasting certificate issued under the provisions of section 42.

(2) A holder of the certificate mentioned in subsection (1) may be assisted in his operations by persons acting under his direct supervision and control and the holder of such certificate when so assisted shall ensure that such person observe the provisions of this Act and any regulations made thereunder.

### 41. Blasting operations to be in charge of holder of certificate

(1) At every place where blasting operations are being carried on there shall be an experienced person in charge who shall himself be the holder of a blasting certificate issued under the provisions of section 42.

(2) If the person in charge of the blasting operations does not himself fire the charges, he shall properly and efficiently supervise and co-ordinate the work of the person who is to do so as to provide for the safety of all persons in the vicinity.

### 42. Blasting certificates

(1) Every application for the issue or renewal of a blasting certificate shall be made to an inspector in such form and shall be accompanied by such fee as may be prescribed.

(2) A blasting certificate shall be in such form as may be prescribed and shall specify the nature of the work upon which the holder may engage.

(3) Notwithstanding subsection (2) as inspector may on application being made to him and without payment of any fee vary the nature of the work authorised by the certificate.

(4) No blasting certificate shall be issued or renewed by an inspector unless he is satisfied by personal examination that the applicant is in all respects competent to conduct blasting operations.

(5) An inspector may, if personal examination of the applicant is impracticable, issue a blasting certificate upon receipt of a certificate of competence made in respect of the applicant and signed by a mine manager or other responsible person who is himself the holder of a blasting certificate.

(6) Subject to the provisions of subsection (7) of this section and section 53, a blasting certificate shall remain in force for a period of five years from the date of issue and may thereafter, subject to the provisions of subsection (4), be renewed for a further period of five years.

(7) A blasting certificate may be suspended by an inspector for such period as he may determine if he is satisfied that the holder thereof has ceased to be in all respects competent to conduct blasting operations.

(8) The holder of blasting certificate which is suspended under subsection (7) may, within thirty days of such suspension, appeal to the Commissioner whose decision shall be final.

(9) Every holder of a blasting certificate shall immediately upon receipt thereof sign the same with his usual signature.

(10) Every issue, renewal or suspension of a blasting certificate shall be reported to the Commissioner.

### 43. Persons responsible for observing provisions of this Part

Every employer of labour, manager, foreman and other person in charge of labour shall take all reasonable steps to ensure that the provisions of this Part are observed and that every holder of a blasting certificate possesses a copy of this Act and any regulations made thereunder in English or Kiswahili, as the case may be.

## PART IX
## ACCIDENTS (ss 44-45)

### 44. Procedure in case of accident

(1) Where an accidental explosion causing injury or death to any person occurs in connection with the manufacture, storage, use or transport of explosives, the person in charge of such explosives shall cause a written report of the accident to be sent with the least possible delay to the nearest inspector.

(2) The report made under subsection (1) shall be in addition to any report which may be required under the provisions of the Accidents and Occupational Diseases (Notification) Act *(3).

(3) Any person who fails to comply with the provisions of subsection (1) commits an offence.

### 45. Inquiry into cause of accident

(1) On receiving a report made under section 44, an inspector shall as soon as possible hold an inquiry into the cause of the accident.

(2) An inspector holding an inquiry under the provisions of this section shall have all the

powers of a magistrate to summon witnesses, call for the production of books and documents and examine witnesses on oath.

(3) Any person summoned to attend or to produce books or documents at any inquiry held under the provisions of this section who refuses or wilfully neglects so to do or who being a witness at such inquiry refuses to answer any question put to him by or with the concurrence of the inspector holding the inquiry commits an offence and is liable upon conviction to a fine of not less than one hundred thousand shillings.

(4) If any witness at the inquiry refuses to answer any question on the ground that to do so may tend to incriminate him, he shall not be required to answer the question nor shall he commit an offence for refusing so to answer.

(5) Any witness attending an inquiry held under the provisions of this section at the request of or upon summons by the inspector holding the inquiry shall, subject to any order made by the inspector, be entitled to expenses on the same scale as if he had been summoned to attend a criminal trial in the High Court.

## PART X
## POWERS OF INSPECTORS AND POLICE OFFICERS (ss 46-48)

### 46. Powers of inspectors

(1) An inspector may, for the purpose of ascertaining whether the provisions of this Act and any Regulations made thereunder are being observed–

(a) enter, at any hour of the day or night, any premises or place where explosives are manufactured, stored, kept or used;

(b) take samples of explosives or any substance resembling explosives in the possession of any person;

(c) require the owner or occupier of any magazine or store or any place where explosives are kept or the person in charge of any explosives to give such information relating to the magazine, store or explosives as he may reasonably require;

(d) stop and detain for examination any vehicle or boat which he has reasonably grounds for believing is being used for the conveyance of explosives.

(2) An inspector may at any hour of the day or night enter any premises or place if he has reasonable grounds for believing that any offence under this Act or any Regulations made thereunder is being committed therein.

