

Chapter 308.  
***Explosives Act 1953.***  
Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 308.

*Explosives Act 1953.*

ARRANGEMENT OF SECTIONS.

**PART I – PRELIMINARY.**

1. Interpretation.
  - “Chief Inspector”
  - “explosive”
  - “Inspector”
  - “licence”
  - “permit”
  - “pyrotechnic”
  - “the regulations”
  - “this Act”

2. Application.

**PART II – ADMINISTRATION.**

3. Chief Inspector and Inspectors.
4. Delegation.
5. Powers of Inspectors.

**PART III – POSSESSION AND USE OF EXPLOSIVES.**

6. Issue of licences.
7. Issue of permits.
8. Grant of licences and permits under conditions.
9. Power to cancel licences or permits.
10. Appeals.
11. Books to be kept.
12. Where explosives may be kept.
13. Destruction of dangerous explosives.
14. Unauthorized possession, etc., of explosives.
15. Vendors, etc., of explosives to require production of licence or permit.
16. Sale, etc., of explosives to persons other than licensees or permittees.
17. Unauthorized use of explosives.

18. Exemptions from Part III.

**PART IV – MISCELLANEOUS.**

19. Obstructing Inspectors in the course of duty.

20. Persons to provide assistance.

21. Disobedience of orders of Inspector.

22. Protection of Inspector.

23. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Explosives Act 1953,*

Being an Act relating to explosives.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

(1) In this Act, unless the contrary intention appears—

“**Chief Inspector**” means the Chief Inspector of Explosives appointed under Section 3;

“**explosive**” means, subject to Subsections (2) and (3)—

(a) a substance used or capable of being used with a view to producing a practical effect by explosion, or an adaptation or preparation of any such substance; or

(b) a substance or thing declared by the Minister, by notice in the National Gazette, to be an explosive for the purposes of this Act,

but does not include ammunition;

“**Inspector**” means the Chief Inspector or an Inspector of Explosives appointed under Section 3;

“**licence**” means a licence to keep, store or be in possession of explosives granted under Section 6;

“**permit**” means a permit to use explosives granted under Section 7;

“**pyrotechnic**” means a rocket, flare, signalling cartridge or an article commonly known as a firework, and includes all other articles of a similar nature;

“**the regulations**” means any regulations made under this Act;

“**this Act**” includes the regulations.

(2) Notwithstanding this Act, but subject to Subsection (3), pyrotechnics in lots of more than 90 kg shall be deemed to be explosives within the meaning of this Act.

(3) Pyrotechnics shall be deemed to be explosives for the purposes of Sections 5 and 13.

## 2. APPLICATION.

(1) The Minister may, by notice in the National Gazette, declare that this Act or part of this Act does not, for a period specified in the notice, apply to a part of the country.

(2) Where the Head of State, acting on advice, is satisfied that the Defence Force has sufficiently provided for some or all of the matters provided for by this Act, he may, by notice in the National Gazette, declare that the provisions, or a part of the provisions, of this Act specified in the notice do not apply to or in relation to—

- (a) the possession, keeping, storing or use of explosives—
  - (i) in a place that is permanently occupied by the Defence Force or a part of the Defence Force; or
  - (ii) on land that the Defence Force or a part of the Defence Force is authorized to enter under Section 62 of the *Defence Act 1974*, at any time when the Defence Force or a part of the Defence Force has entered and is in occupation of the land; or
  - (iii) by the Defence Force or a part of the Defence Force, in any other place declared by the Minister by notice in the National Gazette; or
- (b) the transportation of explosives by road, by sea or by air on or in vehicles, vessels and aircraft comprising part of the equipment of the Defence Force—
  - (i) between two Defence Force establishments; or
  - (ii) between a Defence Force establishment and an area in use for the training of the Defence Force or part of the Defence Force,
    - where the explosives are carried for the purpose of training the Defence Force or part of the Defence Force; or
- (c) the possession, keeping or storing of explosives on board any visiting friendly warship where the visit of the warship has been authorized by the Minister.

**PART II. – ADMINISTRATION.**

**3. CHIEF INSPECTOR AND INSPECTORS.**

(1) The Minister may, by notice in the National Gazette, appoint a person to be the Chief Inspector of Explosives.

(2) The Minister may, by notice in the National Gazette, appoint persons to be Inspectors of Explosives.

**4. DELEGATION.**

The Chief Inspector may, by instrument under his hand, delegate to an Inspector all or any of his powers and functions under this Act (except this power of delegation).

**5. POWERS OF INSPECTORS.**

For the purposes of this Act, an Inspector may at any time—

- (a) enter, by force and with assistants if necessary, a magazine, warehouse, store, building, premises, vehicle, ship or place on or in which explosives are, or on or in which he suspects explosives to be, kept; and
- (b) inspect any explosives and take away samples for testing; and
- (c) require a person to answer questions put to him by the Inspector; and
- (d) seize and carry away explosives kept, or that he suspects to be kept, in contravention of this Act, or explosives that in his opinion are or may be or become for any reason dangerous to life or property.

**PART III. – POSSESSION AND USE OF EXPLOSIVES.**

**6. ISSUE OF LICENCES.**

(1) The Chief Inspector may, as prescribed, grant a licence to a fit and proper person to keep, store or be in possession of explosives in any premises—

- (a) for the purpose of sale, barter or exchange; or
- (b) for any other purpose approved by the Minister.

