

# The Explosive Substances Act, 1908

UNION OF INDIA

India

## The Explosive Substances Act, 1908

### Act 6 of 1908

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1. [Amended by The Explosive Substances (Amendment) Act, 2001 (Act 54 of 2001) on 1 January 2001]

The Explosive Substances Act, 1908(6 of 1908)

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Statement of Objects and Reasons-Recent events have brought prominently to notice the inadequacy of the existing law to deal with crimes committed by means of explosive substances. The Indian Explosives Act, 1884, was framed to prevent accidents rather, than to prevent crime and its provisions are clearly inadequate to meet the present emergency. No sentence of imprisonment can be imposed under that Act and the maximum penalty is only a fine of three thousand rupees. The Indian Arms Act, 1878, though it applies to the possession of explosives as well as arms is also inadequate in respect of both of the penalties it allows and scope of its provisions for dealing promptly with preparations to manufacture bombs and other explosives. The Penal Code provides for the punishment of persons to cause hurt or mischief by means of explosive substances and it also deals with attempts to cause hurt or mischief but only when any act towards the commission of the offence is actually done. But it does not provide any penalty for making or possessing explosive substances with unlawful intent and it does not in other cases always provide such severe penalties as are requisite. The Governor-General-in-Council therefore considers it necessary to supplement the existing law by an Act on the lines of the English Explosive Substances Act, 1883, which was enacted for the express purpose of dealing with anarchist crimes. The Bill which has been drafted to give effect to this decision provides for the punishment of any person who causes an explosion likely to endanger life or property, or who attempts to cause such an explosion, or makes or has in his possession any explosive substance with intent to endanger life or property. It further makes the manufacture or possession of explosive substances for any other than a lawful object a substantive offence and throws on the person who makes or is in possession of any explosive substance the onus of proving that the making or possession was lawful. It also provides adequately for the punishment

both of principals and accessories. An Act further to amend the law relating to explosive substances. Whereas it is necessary further to amend the law relating to explosive substances; It is hereby enacted as follows:-

## 1. Short title, extent and application

(1) This Act may be called The Explosive Substances Act, 1908. (2) [It extends to the whole of India [- -] [Substituted by A.O. 1950, for sub-Section (2).], and applies also to citizens of India [outside India] [Substituted by Act 3 of 1951, Section 3 and Sch., for "wherever they may be".].]

## 2. [Definitions [Sections 2 to 5 substituted by Act 54 of 2001, Section 3 (w.e.f. 1.2.2002).]

.In this Act, (a) the expression explosive substance shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement; (b) the expression special category explosive substance shall be deemed to include research development explosive (RDX), penta erythritol tetra nitrate (PETN), high melting explosive (HMX), tri nitro toluene (TNT), low temperature plastic explosive (LTPE), composition exploding (CE) (2, 4, 6 phenyl methyl nitramine or tetryl), OCTOL (mixture of high melting explosive and tri nitro toluene), plastic explosive kirkee-1 (PEK-1) and RDX/TNT compounds and other similar type of explosives and a combination thereof and remote control devices causing explosion and any other substance and a combination thereof which the Central Government may, by notification in the Official Gazette, specify for the purposes of this Act.

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

.Any person who unlawfully and maliciously causes by (a) any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with imprisonment for life, or with rigorous imprisonment of either description which shall not be less than ten years, and shall also be liable to fine; (b) any special category explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with death, or rigorous imprisonment for life, and shall also be liable to fine. [Sections 2 to 5 substituted by Act 54 of 2001, Section 3 (w.e.f. 1.2.2002).]

### Form of Charge<sup>6</sup>

Form of Charge under section 3I, ..... (name and office of the Court of Session), hereby charge you ..... (name of the accused) as follows: That you, on or about the ..... day of ....., at ....., unlawfully and maliciously caused by explosive substance, namely ..... an explosion of a nature likely to endanger life or to cause serious injury to property, whether any injury to a person, namely, ..... or property, namely, ..... had been actually caused or not,

and thereby committed an offence punishable under section 3 of the Explosive Substances Act, 1908, and within my cognizance. And I hereby direct that you be tried by this Court on the said charge.

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

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

##### **Form of Charge<sup>6</sup>**

[Sections 2 to 5 substituted by Act 54 of 2001, Section 3 (w.e.f. 1.2.2002).]

Form of charge under section 4(a) I, ..... (name and office of the Court of Session), hereby charge you ..... (name of the accused) as follows: That you, on or about the ..... day of ....., at ....., unlawfully and maliciously done an act, namely, ..... with intent to cause by an explosive substance, namely, ..... or conspired to cause by an explosive substance, namely, ..... an explosion in India of a nature likely to endanger life or to cause serious injury to property and thereby committed an offence punishable under section 4(a) of the Explosive Substances Act, 1908, and within my cognizance. And I hereby direct that you be tried by this Court on the said charge.

(b) makes or has in his possession or under his control any explosive substance or special category explosive substance with intent by means thereof to endanger life, or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property in India, shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished, (i) in the case of any explosive substance, with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; (ii) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

##### **Form of Charge<sup>6</sup>**

Form of charge under section 4(b) I, ..... (name and office of the Court of Session), hereby charge you ..... (name of the accused) as follows: That you, on or about the ..... day of ....., at ....., unlawfully and maliciously made or had in your possession or under your control an explosive substance, namely, ..... with intent by means thereof to endanger life, or cause serious injury to property, or to enable other person, namely, ..... by means thereof to endanger life or cause serious injury to property in India and thereby committed an offence punishable under section 4(b) of the Explosive Substances Act, 1908, and within my cognizance. And I hereby direct that you be tried by this Court on the said charge.

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

.Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punished,(a)in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;(b)in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.]

### **Form of Charge<sup>6</sup>**

[Sections 2 to 5 substituted by Act 54 of 2001, Section 3 (w.e.f. 1.2.2002).]

Form of charge under section 5I ,.....(name and office of the Court of Session),hereby charge you.....(name of the accused)as follows:That you, on or about the.....day of....., at....., made or knowingly had in your possession or under your control an explosive substance, namely,....., under such circumstances as to give rise to a reasonable suspicion that you were not making or did not had it in their possession or under their control for a lawful object and thereby committed an offence punishable under section 5 of the Explosive Substances Act, 1908, and within my cognizance.And I hereby direct that you be tried by this Court on the said charge.

## **6. Punishment of abettors**

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

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

.No Court shall proceed to the trial of any person for an offence against this Act except with the consent of the [District Magistrate] [Substituted by Act 54 of 2001, Section 3, for "Central Government" (w.e.f. 1.2.2002).].