(3) An inspector may, at all reasonable times, inspect and take copies of or extracts from any register required to be kept under the provisions of section 37.

(4) An inspector may seize any explosives which are stored or found in circumstances

dangerous to public safety or which are insufficiently safeguarded and may detain any such explosives until he is satisfied that arrangements have been made to store the explosives in accordance with the provisions of this Act and any Regulations made thereunder and the person in charge of such explosives will adhere to such arrangements.

### 47. Powers of police officers

(1) Any police officer of the rank of inspector or above may exercise the powers conferred upon an inspector by paragraphs (a), (c) and (d) of subsection (1) and by subsection (2), (3) and (4) of section 46.

(2) Any police officer of the rank of inspector or above may, by writing under his hand, issue such orders for the detention, removal or safeguarding of any explosives as he may consider necessary for the safety or security of such explosives.

### 48. Inspector may issue orders

(1) Any inspector may issue orders in writing to the owner or any person in charge of explosives requiring him to do any act in relation to such explosives which the inspector considers necessary in the interests of public safety or the security of such explosives, and such orders shall, subject to the provisions of subsection (2) be carried out forthwith.

(2) If any person to whom an order is issued under subsection (1) objects in writing to such order the matter shall be referred by the inspector to the Commissioner who may confirm, vary or cancel the order, but pending the decision of the Commissioner the order shall be carried out unless the inspector, in his discretion, and with due regard to the public safety and the security of the explosives, by writing under his hand suspends the order.

## PART XI
## MISCELLANEOUS PROVISIONS (ss 49-55)

### 49. Notice to be given when works containing explosives are closed down

When any mine or other works where explosives are kept is closed down either temporarily or permanently, notice shall be given to an inspector by the person in charge of the explosives and by the person in charge of the mine or other works and, unless the explosives are removed and stored elsewhere they shall be disposed of in accordance with such directions as the inspector may give.

### 50. Offences

Any person who–

(a) hides or abandons any explosives;

(b) fails to comply with the conditions contained in any licence, permit or authorisation

issued under the provisions of this Act;

(c) hinders or obstructs any inspector or police officer in the exercise of the powers and duties conferred or imposed by this Act; or

(d) refuses or wilfully neglects to obey any order issued by an inspector or a police officer under this Act, commits an offence.

### 51. General penalty

Any person who commits an offence contrary to the provisions of this Act shall, unless some other penalty is specified, be liable on conviction to a fine of not less than two million shillings or to imprisonment for a term of not less than three years but not exceeding seven years or to both such fine and imprisonment.

### 52. Onus of proof

In any proceedings under this Act against any person for the unlawful possession or use of explosives, the onus shall be upon such person to show that the possession or use was lawful.

### 53. Revocation of permits, etc.

(1) The Commissioner may revoke any certificate, licence, authorisation or permit granted or issued under this Act–

(a) if the holder thereof is convicted of an offence contrary to the provisions of this Act; or

(b) for any other good and sufficient reason.

(2) Any person whose certificate, licence, authorisation or permit is revoked under paragraph (b) of subsection (1) may appeal against such revocation to the Minister whose decision shall be final.

### 54. Licences, permits, etc., not transferable

(1) No certificate, licence, permit or authorisation granted or issued under this Act shall be transferable.

(2) Where the ownership of any magazine or store is transferred from the holder of the licence issued in respect thereof to another person, the Commissioner may endorse the licence accordingly and authorise it to be transferred to such other person.

### 55. Regulations

(1) The Minister may make regulations prescribing anything which under the provisions of this Act may be or is to be prescribed and generally for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations

concerning–

(a) the forms to be used for applications, certificates, licenses, permits and other documents issued or made under this Act;

(b) the fees to be paid for anything to be done under this Act;

(c) the procedure to be followed and the information to be given in the case of any application under this Act;

(d) the classification of different types of explosives;

(e) the packing and transport of explosives;

(f) the conditions applicable to the manufacture of explosives under licence or permit;

(g) the construction and licensing of magazines and stores and the specifications to which they are to be constructed;

(h) the report of an inquiry into accidents;

(i) the payment of compensation to persons injured by fire or accident caused by explosives;

(j) the import, export, handling, conveyance, possession, use, storage and destruction of explosives;

(k) the conditions to be observed by person engaged in blasting operations;

(l) the returns to be made by persons importing, dealing in or using explosives;

(m) the making of such further and better provisions as he may consider necessary in the interests of public safety, the safeguarding of explosives, the protection of life and property and the avoidance of accident.

(2) Regulations made under this section may fix penalties for the breach of such regulations not exceeding the penalties contained in section 51.

## Endnotes

**1 (Popup - Popup)**

E.A.H.C. 1952 Subsidiary p. 32

**2 (Popup - Popup)**

Cap. 223

**3 (Popup - Popup)**

Cap. 330