(2) An application for a licence shall be in the prescribed form, and shall be accompanied by the prescribed fee.

(3) The premises on which and the method by which explosives are kept, stored or possessed shall be as prescribed.

**7. ISSUE OF PERMITS.**

(1) The Chief Inspector may, as prescribed, grant a permit to a fit and proper person to use explosives for a purpose approved by the Minister.

(2) An application for a permit shall be in the prescribed form, and shall be accompanied by the prescribed fee.

**8. GRANT OF LICENCES AND PERMITS UNDER CONDITIONS.**

A licence or a permit is subject to such conditions as are prescribed or as the Chief Inspector in a particular case directs.

**9. POWER TO CANCEL LICENCES OR PERMITS.**

The Chief Inspector may, for any reason that seems to him sufficient, suspend or cancel a licence or permit.

**10. APPEALS.**

A person aggrieved by a decision of the Chief Inspector under Section 6, 7, 8, or 9 may appeal to the Minister, whose decision is final.

**11. BOOKS TO BE KEPT.**

(1) A person to whom a licence has been granted must keep proper books in which shall be entered—

- (a) the quantity, nature and value of explosives purchased or sold by him; and
- (b) particulars of the date of the purchase or sale; and
- (c) the name of the vendor or purchaser; and
- (d) such other particulars as are prescribed.



(2) Accounts and documents relating to books kept under Subsection (1) may, at all reasonable times, be inspected by an Inspector or a person authorized by the Chief Inspector for the purpose, who may, on the inspection, make and take away extracts from the books, accounts and documents.

**12. WHERE EXPLOSIVES MAY BE KEPT.**

(1) Explosives must be kept only—

- (a) in a place subject to the control of the Customs; or
- (b) in premises in relation to which a licence is in force.

(2) Subsection (1) does not apply to the keeping of explosives—

- (a) by a carrier or other person, for the purpose of conveyance in accordance with this Act; or
- (b) by the holder of a licence or permit, for private use and not for sale, to an amount of not more than 22 kg.

**13. DESTRUCTION OF DANGEROUS EXPLOSIVES.**

(1) The Chief Inspector or, in case of emergency, an Inspector may destroy, recondition or otherwise dispose of, or order the destruction, reconditioning or other disposal of, any explosives that he considers liable to be dangerous to life or property.

(2) The costs of and incidental to the destruction, reconditioning or other disposal of any explosives under Subsection (1) may be recovered from the owner as a debt and compensation is not payable in respect of any such explosives.

**14. UNAUTHORIZED POSSESSION, ETC., OF EXPLOSIVES.**

(1) A person, other than the holder of a licence or a permit, who keeps, stores or is in possession of explosives is guilty of an offence.

(2) A holder of a licence or a permit who keeps, stores or is in possession of explosives otherwise than in accordance with this Act and the licence or permit is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

**15. VENDORS, ETC., OF EXPLOSIVES TO REQUIRE PRODUCTION OF LICENCE OR PERMIT.**

A person who sells or disposes of explosives is guilty of an offence unless—

- (a) at the time of the sale or disposal the purchaser or taker produces and exhibits to the seller a licence or permit to be in possession of or to use the explosives granted to him; and
- (b) the sale or disposal is in accordance with the conditions of the licence or permit.

Penalty: A fine not exceeding K50.00.

**16. SALE, ETC., OF EXPLOSIVES TO PERSONS OTHER THAN LICENSEES OR PERMITTEES.**

(1) A person who sells or disposes of explosives to a person other than the holder of a licence or permit is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding six months.

(2) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that the provisions of Section 15 were complied with in relation to the sale or disposal and that he had no reason to believe, and did not in fact believe, that the purchaser or taker was not the holder of the licence or permit.

**17. UNAUTHORIZED USE OF EXPLOSIVES.**

(1) A person, other than the holder of a permit, who uses explosives is guilty of an offence.

(2) A holder of a permit who uses explosives otherwise than in accordance with this Act and the permit is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

**18. EXEMPTIONS FROM PART III.**

An offence against this Part shall not be deemed to be committed—

- (a) in the case of a person who is a member of the Defence Force or of the Police Force—by having in his possession or using explosives in his capacity as a member, or in the performance of his duties as a member; and
- (b) in the case of any person—by having in his possession or using explosives in pursuance of a statutory authority to do so.

**PART IV. – MISCELLANEOUS.**

**19. OBSTRUCTING INSPECTORS IN THE COURSE OF DUTY.**

A person who hinders or obstructs an Inspector in the course of his duty under this Act is guilty of an offence.

Penalty: A fine not exceeding K200.00.

**20. PERSONS TO PROVIDE ASSISTANCE.**

A person who, when required by an Inspector, fails to provide such assistance as is reasonably required by the Inspector for carrying out his duties under this Act is guilty of an offence.

Penalty: A fine not exceeding K200.00.

**21. DISOBEDIENCE OF ORDERS OF INSPECTOR.**

A person who refuses or neglects to carry out an order or requirement given to him by an Inspector under this Act is guilty of an offence.

Penalty: A fine not exceeding K200.00.

**22. PROTECTION OF INSPECTOR.**

No action lies against an Inspector for anything *bona fide* and reasonably done by him under this Act.

**23. REGULATIONS.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing—

- (a) the method of construction of magazines and premises on which explosives may be stored; and
- (b) the fees to be paid and the forms to be used in connection with any matter under this Act; and
- (c) penalties or fines not exceeding K200.00 for offences against the regulations.